

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

IMPACT OF THE CBD AND SOUTH EAST LIGHT RAIL PROJECT

CORRECTED

At Macquarie Room, Parliament House, Sydney on Thursday 4 October 2018

The Committee met at 9:45 am

PRESENT

Reverend the Hon. Fred Nile (Chair)

The Hon. Greg Donnelly

Ms Cate Faehrmann

The Hon. Shayne Mallard

The Hon. Taylor Martin

The Hon. Matthew Mason-Cox

The Hon. Daniel Mookhey

The CHAIR: Welcome to the third public hearing of the Public Accountability Committee inquiry into the impact of the CBD and South East Light Rail project. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land. I also pay respect to elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today is the last hearing we plan to hold for this inquiry. Today we will hear from Mr Bede Noonan, Managing Director of Acciona Infrastructure Australia; James Bramley, Chairman of ALTRAC Light Rail; and representatives from Transport for NSW.

Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of evidence at the hearing. I urge witnesses to be careful about any comments they may make to the media or to others after they have completed their evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of the proceedings are available from the secretariat.

There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In those circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days of receiving copies of those answers from the secretariat. Witnesses are advised that any messages should be delivered to Committee members through the Committee staff. To aid the audibility of the hearing, I remind Committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near the loud speakers for persons in the public gallery who have hearing difficulties. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

BEDE NOONAN, Managing Director, Acciona Infrastructure Australia, sworn and examined

The CHAIR: Do you wish to read an opening statement to us?

Mr NOONAN: Yes.

The CHAIR: Members have a copy.

Mr NOONAN: I thank the Committee for the opportunity to present on behalf of Acciona today. As you know, due to the confidentiality provisions in our contract with ALTRAC, the Committee has been required to compel me to attend and answer questions. Despite this, I look forward to assisting the Committee in any way I can today. First, I would like to tell the Committee a little bit about Acciona, both in Australia and globally. Acciona is a very successful global infrastructure builder, and renewable energy builder and operator company with over 37,000 employees across Europe, the Americas, Asia and Australia. Acciona has invested approximately \$800 million of capital in Australia, largely on renewable energy developments and infrastructure project developments, and employs approximately 1,200 people in Australia. In March 2017 Acciona purchased my family's company, the Geotech Group, which has a 45-year history of construction in Australia. That is when I became the lead for Acciona in Australia.

The Geotech Group is a second generation family company, started by my father. Acciona is a third generation family company. The Entrecanales family are the major shareholders of Acciona. I have great respect for and a strong relationship with Jose Manuel Entrecanales and Juan Ignacio Entrecanales and their families who lead this proud company. Acciona's values and ethics are very strong and align completely with my family's. I am very proud to be a part of the Acciona family and to lead the business in Australia. Some examples of projects that have been successfully completed in Australia by Acciona are the \$1 billion Legacy Way tunnel completed some five years ago for the Brisbane City Council, the \$2 billion Adelaide desalination plant for the State of South Australia and the recently completed \$830 million Warrell Creek to Nambucca Heads Pacific Highway upgrade for the New South Wales Government Roads and Maritime Services.

As recently as last month we were selected by the Victorian Government to develop a new wind farm at Mortlake in Victoria. That will be our fourth major wind farm in Australia. Furthermore, we were also selected by the Queensland Government to develop a large parcel of land near Gladstone ahead of a wide field of competitors. That development will be carried out over many years. We are constructing many other successful projects in Australia, including a large part of Victoria's investment in rail. For instance, the \$1.5 billion Frankston line level crossing removals and the \$500 million Ballarat line duplication.

Acciona has extensive experience in the design and construction of rail and light rail systems. We have completed large rail projects in many cities around the world, including light rail in Granada and Zaragoza in Spain. Through the Geotech Group, we have also completed light rail projects in Adelaide and Melbourne, which have some of the most extensive light rail systems in the world. Most importantly, Mr Chairman and Committee, I assure the Committee, residents and businesses that we regret the delays, disruption, and impacts that the Sydney light rail project has caused. Acciona is one part of the total light rail project. For our part, we are sincerely sorry that this project has caused this disruption and pain. All project participants and the infrastructure market generally should take consideration of this project and understand how we can all ensure such impacts do not occur again.

Why has the project construction work gone longer than expected? A decision was made many years ago to undertake this project as a public-private partnership [PPP]. A PPP enables the Government to have the private sector finance the construction of a project and take more of the risk of building the project than normal and operating the project for a defined period of time. The success of such a method to move risk to the private sector rests largely on having a very solid scope with little or no chance of future change. Within PPPs it is extremely difficult to deal with changes as there are so many parties involved including international equity providers, banks and insurance companies. In the Sydney light rail [SLR] the original value of Acciona's contract is only approximately 40 per cent of the \$2.1 billion total project value.

The design and approval processes necessitated by this project structure are vastly more stringent than a normal direct government procurement model. Hence any changes to scope cause very significant time issues as well as being very difficult to evaluate the financial impacts. Furthermore, the Government who has direct contact with residents, businesses and stakeholders is few steps away in the chain from the construction company.

There have been two ways in which this project has had major scope changes. Firstly as a result of changes directed by the Government. Some of these would be known to you, such as: the requirement to

reconstruct the Alison Road levee to the standard of a dam, the requirement by Roads and Maritime Services to vary the lane widths along certain sections of Anzac Parade, and the changing of the tram stops at the Queen Victoria building, University of New South Wales and at the Randwick terminus on High Street. These changes were in many instances directed more than 12 months after Acciona entered into the contract and with the design well progressed. In total there are approximately 60 of these changes so far. Secondly, the impact has occurred as a result of Ausgrid requiring upgrades to their underground pits and conduits. I feel it is important that I explain this in more detail as this has had the greatest impact on the lack of certainty of the works and ultimately the disruption overall and impact on residents and businesses.

In the pre-contract phase, competitive tender, the agreed treatments for Ausgrid assets as well as other utilities are included in schedule F8 of our contract. This schedule was developed during the tender period, before the contract was entered into, in a series of workshops over a period of almost six months where each and every known identified utility on the SLR route was considered and a treatment agreed for it. It is important to note that Ausgrid and the other utility providers sat in and observed some of these pre-contractual meetings from time to time, but Acciona and the other consortium bidders at the time were forbidden from discussing the utility treatments, or anything else, directly with utility owners.

I move to the contract. Despite the detailed negotiations that occurred prior to the contract award, shortly after the project documents were signed, Acciona received a document called the Ausgrid guidelines, from Ausgrid. Shortly after receiving the new Ausgrid guidelines, Acciona advised the Government that the new requirements set out in the Ausgrid guidelines were completely different to what we had together developed into schedule F8 and would result in a substantial change to the contract scope. Acciona estimated it would result in a delay of 865 days—or over two years and four months—and an additional cost of \$426 million, to the civil works only.

Acciona did agree to work in a collaboration process with the Government and Ausgrid to understand Ausgrid's requirements in more detail and seek to minimise the impact to the project. However, the final treatment for each asset was largely still in accordance with the new guidelines. Our biggest challenge or main delay has been dealing with the Ausgrid's assets in George Street, in particular the substantially additional requirements imposed by the new Ausgrid guidelines. For instance an existing Ausgrid utility pit in George Street that was 4.5 metres by 4 metres had to be rebuilt to a scale of 10.1 metres by 5.7 metres. This enlargement of the single pit resulted in a significant amount of new or extra work being required as it not only impacted the pit size but also every single surrounding utility and service near the pit. According to schedule F8, and our bid, these surrounding utilities should not have been impacted and should have been left in-situ.

Another example of where the newly issued Ausgrid guidelines caused substantial delay was on the corner of Bridge, George and Grosvenor streets. Construction work on this vital intersection was intended to be carried out over eight weekends, but we have had to occupy the intersection for 56 weekends to work on Ausgrid's assets, and because of that to relocate storm water pipes owned by Sydney Water, replace and reroute Jemena gas pipes, telcos and other utilities—all as a direct result or consequence of the implementation of Ausgrid's guidelines.

Ausgrid's new requirements were the root cause of the project not being able to predict time. The new pit sizes pushed the excavation works into areas which had not been investigated by the Government for utilities. We were then discovering utilities that had not been expected. The iterative nature of discovering these previously unknown utilities, finding what they contained, who owned them and how they could be dealt with was excruciating for our team and, coupled with the design approvals process within PPPs, has been the source of massive delays.

In the examples above the design drawings have gone through 15 revisions due to updated information relating to moving utilities just in those two specific locations. After discovering a utility and then working out what it is and who owns it, we then had to work out how to move it and get the owner's approval to move it. Generally, the owner has to actually design and construct this move. During this move, we may then find another unknown utility below and go through the same process. Our space to move utilities is very much constrained by the lines and levels required to run the light rail vehicles, the existing lines and levels of the building entrances, the requirements to achieve disability access and safe pedestrian movements, the requirement to have poles and trees in line and spacings and the requirement for storm water system to always run downhill. Hence, every change to enlarge Ausgrid pits had a massive flow on effect to the project.

In conclusion, I am on the board of the Australian Constructors Association. That represents the largest approximately 20 infrastructure builders in Australia. Utilities are without doubt the most significant risk facing construction companies and projects in Australia. Underground utilities in particular are highly problematic as

their location is rarely well known yet they very high risk, containing gas, electricity and sewage. Utilities sit in land owned by the public yet we have no control over those companies. As constructors we are basically completely powerless as there are Acts of Parliament which prohibit us from touching them.

The utilities risk on this project was vastly misunderstood by the Government, and we as contractors were forbidden by process, as well as practicality, from knowing anything except what the Government told us. This utilities risk as well as all the third party agreements being not concluded cannot be properly managed under a PPP form of contract. It is possible to manage utilities such as what we have encountered on SLR. However, it can only be done under a collaborative form of contract where government accepts that contractors have no direct ability to direct or control utility owners.

Australian governments need to move towards more collaborative construction frameworks, especially in dense city environments. The recent announcement by the New South Wales Premier and the 10-point plan in relation to procurement and construction of large infrastructure projects is a step in the right direction, and we look forward to that being put into practice in the near future. I would be pleased to respond to the Committee's questions.

The CHAIR: I will commence with questions from the Opposition.

The Hon. DANIEL MOOKHEY: Thank you for your statement. In light of quite devastating evidence that we heard yesterday from residents, the first question I want to ask you is the same question I intend to put to Transport for NSW this afternoon. I think it is a question which both the city and the State would like to know. When does Acciona expect the Sydney CBD light rail to complete?

Mr NOONAN: The total project completion with trams running and passengers on them?

The Hon. DANIEL MOOKHEY: Yes.

Mr NOONAN: The current schedule is May 2020, the official schedule for that completion.

The Hon. DANIEL MOOKHEY: May 2020?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: Not March 2020?

Mr NOONAN: No.

The Hon. DANIEL MOOKHEY: We are looking at a further two-month delay from the point when Transport for NSW appeared at the last hearing of this inquiry and said it was March 2020. Is that correct?

Mr NOONAN: All I can tell you is that currently the official completion date that we notified the Government is May 2020.

The Hon. DANIEL MOOKHEY: When did you notify the Government that the project has delayed a further two months?

Mr NOONAN: In our August update, monthly update.

The Hon. DANIEL MOOKHEY: In your August monthly update?

Mr NOONAN: August of this year, yes.

The Hon. DANIEL MOOKHEY: So the Government has known now for close to two months that there is a reasonable chance that the project is delayed a further two months. Is that correct? Or they should have known?

Mr NOONAN: I do not want to answer on behalf of the Government. It is quite clear that we notified in August through our monthly report process.

The Hon. DANIEL MOOKHEY: Within practically two weeks of Transport for NSW telling this inquiry that the project will open to passengers in March 2020, the timetable slipped by a further two months. Is that correct, to the best of your knowledge?

Mr NOONAN: I am sorry, I am not sure of the first date you are referring to.

The Hon. DANIEL MOOKHEY: I will move on. What is the cause of this additional two-month delay?

Mr NOONAN: The cause of the additional two-month delay is in Anzac Parade at the south end of Anzac Parade where we are being delayed by having overhead wires that need to be brought down and that is part of the project that we are unable to do. It can only be done by Ausgrid.

The Hon. DANIEL MOOKHEY: This is the question I put to the Minister for Transport in budget estimates: Is this because of Ausgrid's failure to perform essential works to facilitate the undergrounding of local power supplies in Kensington and Kingsford?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: That is the source of the two-month delay?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: And that was advised to the ministry in August of this year?

Mr NOONAN: Correct.

The Hon. DANIEL MOOKHEY: I want to move on to when Acciona first became aware of the project blowing out in general. When did you first advise the Government that the project was at risk of delay?

Mr NOONAN: The very first time was in around March 2015 and formally in May 2015. When I say informally, I mean via representations in meetings, but in a formal letter in May 2015.

The Hon. DANIEL MOOKHEY: The first informal set of warnings are given by Acciona to Transport for NSW in meetings in March 2015. Is that one month after the financial close of the contract?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: In May 2015 you write a letter, or your company writes a letter, to Transport for NSW advising the Government that there was to be a delay. Is that correct?

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: What did the letter say?

Mr NOONAN: I referred to it in my opening statement. Essentially, the letter referred to the Ausgrid guidelines that we had received, which by May had developed into a signed formal document. It started with an informal email to us and became a formal signed document from Ausgrid. We then did an estimate to the best of our ability at that stage because it was such a broad—we tabled an estimate in this letter of the cost and the time impact of the Ausgrid guidelines.

The Hon. DANIEL MOOKHEY: Is that the reference in your opening statement to the 865 days?

Mr NOONAN: Yes, it is. That is correct. That was directly taken from the letter.

The Hon. DANIEL MOOKHEY: You formally advised the Government three months after financial close that the project was at risk of an 865-day delay and an additional cost of \$426 million?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: How did Transport for NSW respond?

Mr NOONAN: The response was to ask us to withdraw our letter. Our letter was actually a claim for modification, which is the correct process under the contract. Withdrawal was requested on the basis that we were told we were not required to comply with those guidelines and that we were requested to participate in a collaboration process with Ausgrid and Transport to find a more optimal solution to the problem.

The Hon. DANIEL MOOKHEY: So Transport for NSW asked you to withdraw the letter?

Mr NOONAN: On the basis of saying that those guidelines did not have to be complied with.

The Hon. DANIEL MOOKHEY: If I understand correctly, you are saying that within three months of financial close you write a letter to Transport for NSW saying that this project is at risk of an 865-day delay at the cost of \$426 million and Transport for NSW's response is, "Withdraw the letter." Is that correct?

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: You say that Transport for NSW said that the Ausgrid guidelines were not to apply. Was that a correct statement by Transport for NSW? Are they binding on you, these guidelines? Do you have any opportunity to amend them or have any input into them?

Mr NOONAN: It is difficult to say whether it is a correct statement. Perhaps the second part of your question is an easier one for me to respond to. Our contract does require us to comply with a direction from Ausgrid. So that is a fundamental requirement on us under our contract and Ausgrid obviously has powers under State government legislation because it is a significant—

The Hon. DANIEL MOOKHEY: If Ausgrid says to you, "Follow these guidelines," you cannot say no?

Mr NOONAN: Correct.

The Hon. DANIEL MOOKHEY: You made some allusion to your monthly reports. Given that I have had an opportunity under freedom of information to see some of these documents, are you referring to the monthly contractor delivery progress reports?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: Acciona is required to provide monthly reports—

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: —to Transport for NSW?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: You have been complying with that requirement since the project's inception, I presume?

Mr NOONAN: Yes, we have. Sorry, if I may, just to correct something, it is only a nuance, but it is ALTRAC who provide the report to Transport.

The Hon. DANIEL MOOKHEY: Through the subcontracting chain.

Mr NOONAN: Yes. That is why in referring to the PPP there is a chain that goes up.

The Hon. DANIEL MOOKHEY: Thank you for that nuance. But that monthly contractor delivery progress report contains the expected completion date. That is correct, is it not?

Mr NOONAN: Yes, it does.

The Hon. DANIEL MOOKHEY: That information is provided to Transport for NSW. That is correct?

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: So Transport for NSW are receiving monthly reports from you through the consortium about when this project is going to finish?

Mr NOONAN: That is right.

The Hon. DANIEL MOOKHEY: Are you aware that those reports are tabled or reported to the CBD light rail advisory board?

Mr NOONAN: No, I am not.

The Hon. DANIEL MOOKHEY: But, to the best of your knowledge, every month your company is providing Transport for NSW your estimated completion date for the project?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: Within each of those reports are you advising Transport for NSW that the project is delayed from its original completion date?

Mr NOONAN: Yes, progressively, and it did change. And in fact, in some cases, whilst it went out in time it also came back in time.

The Hon. DANIEL MOOKHEY: Since the project commenced, how many separate warnings has Acciona through the consortium provided to Transport for NSW that the project is at risk of substantial delay? Are you able to estimate?

Mr NOONAN: I could not give you an exact number, I am sorry, but there would be a significant number. There must be 45 monthly reports. I apologise, it is every month, so just multiplying by the number of months we have had. Significantly more than half of them would have had a significant time.

The Hon. DANIEL MOOKHEY: Yes, but we are talking about a report every month of which there are roughly 40 saying that this project is delayed?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: And this has been provided continuously to the Government since the project's inception?

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: To the extent to which Transport for NSW says or implies that your company has withheld information about construction risks and delays, are we to say that those claims are false?

Mr NOONAN: What I would say is we have not withheld any information from Government in relation to time in any way, shape or form.

The Hon. DANIEL MOOKHEY: I will now move on to what you raised in your opening statement to do with the contract modifications. You say that you have made 60 of them. These are pretty substantial. My understanding of your contract framework, and contract frameworks for all such contracts, is that contract modifications are large. They are not to be done on the small details; they are substantial changes to design. Do you agree with that?

Mr NOONAN: Yes, I do. Generally, yes.

The Hon. DANIEL MOOKHEY: You say that you have made approximately 60 requests for contract modifications in the past for a three-year project, or what was meant to be a three-year project?

Mr NOONAN: Yes. Well, in fact, the majority of those were the Government directing us to make the change rather than us asking for the change.

The Hon. DANIEL MOOKHEY: But you are asking to be paid for those changes. Is that correct?

Mr NOONAN: Yes, it naturally flows when there is a direction that we are obliged then to notify the Government of the financial impact of that change.

The Hon. DANIEL MOOKHEY: What are the other financial impacts of these 60 changes?

Mr NOONAN: The total financial impact of the 60 changes is currently—I am sorry, I have the information here—\$427 million.

The Hon. DANIEL MOOKHEY: So \$1 million more than what you originally advised in May 2015?

Mr NOONAN: Sorry, this is a different matter to the Ausgrid guidelines.

The Hon. DANIEL MOOKHEY: That is fine but in May 2015 you said that 865 today is an additional cost of \$426 million—

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: And the modifications now total \$427 million, that is what you are saying?

Mr NOONAN: Yes, but the modifications do not have anything to do with Ausgrid; they are a separate matter.

The Hon. DANIEL MOOKHEY: I understand. Has Acciona made any claims under the Security of Payments Act?

Mr NOONAN: Yes, we have.

The Hon. DANIEL MOOKHEY: How many claims have you made?

Mr NOONAN: Three.

The Hon. DANIEL MOOKHEY: And for what value?

Mr NOONAN: Approximately \$95 million.

The Hon. DANIEL MOOKHEY: And what for? What were you claiming for?

Mr NOONAN: What were the matters?

The Hon. DANIEL MOOKHEY: Yes?

Mr NOONAN: We made three separate claims. The first one was in March 2018, on 1 March 2018 and on 29 March 2018 and the third one was 2 May 2018.

The Hon. DANIEL MOOKHEY: So all this year?

Mr NOONAN: All this year, yes. The first claim was for works at the Queen Victoria Building tram stop as well as three separate Ausgrid claims, two of them in the city. On the March, the second claim, the matters were largely to do with Ausgrid claims rather than any modifications and the third claim in May was for the Alison Road levee, which became a dam.

The Hon. DANIEL MOOKHEY: Have they resolved?

Mr NOONAN: The process that we followed was, as the construction contractor, we lodged the security of payments Act claim against ALTRAC, ALTRAC being our direct client. ALTRAC responded and an adjudicator was appointed. The adjudicator awarded on all three cases to a total of about 95 per cent of our total amount claimed.

The Hon. DANIEL MOOKHEY: So you bring a claim for three of these matters under the security of payments Act. An adjudicator is appointed and you win three of them to the value of 95 per cent. Is that an accurate summary?

Mr NOONAN: Correct.

The Hon. DANIEL MOOKHEY: Why did you have to use the security of payments Act?

Mr NOONAN: We had been very frustrated by being unable to reach any financial outcome on these matters as between us, ALTRAC and effectively Transport for NSW up to that point in time. A significant amount of effort had gone into trying to resolve the matters but we had not been paid and so we felt that was a correct course of action using the—

The Hon. DANIEL MOOKHEY: So under the security of payments Act you have succeeded against your head contractor and the head contractor now will bring a claim against Transport for NSW presumably, which is the provisions of the security of payments Act, is that your understanding?

Mr NOONAN: I do not know what ALTRAC is going to do. At this stage I am not aware of them lodging any claim against Transport. It is up to them whether they choose to or not.

The Hon. DANIEL MOOKHEY: But there is a pretty reasonable chance that Transport for NSW is going to have to now pay these claims. Is that correct?

Mr NOONAN: I cannot answer that question, I am sorry.

The CHAIR: If you want to take any of these questions on notice, you are free to do that? You may want to get legal advice.

Mr NOONAN: I understand that. I cannot answer that question because it is a question more for Transport, I think, than myself.

The Hon. DANIEL MOOKHEY: To the extent to which you know—and you may not know this—are the claims that you make under the security of payments Act paid for out of the contingency budget for the CBD light rail from Transport for NSW? Are you advised of that? Do you know if that is going to happen? I am trying to understand whether or not we now need to add this \$95 million to the project cost and if so, when? Are you able to shed any light on that question?

Mr NOONAN: No, I am not able to shed any light on that, I am sorry.

The Hon. DANIEL MOOKHEY: I think I might stop there. I have only got 20 seconds left, Mr Chair.

The CHAIR: We will move on to The Greens.

Ms CATE FAEHRMANN: Thank you for appearing, Mr Noonan. Yesterday we heard about quite a few impacts from the construction of the light rail. I want to focus on noise to begin with. We heard yesterday from a particular resident, Mr Andrew Jordan, who talked about the amount of times that he has suffered

throughout the evening as a result of noise which seems to have exceeded the noise levels that you have been approved to make in that area. I have your environmental impact statement [EIS] in front of me, which essentially says that where possible construction will take place during standard construction hours of 7.00 a.m. to 6.00 p.m. Monday to Friday and 8.00 a.m. to 1.00 p.m. on Saturdays. It says that consideration will be given to the scheduling of activities generating high noise and/or vibration levels during these hours. I understand that the light rail has in fact been doing a lot of work at night. What is your justification for how much you have been working at night on this project, particularly around residential areas?

Mr NOONAN: So the question is: What is the justification for working at night?

Ms CATE FAEHRMANN: Yes?

Mr NOONAN: The process to work at night is a decision made jointly with Transport and more than anything else it is actually to minimise the impact of the project on all possible stakeholders—residents, businesses, traffic users and so forth. It is obviously not a decision taken lightly. From our point of view it is a far more expensive way of going about the work. Obviously we pay significant overtime for that process. There is no overtime work that is undertaken just for the benefit of us.

Ms CATE FAEHRMANN: Is it Acciona's responsibility to notify residents by email or text message about noise levels or is it somebody else's?

Mr NOONAN: It is a joint responsibility but we do have a team of about 12 to 15 community relations staff, approximately three in every zone, so there would be three in the area that you are referring to. They have regular contact and other front line in notifying residents of the activities and future activities planned.

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

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

Ms CATE FAEHRMANN: Do you know how many times you have exceeded noise levels then throughout the entire time of the project? Do you monitor noise?

Mr NOONAN: Yes, we do.

Ms CATE FAEHRMANN: How do you monitor noise? Whereabouts are these noise monitors placed?

Mr NOONAN: I apologise. I cannot give you a specific answer to that because it is quite a specific question. We do do noise monitoring. As part of our complaints procedure, if there are complaints about noise, we will also, as part of the process of follow-up, do monitoring and sometimes the close-out action is to actually give reports back to people. If there are specific questions that you want to ask about specific instances, I would be happy to follow up, but it is difficult to be more detailed than that.

Ms CATE FAEHRMANN: We have received hundreds of submissions essentially, many from residents who have been complaining about the fact that they have not been able to sleep for nights on end; that their kids have not been able to sleep. We have received complaints from students who have had exams and who have not been able to study. People have talked and the word "torture" has been mentioned actually in terms of what these people are going through. We had people in tears yesterday. Surely you should have some kind of an understanding of how much your company is monitoring noise and what the noise monitoring looks like in what locations?

Mr NOONAN: Yes, I do and we do do noise monitoring around the project.

Ms CATE FAEHRMANN: Is it continuous?

Mr NOONAN: It is not continuous, no. We do it specifically in areas, depending on how much activity is happening at any point in time. I cannot tell you specifically.

Ms CATE FAEHRMANN: So when you have night-time construction in a residential area, do you have adequate noise monitoring being undertaken every time that you are undertaking construction at night time alongside residents?

Mr NOONAN: No, we would not have it every time, no.

Ms CATE FAEHRMANN: Is there a reason why you do not do that?

Mr NOONAN: No, there is not a reason other than what we would deem to be normal practice and reasonable practice in these circumstances.

Ms CATE FAEHRMANN: We had a gentleman before this Committee yesterday who has bought his own noise monitoring equipment because he has been so distraught at the extent of noise in his area. He tried to explain to the Committee what 80 decibels of noise is. He says it has gone up to 100—he says he has measured it at 101 decibels. He said imagine 3.00 a.m. on a Monday and it sounds like an extremely loud lawnmower in your ear. This is one person who was before the Committee yesterday, but he is representing a hell of a lot of people who have made submissions to us about noise. What I cannot understand is if you are doing this construction at night-time how you do not have noise monitors everywhere so that you can monitor whether that noise is unacceptable to residents, because surely you are also breaking your contract if you are exceeding noise levels, and your environmental impact statement as well.

Mr NOONAN: I think what I said is that we do do noise monitoring. I cannot give you absolute specifics on the extent of that.

Ms CATE FAEHRMANN: It does not sound like you do enough. Is that right?

Mr NOONAN: It is possible that that is the case.

Ms CATE FAEHRMANN: If we have residents buying their own noise measuring equipment and you are unsure of whether you measure it all the time at night.

Mr NOONAN: I would be very happy to come back to the Committee on the extent of our noise monitoring, especially in that particular area, because it is obviously very important for us to do that.

The CHAIR: You will take that question on notice?

Mr NOONAN: Yes.

Ms CATE FAEHRMANN: One more question about noise because it was a resounding theme. There were 2,187 complaints received on the Transport for NSW complaints line and 55 per cent of those have been about noise, so you would think that the company responsible for the noise would do as much as they can to monitor that noise and ensure that it is reduced for residents.

Mr NOONAN: Absolutely.

The CHAIR: Thank you again for appearing before our inquiry. This is my opportunity to ask you a couple of questions based on your opening statement. You said in your opening statement that you plan to develop a large land parcel near Gladstone. What would that project be?

Mr NOONAN: That will be a renewable energy project. It will most likely be a solar farm.

The CHAIR: Solar panels?

Mr NOONAN: Yes.

The CHAIR: You also said in your opening statement, "It is important to note that Ausgrid and the other utility providers sat in and observed these pre-contractual meetings from time to time but Acciona, and the other consortium bidders at the time, were forbidden from discussing the utility treatments or anything else, directly with the Utility Owners." Who put that policy in place?

Mr NOONAN: That was part of the tender process. Most tender processes that governments run have a probity set of rules that each of the tender participants must sign up to. So we signed up to a set of probity requirements that said that we were not allowed to directly talk to or contact any of the utility and other stakeholders.

The CHAIR: Did that make it difficult for you then in progressing the development?

Mr NOONAN: During the tender phase itself it did not particularly make it more difficult for us. It meant that we were fully reliant on what was given to us by the Government.

The CHAIR: So this is all pre-construction stage?

Mr NOONAN: Pre-contract signing, yes. Post-contract signing, we then had the ability to talk directly with the utility providers.

The CHAIR: And did you get cooperation then from those utility providers, or satisfactory cooperation?

Mr NOONAN: We had satisfactory interaction in being able to talk with them, but the level of cooperation effectively, as I am making the point on utilities in general, is very, very difficult for construction companies to have any impact on them. That is not to say that the utility providers and owners do not talk to us, they do—they do interact with construction companies such as ourselves, but we have very little power to do anything to them or compel them to do anything.

The CHAIR: You also mention in your opening statement, I assume with a degree of frustration, that you received these new Ausgrid guidelines and that these were completely different to what you had developed into schedule F8 and would result in a substantial change to the contract scope. Those new Ausgrid guidelines came out of the blue, did they?

Mr NOONAN: They did, as far as Acciona was concerned, yes.

The CHAIR: You had no warning?

Mr NOONAN: No.

The CHAIR: In your opinion did that then have a major impact on the whole project?

Mr NOONAN: Yes, it did, absolutely. It had the most fundamental major impact.

The CHAIR: Was there any explanation by Ausgrid as to why they issued those new guidelines in that process?

Mr NOONAN: Not that I am aware of.

The CHAIR: It would certainly cause problems for you in the construction to fulfil them?

Mr NOONAN: Absolutely.

The CHAIR: We have all been aware of the problems that you encountered in George Street, and you mention in detail in your submission the existing Ausgrid utility pit in George Street. Basically, it had to be more than doubled in size. We gather from media reports that what was in place had been there for many, many years because of the age of the development of Sydney from the colonial stage and that must have caused some frustration with your construction to find there were perhaps more underground conditions—powerlines, waterlines, water pipes and so on—and apparently there does not seem to have been any mapping of those conditions that should have been supplied to you so you had a full understanding of what you were going to encounter. It appears nobody seemed to know what was under the ground.

Mr NOONAN: There had been some significant mapping of the entire route, particularly George Street in Surry Hills, and there had been some quite detailed mapping of that area. Unfortunately, it became clear to us well into the project that the mapping in George Street was not complete. An example of that is that the zone where the detailed mapping was, which was more physical identification of works, was largely limited to within gutter-to-gutter boundaries. That is where the initial light rail route and the actual light rail route is going, and whilst schedule 8 applied and we did not have to reconstruct a pit into double or triple its size but we merely had to move it and keep it the same size, then within that area of investigation we were able to cope because we knew what was there and we were just shifting a pit from there to there and leaving it in the same size.

As soon as the Ausgrid guidelines come into play and we have to change that pit from a certain size to a much larger size—and a lot of that requirement is due to updated safety requirements for Ausgrid; so they say "If you change a pit you must upgrade it so that the access into that pit and everything about it fulfils our upgraded safety requirements for our employees".

The Hon. DANIEL MOOKHEY: The current status?

Mr NOONAN: Yes.

The CHAIR: So basically double the size of the pit?

Mr NOONAN: Yes. I will put an extreme example of four metres out to 10 metres. There are examples of roughly one metre out to two metres. Even that two-metre change means that the excavation moves a metre further out into the site beyond what anyone expected previously, and that starts to move into a zone where the Government had not done an investigation and, secondly, into an area we had not known that the Government had not done that investigation, and starts interfering with assets, some of which are known, some of which are unknown, and then the iterative process to find who owns the assets, how to get approval to touch those assets, to redesign them, and the iterative process to understand the impact on the actual permanent light rail route.

Stormwater in particular is a really challenging asset. Whilst it seems to most of us the most simple because it is not carrying anything dangerous, stormwater by its nature has to run downhill. You can run Ausgrid pipes up and down and gas pipes up and down; you cannot do that with stormwater. So you have very, very strict limitations between the light rail tram lines themselves where the trams cannot do that, they have got to be flat; we have got the limitations of the buildings on the other side; we have got the limitations of needing to have the pavements work properly for disability access and pedestrian access; and then we have the stormwater limitations, so everything around that has to move.

At the Bridge and Grosvenor intersection, for instance, we had to build a micro tunnel. We had to dig two pits and tunnel from here to here just to maintain a stormwater pipe to get the stormwater about four metres distance from there to there. Otherwise we would have had to install permanent pumps to deal with that water, which would just be a very bad outcome for long term. That is the sort of intricate little work that if you did that work out in a paddock would be insignificant. In George Street, in those confined zones where there is no space and you are having to deal with utility authorities to get approvals all the time, finding new utilities, an iterative process for design approval, 15 stages of design approval all the way through in a PPP contract, it is where you see sections of George Street sitting idle for three months frustrating everybody, but there is no physical work we could do. You dig a hole, find something, you stop. The public is going, "Why is there not any work happening?"

The CHAIR: We understand your frustrations.

The Hon. MATTHEW MASON-COX: Mr Noonan, thank you for appearing today. Your evidence has been enlightening. I want to go back to the monthly updates you were giving the Government from May 2015 about delays in the project.

Mr NOONAN: Yes.

The Hon. MATTHEW MASON-COX: You would be aware of the original published schedule for each of the 31 zones, the published start date and published end date. I presume you would have given an update—I can provide this to you—by zone so Transport for NSW would understand the impact in each of the 31 zones?

Mr NOONAN: I am aware that was given; I do not have the detail with me.

The Hon. MATTHEW MASON-COX: To understand the format, there would be clear information given by you to Transport for NSW on each of those zones on a monthly basis?

Mr NOONAN: Yes.

The Hon. MATTHEW MASON-COX: In relation to your international experience and experience in other cities in Australia, you are aware of the impact a light rail project of this nature would have on businesses and residents from your previous experience?

Mr NOONAN: Absolutely.

The Hon. MATTHEW MASON-COX: Is this project in Sydney similar to that experience, worse or better? Can you give us an understanding of how that ranks in terms of the impact it has had on businesses and residents?

Mr NOONAN: Without doubt significantly worse.

The Hon. MATTHEW MASON-COX: When you say "significantly", can you give us an understanding of the delays that have been encountered in other projects of a similar nature?

Mr NOONAN: I can personally talk to projects done in Melbourne and Adelaide.

The Hon. MATTHEW MASON-COX: That would be useful.

Mr NOONAN: For instance, we constructed the light rail route down King William Street in Adelaide some 10 or 11 years ago—quite similar, obviously a less busy street but still the main street of Adelaide. That had a previous light rail route similar to what we are experiencing here. We constructed a new light rail down the centre of King William Street. That occurred under a different contracting model. It was a far more collaborative approach and the design and requirements were put together, in my opinion, in a far more appropriate manner for that context. Hence, the construction work went through quite swiftly and there was minimal impact on residences and businesses. It was the same impact as what was originally planned for. There was no change to the original plan.

The Hon. MATTHEW MASON-COX: Six to nine months inconvenience rather than the extension of time we have seen here?

Mr NOONAN: King William Street was constructed in less than 12 months.

The Hon. MATTHEW MASON-COX: In evidence yesterday we had one witness in particular talk about threats from workers, obviously from your company, on site. Did you hear that evidence yesterday?

Mr NOONAN: I read parts of the transcripts last night.

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

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

The CHAIR: Take that on notice.

Mr NOONAN: Yes.

The Hon. MATTHEW MASON-COX: I refer to the information that comes to you and how it comes to you. To give you an example: A resident has a problem—say, it is the fire escape is blocked—and he rings up the 1800 number. What happens next? How does it get to you?

Mr NOONAN: We have a communications team. Marion McCabe is our head of communications. Ms McCabe has been on the project since the start, since early 2015. And our requirement is to follow up within 20 minutes of getting a phone call. They are logged. It is Transport for NSW who maintains that call centre and log but we have control of it thereafter and respond back into that same logging process.

The Hon. MATTHEW MASON-COX: How long does it take for a complaint to come to you?

Mr NOONAN: Immediate. And we are required to log a response within 20 minutes.

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

Mr NOONAN: Yes.

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

Mr NOONAN: Yes.

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

Mr NOONAN: Specifically the ones brought up yesterday?

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

Mr NOONAN: Yes.

The Hon. MATTHEW MASON-COX: In terms of responding, what would you do in a situation like this? When you respond what action is taken? What is the company process in that regard?

Mr NOONAN: It depends on the severity and what is going on. There can be situations whereby WorkCover needs to be notified. We had an incident where a water barrier did fall over and hit a member of the public. That was immediately dealt with. WorkCover came in and there was an investigation and that is treated as a work health safety incident, as if it was one of our employees, as well as follow-up of the person involved.

Another more recent example: I am sure everyone is aware there was an electrocution of a young lady in George Street near the site. In the first instance obviously no-one was clear on whose fault it was, what caused it and so forth. I was notified within an hour or so of that, perhaps less. The first thing in speaking to our project director was to say, "Regardless of anything please contact the family and offer any assistance and help and certainly our sympathies." It turns out that incident was not related to the Sydney light rail and not part of our

project, but because it could have been related to it we want to react as quickly as we can. I would imagine that we are not perfect in that respect but it is our intention to behave in that manner.

The Hon. SHAYNE MALLARD: Thank you for coming in today. On a related subject, we had evidence yesterday from residents about alleged property damage caused by construction either by vibration or actually by physical impact upon a building.

Mr NOONAN: Yes.

The Hon. SHAYNE MALLARD: Alleged ceiling collapse, so forth. What is Acciona's view of these claims? Was it the process that you deal with those claims and the remediation process?

Mr NOONAN: It does go through the database process of complaints register. Everything is logged and there is a full database that we can refer to. In responding to the request put forward earlier, it is a similar process. With respect to property damage we then have a property team that are charged with following up the matters and checking out that it is something that has been caused by us or our activities or whether we feel it is not the case. I do know that there are fences we have repaired because we understand it was caused by our construction activities. I am sure there are instances where we do not feel that the damage was caused by our construction activities, in which case we would report back. I have seen a copy of a letter where we have reported back to one household that we do not feel that that was our responsibility. It is still up to that person to not agree with us, obviously.

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

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

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

The CHAIR: You may take that question on notice.

The Hon. SHAYNE MALLARD: There were 31 construction zones.

Mr NOONAN: Yes.

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

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

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

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

The Hon. SHAYNE MALLARD: You might take that question on notice. Talk to us about George Street and Surry Hills.

Mr NOONAN: That issue, it is quite right, the intention was to be in each zone for between probably about nine months per zone. The intention was to establish any changes to the utilities that needed quite quickly and finalise design and then get the construction completed in that area. As I described in my opening remarks, the changes that were delivered by Ausgrid really just were a complete game changer for the project because it opened the excavation and works up into zones that services were unknown, and there was an interim process to even find them.

The unfortunate reality of that is we are establishing these things on the run during construction and put barriers in, excavate, find a service, work out who owns it, work out if we can get approval to move it, understand how that impacts on all these other issues of the light rail, go again, and find another one. It was debilitating for the project and I have absolutely no doubt it would have been debilitating for all those business people along the routes, let alone all the residents, but from a commercial point of view, the businesses in particular I am sure it is very saddening to hear the impact on those businesses.

The Hon. SHAYNE MALLARD: It is a life-changing, devastating event for some of them.

Mr NOONAN: No doubt.

The Hon. SHAYNE MALLARD: You are painting Ausgrid as the villain here today. I find it hard to believe that you did not have some awareness that Ausgrid was proposing to upgrade the requirements of its infrastructure. As you told us in your opening statement, the construction industry association—I had experience as a councillor where Ausgrid changed conditions and took advantage of upgrades to infrastructure, such as the Kings Cross upgrade, William and Oxford streets upgrade, to upgrade their infrastructure. Did you not have your eyes open when you went into this project?

Mr NOONAN: Yes, we did. The process that was followed, and I mentioned the workshops that were had with government during that tender period, and it was still a competitive process at that stage, we had not been awarded the project. It was a process of workshops to establish what is called schedule F8. Schedule F8 goes through pit by pit in George Street, in particular: What is the treatment required for that 1x1 metre pit? Move it from there to there? Leave it as a 1x1 metre pit?

The Hon. SHAYNE MALLARD: Was Ausgrid part of those workshops?

Mr NOONAN: It is my understanding that Ausgrid attended two or three of those workshops. I think there were in the order of 14 to 16 workshops. My understanding is Ausgrid attended but did not actively participate in those workshops.

The Hon. SHAYNE MALLARD: That is before the tender?

Mr NOONAN: Yes.

The Hon. SHAYNE MALLARD: You say to us there was prohibition in the tender process of talking to the service providers. After you won the tender, obviously you could sit down with Ausgrid and have discussions. When did they inform you that they wanted to take advantage of this to upgrade all of their infrastructure?

Mr NOONAN: They did not inform us that they wanted to take advantage to upgrade their infrastructure. They informed us of their guidelines, and that was very soon after the financial close was signed in February 2015.

The Hon. SHAYNE MALLARD: You are saying their guidelines changed from before to after tender?

Mr NOONAN: The schedule F8 is a contracting document that was developed by Transport for NSW people and Acciona, and our design and construct people. As an example, we had consultants working for us. We spent many millions of dollars, millions of dollars during that bid stage purely on utilities and understanding that schedule F8.

The Hon. SHAYNE MALLARD: He said it was covered in paint, everywhere.

Mr NOONAN: No, that is nothing to do with us. That was Transport doing that separately. I am just talking about in our desktop tender process, because we did not go out and do any physical work because we were unable to, we were not allowed to, prohibited from. In just understanding the information that we had been given by Transport, and developing schedule F8, we spent many millions of dollars making sure of that schedule F8 and

getting it right and understanding the pricing of it and the impact of it, many millions of dollars, just on that issue. It was not taken lightly. It was understood how important it was. It was the biggest single issue that we understood on the project. But we were given a different document soon after signing, which bore no resemblance to what we had agreed to.

The Hon. SHAYNE MALLARD: By Ausgrid?

Mr NOONAN: Yes. A different document was given to us by Ausgrid, yes.

The Hon. DANIEL MOOKHEY: I believe I have about eight minutes, so forgive me if I ask the questions at a relatively fast clip. How much money have you spent to date on the Sydney light rail project?

Mr NOONAN: We have spent approximately \$1.45 billion to date.

The Hon. DANIEL MOOKHEY: Acciona has spent \$1.45 billion?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: You say in your opening statement that the original value of Acciona's contract is approximately 40 per cent of \$2.1 billion. My rudimentary mathematics tells me that is roughly \$900 million.

Mr NOONAN: It would be less than that, about \$870 million.

The Hon. DANIEL MOOKHEY: You were contracted to receive \$870 million.

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: As of 4 October you have already spent \$1.45 billion?

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: That is a \$600 million discrepancy, or thereabouts, correct?

Mr NOONAN: That is correct?

The Hon. DANIEL MOOKHEY: How much do you expect this project will cost to complete?

Mr NOONAN: Our current forecast has the cost going to approximately \$1.8 billion.

The Hon. DANIEL MOOKHEY: The construction element?

Mr NOONAN: Construction cost, of Acciona's scope.

The Hon. DANIEL MOOKHEY: Acciona's scope has doubled. You expect it to increase from \$900 million to \$1.8 billion, which will take the project budget from \$2.1 billion to \$3 billion, that is correct?

Mr NOONAN: Sorry, I can respond to the first question, that our cost has doubled.

The Hon. DANIEL MOOKHEY: I will put the second question to Transport for NSW. Your cost has doubled?

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: Can I now go through the chronology of these increases? Thereabouts in October 2014, the Government, through the transport Minister, advises by way of press release that the cost is still expected at \$1.6 billion. In December 2014 to, I think, December 2017 the transport Minister then advises that actually the cost is \$2.1 billion. That \$426 million to which you referred earlier, that additional increase in costs, came in May 2015. That is correct, is it not?

Mr NOONAN: I am sorry—I think you might be getting confused. Four hundred and twenty-six million dollars I referred to.

The Hon. DANIEL MOOKHEY: Yes.

Mr NOONAN: You asked a question about the value of the modification changes.

The Hon. DANIEL MOOKHEY: Yes.

Mr NOONAN: They are the modifications.

The Hon. DANIEL MOOKHEY: But that is an addition to—

Mr NOONAN: That is an addition to the \$450 million that we estimated will be the cost of the Ausgrid impact.

The Hon. DANIEL MOOKHEY: But both of those sets of changes occurred after the contract was signed.

Mr NOONAN: Yes.

The Hon. DANIEL MOOKHEY: That is correct?

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: So \$2.1 billion in December 2017 and then, in addition, both these sets of \$426 million. That is me getting it clear?

Mr NOONAN: Your figures there are slightly—it is \$426 million and \$450 million, but, yes, that is correct.

The Hon. DANIEL MOOKHEY: But the point is that it is in addition to the \$2.1 billion.

Mr NOONAN: Yes it is.

The Hon. DANIEL MOOKHEY: Thank you as well for that. I just want to move on now very quickly to your interface with residents. Under contract, what role and responsibility do you have in interacting directly with residents? Is of the case under the contract that Transport for NSW is primarily responsible for interacting with residents?

Mr NOONAN: They are primarily responsible for interacting with residents and our communications team—

The Hon. DANIEL MOOKHEY: Assists them?

Mr NOONAN: —assists them. But we do take a frontline role.

The Hon. DANIEL MOOKHEY: Of course, but contractually Transport for NSW is required to do with residents.

Mr NOONAN: Contractually, yes, and we are bound by certain confidentiality provisions and so forth also, which is part of why they have the frontline position.

The Hon. DANIEL MOOKHEY: Do those confidentiality requirements to which you refer restrict your ability to interact with residents?

Mr NOONAN: Does it restrict? Obviously, it does restrict our ability in total, but it does not restrict our practical ability to keep them up to date with respect to the standard information and what is going on with the project.

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

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

The Hon. DANIEL MOOKHEY: Right. But presumably, if Transport for NSW were to say, "We need to add soundproofing to these residents", and told you to do it, you would have to do it. That is correct?

Mr NOONAN: Yes, we would.

The Hon. DANIEL MOOKHEY: And they have the power to direct you to do it. That is correct?

Mr NOONAN: Yes, they do.

The Hon. DANIEL MOOKHEY: And you would have the power, obviously, to seek from them the cost of doing that or at least put forward another modification. That is correct, is it not?

Mr NOONAN: That is correct.

The Hon. DANIEL MOOKHEY: But, ultimately, Transport for NSW could today say, "We are going to protect these residents against noise." That is correct?

Mr NOONAN: That is correct, yes.

The Hon. DANIEL MOOKHEY: Thank you. I just want to move on very quickly here—actually, are there any compelling reasons not to provide that soundproofing?

Mr NOONAN: There are two aspects of noise and perhaps it is best to understand that. One is the construction noise.

The Hon. DANIEL MOOKHEY: And the ongoing cost of noise.

Mr NOONAN: And I think some would be questions in relation to the impacts on residents during construction, which is largely construction noise. Then there is the permanent noise with respect to light rail itself. I know that there are concerns already—there are concerns and some are complaints—that relate to the permanent noise with respect to the Randwick stabling yard precinct.

The Hon. DANIEL MOOKHEY: Yes, which is a pretty reasonable concern for a resident to have because there will be lots of light rail going past their premises at all hours of the day endlessly.

Mr NOONAN: I would not be able to comment on what is reasonable or not reasonable, but obviously we have contractual requirements on the permanent noise. It is my understanding that our permanent noise is below our contractual requirements, but there are people who may not think that that is sufficient.

The Hon. DANIEL MOOKHEY: I understand.

Mr NOONAN: That is a personal issue, obviously.

The Hon. DANIEL MOOKHEY: Just very quickly, of the 16 modifications that the Government directed you to do, did any of them relate to noiseproofing?

Mr NOONAN: Yes. There were some, yes.

The Hon. DANIEL MOOKHEY: Thank you. Just moving on very quickly now to the question of Ausgrid and their level of control, one of the criticisms that the Auditor-General made in her report was that Transport for NSW ought to have had these utility agreements in place before they signed their contract with you and your consortium, but they did not. Do you agree that that is an accurate statement? Third party agreements is what the Auditor-General said that were not—

Mr NOONAN: Yes, I would agree that is an accurate statement.

The Hon. DANIEL MOOKHEY: In fact, one of the criticisms that the Auditor-General makes—the big criticism that she levels at the Government—is that this was all mispriced and omitted from the business case. They did not factor in this cost when they made their decision to invest public money on this project. Is your experience consistent with that finding?

Mr NOONAN: Yes it is.

The Hon. DANIEL MOOKHEY: Insofar as the Auditor-General said that, had the third party utility agreements—which is Ausgrid, Sydney Water and I think the other one you mentioned as well—been in place then the project would have been a far less risk of delivery. Would you agree with the Auditor-General when she says that?

Mr NOONAN: Yes, I would.

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

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

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

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

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

Mr NOONAN: Yes, I can do that.

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

Mr NOONAN: Okay.

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

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

The Hon. DANIEL MOOKHEY: My question is: Does Ausgrid have to pay a cent to you or the taxpayers for us to upgrade their pits?

Mr NOONAN: I can only answer that they do not pay Acciona, or any part of the project that I am aware of, any money.

The Hon. DANIEL MOOKHEY: Why should we not conclude that Ausgrid—a company that was owned by the New South Wales Government at the time the contract was signed, but that is now privatised—is using this project to gold-plate its facilities under the city of Sydney.

Mr NOONAN: That is a statement for you to make.

The Hon. DANIEL MOOKHEY: Technically it is a question.

Mr NOONAN: Is it?

The Hon. DANIEL MOOKHEY: Why should we not conclude that?

Mr NOONAN: I accept that that is a possible conclusion. It is not something I can comment on any further than that.

The Hon. DANIEL MOOKHEY: Okay.

Ms CATE FAEHRMANN: Thanks. That was going to be one of my questions.

The Hon. DANIEL MOOKHEY: Sorry.

Ms CATE FAEHRMANN: No, good. It is great that you asked it. Mr Noonan, I think you said that May 2020 is now the completion date for the light rail project.

Mr NOONAN: Yes.

Ms CATE FAEHRMANN: You said that was the formal date at the time just a few moments ago.

Mr NOONAN: Yes.

Ms CATE FAEHRMANN: Do you expect to meet that May 2020 completion deadline?

Mr NOONAN: Yes, we do expect to meet that. Why I said "formal" is that there are opportunities being discussed by all parties, including Transport, to achieve a better completion date than that. Largely those matters do not relate to civil works construction and they are about testing/commissioning issues to try to achieve better dates.

Ms CATE FAEHRMANN: Yes. I understand Transport for NSW was at the last hearing on 20 August suggesting it was in discussions, I believe, with you to bring it forward from March 2020, actually; it has been talking potentially to December 2019. How are those talks going? Are they the talks you are talking about?

Mr NOONAN: Yes, they are.

Ms CATE FAEHRMANN: So you are here today saying May 2020, not December 2019, despite Transport for NSW's enthusiasm about an earlier date?

Mr NOONAN: I am sorry: To be clear, the formal date that we have to notify formally is May 2020, which was March 2020, but we are actively and positively working as Acciona and the rest of the consortium with Transport to achieve a December completion date. I am confident that we can achieve that, but there are risks and externalities which will impact on our collective ability.

Ms CATE FAEHRMANN: Thank you. Is Acciona responsible for the construction of the stabling yards at Kingsford?

Mr NOONAN: Yes.

Ms CATE FAEHRMANN: That is correct?

Mr NOONAN: At Randwick, yes.

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

Mr NOONAN: Yes.

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

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

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

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

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

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

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

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

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

Mr NOONAN: Both.

Ms CATE FAEHRMANN: Thank you.

The CHAIR: You will take that on notice—thank you very much. Moving on to some other general questions, in your opening statement in regard to the delays that are caused to the whole project you said another example was the newly issued Ausgrid guidelines: "They caused substantial delay at the corner of Bridge, George and Grosvenor streets," et cetera. Work was to be carried out over eight weekends; it became 56 weekends. What sort of cooperation did you get from Ausgrid? Did you get any warnings about the issuing of new guidelines? Was there any consultation before the guidelines were issued to see what impact they would have on the project?

Mr NOONAN: The first date was the issuing of those guidelines by Ausgrid without any warning to us. Post the issuing of our letter in May 2015 to the Government of our estimate of the impact of those guidelines, the Government, Transport for NSW, our organisation and Ausgrid formed a consultative committee group that sought to work location by location through the most optimal solution. As I said in my opening, unfortunately the solutions were largely still in line with the Ausgrid guidelines. But it is fair to say that Ausgrid did participate actively in assisting, because it was their assets. They had to approve the ultimate direct drawings and work that had to be done. Whilst there was a consultative process and Ausgrid were part of that, it did not change the fact that the treatment for their pits was vastly different to what we had intended and what we had all signed up for at contract.

The CHAIR: Was any opportunity given to you to respond to the guidelines or to say, "We find that some of the requirements are impossible," or, "It's going to cause massive delays. Would you modify those guidelines?" or, "Do you have any spirit of cooperation?"

Mr NOONAN: Yes, through that collaborative process. I can understand that the transport project leaders did try to actually achieve better outcomes from Ausgrid. It is a matter of how much those better outcomes may have been. They certainly did not get anywhere near back to what we all intended them to be.

The CHAIR: You mentioned in your opening statement the surprise as you found various situations as the project moved on. You stated: "We may then find another unknown utility below and go through the same process." Could you give an example of where you found that unknown utility that caused a delay?

Mr NOONAN: It is difficult to be absolutely specific, but in fee zone 4 in George Street, which is actually beside the area where one of the business owners appeared yesterday, that was a particularly difficult area with a significant enlarging of pits, and one of the pits I mentioned earlier. In that case the iteration of what Ausgrid would accept took more than six or nine months. As we then found that that enlarged and enlarged, because of the enlarging we were finding and interacting with services in that zone which we had previously not recorded on any of our documentation that we had. For instance, we have light poles that we have had to put up as part of our work along that street where the pole foundation is actually a metre away from the pole and we have had to cantilever the concrete structure out of the top of the pole foundation, because the pole foundation literally cannot go in the location of the pole. These sorts of changes and how to fit things in are what has occurred as a result of that.

The CHAIR: Thank you.

The Hon. MATTHEW MASON-COX: In terms of the contractual relationships, you make some comments in your opening statement about the risks of the project, if you like, not being able to be properly managed under a PPP contract, particularly obviously Ausgrid but also the other third-party agreements which had not been properly concluded at the time that you had financial close. Can you perhaps give us an idea of what you think the best sort of contract would have been in the circumstances, given the undefined risk?

Mr NOONAN: Yes, I can. I refer to collaboration contracting. There are various forms of collaboration contracting. At the moment we are undertaking two what are called "alliance contracts" in Victoria for the Victorian Government. The entirety of the level crossing removal program in Victoria is currently a \$6 billion program of works. We are currently undertaking about \$1.5 billion of that on the Frankston train line. That is all being undertaken under an alliance where we work through a budget together. We work through a budget in a competitive framework, so our team compared to another team. After about six months the Government then selects the team they decide is the most competent, not necessarily on price but on the totality of their view of who the best team is. We then work to a budget and we have a fixed margin and a process where we can make a little bit more margin or have margin taken away from us based on if it costs over or under, or criteria such as safety performance, community relations performance and so forth.

Under that model it is much more about managing services because, as you can imagine, there are a lot of utilities to move when you have a rail corridor and you want to put a railway line under or a road over that rail corridor. That is the process where together we are able to understand those risks and have those conversations and plan properly for the works. There are other methods of collaboration contracting. Early contractor involvement is another one, where you can have competing consortiums in a very open and transparent open-book manner, be able to talk to all of the necessary stakeholders, but then convert the contract into a lump-sum contract. We did that very successfully in South Australia. We did a full reconstruction of all the metropolitan train lines—six metropolitan train lines in Adelaide—under that early contractor involvement model. That was six different contracts in the end, flowing on one after the other.

The Hon. MATTHEW MASON-COX: In this case, though, you were presented with the PPP as part of the tender documentation. A process had been, if you like, preordained as to how the project would be put to the private sector to participate and you responded to what had been put to you as the way to proceed.

Mr NOONAN: That is right.

The Hon. MATTHEW MASON-COX: You had no input into that process in terms of the architecture, so to speak.

Mr NOONAN: No, we did not. However, we are a rational and mature company, so we went into it with our eyes open. I think that was one of the questions before. Perhaps an area that I have not touched on, and

it might be appropriate to explain, is that within the context of the contract we limited our risk with relation to utilities because we understood, even despite having done such a large amount of work at tender time and worked through these workshops, we still understood to be a very significant risk on the project. So there is a specific 12-page part of the contract which goes through the risk-sharing mechanism of the utilities and how they should occur.

I go back to the PPP and, unfortunately, whilst that regime is there—and in our opinion we think it is very clear—by the time you get through a few layers and get to Transport they do not necessarily agree with us that it is so clear and says what we think it says. That is a cause of a lot of anxiety and conflict. We have one view, and we think it is very clear and what we intend the contract in what it says; Transport have some different opinions as to what it says. Hence while we were sitting there with no money, having been paid for any of these events, and why we then got the security of payments Act scenario. The security of payments Act actually has to read the contract. They just do not make a decision out of thin air. They have to, in a short period of time, make their determination of what the contract says and hence why we were then awarded positively in our favour. Effectively the adjudicator agreed with us.

The Hon. SHAYNE MALLARD: Will you explain what "mitigating delays" mean in the context of a construction contract?

Mr NOONAN: There are a number of ways to mitigate delays. In this work the most manner in which we have mitigated delays, and continue to mitigate delays, is by undertaking works prior to full approval of drawings. I mentioned before about the PPP—very strict. It is a very significant risk for a construction contractor to go ahead and construct without having full approval from everybody.

The Hon. SHAYNE MALLARD: In this context is it a contractual obligation to try to minimise, address or head off delays, directly or indirectly?

Mr NOONAN: Yes. We do have an obligation to mitigate delays, yes. We do not have an obligation to mitigate delays in any way that increases our cost though, but we do have an obligation to mitigate delays.

The Hon. SHAYNE MALLARD: Would that mean you would have to work very closely with your partners on the project?

Mr NOONAN: Yes.

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

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

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

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

The Hon. SHAYNE MALLARD: You might like to take that question on notice. Please continue your answer.

Mr NOONAN: With respect to December '19 that we are working towards and trying to find if there is a practical way to achieve that, the risk to that is probably in the order of two months from what we are evaluating at the moment. It does not change the fact that the formal date that both Alstom and Acciona have notified collectively through ALTRAC to Transport is May 2020. But the way that we are all working together is still to try to achieve that December completion date. I imagine he may be referring to that risk to achieving that.

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

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

The CHAIR: The time allocated for the hearing has concluded. Thank you for agreeing to be a witness and for your attendance. We know there was some tension initially but the Committee appreciates your frank and honest answers. All the best with the project. We look forward to travelling on light rail.

Mr NOONAN: In the not too distant future.

The CHAIR: I emphasise a silent light rail, which as far as I know does not make noise. Does it?

Mr NOONAN: That is not a formal question.

(The witness withdrew)

(Short adjournment)

JAMES BRAMLEY, Chairman, ALTRAC Light Rail, affirmed and examined

The CHAIR: Welcome, Mr Bramley. Do you wish to make an opening statement?

Mr BRAMLEY: I do. Firstly, on behalf of ALTRAC Light Rail I would like to thank the Committee for the invitation to attend today and contribute to this inquiry. Yesterday we heard from residents and businesses about the human costs of construction and the impact on their homes and livelihoods. We are sorry for the impacts and the length of time that construction has taken, and on behalf of ALTRAC I apologise to those affected.

ALTRAC is absolutely committed to removing barriers as soon as possible and completing delivery of this important project. As ALTRAC's chair, and personally as a Sydneysider, I believe the CBD and South East Light Rail is going to change the way we use and enjoy our great city. From our perspective, this major public transport project is about to turn a significant corner and a number of key milestones are within sight. These milestones signal the end of civil construction and the start of the final stages of delivering a world-class transport system that will serve our city for decades to come.

As you would be aware, ALTRAC is a consortium of First State Superannuation, John Lang and Acciona Concessions. Our core contractors are Acciona, Alstom Transport Australia and Transdev Sydney, all of whom have appeared separately before this Committee. Our core contractors have extensive experience delivering and operating light rail around the world. Two of the three companies have worked together on 16 light rail projects, and three have worked together on five light rail projects. Transdev, who you heard from yesterday, operates 23 light rail systems around the world. As ALTRAC's chair I have considerable experience in procuring and delivering complex infrastructure projects in Australia and internationally. Originally from a construction background, I have widened my experience to include investing in infrastructure projects and financing. Despite some misconceptions, the light rail project is being delivered largely by Australian employees, contractors and suppliers.

Let me be clear that ALTRAC is under no illusions about the project's progress to date. It has been highly complex, and delays have had serious impacts on residents, businesses and visitors. We appreciate the patience and understanding that has been shown by the community in what has been very difficult circumstances. The reality is that when you build a transport infrastructure project of this scale, no matter where in the world you do it, there is invariably disruption. This is why the construction activities are subject to stringent requirements regarding noise, dust and working hours. For example, changes to intersections and bus and cycle lanes are coordinated months—and in some cases, years—in advance with Roads and Maritime Services and other stakeholders.

Delivering major transport infrastructure projects in a dense urban environment is not easy, and things do not always go to plan, particularly in a city like Sydney. Sydney has grown organically through generations building layers over previous ones, to where we are today. We have unearthed Sydney's heritage—from an Indigenous tool-making site to convict-era market places. This has been both historically important and time consuming. Complex utility services were required to be located, uncovered, decommissioned and relocated. Quite frankly, despite extensive planning, this has taken longer than expected.

Every time we find something underground that was not envisaged, investigations and safety procedures must be followed, which takes additional time. I explain this to you to provide context as to why the project has progressed the way it has. I do not wish to detract in any way from the experience of residents, residences and/or business owners and their respective experiences. As we have heard, they have been negatively impacted by construction. Today, track is 98 per cent complete, 16 of the 19 light rail stops are under construction and most of the construction barriers will be down in the CBD and Surry Hills by the end of the year, with the remainder to follow next year.

This means a significant reduction in noise and disruption. Businesses, residents and visitors will see the extension of the pedestrian-friendly boulevard in George Street and new track throughout the city and beyond. The 60 trams that will service the route are being progressively delivered, and tram testing is already underway. Systems signalling and overhead cabling is underway in zones where civil construction work is either complete or nearing completion. The impact of this kind of work is different. It is localised. It involves smaller, discrete work zones, and smaller barrier areas, as the work itself is far less intrusive.

We are continuing to work with Transport for NSW and our stakeholders to complete delivery of the light rail project, and look forward to significant progress in the coming months. Thank you for the opportunity to participate in today's hearing.

The CHAIR: Thank you for your attendance.

The Hon. GREG DONNELLY: Thank you, Mr Bramley, for coming along today to the hearing. I will start with the structure around the entities associated with this project here in Sydney. In the Sydney light rail public-private partnership [PPP] contract summary, which I gather you would have some knowledge of or maybe some familiarity with, in the final cost summary on 25 August 2015, on pages 18 to 20, is a summary of the participants in the project, which at the time accurately reflected who those parties were. With respect to those parties associated with this project, and it is rather complex the way in which they are all tied together, is it true that this remains to be the structure that is in place now in terms of the parties except for the organisation Astra SLR Finance Pty Ltd, known as Capella Capital? If you take Capella Capital out of the picture, what we are looking at is the picture of what the entities are with respect to the light rail project in Sydney?

Mr BRAMLEY: The information that is presented in the contract summary is correct as of today. I would not clarify that the Astra Finance entity that you refer to is still in place as part of the PPP structure. There have been some changes to the governance of that structure over time, but that structure as an entity is still in place.

The Hon. GREG DONNELLY: What about Capella Capital? Is it still, as part of that, associated with the project or not?

Mr BRAMLEY: Capella Capital were the original financial advisers to the project. The governance arrangements have moved on slightly. From an ALTRAC perspective, we still utilise Capella from time to time to deal with some matters regarding finance instructions.

The Hon. GREG DONNELLY: So it is still on the scene to some degree, which is the best way to describe it, from time to time.

Mr BRAMLEY: Yes, on a sort of advisory basis.

The Hon. GREG DONNELLY: With respect to ALTRAC itself, the organisation, are you able to summarise what the ownership structure is, or can you direct us to something other than this which explains what the ownership structure of ALTRAC is?

Mr BRAMLEY: I think from my perspective the information in the paper is a good representation of the structure. Just to add some further clarity to that is to perhaps look at the overall governance of the project. As has been articulated in the paper, there are three security holders or three investors in the ALTRAC partnership. Those investors are as listed on page 18. They are subsidiaries of larger companies being, in our case, John Laing Group—it is an entity attached to Acciona and also it is an entity attached to First State Super.

The Hon. GREG DONNELLY: And the percentages reflected in that document on the bottom of page 18 in terms of the proportional interest or proportional size, they remain as reflected in the document?

Mr BRAMLEY: That is still correct as of today, yes.

The Hon. GREG DONNELLY: With respect to ALTRAC, does it have a formal board of directors, and if it does can you go through who are the members of the board of directors?

Mr BRAMLEY: ALTRAC operates as a partnership, which is just a function of the structure. We do have formal partnership committees in the same way that a formal board meeting would be held. I am currently the chairman of that partnership committee.

The Hon. GREG DONNELLY: How regularly does it meet?

Mr BRAMLEY: It meets on a monthly basis. The other board members include representations from John Laing, First State Super and Acciona, and I am happy to take that question on notice just to make sure that I get all those entities correct.

The Hon. GREG DONNELLY: With respect to the proceedings of the board meetings, I presume minutes are taken. Are they retained somewhere? Who retains the minutes of the board meetings?

Mr BRAMLEY: Those partnership committee meetings that we hold on a regular basis, the minutes are held by the management of the project company.

The Hon. GREG DONNELLY: Is a copy provided to Transport for NSW?

Mr BRAMLEY: No, they are not. Those minutes would be commercial in confidence to the ALTRAC partnership committee.

The Hon. GREG DONNELLY: Is there any reportage arising from matters transacted at the meetings that is then communicated to Transport for NSW on a regular basis over the course of this project?

Mr BRAMLEY: I think I would prefer to answer that in a slightly different way. It might be helpful if I provided some context as to the overall reporting that ALTRAC provides to government under the project agreement and documents that we have. Certainly on an at least a monthly basis we are required to provide Transport with a detailed update on the status of the works.

The Hon. GREG DONNELLY: That is ALTRAC?

Mr BRAMLEY: That is ALTRAC, yes. Our report necessarily embodies and includes information from our core subcontractors. Those reports are quite prescriptive under the contract in terms of their content and composition and I think in terms of the communication as between ALTRAC and Transport that is the principal vehicle upon which we do that. Certainly some of those matters are discussed at the partnership level internally to ALTRAC, but it is those contractual mechanisms that we rely on to keep Transport updated.

The Hon. GREG DONNELLY: Forgive me for not knowing the answer to this, but has your role as chairman gone back to the commencement of the project?

Mr BRAMLEY: I have been involved in the partnership committee since shortly after financial close in February 2015. So I have been involved in the partnership committee since then. I was only elected into the role of chairman in August last year.

The Hon. GREG DONNELLY: If I could take you back to the period March, April, May 2015, you were on board at that time—you were not the chair, but were you attending the meetings of the board?

Mr BRAMLEY: Yes, I was attending the meetings.

The Hon. GREG DONNELLY: Do you recall that during that time, that window—March, April, May, and I cannot give you the precise meeting date, but there is a window of three months there, but no later than May—it would have been drawn to the attention of ALTRAC by Acciona that some serious delays were likely to arise with this project?

Mr BRAMLEY: It is certainly my recollection that during the period that you refer to there were some significant issues regarding the design and scope of the project, which were being reported by Acciona under the terms of their construction contract with us.

The Hon. GREG DONNELLY: I am talking about something more explicit, and that is a statement, a very clear and unambiguous statement, that there were going to be some serious delays associated with this project—not just over questions of design, but we are looking at something here quite manifestly serious and there were going to be some significant delays. Do you recall that?

Mr BRAMLEY: Certainly at a partnership level the nature of those was discussed. I think it would be important perhaps just to provide some further context again about some of the contractual mechanisms under the contract.

The Hon. GREG DONNELLY: I am sorry—I will not be able to go into that because I have limited time.

Mr BRAMLEY: Okay. Sorry.

The Hon. GREG DONNELLY: But you do have a recollection that there were discussions in that window I have described with the partners.

Mr BRAMLEY: Yes.

The Hon. GREG DONNELLY: That was over some serious manifest issues, which were going to lead to some serious delay.

Mr BRAMLEY: Absolutely, yes.

The Hon. GREG DONNELLY: With respect to Alstom, Acciona, Transdev and Capella Capital [ALTRAC], as an entity does it not actually produce a report into the public domain on any basis—a regular basis, or a semi-annual basis?

Mr BRAMLEY: Our reports are largely driven to Transport.

The Hon. GREG DONNELLY: For NSW?

Mr BRAMLEY: Transport for NSW, yes. We do not independently report into the public domain.

The Hon. GREG DONNELLY: No. And they are monthly reports, as you referred to earlier.

Mr BRAMLEY: Absolutely, yes.

The Hon. GREG DONNELLY: With respect to the delay that at that time was early identified as a significant problem for this project, what do you now understand as of today's date is the completion date for this project?

Mr BRAMLEY: The most current completion date, which has been reported to Transport for NSW again under the monthly reporting process that I have just described, is May 2020. What I would just add to that is that, following receipt of that report, which necessarily includes various assumptions in it—

The Hon. GREG DONNELLY: Of course.

Mr BRAMLEY: —we have been asked by Transport to revisit and retest some of those assumptions, which they are perfectly entitled to do.

The Hon. GREG DONNELLY: I am sorry to interrupt. Which monthly report this year was that specific information contained within—the actual notification that we are pushing out to May 2020?

Mr BRAMLEY: That would have been a report that we sent to Transport in early August 2018, but it would have reflected the status of the project perhaps a number of routes before, just to deal with the lag in reporting and so forth.

The Hon. GREG DONNELLY: I will move to another theme: The issue of the interim liquidity funding facility that has been provided to ALTRAC. When did that facility commence in terms of its operational date or application date—when it became available, the \$500 million?

Mr BRAMLEY: That facility was established, by recollection, perhaps two or three months ago.

The Hon. GREG DONNELLY: Late August, early September?

Mr BRAMLEY: Something like that, yes.

The Hon. GREG DONNELLY: When it hit the media—I think that was on or around 1 September when we first read about it—that would be on or around the date when the facility commenced. Is that correct? There was not a lag time?

Mr BRAMLEY: Not that I can recall.

The Hon. GREG DONNELLY: Not significant? In regard to the cessation or termination date of this facility it does not have such a date?

Mr BRAMLEY: The terms of that liquidity facility are commercial-in-confidence.

The Hon. GREG DONNELLY: What? Between you and the New South Wales Government?

Mr BRAMLEY: You will recall from the contract summary that you were referring to earlier that there are a number of matters under the contract that are commercial-in-confidence.

The Hon. GREG DONNELLY: Yes.

Mr BRAMLEY: That includes the private sector financing arrangements for the project.

The Hon. GREG DONNELLY: Right.

Mr BRAMLEY: The facility to which you refer is subject to the same confidentiality obligations.

The Hon. GREG DONNELLY: It is caught within a provision of the contract.

Mr BRAMLEY: Yes.

The Hon. GREG DONNELLY: Okay. In terms of that—and this obviously is not the contract; this is the term at the time leading up to the contract—was at the New South Wales Government that approached ALTRAC or did ALTRAC approach the New South Wales Government to talk about the need for the \$500 million facility?

Mr BRAMLEY: What I would say to that is that—

The Hon. GREG DONNELLY: And this precedes any contract. This is leading up to it.

Mr BRAMLEY: Yes. There was certainly a number of conversations between the parties over the course of early 2018 about the status of the project and where things were at. I cannot recall how that facility was originally discussed or who proposed what.

The Hon. DANIEL MOOKHEY: Can I just ask this Mr Bramley?

Mr BRAMLEY: Yes.

The Hon. DANIEL MOOKHEY: Why is a facility needed?

Mr BRAMLEY: Why is a facility needed?

The Hon. DANIEL MOOKHEY: Yes. Why is an interim liquidity funding facility required?

Mr BRAMLEY: Under the terms of the contract, ALTRAC is responsible for all of the financing during the construction phase of the project and, certainly, given the nature of the contract being a public-private partnership [PPP], as you will understand, ALTRAC does not receive any revenue until we provide services in accordance with the terms of the contract. So what we saw and what we recognised from an ALTRAC perspective was that, certainly, in order to continue to be able to progress the works, given some of the commercial difficulties and so forth, it was prudent for additional funding to be made available to the project in support of construction.

The Hon. DANIEL MOOKHEY: Were you not able to raise that additional funding from the private sector without a guarantee from the New South Wales Government?

Mr BRAMLEY: I think that is a question that I would perhaps prefer to take on notice.

The Hon. DANIEL MOOKHEY: Have you been issued a default notice?

Mr BRAMLEY: Under the contract?

The Hon. DANIEL MOOKHEY: Yes.

Mr BRAMLEY: My advice, and I am happy to take this away and check, is that matters under the contract as between Transport and ourselves are, again, commercial-in-confidence, but I am more than happy to check that.

The Hon. DANIEL MOOKHEY: We issued with a default? Was ALTRAC consortium issued with a default notice under the contract by Transport for NSW earlier this year or at the end of last year?

Mr BRAMLEY: That is question I would have to take on notice.

The Hon. GREG DONNELLY: If ALTRAC is unable to pay back the loan, is the New South Wales Government liable for that—the debt?

Mr BRAMLEY: Sorry?

The Hon. GREG DONNELLY: This is an amount of money that has been provided. If ALTRAC is unable to pay back the loan—let us call it a loan or bridging finance—

The Hon. DANIEL MOOKHEY: A guarantee.

The Hon. GREG DONNELLY: —a guarantee, what is the position with respect to the New South Wales Government?

Mr BRAMLEY: ALTRAC has an obligation to pay that loan. Again, the details of the guarantee and how that operates is commercial-in-confidence.

The Hon. DANIEL MOOKHEY: When the Minister for Transport and Infrastructure said in estimates that they had provided a guarantee to your consortium to the value of \$500 million, are we to infer on the basis of what you are saying that if you cannot repay that \$500 million, the New South Wales Government has guaranteed to pay it. Is that accurate?

Mr BRAMLEY: I think that would be a question better answered by the Minister for Transport.

The Hon. DANIEL MOOKHEY: We will try again.

Ms CATE FAEHRMANN: Mr Bramley, we heard yesterday, which I am sure you are aware of, from quite a few residents, in particular in relation to the complaints related to noise. There have been more than 2,000

complaints in relation to the construction of the project and 55 per cent of those have been noise-related. I have in front of me the ALTRAC light rail construction noise and vibration management plan. Are you aware of this plan?

Mr BRAMLEY: I am aware of that document, yes.

Ms CATE FAEHRMANN: You can basically operate a certain amount in standard hours, and then there is a plan in here for when you operate outside recommended standard hours. Within standard hours, Monday to Friday 7.00 a.m. to 6.00 p.m.; Saturday 8.00 a.m. to 1.00 p.m., there is a part which is highly effective noise, which is 75 decibels and over. That suggests that if you were going to do this, you have to look at times which are identified by the community when they are less sensitive to noise, such as before or after school for works. It also says that if the community is prepared to accept a longer period of construction in exchange for restrictions on construction times—are you aware of whether that has happened with the 75 decibels or over?

Mr BRAMLEY: What I would say in terms of that question and perhaps the noise impacts more generally is that, as you have referred to, the contract does include that suite of documentation. We are implementing the works in accordance with those requirements. In terms of whether specific questions and requests for, certainly, out-of-hours work, that is a normal part of procedure and so forth. I think the specific question you asked was whether or not there has been consultation with residents as to perhaps changing working hours, if I have interpreted you correctly.

Ms CATE FAEHRMANN: Yes. And also whether the community was prepared to accept a longer period of construction in exchange for restrictions on construction noise?

Mr BRAMLEY: I would have to take that question on notice.

Ms CATE FAEHRMANN: Do you know when is "outside recommended standard hours"?

Mr BRAMLEY: Just bear with me—I can just check my notes on that. My understanding is that the hours are as you prescribed. They are the standard working hours.

Ms CATE FAEHRMANN: For example, what about midnight?

Mr BRAMLEY: The latest time that work can be done in standard hours, by my recollection is 10.00 p.m. in the city and it is slightly earlier in the suburbs. So to the extent that work was required outside those hours it would be subject to further approvals and so forth.

Ms CATE FAEHRMANN: That is right. According to this plan there has to be strong justification for work that would be outside the recommended standard hours?

Mr BRAMLEY: Yes.

Ms CATE FAEHRMANN: How many times has work been requested outside the standard hours—for example, during the evening 10.00 p.m. or 11.00 p.m.?

Mr BRAMLEY: I would need to take that question on notice.

Ms CATE FAEHRMANN: Do you know whether strong justification has had to be provided by ALTRAC? What would that be?

Mr BRAMLEY: In terms of the justifications that would be required, I think it is important to consider more broadly that the works which necessarily need to be undertaken in very dense urban environs are subject to, as you identified, a number of stakeholders and so forth. There are clearly works that are perhaps better done out-of-hours for other reasons. As I have noted in my opening statement, an amount of the work needs to be carefully co-ordinated with RMS and the needs of the broader community.

Ms CATE FAEHRMANN: Of course.

Mr BRAMLEY: So in terms of your question about justification and support, which I am happy to take on notice, and the number of requests and so forth, it is not necessarily of ALTRAC and/or our contractors just being able to perhaps do what we might ordinarily want to do. We are constrained by a number of different stakeholders and influences in that process.

Ms CATE FAEHRMANN: Did you hear any of the evidence of witnesses yesterday?

Mr BRAMLEY: Yes.

Ms CATE FAEHRMANN: Have you read any of the hundreds of other submissions, largely by residents, many of whom are complaining about the noise particularly at times such as midnight, for example?

Mr BRAMLEY: Yes.

Ms CATE FAEHRMANN: Do you have an out-of-hours work protocol within this management plan?

Mr BRAMLEY: Yes.

Ms CATE FAEHRMANN: What do you have to do with that in relation to noise within that out-of-hours work protocol? Are you aware of some of the requirements?

Mr BRAMLEY: Yes. Under the planning approvals, and certainly under our method statements and construction obligations which are discharged by the D and C contractor, there are certainly limits and so forth about noise.

Ms CATE FAEHRMANN: How often have you exceeded those limits?

Mr BRAMLEY: That is a question I will need to take on notice. But what I would say is that from our perspective the construction management plans to which you refer were prepared and have been documented in advance of the construction works commencing.

Ms CATE FAEHRMANN: What about noise monitoring?

Mr BRAMLEY: Noise monitoring is part of ongoing audit processes that are undertaken.

Ms CATE FAEHRMANN: That is right.

Mr BRAMLEY: I cannot say exactly right now what the obligations under those plans are.

Ms CATE FAEHRMANN: I can tell you that the obligation under the out-of-hours work protocol is that: "Attended noise monitoring will be undertaken for commencement of all work activities undertaken out of standard hours to ensure they comply with findings of the out-of-hours work noise assessment and also any conditions issued by the secretary or an environmental representative." This morning I asked Mr Noonan from Acciona and he was not sure whether noise monitoring was being undertaken. Clearly, I would hope, that noise monitoring is undertaken during every single out-of-hours work—which is a lot according to the submissions the Committee has received. Is that correct?

Mr BRAMLEY: I cannot confirm that noise monitoring is being undertaken in the way you have described it.

Ms CATE FAEHRMANN: According to the management plan—

Mr BRAMLEY: According to that. What I can confirm is that auditing of those plans, and compliance with those plans, is undertaken by ALTRAC and independent parties on a regular basis.

Ms CATE FAEHRMANN: This Committee has heard from residents largely about noise. You are presenting before a Committee this morning after yesterday's evidence from, largely, extremely distressed residents, some of whom are suffering psychological conditions as a result of the fact they cannot get a good night's sleep. We have heard from many others who cannot. You have come here today unsure of whether you monitor noise at night. Is that correct?

Mr BRAMLEY: That is correct, yes.

Ms CATE FAEHRMANN: Even though in your management plan it says you have to monitor. If you do undertake noise monitoring, which is a condition of your management plan—

Mr BRAMLEY: Correct, yes, I understand that.

Ms CATE FAEHRMANN: It is tabled to the Committee all of the noise monitoring that you have undertaken and the conditions imposed upon you by the secretary or environmental representative?

Mr BRAMLEY: I will need to check the confidentiality provisions.

Ms CATE FAEHRMANN: How can it be confidential?

Mr BRAMLEY: Because that is the advice I have given. But if you just allow me to answer, I will be more than happy to provide that information, subject to the disclosure requirements under the contracts that we have had with Transport which may require their approval.

The CHAIR: Will you take the question on notice.

Ms CATE FAEHRMANN: It is one of the most significant issues.

Mr BRAMLEY: I understand. I completely appreciate the points from yesterday.

The CHAIR: It has been confirmed a few times now that the completion date for the light rail is May 2020. Is that correct in your opinion?

Mr BRAMLEY: That is the most current information that has been provided to Transport. As I said in my earlier answer, we have been asked by Transport to assess and revalidate some of the assumptions that underpin that date. We are also looking again, as we are obliged to under the contract, at various mitigation measures. Some of those mitigation measures require approvals and so forth to depart from, not so much noise, but other environmental conditions. So that is an ongoing process.

The CHAIR: What was the original completion date?

Mr BRAMLEY: The original date was January 2019. I will take that on notice, I think it might have been March 2019.

The CHAIR: Is it possible to advise the Committee of the cost blowout because of that delay in the project? You are involved with financing the project and there must be a budget over a certain period of time. With such an extensive delay who bears the cost of that? What is the cost of that?

Mr BRAMLEY: Certainly the cost of that delay is not insignificant. As articulated in the contract summary there are various mechanisms in the contract to deal with the risk sharing attached to delay. There is the concept of relief and compensation events in some circumstances. There is certainly the utilities risk which is shared between the parties. So certainly those commercial discussions are ongoing as between ALTRAC, Transport, Acciona and the other core contractors. As I say, those conversations are ongoing as to where the responsibility and allocation of those costs does sit.

The Hon. DANIEL MOOKHEY: Who picks up the tab?

Mr BRAMLEY: Who picks up the tab?

The Hon. DANIEL MOOKHEY: Yes.

Mr BRAMLEY: Again, that will be ultimately determined under the terms of the contract based on the individual circumstances.

The CHAIR: Leaving aside who is responsible to meet those costs, can you quote a figure as to an estimate of what the delays have cost the project in terms of millions of dollars?

Mr BRAMLEY: That would be a matter that is confidential. Given from an ALTRAC perspective the question you are asking by necessity includes the financing costs to ALTRAC and our funders, those costs and the nature of that structure is confidential.

The CHAIR: I did not want a breakdown, just a round figure.

Mr BRAMLEY: I would say it is significant.

The CHAIR: In general terms, do you know what it could be?

Mr BRAMLEY: No, again, that is confidential.

The CHAIR: Without relating to any of the individual parties involved in the project—

Mr BRAMLEY: It is hard for me to do that, again from an ALTRAC perspective, because of the way that the private finance structure works. Certainly other parties may be happy and willing to share their own individual costs, but from an ALTRAC perspective that is not something that I am able to do.

The Hon. GREG DONNELLY: But there is a number and you know it?

Mr BRAMLEY: There are a lot of numbers, yes. As I have alluded to, the way the contract is structured certainly contemplates and deals with responsibility for delay. It looks at individual events on a case-by-case basis and seeks to apportion allocation for those things. Those commercial conversations are still going, and it is not possible for me at the moment to predict the outcome of those conversations.

The Hon. DANIEL MOOKHEY: But is it more than \$2.1 billion?

Mr BRAMLEY: As I understand, the \$2.1 billion is a number that has been variously referred to in government—

Ms CATE FAEHRMANN: By the Government.

Mr BRAMLEY: By the Government and it is also featured in the report from the Auditor-General. From an ALTRAC perspective, the \$2.1 billion is a Government number that variously includes a number of costs that, again, sit outside our contract. It may be more or less than that, depending on the outcome of the commercial conversation—the commercial discretions.

The CHAIR: It is difficult for you to verify that figure?

Mr BRAMLEY: It is difficult.

The CHAIR: Because it is outside your own area?

Mr BRAMLEY: It is. I have quite a good knowledge of the contract to ALTRAC, including the financial cost and the costs with our subcontractors. But the broader government budget for the project, which would include a number of costs, which I am not aware of or party to, it is difficult for me to comment on that number.

The CHAIR: You cannot give an estimate as to what the blowout has cost ALTRAC because you want to keep that in confidence?

Mr BRAMLEY: Yes. Under the contract there are various dispute mechanisms to deal with issues of contract interpretation and commercial entitlement and so forth, and a number of those processes are currently being followed.

The Hon. DANIEL MOOKHEY: Has ALTRAC incurred more than \$2.1 billion in costs to date?

Mr BRAMLEY: Again, I would consider the costs we have incurred to be a matter of commercial-in-confidence.

The CHAIR: You could take it on notice.

Mr BRAMLEY: I am happy to take it on notice.

The CHAIR: You can take advice and give us a response.

Mr BRAMLEY: I reiterate under the confidentiality provisions of the documents that I would need to verify that with Transport.

The CHAIR: Questions have been raised with you about the impact of the project on residents and businesses. Was there any opportunity for you to engage in public consultation with local business owners that might be affected by the construction of the light rail?

Mr BRAMLEY: Yes. Again, in the way that the stakeholder engagement works under the contract, I think the Committee has heard before that that is a matter that is essentially led by Transport. From an ALTRAC perspective, we have obligations to support those endeavours, both at our level and with our D and C contractor. The ALTRAC CEO has personally attended more than 100 of those community and business forums to provide updates around the project and so forth. From our perspective, we feel that we have certainly been engaging with those communities and businesses as part of the construction works.

The CHAIR: What was the individual's name?

Mr BRAMLEY: Glenn Bentley, who is the ALTRAC chief executive officer, routinely attends those—

The CHAIR: Up to 100 meetings.

Mr BRAMLEY: He has attended more than 100 of those meetings, as have the two full-time members of the ALTRAC stakeholder consultation team.

The Hon. SHAYNE MALLARD: Following up that question, I am interested in you explaining to us the operational structure below you, the CEO. Who is managing Acciona day-to-day?

Mr BRAMLEY: ALTRAC has a team of circa 15 people dedicated full-time to the project. Those resources are independent of the contractor and the other partners and the day-to-day management of Acciona is led by the CEO, being Glenn Bentley, but we also have technical resources in our team looking at various aspects

of construction delivery, design, health and safety and so forth to ensure that the Acciona performance is in accordance with the contractor.

The Hon. SHAYNE MALLARD: Fifteen people full-time on the back of Acciona making sure they do their job?

Mr BRAMLEY: Full-time, that is correct.

The Hon. SHAYNE MALLARD: Are you satisfied with Acciona's performance as a civil work contractor?

Mr BRAMLEY: Certainly we are satisfied that in respect of the challenges that they have experienced they have been mitigating them as best they can. As I alluded to earlier, Acciona brings quite a lot of international experience to the light rail systems. They have built some of these systems before internationally.

The Hon. SHAYNE MALLARD: I put it to you that the community, the public, the media and business owners are not satisfied with the construction of this project by Acciona and ALTRAC is the middle man.

Mr BRAMLEY: Yes.

The Hon. SHAYNE MALLARD: Have you been riding them hard to get this job done?

Mr BRAMLEY: Yes, we have been riding them very hard to get this done. From a personal perspective, I have liaised with Mr Noonan and others on a daily basis to deal with and push forward some of the issues that present roadblocks at a project level, but that is our role, as you have described, as the middle man in this. We have broader obligations, as you would be aware, which cover not just construction. We are also responsible for the operation of the light rail system for a 15-year term. We have strong relationships with Transdev and others. Yes, the key focus for us is about getting the project done as quickly as possible and, the way you have described it, that does include making sure that Acciona are performing and so forth, but we have broader obligations as well.

The Hon. SHAYNE MALLARD: You would be aware of media reports earlier this year and the perception that the public and shopkeepers had that Acciona wanted to go slow, that they did not have any workers on the project for some period of time. Effectively being the supervisor of that contract, are you concerned they did not have enough workers on the project earlier this year and do they have enough on the project now?

Mr BRAMLEY: The information we have from the earlier part of the year does not support the notion of a go-slow. That is the data that we have.

The Hon. SHAYNE MALLARD: You just had to walk along the route and see there were no workers.

Mr BRAMLEY: That is a view that people can take. From our perspective, we are satisfied that Acciona are continuing to deploy resources in the most critical areas of the project in order to achieve completion as soon as possible.

The Hon. SHAYNE MALLARD: Do you know where all those workers were?

Mr BRAMLEY: Sorry?

The Hon. SHAYNE MALLARD: Earlier this year when it was a ghost town, do you know where the workers were? Does your company monitor that operational level?

Mr BRAMLEY: Yes, we receive labour reports and statistics about where those workers are. It is very clear, from our perspective, that there was a considerable amount of work done in Randwick and on those parts of the alignment, which was largely about bringing the stabling facility to fruition, which is integral to the testing and commissioning program. We are continuing to monitor, as you suggested, the resources on the project and the key workers and so forth.

The Hon. SHAYNE MALLARD: Earlier in your evidence when did you say most of the barriers would be down? Was it the end of the year?

Mr BRAMLEY: Most of the barriers will be down in the CBD and Surry Hills by the end of the year. Those barriers are there at the moment by necessity to deal with the nature of the civil works, which are being undertaken, which is, I suppose, the heaviest and the noisiest parts of the work. Post the end of the year there will still be a requirement for barriers and so forth for safety reasons, but those barriers will be a lot less intrusive, given the nature of the works.

The Hon. SHAYNE MALLARD: You said that Transport for NSW asked you to go back again and look at that timeline.

Mr BRAMLEY: Yes.

The Hon. SHAYNE MALLARD: Is that to try to achieve a delivery by December 2019?

Mr BRAMLEY: It will be to achieve completion at the earliest possible date. Certainly, that is linked to the testing and commissioning regime, some of which I understand you heard about yesterday. That is what we are actively doing with Transport for NSW and our partners.

The Hon. SHAYNE MALLARD: In a conversation with Acciona earlier today I asked questions about mitigation. What does it mean in a contract, and are they delivering on that requirement? Are you confident that they are, and has there been any issue from Transport for NSW about the works program and concerns around lack of mitigation on delays?

Mr BRAMLEY: There are certainly different views about the level of mitigation that perhaps could and should be undertaken. As you have alluded to, there are contract obligations to mitigate areas. There are some examples that have been provided on how that is achieved. One of the other examples is to work in other areas and go to different spaces where you can get on with the work where you may have been held up or delayed in another area.

The Hon. SHAYNE MALLARD: That, from evidence, is one of the things that led to one of the big disappointments of this project for the Committee, which is in doing discrete blocks and disrupting residents or businesses for a limited period of time. The whole project became a work site, and still is today. Do you support the evidence of earlier today that it was Ausgrid's fault?

Mr BRAMLEY: What I would say, which is consistent with my opening statement, is that there are a number of reasons that some of the fee zones have been open longer than expected—and that is a matter of fact. As I have outlined in my opening statement, there were certainly heritage artefacts, which was one of those reasons. There were examples of that down in Tank Stream at Circular Quay at the moment. That has been resolved. There have been instances of utilities. That has been broadly discussed, but Ausgrid will be part of that broader discussion.

The Hon. SHAYNE MALLARD: Acciona pretty much parked it in Ausgrid's corner for most of the delays—the changing the specification to the upgrade of the facilities. I have a final question before I hand over to my colleague. The community does not have a lot of confidence in what we are being told now about, "It'll be finished this day; the barricades will be gone and there will just be a few discrete ones." What assurances can you give us, when you start doing the testing of the carriages, installation of signals and the wires in some sections, that it is not going to be a continuation of this nightmare?

Mr BRAMLEY: I fully appreciate the sentiment that has come out from the feedback to the Committee thus far. What we have identified is that the nature of the works that have been undertaken to date—and we are hoping to close out by the end of the year—has, by its nature, been more uncertain given that a lot of that work has been in the ground. It has involved a lot of excavations. It has involved a lot of interface with services and so forth. In relation to the works you have alluded to, moving forward, particularly around the overhead wires, catenary and so forth, yes, there are still potential impacts to that, with weather and so forth, but it is certainly better understood, and there are more knowns around that than there have been because of the nature of the civil works that have been undertaken to date. On that basis, we have more confidence in the programming information and the dates that we are being provided, just by virtue of the nature of the works.

The Hon. MATTHEW MASON-COX: I want to take you back to some evidence from Transport for NSW—in particular, the evidence of Mr Troughton, who is the Deputy Secretary, Infrastructure and Services. Mr Troughton put to the Committee that liquidated damages under the contract payable by ALTRAC to the Government is at \$500,000 a day limited to 15 days—a cap of \$7.5 million. Is that how you understand the obligation in that regard?

Mr BRAMLEY: That is not my understanding of the obligation. With the Committee's permission, I will provide a summary of that if that would be useful.

The Hon. MATTHEW MASON-COX: Yes, if you could.

Mr BRAMLEY: The regime which Mr Troughton was referring to relates specifically to what we call fee zones, which are the 31 work areas that we have been broadly discussing this morning. There is a regime

within the contract for the occupation and the hand-back of those fee zones. The costs associated with that are capped. This is broadly described in the contract summary, so there is nothing particularly new about that. The important distinction to make as between the fee zone costs—which was the original question—and the broader financial arrangements to the contract, is that from ALTRAC's perspective, we receive no service payments from the Government until such point as the light rail services are actually running.

That goes to the point made earlier, that the contract arrangements are such that there are significant incentives within the PPP structure for works to be completed as soon as possible, because unless those services are being provided we are not receiving a service fee. Certainly, the construction and the difficulties attached to that are significant, and there are costs and structures in those arrangements that we have with Acciona and the design and construction [D and C] contractors more generally, but it is probably—"unfair" is not the right word—a "different" way to characterise the damages as between ALTRAC and Transport for NSW. I would not necessarily characterise them as liquidated damages.

The Hon. MATTHEW MASON-COX: As I understand it, there is a similar clause between ALTRAC and Acciona—of \$500,000 a day—which is uncapped, past March 2019, each day that the project is late. Is that your understanding?

Mr BRAMLEY: What I would clarify there is that the design and construct contract we have is with Acciona and Alstom in a joint venture arrangement. That is the first point of clarification.

The Hon. MATTHEW MASON-COX: That is the contract I am talking about.

Mr BRAMLEY: What I am happy to share is that there are penalties within that contract that we have for late delivery. I am not at liberty to provide what those damages are but there are certainly—

The Hon. MATTHEW MASON-COX: Mr Troughton did. So if you could comment on that, that would be appreciated. He put to the Committee that the liquidated damages of \$500,000 a day for every day from 31 March 2019 that the light rail line is not operational. Can you comment on that?

Mr BRAMLEY: Certainly, to the extent that it is, under the contract, determined that the D and C contract joint venture is responsible for the delays, then we have recourse to the D and C contractor. I am not at liberty to share that amount, under commercial in confidence, but there are certainly clear mechanisms downstream with the D and C contractor about their obligations to us in the event that they fail to perform.

The Hon. MATTHEW MASON-COX: Perhaps you could take that on notice.

Mr BRAMLEY: I am happy to do that.

The Hon. MATTHEW MASON-COX: That would be good. I would like to take a different tack. You are obviously very sensitive to the damage that has been caused to businesses along the route. You mentioned that the chief executive officer has been to 100-odd meetings and met with business owners—which is terrific—and understands some of their concerns. You have not provided any financial support to any of those businesses directly at all through the process, have you?

Mr BRAMLEY: We have not.

The Hon. MATTHEW MASON-COX: You were saying that was handled by Transport for NSW.

Mr BRAMLEY: That is handled by Transport for NSW; yes.

The Hon. MATTHEW MASON-COX: What do you think about the idea that, under the construction contract—the design and construct or the contract that you hold with the Government—should there be delays outside a threshold period or what was originally agreed and communicated to businesses, the damages flowing from those sorts of delays—the liquidated sums or whatever under the contractual arrangements—be set aside to provide some sort of compensation for those businesses that are affected outside of the expected delay? What do you think about that as a concept?

Mr BRAMLEY: I suppose as a concept, in the first instance I would say that would be perhaps a policy matter for Transport and the Government more generally.

The Hon. MATTHEW MASON-COX: I am just asking you.

Mr BRAMLEY: I think from my personal view, to the extent that there are different ways to take lessons learned from this project and adopt that in future procurements and so forth, I see no particular reason

why that or something like that would not be worthy of consideration by government and broader industry more generally.

The Hon. MATTHEW MASON-COX: Have you seen something like that in other projects you have participated in as a contractor in other countries or, indeed, other States?

Mr BRAMLEY: Nothing as specific as that. I would also point out that from an ALTRAC perspective we have certainly been encouraging our staff and members of the contractors to support some of those businesses, but to the extent that there were initiatives and findings coming out of the committee along those lines, that would seem to be, again, a good lesson learned, and there might be other suggestions as well that come out that we would be happy to consider on a company or industry basis.

The CHAIR: Thank you again for your cooperation in taking part in our inquiry. We appreciate the time you have given to us. The Committee has resolved that answers to questions on notice be returned within 21 days after you receive the questions from the secretariat. Thank you and all the best. We all look forward to having a ride on the light rail.

(The witness withdrew)

(Luncheon adjournment)

STEPHEN TROUGHTON, Deputy Secretary, Infrastructure and Services, Transport for NSW, on former affirmation

TONY BRAXTON-SMITH, Deputy Secretary, Customer Services, Transport for NSW, on former affirmation

MARGARET PRENDERGAST, Coordinator General, Transport Coordination Office, Transport for NSW, on former oath

The CHAIR: I now welcome witnesses from Transport for NSW. I understand that you would like to make a combined joint statement to start with.

Ms PRENDERGAST: Thank you very much, Mr Chair. Thank you for the opportunity to reappear at the Committee. Firstly, I will reiterate our roles in respect of the project. I am the Coordinator General, I look after traffic and transport, but I have also been looking after stakeholder engagement and strategies to mitigate the impacts to the community. Tony Braxton-Smith is responsible for administration of the Small Business Assistance Program, and Mr Stephen Troughton is responsible for project delivery in commercials. I will not be touching on what we said in our last opening statement, obviously. What I would like to focus on today are some clarifications and also to touch on some of the points raised in the last few days since we last appeared.

Firstly, we have always been very upfront that a light rail project such as this in a dense area is disruptive and we do really appreciate the impact on residents' and businesses' lives. We know that the delays have exacerbated this impact and we appreciate their patience and apologise. Some of the experiences relayed yesterday were heartbreaking, and we do know of these experiences because our team have been out talking to businesses and residents throughout the project. It is important to clarify that our team proactively advocates for residents and businesses and we try to influence works, we try to look at ways to minimise the impacts.

A couple of points of clarity. The perception of the original schedule of proposed work in one zone at a time is incorrect. There was always proposed to be concurrent work in multiple zones. The original schedule had working in most zones at one time. Works in individual zones were forecast to last up to over a year and they ranged in time. The start dates of each zone varied as well; for example, the Quay was proposed to commence in January 2017 and did not commence until July 2017. Currently, there are three of the 31 zones opened, with works on the stops and finishing touches and systems works to be completed in those zones.

As we outlined last time, our program of support has graduated over time; it commenced with just proactive marketing, looking at how to promote the businesses, sending the message that Sydney is still open for business, but when construction took longer than anticipated we have progressed to financial support to help those businesses. We do undertake extensive engagement, from regular drop-ins to forums to notifications, and Transport for NSW has provided a consistent team to engage with the community. In respect to one of the questions asked today about who is responsible for engagement with residents, I need to clarify that as part of the PPP, ALTRAC consortium are required, as part of the project deed, to undertake community and stakeholder engagement activities. They are to be coordinated with Transport for NSW. They are to have dedicated teams per each precinct, and they have been doing that. However, as the delays set in and the impacts became far more obvious and heartfelt, we have ramped up our engagement activity extensively.

Together with ALTRAC, we have been in constant contact, but I want to touch on one thing. Probably the most upsetting part of the witness statements yesterday and what we have seen throughout the project is the psychological and emotional impact for those directly on the alignment. When we meet with stakeholders and when we realise that they have any concerns or emotional or psychological wellbeing issues, we acknowledge that and, as a first step, we talk to them about visiting their GP, outlining that there are subsidised services covered by Medicare, with up to 10 visits. We have even provided a list of mental health professionals that Transport has through its employee assistance program, and offered to pay for any assistance that people need. We monitor these cases, we check in continually, and we also remind them of other business support, such as small business assistance and the services provided by the Small Business Commissioner.

In May this year the Small Business Commissioner's team and my own visited every single business along the alignment. Let me be clear: There are 760 businesses located along the alignment. We reaffirmed the assistance we could offer in terms of financial support to help them through the hardship, we offered support services from the Small Business Commissioner, and we enquired about their wellbeing, and if they needed anything we were there to make those referrals. The other point that came up this morning is about noisy works. That is obviously the biggest impact on residents and businesses located along the alignment. Works are undertaken with planning conditions, and scheduling tries to minimise any impact. But the reality is that night

work is required to balance the residential and business needs—you have a residence above a business below, but also because of the traffic and transport corridors that they interact with, and sometimes a road occupancy needs to be taken to do the works. Where appropriate, alternative accommodation is offered.

Mitigation is such that they are required to use noise blankets, switching off vehicles' equipment, and they require noise monitoring. Acciona and ALTRAC will provide you the details that you have requested in relation to monitoring. We insist on that monitoring process. Works are undertaken in line with the Construction Environmental Management Plan. Another question that has come up is that Transport for NSW is aware of three formal notices issued to ALTRAC's light rail contractor Acciona by the Environment Protection Authority regarding noise and vibration and out-of-hours work. ALTRAC offers alternative accommodation to residents, as per the planning approval; however, Transport since last year has been going above and beyond that. Since last November we have offered residents an additional 8,000 offers of alternative accommodation when we know there are noisy works happenings.

We also have worked with ALTRAC to work out where can we do more day-time works than night-time works. As you have heard from yesterday, besides noise the key issue from residents relates to property damage and the operational noise and vibration treatments. Firstly, in regards to property damage, there is a formal process to assess property damage; that includes the requirement for pre-work surveys, known as dilapidation surveys or pre-construction surveys, and while safety matters are dealt with in real-time or soon after they are established, the complete rectification is left until the end of the construction process. Noise and vibration treatments are not for during construction, they are for during operations. So the noise and vibration program is involved in the assessment of over 2,000 properties, and a range of treatments exist.

The level of the impact of the operational noise and vibration is determined in categories A to D, with A being the lowest, and the level of impact translates to those ratings and the treatments we offer in regard to those ratings. Some of the treatments include fresh air and ventilation, window or door seals, replacement of windows or doors with acoustic components such as glazed windows—double glazing, as you may know—or indeed mechanical ventilation systems. But treatments are graduated in regard to what the level of impact is. Work has now been completed on more than 550 properties of those 2,020, and 1,220 treatments have been resolved. Many residential addresses, for example, even on Doncaster Avenue, have been classed by the specialists as the lowest category of impact. However, notwithstanding that, we understand the impact of living on top of the stabling yard, so we are currently reviewing the potential for additional treatments for residents located near the stabling yard.

It is also important to note there is an escalation process. If the resident or the business is not satisfied with the treatments being proposed, either from a property damage, or indeed from an operational noise and vibration, perspective, they can escalate that to Transport and we also have an independent medium, who is the next level of escalation, that people can go to. Just really quickly, I will address a couple of other issues. While areas like Devonshire Street and Kensington are suffering severe impacts, the city is not a ghost town. There has been a significant increase in public transport projects patronage since 2015; 20 per cent increase in people coming in on a weekend; 11 per cent on weekdays in the peak. There is extremely strong growth at stations such as Town Hall and Wynyard.

The latest National Visitor Survey showed that Sydney's visitor economy is going from strength to strength. In respect of the discussion of footfall counts, we would like to establish that our counts are taken by video monitoring along George Street. They are taken twice a year across a broad period across the day. Those data counts have been undertaken since before October 2015. They are done in 10-minute intervals at each location throughout the day. They are not done in toilets. We have worked very closely with council—the Council of the City of Sydney and Randwick—on not only activations and events to support businesses but also to offset parking losses. The Randwick City Council has offset a significant proportion of the parking that was removed along Anzac Parade by providing it in side streets. In Surry Hills, the parking removed for light rail is less than 6 per cent of the total parking available in the area.

The other issue that came up on day one was that of light rail capacity. The transport solution has always been light rail plus bus. The report on the discussion from the Randwick City Council and others throughout day one intimated that light rail was a pure replacement for bus. That was never the transport plan. We could not accommodate growth by adding more buses. As outlined in the environmental impact statement [EIS] in 2013 and in all public communications since 2015, peak express bus services will remain in service supported by some all-stops and cross-regional routes to meet new areas of demand, as well as some services feeding into the light rail interchanges. Light rail will provide a more reliable journey time with less variability than the current bus service. When operational, we will have 15 services operating in each direction, moving 13,500 passengers per hour from 7 a.m. to 7 p.m. The modification report from the EIS and our public-private partnership [PPP] contract

also specifies that we can allow for up to 20 services per hour in each direction, reaching 9,000 people each way per hour. There will be turn up-and-go services every four minutes and eight minutes on the branches.

The redesign of the bus network will occur next year in line with actual Opal patronage data—knowing where people are coming from and knowing that we have had incredible growth in south-east bus services—and the provision of bus services to complement light rail is flexible and can be adapted to actual demand as well as land-use changes. The high-capacity buses, of which there is only a very small percentage in the area—that is articulated buses and 14.5 metre buses—will be prioritised for the express services. The solution has always been light rail plus bus. Last, but not least, there are 760 businesses along the alignment. The civil construction phase of the light rail project directly impacts those businesses through noise, dust and a reduction in ambience. Certain businesses, such as cafes and restaurants, feel the impact more intensely. Pedestrian access is always maintained. However, in streets like Devonshire, where it is so narrow, the barriers do have a far greater impact and affect sightlines.

Our business assistance has been tailored to those experiencing direct impacts from construction. We have been in constant contact with them. To date, 96 businesses have been paid \$12.2 million. Some businesses have been assisted up to four times. Seventy-nine per cent of businesses who have applied have been successful. This program is really important because the businesses that are suffering through the impacts now we want to be there to enjoy the uplift when light rail is operational and the civil works are complete. Therefore, this program is incredibly important to us, and we are there to support them while the major civil construction, which is the invasive part of the works, is occurring. Mr Braxton-Smith will now outline some of the criteria in more detail.

The Hon. DANIEL MOOKHEY: Sorry, Chair. The opening statement has taken 14 minutes. Perhaps the witnesses might wish to table any remaining statements that they have so we can get to questions.

The Hon. GREG DONNELLY: It cuts into our time significantly.

The CHAIR: How much more time do you need for the follow-up?

Mr BRAXTON-SMITH: Chair, I can be brief. I simply would like to furnish an updated copy of the analysis and the data that we previously provided to the Committee in relation to the Small Business Assistance Scheme, which give you an updated view of the ex gratia payments that have been made to date.

The CHAIR: We will table that then.

Mr BRAXTON-SMITH: I table that, and will have that circulated.

Document tabled.

Mr BRAXTON-SMITH: Just to clarify simply the framework that we use, which is, to qualify, it must be a small business, which is defined now as employing fewer than 50 full-time employees; and it must be proximate to the construction works where there is overstay; and there must be an impact in terms of sightlines, dust, noise or other impacts that are taken into account. Those are the criteria that are used to determine the level of financial assistance that might be applicable, and the options for what payments might be made, are developed by an independent external financial adviser who seeks some very simple information on the affected business in order to perform that assessment. I will leave it there, thank you, unless my colleague, Mr Troughton, wishes to add anything at this stage.

The CHAIR: Can you table what you are going to share with us?

The Hon. GREG DONNELLY: Table it, yes.

Mr TROUGHTON: No. I will pick it up during the conversation, I am sure.

The Hon. DANIEL MOOKHEY: I thank Mr Braxton-Smith, Ms Prendergast and Mr Troughton for their appearance today. Ms Prendergast, are you prepared to table your opening statement so that we can have it with us throughout the duration of this hearing?

Ms PRENDERGAST: Absolutely.

Document tabled.

The Hon. DANIEL MOOKHEY: Mr Troughton, I will start with you. At the last hearing on 20 August, you came before this Committee and you said:

It has been ... well reported that ALTRAC's advice at the moment is that the current completion date of the project is March 2020. We are working with them to try to bring that forward to a completion date around December 2019.

You then went on to say, "... they are officially telling us the project will be finished in March 2020 and we are working very hard". We have just had the ALTRAC consortium and Acciona come before the Committee and say to us that in fact they provided formal notification and official notification to Transport for NSW in all the areas that the actual completion date was May 2020. In the light of them telling this Committee that they advised your department that the date was May 2020, how do we reconcile those two statements? Why should we not conclude that either your statement was misleading or theirs is?

Mr TROUGHTON: I think, as you are aware, that they also advised you that that program of May 2020 has been rejected by Transport.

The Hon. DANIEL MOOKHEY: Yes, but you say, "... they are officially telling us" that this "project will be finished in March 2020". They were not officially telling you that the project was going to be finished in March 2020. In fact, you rejected—Transport for NSW had rejected their schedule. That is correct, is it not?

Mr TROUGHTON: Transport for NSW has rejected their schedule. I also understand at the time that they had been advising the public that in general they were aiming for March 2020. Currently we are also working with them, as you would know from this morning, to a December 2019 schedule. Once I have all that information required, I can make a determination on what I think will be the finish date. Currently, we are working towards March 2020.

The Hon. DANIEL MOOKHEY: In budget estimates, we asked the Minister directly, "When is the project going to complete?" He tells us on 31 August that the last program in terms of the advice from ALTRAC is March 2020. That is a completely wrong statement, is it not?

Mr TROUGHTON: I do not think I would advise the Minister—I have not advised the Minister—of the formal time of when we going to complete at the moment. I am still holding to March 2020 as my advice. I believe through our negotiations, and as you have heard this morning, we will be improving on that date. There is a significant amount of work to do. As you will be well aware with a lot of programs and the like, they are highly commercial in nature. They are set out to give advantage towards contractors. It is my job to do an assessment of those programs and provide comprehensive advice around what we believe—

The Hon. DANIEL MOOKHEY: Yes, I understand that, Mr Troughton. But the Minister was clear. He said that the last program in respect of advice from ALTRAC is March 2020. He did not say, "The last advice available to me from my deputy secretary was March 2020". He said that the last advice from ALTRAC was March 2020. In supplementary estimates we asked him whether that was still the date. We got this just 10 days ago. Just 10 days ago the Parliament received advice that it was March 2020. Today we heard from your contractors and your builders that it is May 2020. Please explain why we should not conclude that there is a deliberate campaign of misdirection and obfuscation being undertaken by Transport for NSW to distort the completion date?

Mr TROUGHTON: I think to be fair, advice on the completion date of the project as a whole comes from me.

The Hon. DANIEL MOOKHEY: Technically it comes from the Minister, Mr Troughton.

Mr TROUGHTON: I advise the Minister and my last formal notification to the Minister was that we were looking towards a March 2020 date.

The Hon. DANIEL MOOKHEY: Are you absolutely confident that March 2020 date will be met?

Mr TROUGHTON: I would like to think that we can better that. As you heard this morning, all parties are working together to work towards a December 2019 opening. Certainly a number of very positive conversations are going on at the moment. We have moved away from May already to an earlier date with them because a lot of the assumptions they referenced this morning just do not stand up in their program. It is our role to assess their program and get an agreement. When I formally believe it is a sensible program that is achievable, I will then advise as appropriate.

The Hon. DANIEL MOOKHEY: Mr Troughton, on what basis are you rejecting ALTRAC's advice? From what I can tell, the builders said, "We cannot finish it by March 2020; it is likely to be May 2020." They formally told you that under their contract framework and their obligations to tell you. The head of the consortium has come forward and said it is May 2020. As far as I can tell the only people who think that this project could be finished earlier is you. On what basis should we be concluding that?

Mr TROUGHTON: I disagree with that completely. They have also come to us and said that they can finish it earlier. We are working with them to understand what is achievable through the many forms of communication we receive from them. Once we have got an agreement on what is achievable and once they have provided me with a program that is accurate and that we can stand by and agree on, I will then provide formal advice. I would like to be providing formal advice that it is December 2019 but I will not do that until I am sure of it. All right? So I will do the work that is required to verify and be accurate what is there. I will not fall into traps that contractors provide commercial programs to benefit themselves commercially. We will work through it as we do with every project and I will provide the advice when I am comfortable with what I think the finish date is. At the moment I am sticking by March 2020.

The Hon. DANIEL MOOKHEY: Is it the case that ALTRAC is providing a monthly contract delivery progress report? Is that correct?

Mr TROUGHTON: Yes, they provide a monthly progress report.

The Hon. DANIEL MOOKHEY: That is tabled at the Sydney Light Rail Advisory Board or advice is prepared for the board on the basis of those reports?

Mr TROUGHTON: I do not attend those boards but I will take that on notice.

The Hon. DANIEL MOOKHEY: When was the last contract delivery progress report received?

Mr TROUGHTON: We receive it monthly. We would have received the last one in September.

The Hon. DANIEL MOOKHEY: Did the September contract report say that the likely completion date was May 2020?

Mr TROUGHTON: The September report would have said 2020.

The Hon. DANIEL MOOKHEY: May 2020?

Mr TROUGHTON: No. May 2020 had previously been rejected as per confirmation from ALTRAC this morning.

The Hon. DANIEL MOOKHEY: So this pattern of them advising May 2020 and you rejecting May 2020 is ongoing. Is that correct?

Mr TROUGHTON: The time line for the project is continually moving around. As you heard from Bede Noonan this morning, the day they started they put a 465-day program in. Even as late as last September the program was saying March 2019. The program is constantly moving. It moves around week to week.

The Hon. DANIEL MOOKHEY: I understand that it moves around and Acciona did say the same thing this morning and verified what you just said. But you are saying that the last report that you received in September that advised Transport for NSW contained a formal completion date of May 2020. Is that correct?

Mr TROUGHTON: I also have other formal discussions—

The Hon. DANIEL MOOKHEY: You have to answer that question. Is that correct?

Mr TROUGHTON: Would you repeat the question?

The Hon. DANIEL MOOKHEY: The last report that you received in September said that the completion date was May 2020. Is that correct?

Mr TROUGHTON: Yes, and we have rejected that, as you are well aware.

The Hon. DANIEL MOOKHEY: Acciona said this morning that to date it has spent \$1.45 billion on construction and that it anticipates that it will be spending \$1.8 billion on construction. Acciona says it was originally meant to spend \$900 million on construction. Have you been told by Acciona that it has spent \$1.45 billion on construction?

Mr TROUGHTON: I have not been told that by Acciona, no.

The Hon. DANIEL MOOKHEY: Have you received any report which would suggest that that figure is wrong?

Mr TROUGHTON: I have not had any information from them to me of what they have spent on the project.

The Hon. DANIEL MOOKHEY: How much money has been spent to date on the CBD and South East Light Rail project?

Mr TROUGHTON: I will have to take that on notice., It probably is commercial-in-confidence anyway.

The Hon. DANIEL MOOKHEY: What is the forecast final cost?

Mr TROUGHTON: The forecast final cost at the moment is \$2.1 billion.

The Hon. DANIEL MOOKHEY: Can you explain why Acciona is telling us that it is \$2.9 billion to \$3 billion?

Mr TROUGHTON: I think it is important to understand that what it has cost them and what they are entitled to are far, far different things. The New South Wales taxpayer is not responsible for delayed starts, mismanagement and other issues involved with delivering a project. They are not responsible for mis-bidding. What we do is we take every claim that is put on the table in front of us. We make an assessment of that claim under the contract. We understand the entitlement and for all of the claims that we have received we have made a decision and we have awarded a determination to each of those claims.

As you are well aware there are significant commercial pressures on us. A court case is ongoing at the moment. There is a disagreement between where the contract lies on this and until that court case is resolved a final cost will not be known. What I would say is we look at every claim in detail. We assess it in a fair and evaluating nature in the best interests of the people of New South Wales. So it is not about what they have spent; it is about what they are entitled to.

The Hon. DANIEL MOOKHEY: Indeed. This morning they said that they had pursued 60 contract variations for which they have made claims under the contract framework. How many of them have been resolved to date?

Mr TROUGHTON: I believe that there are eight modifications that are outstanding resolution. Of those eight modifications we have made a determination, made payment, of what we believe is what they are due.

The Hon. DANIEL MOOKHEY: What is the value of what you believe that they are due?

Mr TROUGHTON: It is commercial-in-confidence.

The Hon. DANIEL MOOKHEY: They say that they have made three claims under the Security of Payments Act and they say that the arbitrator has awarded them all three at a 95 per cent value of which they have made those claims against ALTRAC. I asked them whether or not ALTRAC will now claim against Transport for NSW. Have you been advised, or have you received a claim from ALTRAC, for claims under the Security of Payments Act?

Mr TROUGHTON: We have not received any claims from ALTRAC under the Security of Payments Act.

The Hon. DANIEL MOOKHEY: I refer to the monthly contract delivery progress reports. Were they examined by Mr Jock Murray in his reports?

Mr TROUGHTON: I am not aware of that.

The Hon. DANIEL MOOKHEY: Were they all examined in Gateway Review and Health Check report No. 3 dated 25 October 2016, or were any other health checks undertaken by Infrastructure NSW under the Infrastructure Investor Assurance Framework?

Mr TROUGHTON: I do not know what Mr Jock Murray has reviewed or not reviewed. I will take that question on notice.

The Hon. DANIEL MOOKHEY: Under the contract framework do you have the power to issue directions to modify design?

Mr TROUGHTON: Yes.

The Hon. DANIEL MOOKHEY: Have you issued such modifications?

Mr TROUGHTON: Yes.

The Hon. DANIEL MOOKHEY: How many have you issued?

Mr TROUGHTON: I think the number is around about 60 modifications, 11 of which have been withdrawn. So we have issued modifications.

The Hon. DANIEL MOOKHEY: Are you on notice able to give us a timetable as to when each notification was given, given that we have a lot of competing evidence about whether you changed the design or Acciona changed the design?

Mr TROUGHTON: I will take that on notice of what I can and cannot provide you of a commercial nature. What I will say is that a number of the modifications are to be of benefit. Let us take High Cross Park, for example. Through discussions with Randwick council, they felt that a substation at High Cross Park would be a visual nuisance. We took that work and we undergrounded that substation. For all of the community, people will agree that that is a benefit. It is a modifications issue.

The Hon. DANIEL MOOKHEY: In the same vein, a lot of people in the community would agree that it is entirely reasonable that Transport for NSW modify the design and pay to insulate residents from sound and noise. Is that something that Transport for NSW is willing to do?

Ms PRENDERGAST: We are looking at that. There is a review process, as I outlined in the opening. The actual noise and vibration treatments are categorised A to D. Some people who have been categorised at the lower level are seeking greater things. This is based on operational noise, not construction. We are reviewing. There is a review escalation process. If they are not happy with ALTRAC's or Acciona's decision, they can escalate to Transport, then to an independent mediator. In the case of Doncaster Avenue, we are reviewing those treatments.

The Hon. DANIEL MOOKHEY: Ms Prendergast, I understand you just drew that distinction between construction and operations, but given the construction is going to last for another 18 months, when will Transport for NSW make a decision about whether or not it is going to pay to protect these houses from noise?

Ms PRENDERGAST: Operational noise and vibration?

The Hon. DANIEL MOOKHEY: Both.

Ms PRENDERGAST: That is what we outlined. They have resolved 1,220 out of 2,000 properties.

The Hon. DANIEL MOOKHEY: Yes, but how many have you paid for to be sound insulated?

Ms PRENDERGAST: There are 559 that have already been completed.

The Hon. DANIEL MOOKHEY: How many additional requests have you received?

Ms PRENDERGAST: The others are subject to resolution, which will be—

The Hon. DANIEL MOOKHEY: How many are subject to resolution?

Ms PRENDERGAST: Well, basically 2,020 minus 1,220.

The Hon. DANIEL MOOKHEY: We still have 800 to 900 residents who are waiting for a decision?

Ms PRENDERGAST: Correct, we have.

The Hon. DANIEL MOOKHEY: When can those 900 residents know whether or not Transport for NSW, or Acciona, or ALTRAC is going to protect their houses from noise?

Ms PRENDERGAST: That process is being worked through very vigilantly with a team from Acciona dealing with it. If they are not satisfied, there is a process for escalation—

The Hon. DANIEL MOOKHEY: Ms Prendergast, do you understand the immense frustration of residents who have already endured three years of construction to be told now by Transport for NSW, "We just cannot tell you when we are making a decision about noise"?

Ms PRENDERGAST: We appreciate the impact, but they are working through resident by resident. They had 2,020 properties to work through. They are over halfway now.

The Hon. DANIEL MOOKHEY: I would have understood that this would have been one of the most important urgent things to do. Mr Troughton has just said that at the request of one council to move one station in High Cross Park, a direction was issued. That is just one, on the basis that essentially a substation in High Cross Park would be an eyesore. By the way, I agree with that. The question is: If it is good enough to move an eyesore in High Cross Park, why is it not good enough to protect these residents from noise?

Ms PRENDERGAST: This is exactly what we are doing. It is for operational noise when the tram commences operation.

The Hon. DANIEL MOOKHEY: Mr Troughton, have you ever issued a default notice on ALTRAC?

Mr TROUGHTON: That is commercial-in-confidence.

The Hon. DANIEL MOOKHEY: If you had issued a default notice on ALTRAC, contractually, are they required to notify their bankers?

Mr TROUGHTON: You would have to refer that to ALTRAC.

The Hon. DANIEL MOOKHEY: I put it to you that you issued a default notice to ALTRAC. As a result of you issuing a default notice to ALTRAC, ALTRAC had to notify its bankers and its bankers insisted on the New South Wales Government providing a \$500 million guarantee. Is that correct?

Mr TROUGHTON: That is a statement. That is your statement.

The Hon. DANIEL MOOKHEY: I am asking you a question. Is it correct that the reason that the New South Wales taxpayers have had to guarantee \$500 million of ALTRAC's debt is because you created a liquidity event that triggered the banks to recover that money. Is that correct?

Mr TROUGHTON: I will take that on notice.

The Hon. DANIEL MOOKHEY: That \$500 million loan, which banks have we guaranteed the money to?

Mr TROUGHTON: I will have to take that on notice.

The Hon. DANIEL MOOKHEY: It is publicly known that the banks that have lent money to ALTRAC are the National Australia Bank [NAB] and the Commonwealth Bank. Is it the NAB's and the Commonwealth Bank's loans that we have guaranteed?

Mr TROUGHTON: I was not involved as part of that process. I will have to take it on notice.

The Hon. DANIEL MOOKHEY: Can you understand why it appears to us that Mike Baird's Government entered into a contract for the CBD light rail, and we have now effectively guaranteed the loans of Mike Baird's banks?

The Hon. SHAYNE MALLARD: Point of order: The witness has said he will take it on notice. Asking the same question or trying to trick the witness into answering a different way is not an appropriate way to ask questions. He said he would take it on notice—three times.

The Hon. DANIEL MOOKHEY: I am asking him another question.

The Hon. SHAYNE MALLARD: It is the same question.

The CHAIR: It is not relevant to quote his name.

The Hon. DANIEL MOOKHEY: Given that we have not been able to have Transport for NSW explain why a \$500 million guarantee is even required, do you wish to take the opportunity now to explain why taxpayers have guaranteed \$500 million of debt towards the ALTRAC consortium, given we had the Minister confirm at budget estimates that the New South Wales taxpayers have already done that? Why is it necessary that we guarantee these bank debts?

Mr TROUGHTON: As I said, I was not involved. I was not involved in the arrangement that ALTRAC have with their private bankers. It is not part of my responsibilities. I will take on notice what I can provide to you on notice.

The Hon. DANIEL MOOKHEY: The Minister for Transport wrote a letter to the Treasurer seeking a \$500 million loan. Did you have the opportunity to see that letter before he sent it?

Mr TROUGHTON: I have not seen that letter, no.

The Hon. DANIEL MOOKHEY: Did the Minister for Transport write this letter without seeking advice from Transport for NSW as to whether this is required? That is the inference you are leaving here right now?

Mr TROUGHTON: No, I am sure he had advice. I believe I was actually on holiday at the time. I am unable to tell you because I was not in the country. I will have to take it on notice.

The CHAIR: Have any of the other witnesses seen that letter?

Ms PRENDERGAST: No.

The Hon. DANIEL MOOKHEY: Does the energy Minister have the power to direct Ausgrid to comply with directions from Transport for NSW to accelerate work on moving the Ausgrid utilities?

Mr TROUGHTON: I am not aware of that. I will take that on notice about the powers of the energy Minister.

The Hon. DANIEL MOOKHEY: Has Transport for NSW in its desire to accelerate completion of the project ever sought advice about whether or not the energy Minister can step in and direct Ausgrid to help on this project?

Mr TROUGHTON: We have never had conversations with the energy Minister as far as the contract. Certainly we work very closely with Ausgrid at various levels throughout the project. I think there is a positive working relationship between all parties and with best endeavours to assist in the delivery of the project, and that work is all undertaken at a project level.

The Hon. DANIEL MOOKHEY: Acciona says they first provided an informal warning to Transport for NSW in March 2015 that this project was at risk of 865 days delay and a \$426 million blowout. They say they then wrote formally to Transport for NSW in May, saying that this project was at risk of an 868-day delay and a \$426 million blowout. They say that Transport for NSW asked them to withdraw the letter. Who from Transport for NSW asked them to withdraw the letter?

Mr TROUGHTON: I am not aware of that occurrence. It was a long time before I was involved in the project and I am happy to take that on notice as well.

The Hon. DANIEL MOOKHEY: It is a month after financial completion. Why should we not infer that one month after financial completion this project was already off the rails? They warned you within a month of signing the contract and paying the money that there is an 868-day delay and it was going to cost \$426 million. Please tell me why Transport for NSW did not disclose that? What did you do when you got that warning?

Mr TROUGHTON: As I said, I was not here. What I would say is that, clearly, in construction contracts there are significant commercial games that get played by contractors.

The Hon. DANIEL MOOKHEY: Within a month of signing the contract?

Mr TROUGHTON: Well, they may have found something, that they may have underbid, or they had undercalculated—

The Hon. DANIEL MOOKHEY: They say you did not disclose information they required to assess the risk. That is what they are saying and that is what they are suing taxpayers \$1.2 billion for.

Mr TROUGHTON: And that will be resolved and is under review by the courts at the moment. I cannot comment more than that, other than respect the process that it is under.

Ms CATE FAEHRMANN: I am not sure who to direct this question to but I appreciate that at the beginning of your statement, Ms Prendergast, you stated what you have done in relation to noise complaints. However, I still have some questions about that. Has Transport for NSW undertaken an audit to ensure compliance relating to noise? This is relating to the construction project.

Ms PRENDERGAST: We monitor compliance at all times and work with the Department of Planning and Environment in relation to that compliance.

Ms CATE FAEHRMANN: Does that mean you have undertaken an audit? When you say you monitor compliance, is that an audit?

Ms PRENDERGAST: It is overseeing their monitoring. We monitor complaints so that when issues are being raised, we step in and look at that and help resolve it and work out if there is a different way to do it to minimise the noise.

Ms CATE FAEHRMANN: You have not undertaken an audit?

Mr TROUGHTON: We might take that on notice and provide you with what we do and how we have done it. Certainly I know that under the whole contract process there are a number of requirements. There will be checks. What I would like to do, if I may, is provide you with an accurate process of what we have done and how many we have done.

Ms PRENDERGAST: And we have an environmental compliance team specifically to do that.

Ms CATE FAEHRMANN: There is also Transport for New South Wales Construction Noise Strategy, which says, on page 11:

Compliance with the approved construction noise and vibration objectives is to be audited at least every three months.

That is three months—four a year—which would make it 12 audits, maybe. You are not sure whether one has been undertaken.

Mr TROUGHTON: It depends on how we have contracted that to be done. I just need to be clear to you on this. There are two ways. Under the contract we may have said, "ALTRAC, you need to have independent compliance officers." They would then appoint an independent company to undertake those checks. At all times they have to comply with that process. I will just take it on notice and provide who exactly—

Ms CATE FAEHRMANN: So you do not know who the independent company is which is responsible for ensuring that compliance is—

Mr TROUGHTON: At the end of the day, ALTRAC is responsible, under the contract, for meeting the conditions. As a PPP, we do not hire those companies directly.

Ms CATE FAEHRMANN: You have outsourced responsibility, in other words—

Mr TROUGHTON: To ALTRAC.

Ms CATE FAEHRMANN: —in terms of noise.

Mr TROUGHTON: Fifteen years of the whole project has been outsourced to ALTRAC. So it is responsible for design, construction and operation. Under a normal project Transport for NSW would hire those companies. Under a PPP, the obligations are to the PPP company to organise all of that. I am happy to provide—

Ms CATE FAEHRMANN: The contract would have had to comply with Transport for NSW construction policy here though in terms of having an audit at least every three months.

Mr TROUGHTON: Yes, and it would have to comply with legislation.

Ms CATE FAEHRMANN: And it would have to comply with legislation. If they do not?

Mr TROUGHTON: Then the relevant legislative bodies would take action against them.

Ms PRENDERGAST: We can provide those details, but the environmental compliance team and the Department of Planning and Environment go out, often at night, to check on the noise compliance. If there is a spike in complaints they do special exercises.

Ms CATE FAEHRMANN: We heard today—I think you said it before—about three fines or three notices that have been issued. However, we did hear from many residents about continued noise that is keeping people—including students and babies—awake, and driving them to madness. Some people were talking about having mental health issues as a result of the noise. I think we also heard yesterday that people have had to buy noise-measuring machines because they do not think that the noise is being monitored.

One of the things that we know is that in the management plan they have to have independent monitoring at all times when they undertake out-of-hours work. Are you familiar with whether that has been happening with the Department of Planning and Environment compliance officers? Can they report that independent monitoring is taking place every time Acciona undertakes out-of-hours work in terms of construction?

Mr TROUGHTON: I do not have the day-to-day knowledge of that. I would have to take that on notice.

Ms CATE FAEHRMANN: Do you operate the complaints line?

Ms PRENDERGAST: Yes.

Ms CATE FAEHRMANN: How many of those complaints have been regarding noise?

Ms PRENDERGAST: The large majority.

Ms CATE FAEHRMANN: Yes, the large majority. But you are still not sure whether—

Ms PRENDERGAST: We are sure.

Ms CATE FAEHRMANN: —Acciona is monitoring, according to their contract, every time they undertake out-of-hours work. That is the majority of the complaints.

Ms PRENDERGAST: What I cannot answer is the "every time". I do know there is a strong monitoring regime. There has also been a graduation in the practice, if there is noisy works after midnight. There has been a strengthening in the requirements. There is also the respite that is offered to residents. If there are three nights of noisy work on the third night there is offered respite accommodation. We, ourselves, have made over 8,000 offers over and above that in recognition of the noise, particularly in areas such as zone 28, where there is high rise. That is where the gentleman from yesterday—Mr Jordan—was from. We understand that when there is high rise the noise echoes. That is on Anzac Parade, where we are constricted from doing more day work, although we have tried to fit in more day work. We can provide you with the details of that environmental compliance. The Department of Planning and Environment is very much overseeing this as well.

Ms CATE FAEHRMANN: Given the amount of concern, and the fact that 55 per cent of the complaints that are coming in via your complaints line are regarding noise and you said you have outsourced auditing, would you commit to Transport for NSW undertaking its own audit—which is what you have to do in relation to your Construction Noise Strategy—of noise compliance by Acciona during night-time activities? Can the public and the residents who have been complaining be assured that Transport for NSW—the Government—is taking their complaints seriously?

Mr TROUGHTON: Absolutely. We will endeavour to ensure that the whole of the plan and the policies that we have in place are being followed on this project.

Ms CATE FAEHRMANN: Okay. Who is responsible for reviewing noise curfews?

Ms PRENDERGAST: It is part of the planning conditions.

Ms CATE FAEHRMANN: I think in the Randwick City Council submission it said that there were lots of letters and lots of emails from residents concerned about noise. There was a question in relation to Minister Constance's promise to review curfews in zone 28. Are you familiar with that?

Ms PRENDERGAST: The Department of Planning and Environment is the regulator for noise, and oversees all of our activities. It has already upgraded the requirement for noisy works past 12 and the offer of respite. We worked with the Department of Planning and Environment to develop an additional respite scheme to give the residents more relief and offer them alternative accommodation because we have tried everything to get the work schedule to minimise that work. Because of the significance of Anzac Parade and the need to occupy lanes we could only do so much. We understand that the most important thing we do now is to get the civil works complete. We are at 98 per cent track completion. Besides some kerb works the really invasive works are at the tail end. The barriers-down strategy will give testament to that between November and February.

Ms CATE FAEHRMANN: Has Acciona breached its contract or breached its management plan in order to do this work more quickly when it comes to construction noise at night? For example, operating six nights a week at midnight in certain places. We have heard from some witnesses that that is the case.

Ms PRENDERGAST: That is not true. It has not been breaching the contract, bar the three formal notices, that we are aware of.

Ms CATE FAEHRMANN: Do you know what the three formal notices were in regard to?

Ms PRENDERGAST: We can provide you with details of that, but the Department of Planning and Environment is very vigilant in overseeing this, as is our own environmental team. They have not been accelerating the works and doing more activity, bar what the planning conditions allow.

Ms CATE FAEHRMANN: When I asked about this this morning, I think there was a commitment by ALTRAC to check—to take on notice—whether they can publish the monitoring data that they are supposed to be doing continuously during out-of-hours work operation. Are you able to provide that monitoring data? Would you receive it as well?

Ms PRENDERGAST: The monitoring includes weekly inspections with an independent environmental advisor doing the overview checks, as well as the Department of Planning. We also review program. How we ascertain the offer for the additional respite accommodation—beyond what ALTRAC offers—is by going through

and forecasting the week's activities and determining the impact on residents. Then we work out the impact and what we need to offer to give them some respite.

Ms CATE FAEHRMANN: So you see that data, Ms Prendergast?

Ms PRENDERGAST: The environment group does within the project team. My team is the one that communicates that to the residents. So every week we make offers.

Ms CATE FAEHRMANN: Can you table for the Committee what the independent noise monitoring audit has—all of the data from noise monitoring for this project.

Ms PRENDERGAST: I can take on notice what the team has available and—

Ms CATE FAEHRMANN: Provide it to the Committee?

Ms PRENDERGAST: We will take that on notice.

Ms CATE FAEHRMANN: Thank you.

The CHAIR: Ms Prendergast, some of the members of the Committee would like to have a copy of your opening statement.

Ms PRENDERGAST: Absolutely.

The CHAIR: It had lots of factual material in it. Could you provide it to our staff?

Ms PRENDERGAST: I surely can; yes.

The CHAIR: We will table that. We can photocopy it and give it back to you.

Ms PRENDERGAST: That is fine. I am good.

The CHAIR: There has been a lot of discussion about noise problems for residents and so on, but once the light rail commences I assume there will be no more problems with noise. Is it correct that the light rail will not disturb even residents that are right on the line?

Ms PRENDERGAST: There is some noise and vibration impacts of an operating light rail. That is why the noise and vibration treatments are being offered for operations—based on categories A to D—based on the level of noise. And that is why there are different ranges of treatments. Some residents are receiving more treatments than others, based on the forecast level of impact, which is done by an independent specialist.

The CHAIR: So you are doing estimates already as to what you anticipate the level of noise to be when it is operating?

Ms PRENDERGAST: And that is how they are determining what treatments to do. Originally it was assessed that 2,020 properties needed to be assessed for potential operational noise and vibration for when the trams are running; 1,220 of those are resolved and 559 have received their treatments. Over the course of the next year all of those treatments will be completed. If there is a dispute, they escalate, of course.

The CHAIR: That would involve window glazing and things like that to soundproof the residence?

Ms PRENDERGAST: There is a range of treatments, from seals, double glazing through to mechanical ventilation and different vents. What is really important is to assess against the ambient background noise that exists today, and that is the basis for the assessment, because a lot of those properties are already located on quite noisy roads.

The CHAIR: It is probably difficult to assess some of the older buildings. What would the oldest buildings be on that light rail route?

Ms PRENDERGAST: They are very old. I would have to take that on notice.

The CHAIR: Just roughly.

Ms PRENDERGAST: Some are heritage, I should imagine, or at least Art Deco.

The Hon. SHAYNE MALLARD: The Queen Victoria building.

The CHAIR: They could be 50 years old.

Ms PRENDERGAST: Yes, right through to the Queen Victoria building, that is right.

The Hon. GREG DONNELLY: We saw some pieces of the Art Deco yesterday.

Ms PRENDERGAST: From a retaining wall, yes.

The CHAIR: You have to have different solutions for different buildings.

Ms PRENDERGAST: Absolutely, and it is based on assessment of the noise and the impact on that building. Often it is the proximity, but it could be the building itself.

The CHAIR: How has Transport for NSW sought the views of local businesses before and during the current construction? What community meetings did you convene?

Ms PRENDERGAST: We have held in excess of 140 business and community forums—they are on a regular cycle. Our people doorknock right along the alignment. Transport for NSW also has precinct managers. We know all of the businesses along the alignment; we check in regularly. The Small Business Commissioner and ourselves did a complete check-in in May, but my staff really care about the people along this alignment; they are in constant contact. Sensitive receivers and people who are really experiencing the discomfort of the noise are in contact with my staff. Our aim is to help them. We get that this is disruptive, and my staff have consistently been out there talking to people, trying to help them, trying to influence the project where possible to get a better outcome for them. But we have always been there and they are well-known to all of the businesses along the alignment and, indeed, some of the more sensitive residents.

The CHAIR: There is no cut-off date, you just have that continuing public consultation?

Ms PRENDERGAST: We will stay there right until this project is absolutely complete. Our staff have been consistent throughout the process.

The CHAIR: A number of people have said that the light rail is 98 per cent completed. Is that an accurate figure, 98 per cent?

Ms PRENDERGAST: The track.

Mr TROUGHTON: The track slab, the actual running lines of the tram. So 98 per cent of the track slab is complete.

The CHAIR: It is just the track that is to be laid?

Mr TROUGHTON: Yes. In addition, 15 of the 19 stops are underway; 470 of the 817 poles are in; 12 of the 60 vehicles have arrived; drainage is 83 per cent complete; and intersections are 30 per cent complete. What you are seeing is a significant increase in the poles, and particularly the pole foundations on site at the moment. One of the important parts of the project was to have the tracks finished. Most of the utilities works is complete or substantially complete. They get the poles in and then they can start to do the paving, and that is when we start to see completions coming through. That is where when you walk through the site at the moment they are really coming out of the ground now and that is why we are very confident in the fact that we will start to get some barriers down between now and February of next year, which will start to visually be very, very different to the project.

Ms PRENDERGAST: Just to clarify, the 30 per cent of intersections is the signal priority. The plan of the personality of the intersection has been complete, the work with Roads and Maritime Services.

The CHAIR: As you know, there were surprises in George Street. You are not expecting any surprises in this latter part of the construction?

Mr TROUGHTON: Certainly not. Acciona's current project, they are due to complete their construction by April next year. So what we will see then is the majority of the civil works completed by April next year. We will move into a very, very different space around the whole of the project. That will allow Alstom and Transdev to come in and do their works. We have been in discussions with them; we expect them to be able to improve on the testing and commissioning and also certainly getting the systems done on their current program. We are working closely with them around how we train drivers, how we can get improvements on that. Acciona's current program to complete the civil works is April next year, not as advised this morning of 2020. Acciona should be complete by April next year; that is what they are telling us.

The CHAIR: As you would be aware, there have been problems with Ausgrid changing some of their requirements and catching the construction people by surprise. Do you have a good working relationship with Ausgrid? Do you anticipate any problems with Ausgrid's requirements or when they have changed their requirements?

Mr TROUGHTON: No.

The CHAIR: Do you have regular meetings with Ausgrid?

Mr TROUGHTON: Absolutely. I think it is important to be clear that through Transport we do a significant amount of projects across the whole of the State and every one of those projects we work with Ausgrid. Their requirements are very, very well-known. We work with them on every project and we work through.

The Hon. GREG DONNELLY: They were not to Acciona.

The CHAIR: They changed the guidelines at the last minute.

Mr TROUGHTON: I think it is important to understand that the revised guidelines that came through were never accepted. Mr Bede Noonan never mentioned that to you this morning. They were never accepted.

The Hon. GREG DONNELLY: By whom?

Mr TROUGHTON: By Transport and Acciona—by the project. We went then to, as Mr Noonan said, start having a working group to work through. There are significant clauses in the contract that allow us to deal with any change to Ausgrid requirements, and they are then on a risk-shared basis between the Government and Acciona and ALTRAC. So the contract actually deals with all the eventualities around a change to any utility, not just Ausgrid.

The CHAIR: Did you encourage or force Ausgrid to change some of the guidelines, which apparently caused a lot of problems?

Mr TROUGHTON: We did not force Ausgrid to change any of the guidelines. The guidelines that were there beforehand, as I said, we amended and the project did not accept them. We then went into a process working with Ausgrid, which essentially all parties agreed to move forward on, and, as I said, under the contract the mechanism for dealing with any change to any utility which is different from the schedules that were completed by Acciona is absolutely covered for in the contract and we are standing by how they are dealt with in the contract.

The CHAIR: Just briefly, you say it is 98 per cent completed. What is 2 per cent, basically?

The Hon. GREG DONNELLY: The track laying.

The CHAIR: What 2 per cent is outstanding?

Mr TROUGHTON: It is certainly in the CBD section. I think there are a number of sections along George Street that the track is to be finalised. There are probably a few other little bits around intersections that need to be done. I think, as Acciona have confirmed to you this morning, they expect all track to be completed by the end of this month.

The CHAIR: It is only minor works that are outstanding?

Mr TROUGHTON: They have still got a bit to do. I would not say it was minor works; it is ongoing works that they have always had to do with the track slab. But what I do understand is that all of the utilities around the track slab are complete and we do not expect any issues with the final bit of track slab being completed and, as far as I am aware, nor do ALTRAC.

The CHAIR: We will move on to questions from the Government members.

The Hon. MATTHEW MASON-COX: Welcome. It is good to see you here again. I want to go back to some of the evidence yesterday to start with, in particular from the residents and the business owners who came in here. I just want to get your response to some of the things that they put to us, for the sake of completeness. First of all, Ms Diana Argirellas, as you understand things, is an affected resident in Doncaster Avenue. It was put to us and tabled in that meeting an email from the Randwick City Council dated 3 May 2018. Are you aware of the email that sets out correspondence to Ms Argirellas informing her about the undertakings from the Minister so far as solutions to the problems identified, including installation of blinds and the like are concerned?

The CHAIR: Can we give him a copy of that?

The Hon. MATTHEW MASON-COX: Would you like us to provide you with a copy?

Ms PRENDERGAST: No, it is okay.

The Hon. MATTHEW MASON-COX: You are familiar with those?

Ms PRENDERGAST: Absolutely.

The Hon. MATTHEW MASON-COX: Is that something that the Minister, or you as the representatives of the Minister, are acting on?

Ms PRENDERGAST: Absolutely. The Minister has requested, and we understood the impact on the people living on the stabling yard. They had requested us to review the treatments. As I said before, there is an escalation process. Some of those residents in the Doncaster were ranked by the specialist as the lowest rate of impact for operational noise and vibration. However, we really want to have another look. Therefore it is going through a Transport for NSW review process. If they are still not satisfied with the treatments being proposed, there is an independent mediator who can be involved. The Minister has requested that. There is also the longstanding issue of installing bamboo between the fence to provide extra coverage from a sightline perspective. We really welcome Acciona's commitment today to look at the light spill. There were extensive light studies done about the lights and the spill over into properties, but you know we have been requesting another look at that for some time. We welcome that.

The Hon. MATTHEW MASON-COX: I think that would be really good. It has been about five months. I am concerned that the letter says "as a matter of urgency". Are we in a process, or are we actually close to taking action in relation to these items, including the installation of blinds to deal with the light issues, including installation of double glazing on windows? There are a few other things mentioned as well.

Ms PRENDERGAST: The blinds and the request for air conditioning and double glazing all wraps up into those property treatments. It is a range of property treatments. Based on whether you are A to D in terms of operational noise and impact under the assessment, there are different treatments for each category. They have been decreed that there was a certain level of treatment for those properties at Doncaster. They are not satisfied with that, so now they go into the escalation and resolution process.

The Hon. MATTHEW MASON-COX: Okay. You have had the initial meetings and now we are escalating.

Ms PRENDERGAST: Correct. When I talked about the 2,020 properties, that is what we are talking about the operational noise and vibration treatments. We have resolved over half of those, but there are still some to resolve and to negotiate and work through with the residents.

The Hon. MATTHEW MASON-COX: Thank you. A number of the businesses, particularly the Book Kitchen and the Mondial Pink Diamond Atelier, closed. Let me start with the Book Kitchen and Ms Amelia Birch. As you heard from her evidence yesterday, the business closed within weeks of the area being opened up for the light rail development and obviously she has not received any financial assistance as a result of the impact upon her life, which you could not help but feel moved by if you were in the room yesterday. I know this does not fit within the criteria, but ex gratia payments are very flexible in terms of how they can be applied. Has any consideration been given to looking to expand the ex gratia payments to cases such as Ms Birch's?

Ms PRENDERGAST: I will open and then I will hand to Mr Braxton-Smith. With the Book Kitchen, we were aware of the issue. The hoarding did go up very close. Within six weeks, the business folded, which was very sad because it was an icon in the area. We did work with them. We provided them outdoor seating to replace the outdoor seating that was removed. We provided it to the side. We did work with them on a change in business model and serving and try to assist them. We do acknowledge the impact. They did fold quite quickly. My understanding is, and I will hand over to Mr Braxton-Smith for more detail, that case has been reviewed. I think there were some complexities, given it was in liquidation.

The Hon. MATTHEW MASON-COX: Mr Braxton-Smith, do you want to address the question?

Mr BRAXTON-SMITH: Yes. Just to confirm, consideration was given to providing assistance under the Small Business Assistance Scheme. The complexities to which Ms Prendergast referred are real because the business is now in liquidation. Therefore, because it is between Government and the business, any payment would effectively be made to the liquidator and therefore, regrettably, would not provide any assistance to the owner under the circumstances where their business is in liquidation. They would have undertakings—the liquidator would—to make payments to Government for unpaid superannuation, which was unpaid for some period of time, and other issues when the business folded.

The Hon. MATTHEW MASON-COX: I understand that liquidation is a little bit different from the normal processes you would be confronted with, but obviously in liquidation there is a range of debtors that are seeking payment, and that might include the Government, it might include employees, and it might include the

owner. An apportionment is done in relation to the funds available, as she would be aware. I do not really think it is a valid excuse to use liquidation as a means to say that you do not think it is appropriate to pay money for some sort of compensation or financial assistance, given the closure of the business is a direct result of the project, and no-one disputes that.

Ms PRENDERGAST: The issue is that the business assistance scheme has been established to help people through the hardship. It kicks in when the period of delay kicks in. At six weeks—there was only six weeks into construction. There are other businesses—such as we heard from Ouroboros yesterday and others—that have actually been subject to a much longer period. We are up to the third and fourth round of assistance to help those businesses. It is about the level of impact and it is the overstay. That is really critical to the criteria. It is assistance to help them stay afloat because we want those businesses to be here when the civil works are done.

The Hon. MATTHEW MASON-COX: But it could not have been much more the level of impact than the business having to close with a 40 per cent reduction in turnover. The future basically has been taken away. You could hear what the result was in terms of Ms Birch's personal situation.

Ms PRENDERGAST: I appreciate the emotional turmoil.

The Hon. MATTHEW MASON-COX: Can I just ask you to revisit that in the light of the testimony yesterday?

Ms PRENDERGAST: Sure.

The Hon. MATTHEW MASON-COX: Just have another look and see what can be done.

Ms PRENDERGAST: We can.

The Hon. MATTHEW MASON-COX: Similarly, if we could turn to Mondial Pink Diamond Atelier, Mr Michael Neuman, his claim was rejected. He is in the Queen Victoria Building [QVB] on the ground floor, but does not have an exit or an entry point directly to the light rail. I think his business was down about 40 per cent. I imagine there is a whole range of businesses in the QVB. I do not know if you have any information on that, but it would be useful if you do, to share with the committee.

Ms PRENDERGAST: We only have anecdotal information that there has been an increased footfall through QVB, especially with the growth of Town Hall station proper and the numbers coming through that. It is also important to note that the zone outside the QVB has been open since last December. Our role is to help those who are really directly impacted. Those ones who are on the alignment and who are experiencing dust, noise, you know, and those really strong invasive impacts on their custom and affecting the businesses. That is who we need to help.

The Hon. MATTHEW MASON-COX: Okay. I put to you that if your business is down 40 per cent and that is directly as a result of what happened so far as the construction outside your building—even if your entrance is not affected by dust blowing in—the material impact is on your turnover. Businesses with a 40 per cent turnover basically are not making any money. They are going backwards. I am just concerned about the lack of flexibility in relation to the financial assistance program in that regard.

Ms PRENDERGAST: We have always allowed case by case.

Mr BRAXTON-SMITH: We do take into account any special circumstances of the business. We do rely on an external financial adviser. They look at the business's books.

The Hon. MATTHEW MASON-COX: This is Ernst and Young is not it?

Mr BRAXTON-SMITH: Yes. They look at the books of the business. They take into account any factors that the accountant of the business can provide, or the owner of the business, and they are the ones that we rely on to draw a line between what is occurring within the business and the construction activity. In this particular case, they were not able to identify any connection between the change in turnover, which is a fact on the horizon, and the activity of the light rail construction.

The Hon. MATTHEW MASON-COX: Let me ask you a different question. How many claims have you received for the Small Business Assistance Scheme?

Mr BRAXTON-SMITH: To date we have had 126 that officially applied and provided all of the information that is needed for assessment, and 122 of those have been assessed.

The Hon. MATTHEW MASON-COX: And 96 have been accepted?

Mr BRAXTON-SMITH: Correct, 96 have been offered assistance. All 96 have had a first round of assistance, some have had up to four rounds of assistance and just over \$500,000 is the maximum amount of assistance that has been paid in the case of one owner.

The Hon. MATTHEW MASON-COX: We might come back to that.

The Hon. SHAYNE MALLARD: Out of a potential 760 that you referred to earlier?

Ms PRENDERGAST: Seven hundred and sixty businesses, correct.

The Hon. SHAYNE MALLARD: Seven hundred and sixty businesses that could have applied?

Ms PRENDERGAST: Yes.

The CHAIR: Did Ernst & Young make a recommendation as to what assistance should be given or did it just give you general advice?

Mr BRAXTON-SMITH: Would you repeat that please?

The CHAIR: Did it make an assessment as to what financial assistance they should receive?

The Hon. SHAYNE MALLARD: The amount.

Mr BRAXTON-SMITH: Ernst & Young does, yes. It conducts analysis in accordance with the assessment criteria which we provided you a copy of in relation to a question on notice the first time. It is performing the analysis based on information provided by the business. It comes up with an amount based on the application of a formula.

The Hon. SHAYNE MALLARD: Today we heard that Acciona squarely put the blame on Ausgrid and the New South Wales Government for delays, unexpected utilities and Ausgrid's requirements for those utilities. How extensive were the discussions and the negotiations with Acciona and ALTRAC about the utilities?

Mr TROUGHTON: Can I clarify whether you are talking about the time of tender?

The Hon. SHAYNE MALLARD: I have another question about the tender. They claim they were prevented from talking to Ausgrid—they actually used either "banned" or "prohibited"—during the tender process.

Mr TROUGHTON: That is actually incorrect. Nobody is banned from talking to any utility organisation. The requirement under the contract is for them to notify Transport for probity reasons but as with every contract they are absolutely able to talk to the utility companies.

The Hon. SHAYNE MALLARD: With respect to my first question I asked: How extensive were the discussions with Acciona and ALTRAC about the utilities? I note the discussion we had today about shared risk. It was identified as a risk. How extensive were those negotiations and discussions? That can be before the tender or once the tender was awarded, or both.

Mr TROUGHTON: I was not present at the time but there was a significant amount of work done to locate and identify all the utilities for the project. A number of meetings were held, as Acciona confirmed this morning. There were a number of meetings where all parties were present. There was an opportunity for them to have direct conversations with any utility company under the contract. The only proviso is that they are required to provide to us for probity reasons. As I said before, we undertake thousands of projects every year in the whole of Transport working with utilities companies. There are very robust processes in place. I have just finished another light rail project in Newcastle which has had significant utility issues, a lot of heritage utilities, and very deep utility issues. We have worked through. Yes, there have been issues, but we have worked through and it has finished on time. At the end of the day there are a lot of responsibilities for contractors to undertake working directly with utilities companies, getting agreements in place and understanding how that works.

The Hon. SHAYNE MALLARD: My experience with Ausgrid from my local government days is that it always takes the opportunity to upgrade perhaps antiquated or lower capacity services underground and occupational health and safety changes that happened in the city when it did footpath and pit upgrades back in those days. So we expect something like that to come along. When did Ausgrid flag that its requirements were to modernise and update its infrastructure for Acciona and ALTRAC?

Mr TROUGHTON: I actually do not think that there has been any major upgrade in their infrastructure. There has been a number of situations under the contract, and there is a tender submission, that ALTRAC have actually identified themselves that their proposed solution to deal with an Ausgrid pit does not comply with the

guidelines. Then when they have gone to negotiate that they have had to do different things which has meant bigger pits which Mr Noonan referred to earlier. And in all cases under the contract any variation or change from what was materially originally expected is dealt with under the contract and there are specific clauses. I do not believe that Ausgrid are looking for betterment and, if they do, there is a clause under the contract that looks at that and we assess that under the contract and we work that through with the contractor.

The Hon. SHAYNE MALLARD: I do not think anyone would argue with the opportunity to improve worker safety for Ausgrid workers. Did they change the requirement specifications at some point or was that always the case?

Mr TROUGHTON: No, as far as I am aware the Ausgrid requirements are there. We had a joint working group to work through with them and, as I say again, any material change from what was originally expected to be completed under the schedules in the contract is open to reassessment. And it actually has a risk sharing basis with government along that and we are working through all of those issues with ALTRAC at this point in time.

The Hon. SHAYNE MALLARD: That is not unusual in a contract. Acciona is a major international construction company doing infrastructure around Australia as well as overseas. Acciona claims it was surprised at the complexity of the project and the utility risk that it has been exposed to. Is this what you would expect from a company of its experience, or is it about Acciona under-bidding to get the contract and then trying to squeeze the taxpayers for more money later?

Mr TROUGHTON: I certainly would not like to speculate on the drivers. At the end of the day we will work through with ALTRAC, who we have a contract with, to resolve these issues. I would suggest that that question is probably better asked of ALTRAC which is actually in contract with them.

The Hon. SHAYNE MALLARD: Was Acciona a significant under-bidder? I am not sure whether or not that is public.

Mr TROUGHTON: One, I was not around at the time and, two, I will take it as commercial-in-confidence.

The Hon. SHAYNE MALLARD: We had a discussion with ALTRAC about its supervision monitoring of the workforce of Acciona—effectively the middle men it seems. I put it to ALTRAC that media reports and the perception of shopkeepers and the public was that there was a go-slow earlier this year on the whole construction site. There was a drought of fluorescent vests and there were no workers there. ALTRAC said in response that it got the regular workforce reports—I am not sure how regular they were—along the route and it was satisfied that that was not the case. Is that the position of Transport for NSW?

Mr TROUGHTON: We monitor the amount of workers on sites. Certainly sort of following December through to February we saw a significant drop-off. We saw the productivity rates decline. Even if you look at ALTRAC's own reports to us that have historical data you will see a significant lack of productivity through those months. I will just go with the stats and say we believe that there was less work undertaken during those periods. You would have to go to Acciona to explain why.

The Hon. SHAYNE MALLARD: What did that coincide with—negotiations on variations? Is that not the case?

Mr TROUGHTON: No, that is not the case. I was just about to say school holidays.

The Hon. DANIEL MOOKHEY: Was it school holidays?

Mr TROUGHTON: Yes, it was school holidays around then.

The Hon. SHAYNE MALLARD: So all the workers were on holidays?

Mr TROUGHTON: Yes. Interestingly, under this project schools holidays is when we do most of our works because in and around the city we try to minimise impact. It is at a time where we expect work to ramp up. At the time we were notified of a number of areas of work—they were significant pieces of work that were on the critical path in the program—that would not be undertaken at that point. Some of those pieces of work were then delayed three or four months before they could get in as they were on a critical path. As I say, we will work through these, as we do. Again, it comes down to a lot of interpretation of programming and a lot of commercial issues which we are working hard with all parties to resolve.

The Hon. SHAYNE MALLARD: Yesterday we heard from Mr Jordan about quite an extensive array of alleged breaches of construction around his apartment. He said in evidence that he had videos and photographs of various violations of the construction contract regarding noise and damage to his property. What steps have you taken to investigate his allegations and has he provided you with all that evidence?

Ms PRENDERGAST: Our staff are acquainted with Mr Jordan and have spoken to him on many occasions. We have offered him respite accommodation, recognition that he is sensitive to the noise. He has had noise monitoring undertaken at his residence. He is in a large high-rise. We understand that visually you can still see it, even if they move up the road. We have monitored other complaints from that unit block, of which 10 have taken respite accommodation. We have had complaints from six other residents, within a very large block. We work through each and every one. We refer it. Acciona will look at it. He has obviously taken some of the issues to Planning, who have also investigated. We just wanted to get the work done and offer him respite for accommodation to relieve the impact that he is having.

The Hon. SHAYNE MALLARD: I think he told us yesterday he had been offered it 200 times, but had declined.

Ms PRENDERGAST: Correct.

The Hon. GREG DONNELLY: With respect to the questions I am about to ask, it may well be Ms Prendergast who is the best one to answer them, but I will be guided by the other witnesses at the table who might have some knowledge. Ms Prendergast, can you explain to the Committee the meaning of the term "junction optimisation"?

Ms PRENDERGAST: Junction optimisation, I think you are just talking about intersection optimisation. Same thing.

Mr TROUGHTON: Same thing.

Ms PRENDERGAST: That is maximising throughput and balancing the needs of all road users with the tram.

The Hon. GREG DONNELLY: And "signal priority"?

Ms PRENDERGAST: Yes, signal priority is when the signals are phased to give priority to different users. For example, we have a lot of bus priority through Sydney, in recognition that we want to give priority to high occupancy vehicles.

The Hon. GREG DONNELLY: With respect to the SLR project, as I understand, there are 67 intersections that need to be negotiated. We all discovered an interesting reference yesterday to each intersection having a personality.

Ms PRENDERGAST: It does, yes.

The Hon. GREG DONNELLY: Apparently we have multiple personalities in play here. With respect to the negotiation over each one of those intersections, presumably they are dealt with around the table. Presumably Transdev would have to be around the table as the organisation that would be operating these light rail vehicles?

Ms PRENDERGAST: Yes.

The Hon. GREG DONNELLY: Who else is around the table when these discussions are going on?

Ms PRENDERGAST: Roads and Maritime Services, who are responsible for the end state of the network and balancing the different road user needs.

The Hon. GREG DONNELLY: There is RMS and Transdev. What about Transport for NSW?

Mr TROUGHTON: Yes, the whole project gets involved. Also, we get involved with the systems.

The Hon. GREG DONNELLY: There is Transport for NSW and Alstom. Is the NSW Police Force at the table?

Ms PRENDERGAST: Not for intersection design, no.

The Hon. GREG DONNELLY: Or signal priority?

Ms PRENDERGAST: No, they do not get into that technical side.

The Hon. GREG DONNELLY: Is there anyone else at the table when these discussions are going on?

Mr TROUGHTON: There would be representatives from specialist consultants in that space employed by either RMS, Transport, or ALTRAC.

The Hon. GREG DONNELLY: Special consultants of the respective parties at the table, okay. With respect to those meetings, and we have to work our way through 67 intersections, when do they commence the work for these intersections?

Mr TROUGHTON: They have already commenced.

The Hon. GREG DONNELLY: When did they commence?

Mr TROUGHTON: I will take that on notice.

Ms PRENDERGAST: They are 30 per cent complete, so 30 per cent of the intersections have the designs done.

The Hon. DANIEL MOOKHEY: Is that 15 or 20?

Ms PRENDERGAST: It is 30 per cent of 67.

The Hon. GREG DONNELLY: So 30 per cent are complete. When you say they are complete, does "complete" mean there is agreement between all the parties around the table?

Mr TROUGHTON: No. The process is quite complex. I did watch some of the discussion yesterday. It was slightly confused. I will try to clarify it. There is modelling done on the whole route which is based on reasonably high-level information that gives you the 34 to 38 minutes—

The Hon. GREG DONNELLY: Yes. We are beyond those days now. We are talking about nailing this down.

Mr TROUGHTON: Yes, and I was just going to try to work through that. As you work through, you start to get to more detail. The design for each junction and the signal design will be undertaken by ALTRAC. They will provide a design for the 67 junctions along the route. So they design the junctions. They will then submit that to RMS for review, and then a number of software programs will be used and probably because there are 67, there are interphases. They will split it up into certain sections and they will link those signals basically through a process of iteration using complex algorithms. There are a number of bits of software—

The Hon. GREG DONNELLY: I do not wish to cut you off, but I have limited time. I understand this is a complex set of negotiations involving a number of issues at play. But with respect to the 30 per cent of the 67 that you referred to, are you saying that 30 per cent of the intersections are now a settled matter with regard to how the junction optimisation and signal priority is going to be dealt with?

Ms PRENDERGAST: Yes, and others are done in groups because they are linked.

The Hon. GREG DONNELLY: With respect to the difference, how regular are the meetings going on to settle those outstanding ones?

Mr TROUGHTON: They are ongoing.

Ms PRENDERGAST: Very regular.

Mr TROUGHTON: Even at my level with RMS, there is a formal meeting once a month that looks at this. They will also be done on an as-needs basis as the designs get completed by contractors.

The Hon. GREG DONNELLY: When you say the meetings are ongoing, and I presume they are at this critical time, when do you expect to have the negotiations over the 67 intersections essentially settled? I preface this by saying I understand there is always a bit of tweaking at the end. You have done 30 per cent. When do you expect the rest to be done?

Mr TROUGHTON: It will be done in phases. The whole of the bit will be done at the time. I think somebody endeavoured to take it on notice yesterday to provide you those details. Just a couple of things—

The Hon. GREG DONNELLY: No, I do not think that is right.

Mr TROUGHTON: I will take it on notice to provide you the date when we forecast that all the signals will be designed.

The Hon. GREG DONNELLY: I am talking about the signal priority and the junction optimisation, which was mentioned to us yesterday as essentially the settlement about which the whole phasing of the lights and the traffic is done and related matters for the light rail passing through the intersection. So 30 per cent of the 67 have been done. I am trying to find out when the difference will be complete.

Mr TROUGHTON: Yes, and I just said to you that I would take that on notice and provide you that information.

The Hon. DANIEL MOOKHEY: Will it be finished by March 2020?

Mr TROUGHTON: There are other things to be aware of. We constantly review signal timing and certainly signal phasing through all of our junctions on an ongoing basis. We work with the Transport Management Centre and RMS. Once we have a model that we are happy with and we work through it, as we start trials and testing we may still even amend and make changes to that. There is no finite methodology of signal design. It is not a black art as it used to be. There are a lot of very good bits of software which I was trying to say earlier that are used to tweak and improve on these processes. Again, what will then happen is when the junctions are open, when the roads start running without construction traffic, traffic will change. Again, we will go back and review the current volumes. We may change bus routes. There may be other construction work going on that affects it. We will then review and change it again. It is a constant process.

The Hon. GREG DONNELLY: I am going to move on. With respect to not just the 30 per cent complete but also the difference, what priority is being given to the movement and the momentum of the light rail through those intersections over motor vehicles and pedestrians and cyclists? I guess they are phased by the lights as well?

Mr TROUGHTON: Certainly there is a priority to mass transit, always has been, through Transport, but we are also very cognisant of the need to get a balance for all vehicles.

The Hon. GREG DONNELLY: Is it a high priority or just a priority? Is it a high priority for light rail when they are at the table talking about the movement of their vehicles, vis-a-vis the motor vehicles and pedestrians? I am trying to work out the ranking of where the light rail fits with the other testing demands on working that intersection.

Mr TROUGHTON: I would say it is a high priority.

The Hon. GREG DONNELLY: So it is a high priority.

Mr TROUGHTON: As I said, the movement of mass transit vehicles is high-priority transport. At the end of the day you have to get a balance, and what you have to do is to get—sorry, I want to clarify, the number of intersections is 56, 17 are complete, and the meetings are weekly.

The Hon. GREG DONNELLY: Can you say that again?

Mr TROUGHTON: Fifty-six, with 17 complete, and the meetings are weekly.

The Hon. GREG DONNELLY: Thank you.

Mr TROUGHTON: You have to get a balance on the whole of the network. It is not about looking at a specific intersection. It is about looking at the whole of the network. You could over prioritise a signal at one place but that would have a significant effect, potentially, two to three kilometres away. It is about network balance. We go back to it again. We reiterate. We review; we review; we review. We rerun the programs constantly to ensure—

The Hon. GREG DONNELLY: I am sorry, I have to move on. I do not want to cut you off; I have limited time. I would like to jump to the issue of the vehicles themselves—the Citadis XO5 and their configuration—and specifically the numbers received yesterday regarding the numbers on the vehicles, the coupled sets. Four persons per square metre standing is obviously in the company's technical specifications schedule. It was explained to us yesterday that ultimately the clients or the intending purchasers of the vehicles can make a decision about that figure. They could decide to proceed with five persons per square metre or perhaps even more but Alstom in the specification sheet recommends four persons per square metre. What was the basis of the New South Wales Government—specifically Transport for NSW—settling on four persons? Was that because it was in the specifications sheet or were there other considerations? If there were other considerations for not going beyond the four what were they?

Mr BRAXTON-SMITH: At the time, four persons per square metre was a common standard that was used, particularly in Europe.

The CHAIR: That is world's best practice.

Mr BRAXTON-SMITH: Europe is well regarded in terms of light rail, and that was used there.

The Hon. DANIEL MOOKHEY: I have a very quick question, Mr Troughton. Were the Ausgrid guidelines presented to Acciona hours after financial completion?

Mr TROUGHTON: I do not know the exact timings.

The Hon. DANIEL MOOKHEY: Was it after financial completion?

Mr TROUGHTON: Let us be clear. There was a set of Ausgrid guidelines that were there during the tender process. These were amended and put in after financial completion. As I said before, they were not accepted by Transport for NSW, Acciona or all parties.

The Hon. DANIEL MOOKHEY: But the transmission of the revised guidelines took place after financial completion.

Mr TROUGHTON: I would have to take that on notice; I was not there.

Ms CATE FAEHRMANN: Ms Prendergast, at the last hearing on 20 August you talked—I am not sure who asked the question—about the original construction schedule setting out start and finish dates for each zone, and you told this Committee that, I think, six to nine months—in your words—was not really what it was, and that the maximum was 380 days in some zones. Which zones in the original schedule had 380 days?

Ms PRENDERGAST: Zone 4 was always well over a year. Other zones were shorter than the six months. It was an averaging figure. I would have to take it on notice. We have tabled the actual schedule. The maximum was something like 380 or 390 days.

Ms CATE FAEHRMANN: Was that for just one zone? You told the Committee that the maximum was 380 days in some zones. Are you correcting that? It is one zone; is that right?

Ms PRENDERGAST: I will have to go back and check the exact schedule. Zone 4, I know.

Ms CATE FAEHRMANN: I think the majority of zones in the original schedule are between six and nine months. Would that be correct?

Ms PRENDERGAST: I think, on average.

Ms CATE FAEHRMANN: This was partly in relation, I think, to the delay and advising businesses. Why did you not offer assistance sooner to businesses?

Ms PRENDERGAST: There was more than one zone. The issue was that the seriousness of the delay was not apparent until about August last year.

Ms CATE FAEHRMANN: What does "seriousness of delay" mean? When were you first advised of the delay? When does a delay become serious for business?

Ms PRENDERGAST: We were looking at it zone by zone. For example, 5 and 6 were the first to commence in 2015. They were the only two zones that commenced in 2015. They were due for completion later in 2016. It became apparent that the works were just far more complex—

Ms CATE FAEHRMANN: When did it become apparent to Transport for NSW? When was Transport for NSW first advised about the delays?

Mr TROUGHTON: I can take that. As of August-September last year we were working towards a March 2019 completion. Under the contract ALTRAC is still contractually obliged to deliver to March 2019. That is what the requirements still are.

Ms CATE FAEHRMANN: Yes, but the question is in relation to the impact on businesses.

Mr TROUGHTON: Yes. We were still working, at that point, to March 2019. I think it became pretty transparent to us in the start of the next year that we were starting to struggle with the process on site. That is when we started to take action, as we stated.

Ms PRENDERGAST: In zones 5 and 6, as I was alluding to, it was due to be completed later in 2016. In August 2016 it became very apparent that they were not going to complete the works in that timeframe. We were very public with that in talking to the businesses. When the multiple nature of the delays across multiple zones kicked in and we developed the business assistance program, that is why we set the overstay. So the overstay kicks in from what the original schedule said they should be there—say it is 10 months.

Ms CATE FAEHRMANN: We heard yesterday about the meetings that were held in, I think, June 2017. It was in 2017 that Councillor Vithoulas, I think, had those meetings. We heard about those meetings. There were 80 businesses, I believe, at the first meeting and 100 businesses at the second meeting. That was several months, I think, before Transport for NSW kicked in. So you were clearly aware. You had been contacted by businesses who were feeling the impacts. You had seen some businesses close down. The Book Kitchen said that it had been in contact with Transport for NSW. Will you admit to the Committee today, after hearing about all of the impacts on people and all of the impacts on businesses, that you offered rent relief too late; you offered those ex gratia payments too late?

Ms PRENDERGAST: When we knew there were multiple zones in play and that the delay was more serious than we thought late last year, that is when we realised. Prior to June last year we only had 0.04 per cent of complaints related to business. We knew of some hardship cases but there were not—

Ms CATE FAEHRMANN: What about the businesses that got together—80 businesses in one day and on the very next date 100 businesses? We had already had businesses close. There were lots of businesses feeling the pinch—businesses barely hanging on. This was in June. It was very clear that there would be delays for months and months—I have the schedule in front of me—in terms of businesses being told it would be seven months, nine months, seven months, nine months. Given everything this Committee has heard, Transport for NSW offered ex gratia payment too late, did it not?

Ms PRENDERGAST: In June the Small Business Commissioner convened those groups. That was the first time that we heard, face to face, some of the issues that the businesses were having. We then set about working out what additional practical measures we could take to support those businesses through the process. We started developing the financial assistance program. We announced that in August.

Ms CATE FAEHRMANN: How many businesses had you been contacted by, by then—by August?

Ms PRENDERGAST: In June we had less than 0.04 per cent but we were talking to businesses. We knew—

Ms CATE FAEHRMANN: How many businesses was that? That is a percentage.

Ms PRENDERGAST: I would have to come back with a number but it was fewer than 20. And then we reached out to those businesses. The minute we announced the small business assistance program, we targeted—

Ms CATE FAEHRMANN: What should you have done differently? Given that we have an inquiry into the fact that there has been an enormous impact on businesses and residents, what should Transport for NSW have done differently in relation to providing relief for businesses? Should you have provided that relief sooner?

Ms PRENDERGAST: We provided a lot of assistance, which is outlined in our submission.

Ms CATE FAEHRMANN: It was not enough.

Ms PRENDERGAST: We provided marketing, activation, advertising support, advertorials. When the delays kicked in and the hardship stories started to become very apparent, starting at those June forums, we reached out to each of those businesses. We developed the small business assistance scheme. That scheme has now been running, and we have paid \$12.2 million to support those businesses. Keeping them afloat and helping them through this period became absolutely critical, and that is what we have done.

Ms CATE FAEHRMANN: You did not keep them all afloat, though, did you? That is what this inquiry is hearing—you did not keep them all afloat.

Ms PRENDERGAST: Not all businesses—

Ms CATE FAEHRMANN: It should have been offered sooner.

Ms PRENDERGAST: Only after delays set in.

Ms CATE FAEHRMANN: Delays had already set in.

The Hon. DANIEL MOOKHEY: It arose in March.

Ms PRENDERGAST: What I outlined in the last meeting—

Ms CATE FAEHRMANN: Delays had set in months before August.

Ms PRENDERGAST: They were starting to be felt in some zones. We were not even in some zones in that period. We did not even move into zones like Circular Quay until last July. We need to be measured about an incremental start date. They all haven't experienced years and years; it has been incremental in terms of when we moved in. I also noted at the last parliamentary hearing that we have looked along the route; there are 51 vacancies currently along the entire route: eight are under refurbishment for new businesses, 10 were vacant before we started construction, and three are brand-new. We have been monitoring this. We are now providing assistance and providing more and more third, fourth rounds, fifth if we need to, to keep these businesses afloat. We want them to be here when the civils are finished.

Ms CATE FAEHRMANN: It was too little too late, was it not?

Ms PRENDERGAST: We have provided assistance to those businesses and we have assisted them from day one in terms of marketing support, culminating in financial assistance.

The CHAIR: Thank you very much for the information you have given us on the various assistance programs. In regard to heritage buildings involved in the light rail route, has there been any cooperation between Transport for NSW and the heritage department regarding those heritage buildings and providing whatever assistance they need?

Ms PRENDERGAST: We have been, obviously, very mindful of heritage impacts along the route in terms of dealing with heritage buildings given there are some very significant buildings along the route—for example, the Quakers friendship house and the like—so we are obviously very conscious of any construction impacts. We have also discovered a lot of artefacts as we have moved through the route, from the foundations of warehousing in zone 1 to footings in zone 2, right through to a whole labyrinth in Rawson Street of a community—we found the original paving under Anzac Parade—and we found World War II culverts in High Cross Park. We have been conscious with heritage right across the time and we have documented and respected it and hopefully we will be able to showcase it.

The CHAIR: Approximately what were the years of those heritage buildings? You mentioned World War II?

Ms PRENDERGAST: A World War II bunker is in High Cross Park; we have got a former sandstone road in zone 29 in Anzac Parade; we found another one in zone 31; we found colonial-era culverts and drains at Lilyfield; in Ward Park we found pub and house footings near that park, which are nineteenth century; shop footings in Devonshire Street; and we found the first warehouse and Chinese merchant and coffee house business in Alfred Street. We found a very significant heritage find in the stabling yard itself with Aboriginal artefacts, which were the first sign of innovation. We found that the material that was in Randwick Stabling Yard came from England, so it was potentially the ballast in First Fleet ships, of which Indigenous people used those materials to test them and see what they could do with them. We call that the earliest sign of innovation. They took them away to Randwick to carve tools to see what could be done.

The CHAIR: Did you also find some Indigenous heritage items that were peculiar to the Aboriginal people?

Ms PRENDERGAST: Absolutely. We found 32,000 stone items in Randwick Stabling Yard and it proved to be flint from the Thames River. We have been working with the Sydney Living Museum and also Aboriginal groups and the La Perouse Aboriginal community to work out how can we showcase and relive this history. What we have done is gone back and not only a plan of management for how we protect these finds but how can we rebuild the story that they told? The story they told was that our Aboriginals took these materials to see what they could use them for and what tools they could make. To us, that is innovation; that is our first sign of such innovative activity and we will commemorate it.

The Hon. SHAYNE MALLARD: Cross-cultural innovation.

Ms PRENDERGAST: Absolutely.

The Hon. SHAYNE MALLARD: The Aboriginal people were very innovative before.

Ms PRENDERGAST: Absolutely. The first innovation.

The CHAIR: And you are having close liaison with the Aboriginal Land Councils along the route of the light rail, particularly at the other end up to La Perouse?

The Hon. DANIEL MOOKHEY: Did you find any trees on Anzac Parade?

Ms PRENDERGAST: Yes, we work with registered Aboriginal parties and La Perouse. I am happy to talk about trees if you would like.

The Hon. DANIEL MOOKHEY: Please.

Ms PRENDERGAST: We are into the revegetation stage.

The Hon. DANIEL MOOKHEY: What did happen to the trees?

The CHAIR: Ms Prendergast is answering my question.

Ms PRENDERGAST: I am answering the Chairman's question.

The Hon. DANIEL MOOKHEY: What did happen to the trees?

Ms PRENDERGAST: They are being replaced. The heritage finds and what we found along the route has been quite amazing. We are unpicking history because we dig the ground up, and what we want to do is commemorate, preserve and use them in education so that we can share them and share their stories.

The CHAIR: I know the light rail has had a major impact on a lot of the local businesses. The compensation that you have provided is very good. On one list, 96 businesses—cafes, food retailing, household goods et cetera—have been compensated a total of \$12 million. Where do those funds come from? From Transport for NSW or from Treasury?

Mr BRAXTON-SMITH: They are funded by Transport for NSW.

The CHAIR: You have a budget?

Mr BRAXTON-SMITH: Yes. We have an allocation which has been revised and it has been increased as it has become evident that the overstay is longer than initially anticipated, and we have continued to adjust the scheme to make sure that we are addressing those businesses that have been affected. In relation to a statement that was made previously, I point out that we have at times identified proactively where businesses are particularly impacted—for example, in Devonshire Street we did not wait until such time as we had all of the information and had clarity about the amount of impact to them. It was clear that Devonshire Street was going to be particularly impacted, so in the case of Devonshire Street we made advance payments to 13 businesses, totalling \$690,000, which, in effect, was covering their rent for a six-month period of overstay. For the record, we have moved when we have understood what the impact is and understood what the likely knock-on impact could be on other businesses; we have moved very promptly to assist and support those businesses by every practical means.

Ms CATE FAEHRMANN: Can I get a clarification of what date that payment was made to those six businesses in Devonshire Street?

Mr BRAXTON-SMITH: It was 13 businesses, and we will have to take that question on notice as to the time of that.

The CHAIR: I am sure all those businesses would be very pleased to have had that help, but there is a perception outside of our inquiry that the Government is doing nothing to help people and companies. I suppose I am encouraging you to have perhaps more information made available to the public, whether through media releases or press conferences, as to what assistance the Government has given. I think it is important that everybody is fully informed as to what you are doing.

Ms PRENDERGAST: It is also important in relation to Devonshire Street to note that we only moved in there late in 2016. In some zones, April 2017 was when we commenced—for example, in the zone near The Book Kitchen. It was a gradual move-in into those areas where the construction impact started occurring. In terms of delay, it was not until mid last year that any delay had set in in those areas, and we have always been conscious of Devonshire Street. We have done the Head to Surry Hills festival, we have supported them with advertorials, videos, but also with schemes where we get a local promotion, so we do competitions effectively for them so that people spend in their businesses, and that has been really, really important. That small-scale stuff, supporting the Surry Hills festival, doing the place-making in the zone between Chalmers and Elizabeth—it is a combination of things to support that street. We realise that Devonshire Street, probably together with Kensington, are two of the most adversely affected from construction.

The CHAIR: You are to be congratulated on what you have done—I am not saying you should just be boasting, but on the factual information and the help you have given. We will move on to the Government members.

The Hon. SHAYNE MALLARD: Are there signs of investment being attracted to the corridor? We heard yesterday that that is one of the international occurrences, and national. Are there new businesses appearing?

Ms PRENDERGAST: There are absolutely new businesses. As I said, there are 53 vacancies. We know that over the last three to four years, 60 new businesses opened in George Street alone.¹ What we can say—and I think I alluded to it at the last Committee hearing—is that the level of development is unprecedented and therefore the cumulative impact of some of the construction is unprecedented in the CBD area. You have got Circular Quay with \$3 billion worth of development occurring; around Wynyard Place with a major transit mall; other buildings. What we find is that whilst we are building, other businesses take the opportunity to also redevelop along the route. We now have, in projects worth more than \$5 million, \$22.1 billion worth of development from Circular Quay to Central station. Along the entire route, when we accounted for all developments including shop fit-outs, of which there are lots, we have got \$6.1 billion worth of development.

We have got some major new developments happening—for example, demolition will start very soon on the corner of King and George streets where the Vivo Café was, to develop a major new retail podium and works. They are major new buildings. Event Cinemas is preparing and lodging a development application for \$1 billion redevelopment of their site. There is a lot of development occurring, and occurring along the light rail route. The regeneration is very obvious, yes; but we are also conscious of preserving character, for example, in Devonshire Street. The Council of the City of Sydney is very conscious of that.

The Hon. SHAYNE MALLARD: I have my councillor hat back on again. During my 12 years on the Council of the City of Sydney, I do not recall us ever compensating any businesses for disruption.

The Hon. DANIEL MOOKHEY: Shame!

The Hon. SHAYNE MALLARD: The point I am getting at is this: Is this scheme that you are administering with rental assistance unprecedented?

Ms PRENDERGAST: It is unprecedented. The compensation previously for the failed metro was only for failed property acquisitions, so there were a whole lot of properties—

The Hon. SHAYNE MALLARD: I am familiar with that one, too, don't worry.

Ms PRENDERGAST: —under acquisition for the failed metro.

The Hon. SHAYNE MALLARD: Including the City of Sydney's.

Ms PRENDERGAST: Basically, some of those shops have downed all of their stock and were folding when the project was cancelled, so there was a compensation scheme to help them rebuild. But that was a property acquisition gone wrong process, effectively. This is different. What we are doing is, where delay has set in on a very invasive project, we have developed this business assistance scheme in recognition that the businesses were doing it tough as the delay occurred.

The Hon. MATTHEW MASON-COX: I might ask you a bit more about that, if I could. What is the budget for the business assistance scheme?

Mr BRAXTON-SMITH: The present allowance that we have is up to \$40 million, but we are monitoring the benefits that we are providing to the businesses and enabling them to address issues that they have suffered through the overstay. We are continuing to provide support and assistance for as long as the overstay affects them. If you look at cases of individual businesses that have been talked about, you can see the facts before you. You have got cafes—20 of them—and a range in payments up to \$500,000, or slightly over that. If you take an example of a couple of particular cafes where the impact of their turnover has been around \$200,000 a year, as

¹ In correspondence to the committee received on 5 November 2018, Ms Margaret Prendergast, Coordinator General, Transport Coordination Office, Transport for New South Wales, clarified the following:

There are absolutely new businesses. As I said, there are 51 vacancies. We know that over the last three to four years, 50 new businesses opened in George Street alone.

you would be aware, part of that they can offset the loss of revenue because they do not buy the material and they reduce the hours of staff. Typically, a cafe will be able to shrink that impact to at least half.

The Hon. MATTHEW MASON-COX: Can I ask you about that? You are monitoring some of these businesses.

Mr BRAXTON-SMITH: Yes.

The Hon. MATTHEW MASON-COX: When you monitor them, how do you actually go about monitoring them? Do you actually do simulations in relation to the actual financial assistance you give based on two months rental?

Mr BRAXTON-SMITH: The analysis is done on the basis of two months rent as a base, but there are alternatives that are also contemplated of up to a full six months of rent replacement. Particular factors are taken into account to do with the individual business. Just to complete the example of those cafes that have received \$200,000 or \$300,000, that is effectively fully covering their rent and fully offsetting the loss of gross marginal contribution margins that they are experiencing at the moment. When we have moved and we have brought in the Small Business Assistance Scheme for businesses up to a certain number of employees, the payment is at least in the cases that I am citing here entirely sufficient to offset the impact that has occurred by virtue of the overstay.

The Hon. MATTHEW MASON-COX: When you say the impact you are trying to restore—

Mr BRAXTON-SMITH: The financial impact.

The Hon. MATTHEW MASON-COX: Okay.

Mr BRAXTON-SMITH: In terms of the information—you asked about the information—that is coming directly from their accounts, from their business activity statements [BAS].

The Hon. MATTHEW MASON-COX: That is terrific. You are trying to restore, if you like, their profitability prior to the impact. Is that what you are saying?

Mr BRAXTON-SMITH: We are kind of trying to steer away from profitability because small businesses experience or treat profitability differently. We look at their revenue and their gross profit. If either has suffered a downturn, those are the triggers for the analysis to occur then of what is a reasonable range of payments.

The CHAIR: You happen to provide employment. I think that is very important.

Mr BRAXTON-SMITH: It would continue to support the business and its normal operations, notwithstanding the fact that there has been some downturn in revenue. But they will respond individually. We do not make any requirements of them as to what they do with the funds or the assistance that they are given. It is assistance to offset the impact that has occurred.

The Hon. MATTHEW MASON-COX: Okay.

Ms PRENDERGAST: I just want to add that the impact is for major civil construction because once we get into finishing touches and the systems, that is not as invasive. In fact, it opens up. If you look at zone 5 between Market and King streets—

The Hon. MATTHEW MASON-COX: Once the barriers come down—

Ms PRENDERGAST: It liberates it. It is full. Zone 5 between Market and King is absolutely chockers of people on a weekend. When you walked down there at lunch, people are enjoying that space. That is a lesson from light rail. Once the civils are done, it actually thrives.

The Hon. MATTHEW MASON-COX: Okay. You are supporting them up to that time when the barriers come down. How often do you go back to a business to see how they are going and to see whether you need to supplement?

Ms PRENDERGAST: Our staff are in constant contact. While Mr Braxton-Smith's team do the independent financial analysis and work with them, we do a lot of triaging whereby, if we see a business and they trust our people to talk to them, we then go straight to Mr Braxton-Smith's team to get them to reach out, but Mr Braxton-Smith's team also systematically checks in, so we consistently triage.

Mr BRAXTON-SMITH: The assistance is calculated in six monthly blocks.

The Hon. MATTHEW MASON-COX: Right. That is what I am trying to understand. That is six monthly.

Mr BRAXTON-SMITH: We will look at it at six months. In the ordinary course of how the scheme works, we will then revisit every six months. If there is a particular case of hardship and they qualify for assistance under the scheme, then there will be an analysis by the external financial adviser about if we should move more quickly to provide assistance.

Ms PRENDERGAST: And it is case by case. For example, there is a really large utility pit outside Ouroboros, who you heard yesterday, and he has done it tough. So we actually proactively sent in Mr Braxton-Smith's team in to look at an advance payment, knowing that the door will be blocked for a couple of weeks—one of his doors. That is just high impact.

The Hon. MATTHEW MASON-COX: He was very appreciative of that and acknowledged that was important for him to continue, even though he has to work another job. That is where the support is very helpful.

Ms PRENDERGAST: We try to be really proactive and really reach out. The minute we started the scheme, anyone who had come to us before or showed any sign of starting to do it tough, we went proactively to them and offered them the assistance.

The Hon. MATTHEW MASON-COX: Can I ask you a different question? There are a few lessons, perhaps, in a project of this complexity. Clearly, there have been delays. Clearly, those delays have impacted businesses and residents. What would you do differently in the future if you could go back to the start and start again?

Mr TROUGHTON: Certainly, we have taken a lot of the lessons learned from this project into Newcastle and into Parramatta light rail. Last Friday, Newcastle had its streets back open to traffic so with what we call "barriers-down", we will start vehicle testing there next week. We delivered that project sort of on time. There was an event of opening up the old Civic station at the weekend in Newcastle when 10,000 people attended. I think the lessons learned from this project and applying it to Newcastle, while Newcastle is smaller, has been very successful. We are looking to apply those also to Parramatta now. We are looking at our stakeholder engagement in heavy detail and understanding certain conditions around "Eat Street". We are already trying to talk to the people there and give them dates for when we may close that. I think we have provided that, or we will be providing that soon.

We have all our third party agreements signed and in place for Parramatta already. We are doing advance works. We are doing early works and we are trying to mitigate any impacts we have got. We are learning all the time. What we do know is that light rail projects are difficult. It is hard to go through the high streets of major cities. We have picked three; we have got George Street, we have got Hunter Street, and now we are going to go through Parramatta as well. There are so many difficult projects. What we do understand is the out-turn is huge. It certainly brings life back into the city, and you will see that with the development here. We have got to be immensely sensitive. We have got to understand the drivers. We are constantly looking to improve on how we deliver these projects.

Ms PRENDERGAST: What we did is we sat down with the Parramatta light rail project to give them our firsthand experience of what businesses need, where they do it tough, how you need to build into a contract around lunchtimes, dinnertimes and, in terms of work scheduling, build it all in up front. We have learned a lot from this project. We wanted to share that. That is reflected in the approach that Parramatta is taking. We will also support that team.

The Hon. MATTHEW MASON-COX: Can I ask you about liquidated damages? Under the contract, as I understand it from your evidence last time, there is a cap of \$7.5 million for liquidated damages for delay post March 2019. I think that was your evidence.

Mr TROUGHTON: I think I am on record for that.

The Hon. MATTHEW MASON-COX: I want to put something to you and you can either reflect on it or give me your response. In the case of liquidated damages, although that is a small amount maybe if you had your time again you might look at a larger liquidated damages component but that is in another perfect world.

The Hon. SHAYNE MALLARD: Was that per zone?

Mr TROUGHTON: No, it varies per zone.

The Hon. MATTHEW MASON-COX: Let us not go into that detail. I put to you a model in a future complex project like this where there is a foreseeable impact of a delay on businesses and residents. We all know that these projects are difficult to complete and sometimes things go wrong. When they do go wrong would it be

unreasonable to suggest that if the appropriate or agreed delay is exceeded by a significant threshold moneys by way of liquidated damages could go into a fund to compensate those businesses and residents that are affected by that delay—to be given out through a process that is accountable and transparent?

Mr TROUGHTON: Certainly that is an option. There is a balance in all of these things. If you put significant penalties on the contractors around that space we, as a government, would pay upfront for that.

The Hon. MATTHEW MASON-COX: You do that now; that is what I am saying to you. That money will now go into consolidated revenue when you claim it, should that be the case, or it will be set off against other counterclaims.

Mr TROUGHTON: Yes. So we have already spent more than the \$7.5 million.

The Hon. MATTHEW MASON-COX: That is right. In the future these things are foreseeable. I am putting to you another model. If you look at liquidated damages in the future you can dedicate that to dealing with delays in a way that compensates those people who are affected by it—the residents and the businesses. Have a think about that. I will be interested in your response either now or on notice.

Mr TROUGHTON: I am happy to think about that.

The CHAIR: Thank you for giving evidence to this Committee and for providing factual material. The secretariat will provide you with a copy of the questions you have taken notice and you have 21 days to reply to them. Do you want to raise any other matters?

Mr BRAXTON-SMITH: I would like to correct the record. Earlier I was asked about our external financial adviser and confirmed that it was Ernst & Young. In fact, Ernst & Young was our external financial adviser until August this year. There was a competitive process inviting suitably qualified parties to bid for the ongoing work and PKF, an accounting firm, was appointed as the external financial adviser.

The Hon. DANIEL MOOKHEY: Thank you for correcting the record so quickly.

(The witnesses withdrew)

(The Committee adjourned at 15:33)