

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

**INQUIRY INTO THE IMPACT OF THE CBD AND SOUTH EAST
LIGHT RAIL PROJECT**

CORRECTED

At Macquarie Room, Parliament House, Sydney on Monday 5 November 2018

The Committee met at 11:20

PRESENT

Reverend the Hon. Fred Nile (Chair)

The Hon. Greg Donnelly

Ms Cate Faehrmann

The Hon. Wes Fang

The Hon. Courtney Houssos

The Hon. Shayne Mallard

The Hon. Matthew Mason-Cox

CORRECTED

The CHAIR: Welcome to the fourth public hearing of the Public Accountability Committee's inquiry into the impact of the CBD and South East Light Rail project. Before I commence I would like to acknowledge the Gadigal people who are the traditional custodians of this land. I would like to pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals who may be present. Today we will hear from representatives of the NSW Environment Protection Authority and representatives of Ausgrid. Before we commence, I would like to make some brief comments about procedures for today's hearing. 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 would also like to remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence to 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 proceedings are available from the secretariat.

For the witnesses' information there may be some questions that a witness could only answer if they had more time or with some certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days of receiving the questions from the secretariat. Witnesses are advised that any messages are to be delivered to committee members through the committee staff. To aid the audibility of this hearing, may I remind both committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near the loudspeakers for persons in the public gallery who have hearing difficulties. I remind everyone here today the committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and are careful when using individuals' names during the hearing.

Finally, I ask everyone to please turn their mobile phones to silent for the duration of this hearing. I welcome our first witness, Mr Mark Gifford, Chief Environmental Regulator, NSW Environment Protection Authority.

MARK GIFFORD, Chief Environmental Regulator, NSW Environment Protection Authority, affirmed and examined

The CHAIR: Would you like to start by making a short opening statement?

Mr GIFFORD: Rather than making a statement, I thought it might be instructive for the Committee if I explained the Environment Protection Authority's [EPA] role with respect to infrastructure developments of this kind. The EPA is not an approval authority for infrastructure development. The EPA's role is twofold. One is to provide advice into the planning system, in particular to provide advice prior to the assessment stage of the planning process and to provide its advice about the kinds of issues or conditions of the development that should be considered by the proponent in its environmental impact assessment response. The EPA's role is then to assess the environmental impact assessment and provide advice to the Department of Planning and Environment, and following those advices, where there any public or other submissions that are of concern, review those and provide further advice in response to those submissions and to the proponents' response to those submissions.

The EPA's principal role in infrastructure-related developments is with respect to both construction and sometimes operation of the activity as well. In the case of the CBD and South East Light Rail, the EPA provided advice to the Department of Planning and Environment about the kinds of conditions that it would put into an environmental protection licence should the development be approved. That environmental protection licence is not for the purpose of undertaking the construction of a light rail activity per se; it was for the purposes of the extractive activity that was going to occur in the construction. The reason I make that distinction is because the EPA's responsibility for the regulation of activities is set in the Protection of Environment Operations Act. Schedule 1 of that Act describes certain activities and their scale that require an environmental protection licence. When they require an environmental protection licence, the EPA is the regulator.

There is no light rail activity in schedule 1 of the Act. However, as I say, because of the scale of the activity that was being undertaken and the extraction of material that was being undertaken with respect to the activity then it required a licence as an extractive activity. That is not to say we cannot put other types of conditions into the licence that go beyond that. Following the approval of the development, the EPA issued an environment protection licence to Acciona Australia. The other key point I would make is that the environment protection licence and the conditions in the licence cannot be inconsistent with the development approval. They follow the development approval in terms of the nature and context and outcome that is being sought through those conditions.

The Hon. GREG DONNELLY: Thank you for your introductory comment. Given the size of this project—its sheer magnitude—did the Government, through Transport for NSW or any other portfolio or entity, engage directly with the EPA to talk about this big project that was before it and discuss the need to monitor the project carefully and deal with matters arising from its execution?

Mr GIFFORD: Yes, they did. There were multiple interactions between—

The Hon. GREG DONNELLY: When did that commence?

Mr GIFFORD: I would have to take that on notice. I do not know the exact date of commencement. As I outlined, the EPA is involved in various stages of the development and was for this particular infrastructure proposal. In the early days, it was about the EPA providing its advice about the kinds of things it would like to see in the environmental impact assessment.

The Hon. GREG DONNELLY: Given the sheer scale of this project, was it put to the EPA by the Government that the EPA may need to allocate some dedicated resources to monitoring this project?

Mr GIFFORD: I am not aware of specifics of any agency suggesting to the EPA what resources it needed with respect to the ongoing regulation of the activity.

The Hon. GREG DONNELLY: If you are not sure, can you take the question on notice?

Mr GIFFORD: I can.

The Hon. GREG DONNELLY: We are trying to deal with a range of matters that flowed from the execution of this project. We are trying to get to the bottom of what, at the very start, was discussed with the EPA in terms of what would be its resources to deal with matters arising from the project. Can you shed any light on

that in terms of the Government saying it had a large project and the EPA was effectively on notice that it was likely that matters would arise and there would be a need for proper resourcing to deal with those matters?

Mr GIFFORD: Yes, I can in general terms. Absolutely, there are the usual steps that we would go through with any infrastructure project of this type and others that are currently occurring in New South Wales. In particular, there are established bodies—for example, the Senior Officers Infrastructure Advisory Committee, known as SOIAC, that has senior representatives from each of the main agencies that have a role and a responsibility through the construction phase and then into the ongoing operations.

The Hon. GREG DONNELLY: Did that committee oversee this project?

Mr GIFFORD: That and other projects. The committee is chaired by the Department of Planning and Environment, and it brings together senior officers from each of those agencies in order to understand exactly what the nature of the issues might be for each of the agencies that have particular responsibility—

The Hon. GREG DONNELLY: Sorry to cut you off. How regularly was this body meeting to oversee this project?

Mr GIFFORD: Just to be clear, it was not meeting specifically to oversee this project. It oversees all major State significant infrastructure.

The Hon. GREG DONNELLY: Were any dedicated resources used inside the EPA, which were established either on the Government's request or on the EPA's own initiative, to monitor this very large project?

Mr GIFFORD: We did. We have a infrastructure team in our metropolitan region that has direct responsibility for the EPA's regulation of this—

The Hon. GREG DONNELLY: Was the team dedicated to this project or to multiple projects?

Mr GIFFORD: Multiple projects.

The Hon. GREG DONNELLY: What was the remit of the team in respect of the CBD and South East Light Rail project?

Mr GIFFORD: The team was the central point for the EPA's advice into the planning system for the development and issuing of the subsequent licence, then the ongoing regulation of the activity with respect to the conditions of the licence and other EPA-administered legislation.

The Hon. GREG DONNELLY: I am sorry I missed it. What was the name of the body again?

Mr GIFFORD: The infrastructure team within the metropolitan branch of the EPA.

The Hon. GREG DONNELLY: In effect, that was the go-to body inside the EPA dealing with this project, monitoring its rollout and matters arising from it?

Mr GIFFORD: That is correct. They could also draw on specialist advice from within the EPA. The EPA has noise, air, waste and other specialists that they would draw from with respect to any particular issues that they needed expertise on.

The Hon. GREG DONNELLY: Who does this body report to in the EPA?

Mr GIFFORD: The infrastructure team?

The Hon. GREG DONNELLY: Yes.

Mr GIFFORD: The infrastructure team reports within the metropolitan branch of the EPA. There is a regional director for the metropolitan branch but ultimately they report to me.

The Hon. GREG DONNELLY: Have reports on this project been done on a regular basis and are they in writing?

Mr GIFFORD: In the way the EPA regulation is constructed we require the licensee to report to us. We then assess those reports and take action as appropriate and necessary in all the circumstances. The team is also responsible for responding to community complaints and community concerns, and engaging directly across government with other regulators.

The Hon. GREG DONNELLY: How do you receive the reports from that team?

Mr GIFFORD: Through the regional director.

The Hon. GREG DONNELLY: Are they written reports?

Mr GIFFORD: Not necessarily; it is through regular engagement. I meet on a fortnightly basis with the regional director and through that process we monitor and I oversee the actions that are being undertaken.

The Hon. COURTNEY HOUSSOS: You said that as part of the approval process you issue the licence. If there is a significant delay in a project is any revision of the licence undertaken?

Mr GIFFORD: Really the review of the licence is undertaken at various times with respect to any changes that might have an impact on the environment or human health, not so much the extension of the project or a change in the project timelines, unless that did trigger concerns or issues around potential environmental impact. Licences are issued and then reviewed on a periodic basis. So each licensee has to provide the EPA with an annual return and involved in that annual return is also a statement of compliance with respect to the conditions of the licence and various other aspects, depending upon the nature of the conditions of the licence. So it is at the point of the annual return that the EPA receives a report from the licensee—

The Hon. COURTNEY HOUSSOS: Our time is limited so I am going to stop you there. On your website you talk about the adverse effects of noise on individuals and on human health. Do you, as part of the review of the annual return, take into account the fact that significant noise over such a significant period can have a cumulative effect on someone and that might actually trigger a review of the existing licence?

Mr GIFFORD: That is possible, particularly if there have been complaints or concerns raised by the community about those issues.

The Hon. COURTNEY HOUSSOS: Have you done that for the light rail project?

Mr GIFFORD: We have undertaken—sorry, could you repeat the question?

The Hon. COURTNEY HOUSSOS: Due to the significant delay of the project and the cumulative effect of noise pollution on individuals, particularly residents of Surry Hills and Randwick, have you triggered a review of the annual return for the light rail project and are you able to do so under your existing conditions?

Mr GIFFORD: We review every annual return we receive.

The Hon. COURTNEY HOUSSOS: When is the next annual return due?

Mr GIFFORD: I think it is in April next year. Yes, it is every April.

The Hon. COURTNEY HOUSSOS: Would you review the licence as a result of that annual return?

Mr GIFFORD: We would certainly take into account the conditions that are currently in the licence and determine whether or not they need to be amended as a result of anything that is provided to us through the annual return.

The Hon. GREG DONNELLY: With respect to complaints made by residents or businesses associated with this project, where are those complaints formally recorded and maintained within the EPA? Have you got a schedule or a document outlining those complaints?

Mr GIFFORD: Not a single document, they are retained within databases essentially. The EPA has an environment line. It is a 24-7 line that any community member can call and provide a complaint or a report to the EPA, and every call is logged. Those calls are then provided through to the area that is responsible for responding to them—in this case in point it would be the infrastructure team—and then individuals in the team who assess those reports and take action against them then have to report in the system their actions and responses.

The Hon. GREG DONNELLY: On notice I will ask you some more questions about those issues specifically. Thank you.

Ms CATE FAEHRMANN: Thank you for giving the Committee a bit of an update on the environment protection licence. Is it not correct that under the planning Act this project has been declared as critical State significant infrastructure?

Mr GIFFORD: That is correct.

Ms CATE FAEHRMANN: So even though you have issued an environment protection licence—which I have a copy of here—is it correct to say that you cannot issue environment protection notices because it is declared as critical State significant infrastructure?

Mr GIFFORD: There are some constraints with respect to State significant infrastructure and the regulatory tools that the EPA has available to it. However, the fact that we have a licence enables us to take regulatory actions that we require through the licence.

Ms CATE FAEHRMANN: For example, can you issue a stop-work order?

Mr GIFFORD: No.

Ms CATE FAEHRMANN: So if there is a serious environmental breach what are the powers of the EPA?

Mr GIFFORD: The powers of the EPA are to be able to require the licensee to address, redress, change behaviour or undertake certain activities and the EPA can enforce those conditions. Our response to enforcing those conditions can be from advisory and warning letters, cautions, penalty infringement notices, right through to prosecution. So we are not constrained by any of that.

Ms CATE FAEHRMANN: So you are not constrained so that you cannot issue an environment protection notice?

Mr GIFFORD: No, because it is not normally our practice to issue environment protection notices where a licence already exists. We use the licence as the mechanism through which we would require activities to be undertaken or stopped or constrained.

Ms CATE FAEHRMANN: Can anyone else issue a stop work order, for example, night-time work? The Committee has heard from many residents about the stress and impact of night-time work on their health and their families. What has the EPA been able to do when it has received complaints that the noise is breaching the recommended conditions?

Mr GIFFORD: It depends on the circumstances of the noise, and the requirements in the environment protection licence set certain circumstances where construction can occur and the hours it can occur in, and where outside of those hours the kind of activity that can occur that could cause noise. There are certain activities that are permissible, because it is needed to be done, it is an emergency or a safety issue, a road closure, things of that type.

Ms CATE FAEHRMANN: As I said, we have heard from numerous residents regarding noise complaints right along the route. The environment protection licence [EPL] reporting conditions state that, "The licensee must submit by 2.00 p.m. each business day a report to the EPA that provides details of all complaints received in relation to construction activities regulated by the licensor on the telephone complaints line or over email." Has this been happening?

Mr GIFFORD: It is a condition of the licence, so it should be happening. But I will have to take it on notice to confirm whether or not that has been occurring and the number of times, which I suspect is what you are after.

Ms CATE FAEHRMANN: Yes. Could you also table the reports of complaints received each day?

Mr GIFFORD: The complaints received? The reports received each day?

Ms CATE FAEHRMANN: That is right, the reports.

Mr GIFFORD: The reports of complaints received by the licensee?

Ms CATE FAEHRMANN: Yes. According to Acciona's EPL, informal noise audits are to be undertaken on a monthly basis. Do you know who undertakes those noise audits?

Mr GIFFORD: No, I do not.

Ms CATE FAEHRMANN: It is an independent noise auditor, it is not the EPA. Is that correct?

Mr GIFFORD: No. Correct. Although the EPA can undertake its own monitoring if it chooses to.

Ms CATE FAEHRMANN: Does the EPA have any powers to independently audit compliance with the EPL?

Mr GIFFORD: Yes.

Ms CATE FAEHRMANN: Could you explain to the Committee how that has occurred?

Mr GIFFORD: In several ways. Whenever we have received a complaint we have investigated that complaint—

Ms CATE FAEHRMANN: Every time you have received a complaint?

Mr GIFFORD: That is standard practice. For every complaint we receive, we investigate the nature of the complaint.

Ms CATE FAEHRMANN: I interrupted, please continue.

Mr GIFFORD: Complaints, as I mentioned before, the annual return. And then we undertake our own inspections of the activity, and through those inspections we might also require monitoring to occur, and have done.

The Hon. MATTHEW MASON-COX: I follow on from that questioning. The independent environmental representative who is approved by the EPA, who exactly is that for the project?

Mr GIFFORD: I do not know. I do not have with me who that is for the project. I can provide that to the Committee.

The CHAIR: You can take that on notice.

The Hon. MATTHEW MASON-COX: You are aware that there is somebody that you have approved?

Mr GIFFORD: Yes, that is a standard requirement in licences, to have the person who is the contact person for the EPA identified.

The Hon. MATTHEW MASON-COX: You would be receiving regular reports on a monthly basis from that independent representative whom you have appointed?

Mr GIFFORD: We do not appoint.

The Hon. MATTHEW MASON-COX: Or you approved the appointment of?

Mr GIFFORD: We do not approve either.

The Hon. MATTHEW MASON-COX: That is what Transport for NSW put to the Committee.

Mr GIFFORD: No. We have a requirement in the licence that someone is nominated and that their details are provided to the EPA so that we are able to have a direct line into that individual, and that individual can speak on behalf of the company.

The Hon. MATTHEW MASON-COX: In relation to all of the complaints received by Transport for NSW and by the design and construct contractor, what actions have been taken by the EPA? We have information from Transport for NSW that there were three formal notices issued to Acciona by the EPA. You would be aware of each of those, I presume?

Mr GIFFORD: There are more than three.

The Hon. MATTHEW MASON-COX: More than three? Can you detail them for the Committee?

Mr GIFFORD: Certainly. At this stage the EPA has undertaken what I will call regulatory action, so seven regulatory actions. Four of those were advisory letters, one a warning letter, one a show cause letter, and another an official caution. They were for matters that went to not complying with conditions of the environment protection licence.

The CHAIR: Can you table copies of those letters for the Committee, in due course?

Mr GIFFORD: I can.

The Hon. MATTHEW MASON-COX: You might have this before you. One of those formal warnings from the EPA on 24 February 2015 was issued to Acciona in relation to breaches of the environment protection licence, specifically related to both outside the project boundary and communication notification of out of hours work. Are you familiar with that particular instance?

Mr GIFFORD: What was the date again?

The Hon. MATTHEW MASON-COX: 24 February 2017.

Mr GIFFORD: Yes.

The Hon. MATTHEW MASON-COX: One on 5 May 2017 and 23 May 2017, which I think was the official caution you just mentioned?

Mr GIFFORD: Yes.

The Hon. MATTHEW MASON-COX: The three that we have been notified of—and you have said there are more—are dated 2017, post February. The project has been, if you like, progressing since 2015. Can you explain to the Committee why it has taken that interim of two years or thereabouts before action was taken? Is that the case because you had no complaints before that time, or did you wait for a period until it became clear there was a pattern of behaviour that you needed to correct? Could you comment on that generally?

Mr GIFFORD: I certainly can. To my knowledge the environment protection licence was issued in April 2016. Since that time we have had 83 complaints to the EPA from members of the public, and, as I said before, we respond to each of those. In terms of regulatory actions taken, as I said, we have undertaken seven, and some of those have been in 2018, as well as the ones you mentioned in 2017. There are a number of other matters that we are currently investigating as a result of the most recent annual return provided by the licensee that we are continuing to investigate at the moment as well. They may or may not result in regulatory action.

The EPA has a compliance policy that outlines our consideration with respect to noncompliances and the actions that we would take. We do that on a risk-based appropriate basis, and we escalate our regulatory response as appropriate as well. In a general sense, each of those matters that we might have responded to with some form of letter or notice of the type that I mentioned, would have been because that was the determination that we made with respect to that particular noncompliance.

The Hon. MATTHEW MASON-COX: What has been the response of Acciona to these notices and cautions? Has their behaviour changed once they received a notice or a caution from you? Have you monitored the impact of that?

Mr GIFFORD: I think in a general sense, yes.

The Hon. MATTHEW MASON-COX: It has been effective from your perspective?

Mr GIFFORD: Yes, and if it is not, then that is where we would escalate our response.

The Hon. MATTHEW MASON-COX: How many times have you actually been on site monitoring during the period since the licence was issued?

Mr GIFFORD: We have undertaken I think 17 inspections since the issue of the environment protection licence.

The Hon. MATTHEW MASON-COX: Have you implemented any independent noise monitoring by the EPA?

Mr GIFFORD: Yes, we have done some on a couple of occasions.

The Hon. MATTHEW MASON-COX: Could you detail those occasions perhaps on notice to the Committee?

Mr GIFFORD: I can take that on notice.

The Hon. SHAYNE MALLARD: Eighty-three complaints, 17 inspections on this project. Is that unusual for a project of this size? There are a lot of projects going on in the State at the moment so you must have a bit of an idea how it is travelling.

Mr GIFFORD: I do not think it is more than you would expect to see.

The Hon. SHAYNE MALLARD: Are there EPA officers on the ground that the public can see there? When they make a complaint do they turn up in their uniform?

Mr GIFFORD: We do not wear uniforms, but generally on a site like this we would be wearing safety, high-visibility, personal protection gear, which is always badged. We arrive in EPA-badged cars, we make ourselves known as the EPA, as authorised officers.

The Hon. MATTHEW MASON-COX: This is an incredibly complex project and your licence does not just deal with—correct me if I am wrong here—dust and noise and construction hours, but it is the impact upon the environment. It tunnels under a parkland, it goes along the edge of a parkland, involving the removal of some trees, and then down along a wetland which became a dam. Are all those issues part of the licensing?

Mr GIFFORD: All those issues are covered by the licence. The licence and the way the EPA regulates is outcome based, so there are conditions of the licence that go to operations—that they are done in a competent manner, that plant and equipment is maintained and operated effectively and competently, that water pollution cannot occur—and then there are specific conditions around noise, dust and waste as well.

The Hon. SHAYNE MALLARD: The public is very focused on the noise and dust and you can appreciate why—the direct impacts of the issues of the parkland and the water. In that licence is the authority making sure they are replanting trees?

Mr GIFFORD: No, that is not our responsibility.

The Hon. SHAYNE MALLARD: So it is part of just the conditions of consent on the public planning—

Mr GIFFORD: Correct.

The CHAIR: Just a general question. What would you say are the main environmental problems that you have encountered with the light rail project?

Mr GIFFORD: Noise on affected residents and commercial businesses.

The CHAIR: Noise and what is the second one?

Mr GIFFORD: Noise on affected residents and commercial businesses, that has certainly been a major issue that the EPA has had to respond to.

The CHAIR: Is that unusual for a project of this size?

Mr GIFFORD: No, it is not. With any major infrastructure project obviously there is a lot of construction, a lot of works; it is challenging. This is a challenging project because of its route as well, the areas that it is going through and the time it takes to work through various areas particularly that are highly trafficked by vehicles and pedestrians during the day. So there are some clear challenges associated with the nature of the construction itself and it is then unsurprising that there are community concerns about some aspects of that, and we understand those concerns and respond to them.

The CHAIR: We had the same experience in our inquiry from witnesses. In view of noise being the main problem, how many prosecutions were issued by the EPA?

Mr GIFFORD: There have been no prosecutions for this particular project.

The CHAIR: Can you give warnings?

Mr GIFFORD: We have issued advisory letters about the failure to investigate complaints or breaches of licence in terms of operating outside of hours or dust, mud-tracking, failure to notify the community; we have issued warning letters and official caution for working outside of permitted hours. That is the nature of the responses for the particular issues that have arisen.

The CHAIR: In your opinion what has been the response of the main contractor?

Mr GIFFORD: I think in general they have been responsive to our request for the need to rectify some of those issues.

The CHAIR: I understand the main company is a Spanish company.

Mr GIFFORD: That is my understanding

The CHAIR: Has that caused any problems of the environment here in the State of New South Wales as to other places where they have worked and carried out major projects? Is there anything particularly more difficult about New South Wales?

Mr GIFFORD: Not to my knowledge, no.

The CHAIR: From what you said in your opening statement there are not a lot of things that the EPA can do and I am just wondering with a project of the size of light rail did you or the Minister responsible for your area consider we should have some extra legislation passed dealing with the environmental issues to give more power to the EPA than they have at the moment?

Mr GIFFORD: In my opinion, I do not think so. I think the powers that the EPA has available to it enable us to effectively regulate the activity and activities of this type.

The CHAIR: So you assume that you have sufficient powers to deal with the light rail situation?

Mr GIFFORD: Yes.

The CHAIR: You mentioned about a committee that was set up, a structure committee. In addition to that committee did you have someone you would call an EPA liaison officer who is constantly interacting with the company?

Mr GIFFORD: Yes, there are allocated officers who have responsibility for administering the licence, and that person or persons will have that ongoing relationship with the company, and there are more senior staff that also have those engagements and also engage across government as well to ensure that across government we are operating collaboratively and effectively to ensure the ongoing regulation of the activity.

The CHAIR: I know you have no control over whether people resign or leave the employment but have there been any problems with a breakdown in that cooperation where people have retired or resigned who had a key role and a new person had to come in?

Mr GIFFORD: Staffing changes from within the EPA you mean?

The CHAIR: Yes.

Mr GIFFORD: Not to my knowledge, no.

The CHAIR: It has been a fairly stable relationship?

Mr GIFFORD: Certainly there have been changes from the beginning when the EPA was involved in providing its response to the environmental impact assessment but, as there always are with any organisation, there have been staffing changes during that time. But there has certainly been a continuity in the continuity in senior staff over that period of time.

Ms CATE FAEHRMANN: In the ALTRAC Light Rail Construction Noise and Vibration Management Plan, with reference to high-impact works that take place during out of hours, it says that "should noise or vibration levels be observed to continually exceed those outlined in the activity specific OOHW Noise Assessment, works shall stop and alternate methods and mitigation measures investigated". Has this ever happened?

Mr GIFFORD: I do not know. I would have to take that on notice.

Ms CATE FAEHRMANN: How could the works stop? Who would have to say the works stop if the noise is too much and you are receiving complaints from residents?

Mr GIFFORD: I can only speak for the environment protection licence, which does reflect the planning approval and also the management plans that flow from that. The EPL sets certain times when construction activities can occur and it also sets a restriction on high noise impact works and explains what high noise impact works are.

Ms CATE FAEHRMANN: It does, but a lot takes place outside of those hours that the EPL has set, including Sundays, including evenings. They are not in the EPL. Is that correct?

Mr GIFFORD: There are restrictions in the environment protection licence unless the activities that are being undertaken do not produce noise more than 5 dBA above the background levels for night-time, for evening, measured on an average over a 15-minute period, or 15 dBA measured on an average over a one-minute period, and that is for peaks of noise.

Ms CATE FAEHRMANN: A lot of this work is taking place—I have the licence in front of me—you do not license Acciona essentially to do any night-time work, it says here?

Mr GIFFORD: That is correct. What I was trying to explain is that there is approved outside of those hours works that can occur.

Ms CATE FAEHRMANN: We have residents saying that they are recording 50 decibels and 70 decibels and buying their own noise recording equipment to record. It says here "works shall stop". We have had lots of residents say that very loud noise is being recorded, who is able to stop the works?

Mr GIFFORD: Where that is not—

Ms CATE FAEHRMANN: Is it just Acciona? Who has the power, you do not have the power. Under critical State significant infrastructure the EPA does not have power to issue stop works. However, it says under the management plan that should they breach it works shall stop. How do works stop? Does anybody have the power, Mr Gifford?

Mr GIFFORD: I cannot speak for the Department of Planning and Environment and its responsibilities under the development consent. I can only talk for the EPA under the environment protection licence. If the licensee, the operator, is not meeting the conditions of the licence then the EPA has the power to take action.

Ms CATE FAEHRMANN: You said you would take on notice whether you have issued any stop works under the noise and vibration management plan, because we have had probably dozens of residents in the hundreds of submissions we have received, possibly more, who have said the noise is unbearable during the night. It does sound like the work should be stopped. As far as these residents are telling us the works have not stopped.

Mr GIFFORD: I can certainly take it on notice, as I said before. We do not have a thing called a "stop work notice", just to be clear. What we have is our ability to respond to the complaints and potential or actual noncompliance with the licence conditions and take action in response to those.

Ms CATE FAEHRMANN: In terms of advisory letters?

The Hon. GREG DONNELLY: Mr Chair, we have a range of questions as well.

Mr GIFFORD: That is correct.

Ms CATE FAEHRMANN: No action, just advisory letters but no penalties to the company?

Mr GIFFORD: Correct. No punitive penalty or enforcement action of the type you are asking about.

The CHAIR: Thank you very much for coming in and sharing your information, we appreciate that very much. The Committee has resolved that answers to questions taken on notice be returned within 21 days once you receive the questions from the secretariat. The secretariat will provide those questions to you later this week.

(The witness withdrew)

RICHARD GROSS, Chief Executive Officer, Ausgrid, affirmed and examined

TREVOR ARMSTRONG, Chief Operating Officer, Ausgrid, affirmed and examined

The CHAIR: I welcome our next witnesses from Ausgrid. Do either of you wish to make an opening statement?

Mr GROSS: We do, Mr Chair. I thank the Committee for the opportunity to present on behalf of Ausgrid today. I would like to take this opportunity to tell you a bit about our business. Our origins date back more than 100 years, when we were the first company to electrify Sydney and we have changed quite a bit since then. We bring power to 1.7 million households and businesses in New South Wales, which equates to about 15 per cent of Australia's population. Our network assets are made up of substations, power lines, underground cables and power poles spanning 22,275 square kilometres throughout Sydney, the Central Coast and the Hunter Valley. We are responsible for operating, maintaining, repairing and building our network assets from just north of Scone in the Upper Hunter through the Sydney central business district where the Sydney CBD is as complicated and congested as the electricity network in New York city. On 1 December 2016 the New South Wales Government leased 50.4 per cent of Ausgrid to IFM Investors and Australian Super by way of a long-term lease. The New South Wales Government retains 49.6 per cent stake.

[Opening Statement inserted by resolution of the committee on 21 November 2018:

How we run our business

At Ausgrid, we have the following priorities: affordability, reliability, sustainably and of course above all safety.

Safety is our number one priority. The safety of our customers, our people and the community of NSW.

We acknowledge that the delays suffered by the Sydney Light Rail Project have caused a great deal of inconvenience and frustration for many people and businesses along the route.

However, I want to reassure the members of this Committee that any time a major infrastructure project involves our Network Assets, we always ensure that we work with all relevant parties as collaboratively and as efficiently as possible, whilst maintaining the safety of our employees, the community and minimising the impact on our customers.

Ausgrid documents used in major infrastructure projects

There has been a bit said about the significance of various documents in the context of the Sydney Light Rail Project and we thought it might be helpful to take a moment to explain how some of the documents that have been discussed before this Committee fit together in relation to this particular piece of infrastructure and the Ausgrid Network Assets.

Network Standards

From the perspective of Ausgrid, it is the Ausgrid Network Standards that sit at the top of the document hierarchy. The Network Standards set out the key requirements for anyone wanting to undertake works which impact the network and must be adhered to. The Network Standards are publicly available.

Adjustment Guidelines

Due to the significance of the Sydney Light Rail Project, it was agreed that Ausgrid would prepare the Ausgrid "Adjustment Guidelines" to assist with the treatment of Network Assets in the CBD (i.e. the first 4km of the route from Circular Quay to South Dowling Street).

The Adjustment Guidelines are designed to assist with the interpretation of the Network Standards and to assist with the development of various "Treatment Plans". They are designed to avoid delays.

Treatment Plans

The Treatment Plans provide a high level outline of any changes to the Network Assets proposed by ALTRAC. These Treatment Plans are submitted to Ausgrid on a progressive basis for approval or rejection. Ausgrid must

respond within a 20 business day period. Over the course of the Sydney Light Rail Project, some 21 Treatment Plans were submitted for review. Some had to be re-submitted for Ausgrid's approval.

Detailed Designs

After the Treatment Plans are approved, they are used by ALTRAC to prepare the detailed design for the relevant works which are used for the construction phase completed by contractors for ALTRAC.

In summary, the overall process leading to construction is an iterative and collaborative process based on the Network Standards. Similar processes are undertaken for other large infrastructure projects, like the Cross City Tunnel.

The vast majority of construction work then undertaken is undertaken by ALTRAC's contractors (or accredited service providers) not Ausgrid. Ausgrid's role is actually quite limited.

Our role on the Sydney Light Rail Project

In terms of interface with Ausgrid, the Sydney Light Rail Project can be separated easily into two distinct sets of zones. Zones one to three and zones four to six.

The first three zones, which cover the first 4km of the route from Circular Quay to South Dowling Street (including the CBD) is covered by the Adjustment Guidelines. Our role in relation to the first three zones, involves:

- approving Treatment Plans submitted by ALTRAC;
- endorsing various detail design works to be undertaken by ALTRAC's Accredited Service Providers;
- providing co-located resources to help support delivery; and
- facilitating physical access and arranging network outages required by the Sydney Light Rail Project in a safe and timely manner.

Zones four to six, covers the remaining Skms of the route to both Kingsford and Randwick and is not covered by the Adjustment Guidelines. As these zones are subject only to our standard process for Contestable Works, our role in these zones principally involves facilitating ALTRAC's accredited service providers to undertake works necessary to enable to construction of the Sydney Light Rail Project and facilitating outages in a safe and timely manner.

An example of the interaction between Adjustment Guidelines and Treatment Plans

Ausgrid employees have been involved in the Sydney Light Rail Project over a long period of time. Our first discussion with Transport for NSW was in 2013, with a Memorandum of Understanding signed on 20 February 2014.

A good example of our involvement in practice can be illustrated by describing the process around the pits in George Street north of Bathurst Street.

Treatment Plans

In 2015, ALTRAC submitted Treatment Plans around the laying of the track over the in situ pits in George Street. Ausgrid approved these Treatment Plans.

Detailed Designs

ALTRAC's own electrical supplier, Alstom, identified some design issues with the ground rail track power system for the trains to be installed by ALTRAC. In order to rectify their own design issue, ALTRAC submitted new Treatment Plans which proposed some pits doubling in size. Ausgrid approved these Treatment Plans.

Notwithstanding the fact that the proposed pits were substantially larger than Ausgrid's standards require, these Treatment Plans were approved by Ausgrid to enable the Sydney Light Rail Project to continue. Whilst these changes may have caused consequential issues for ALTRAC, they were not in any way driven by Ausgrid and are not in any way an "upgrade" of our Network Assets.

This outcome can be contrasted to the pit designs adopted for the route south of Bathurst Street. From this point on, the overhead wire powers the trains. Each of the Treatment Plans submitted by ALTRAC were approved by Ausgrid generally within 20 business days and there was no need to change the size or location of the Ausgrid pits.

What we have done to try and help ALTRAC meet the Sydney Light Rail Project schedule

Ausgrid has made and continues to make considerable efforts to assist in the delivery of the Sydney Light Rail Project. For example:

- Ausgrid undertook the temporary relocation of overhead mains in High Street to facilitate installation of the new light rail poles when it became clear that ALTRAC's program for undergrounding the overhead mains was behind schedule.
- Ausgrid agreed to ALTRAC's request to use our poles for temporary lighting along the entire route, saving the Sydney Light Rail Project, and presumably tax payers, the considerable cost of installing new temporary lighting structures for the duration of the Sydney Light Rail Project.
- Ausgrid agreed to numerous dispensations to the Network Standards in its efforts to assist the Sydney Light Rail Project, where we were satisfied that reliability and safety would not be eroded.
- On 63 occasions, we were obliged to urgently rectify situations where ALTRAC or its contactors damaged Network Assets (including many incidents relating to safety) to help ensure the primary contractor's progress was not slowed.
- In zones four to six, to allow ALTRAC contractors to complete work on the Sydney Light Rail Project, Ausgrid has facilitated 157 network outages. Each outage is often a complicated logistical exercise involving coordination with many different stakeholders. Of these outages, 131 were completed as planned. However, it is worth noting that 21 outages were cancelled by ALTRAC due to changes to the contactor's own program.

Conclusion

I would like to reiterate the following:

- Ausgrid has gone above and beyond to accommodate ALTRAC's schedule, as safely and as efficiently as possible.
- The Sydney Light Rail Project involves some very complicated and congested infrastructure.
- Ausgrid's Network Standards are publicly available and have been at all relevant times before and during the Sydney Light Rail Project.
- Our role has been clearly identified and we have met our obligations in delivering that role.

In conclusion, I would be grateful for the opportunity to show the Committee a short video prepared in 2013 that illustrates in only a few minutes, the extent of the complexity and congestion involved in dealing with Network Assets in the Sydney CBD.

I trust this introduction assists in establishing the context for our appearance today and we would be happy to answer any questions you have that could be of assistance to Committee.]

The Hon. GREG DONNELLY: Point of order: The witness is reading out the statement, which we all have a copy of. As you are aware our time is very limited. I am wondering if you could invite him to go straight to the conclusion, if he wishes to do so, so questions can get underway.

Mr GROSS: With your indulgence, I would highlight a few things in the major documents.

The Hon. GREG DONNELLY: We can read the opening statement.

The CHAIR: You highlight the major items without reading the whole document.

Mr GROSS: If I could. The first is network standards. That is the overarching hierarchy document that guides the standards at which the assets are built. If they are adjusted they are built to that standard. The next document that sits below that is the adjustment guidelines. That is a guideline used to assist in interpretation and delivery of those network standards. The next document is the treatment plans. The treatment plans are the detailed plans required to adjust our assets in accordance with the network standards. Then it flows to the detailed designs. And the detailed designs come out of the treatment plans. Then there is obviously construction that flows from that.

Our role in the Sydney light rail [SLR] project is in two zones. The Sydney CBD zone, which is zones one to three, which is the four kilometres north Circular Quay down to Dowling Street. Our role in that part of the network is to approve treatment plans associated with the contractor and then endorse the detailed designs that flow from that. That is Ausgrid's role in that part of the project. For the project from Kensington and into

Newmarket, our role there is in a standard type role where we have normal contestability type works with the contractors.

If I leap straight into the conclusions. At Ausgrid we have gone above and beyond to accommodate ALTRAC's schedule as safely and efficiently as possible. We do want to stress that the Sydney light rail project is operating in a very complicated and congested part of Sydney on George Street. Ausgrid's network standards are publicly available and have at all times been available to the Sydney light rail project. They have been on the website before and after the project. That is the network standards. Ausgrid's obligations are quite clear and we have fulfilled those obligations throughout. We would like to show a small video, if we could, just to highlight the complexity—

The Hon. GREG DONNELLY: Point of order: We have got a lot of questions and a very limited amount of time.

The CHAIR: He has brought it in specially to show us some important information.

Ms CATE FAEHRMANN: How long is the video?

The Hon. SHAYNE MALLARD: Is the video actually of the construction site?

Mr ARMSTRONG: It is actually of George Street and it shows—if I may, Mr Chair, what it shows is we have taken a 3D image of the city and overlaid our assets to give you some indication of the complexity, challenges and congestion if you just look at our assets, ignoring the fact that in the same space in George Street there are other utilities as well.

The Hon. SHAYNE MALLARD: I support seeing it.

The CHAIR: Is it ready to go?

The Hon. GREG DONNELLY: How long is that part?

Mr ARMSTRONG: I reckon we could run 60 seconds and stop it.

The Hon. GREG DONNELLY: That is great.

Mr ARMSTRONG: I would like, if we could, to stop it at 41 seconds because I think that really shows you the complexity of what we are dealing with here.

The Hon. MATTHEW MASON-COX: No pressure.

Mr GROSS: No pressure.

The CHAIR: We are not short of seconds.

The Hon. SHAYNE MALLARD: Not 42 and not 40.

Mr GROSS: Forty-one is important.

Mr ARMSTRONG: Forty-one would be great, Mr Chair, if we may. What we are showing you here is something we developed back in 2013 when this project was announced to provide some, if you like, graphical visual impact in terms of constructing the light rail in George Street. What it shows is our assets. The coloured lines are our assets in the corridor with the light rail. The blue lines are part of our network. The orange lines are the 11 kilovolt [kV] network. As you come up George Street, what I would like you to look at is the pink squares and the orange lines, which effectively run all the way down George Street.

What you are looking at there is how good we are. What we are looking at there is Grosvenor and Bridge Street, which is orange lines—our 11 kV network that runs right through the city. The blue lines are the low-voltage network, which supplies the lights and the like. That intersection is classical of what you see in the city: Our infrastructure is in the middle of the roads. Clearly, that intersection has been the topic of discussion. Maybe we just run down to the Queen Victoria Building to give you a sense of George Street. What you will see is the orange runs right down the middle of George Street and the pink boxes also are in the middle of George Street.

The Hon. MATTHEW MASON-COX: Are the pink boxes your pits?

Mr ARMSTRONG: They are our pits, yes. As you run up George Street, you are seeing infrastructure in the middle of the road, crossing where the roads cross. The intersection is quite congested. That is classical of

what you have got in the CBD of Sydney. We can stop the video there. We wanted to give you some visual impact. We produced that video back in 2013, so all we have done is pull that off the shelf to show you today. Thank you, Mr Chair.

The CHAIR: Your opening statement has some reference to problems with the detailed designs referring to the fact that the proposed pits were substantially larger than Ausgrid's standards and required certain further conditions.

Mr ARMSTRONG: That is right, Mr Chair. Just drawing on what Mr Gross was saying, firstly, when we set out, we did not actually know where the track was to go precisely and nor did we know what the track slope was going to look like. In terms of developing an understanding, we developed a concept called "treatment plans". These treatment plans were a concept of where and how you treat the pits in George Street even without really understanding where the rail tracks and the nature of the track slope is. On that basis, the hierarchy was: Leave the pit in situ, modify the pit or relocate the pit. In certain circumstances, by the nature of what the rail system ended up being—maybe we take a step back. From Bathurst Street to the quay, there is no overhead wiring. You might be aware there is a third rail in between the two tracks. That is known as the Alimentation par le Sol [APS] system. It is the system that powers the trains from the ground.

When we went to agree—and we did agree—to leave our pits in situ, we approved the treatment plans to say, "That is sensible". From our perspective we were comfortable with that, as Ausgrid. What happened was one of ALTRAC's joint venture partners, Alstom, said, "There is the third rail that has got to go in the middle of the tracks, and that rail is not suitable to be in a pit lid". So what happened was that, not because of Ausgrid but because of ALTRAC, we had to modify the pit size—or they proposed to modify the pit size. On that basis, the pits became larger. There are eight locations where the intersection of having a pit lid between the tracks and the nature of the APS system drove the fact that the pit needed to be larger because the pits needed to be outside the two rail tracks. On that basis, the pits became bigger.

The Hon. SHAYNE MALLARD: It had a knock-on effect.

Mr ARMSTRONG: It had that knock-on effect.

The CHAIR: So were they twice as big? Thrice as big?

Mr ARMSTRONG: In terms of our pit sizes in the city, when we set out back in 2013, our pit sizes were six by four. Through the process, we actually revised our standard to five by four.

The Hon. SHAYNE MALLARD: Is that feet you are talking about?

Mr ARMSTRONG: No, metres. But for the purposes of what happened with the APS system, because the pit lids needed to be outside the rail track, they became 10 by five. I should note that from our perspective, we actually do not like large pits for a couple of reasons. The first one is, pits in the city become great reservoirs for water. Of course, every time you go there you have to pump them out so there is an additional cost because of more water. But the fundamental issue is that we do not like having that many cables in a pit of that size because if you do have a problem and it knocks on to the other feeders and cables, then you can have more of the city blacked out. On that basis, we prefer smaller pits and less cables. For us, ending up with a larger pit is certainly not something that we would prefer.

The Hon. COURTNEY HOUSSOS: I begin my clarifying that a majority of share of Ausgrid was privatised in 2016, but during the period we are interested in—2014 and 2015—it was 100 per cent owned by the New South Wales Government. Is that correct?

Mr GROSS: That is correct.

The Hon. COURTNEY HOUSSOS: Did Ausgrid send Acciona a draft of the document called the "Ausgrid Guidelines" after hours on 27 February 2015?

Mr GROSS: Ausgrid—

The Hon. COURTNEY HOUSSOS: This was a few hours after the financial close of the CBD light rail contract.

Mr GROSS: I think it was 27 February when there was a meeting, a kick-off meeting, held at which Acciona was present with Transport for NSW and Ausgrid. Following the end of that meeting, Ausgrid provided what we call the "Ausgrid Guidelines". It was 5.20 p.m. or something like that, that evening.

The Hon. COURTNEY HOUSSOS: At 5.20 p.m. Can we have a copy of those guidelines?

Mr GROSS: You may.

The Hon. COURTNEY HOUSSOS: When did Ausgrid provide Transport for NSW with the draft version of the Ausgrid Guidelines?

Mr GROSS: My understanding is we were iterating with Transport for NSW on two or three meeting occasions prior in the month of February.

The Hon. COURTNEY HOUSSOS: A draft copy of those guidelines was provided to Transport for NSW earlier in February. Is that correct?

Mr GROSS: Yes, we were iterating with Transport for NSW, working through the drafts, working up to getting closer to a final draft.

The Hon. COURTNEY HOUSSOS: Can you explain what you mean by "iterating"? I want to be really quick.

Mr GROSS: Providing a draft—

The Hon. COURTNEY HOUSSOS: You provided them with a draft? They worked through the documents? That was earlier in February.

Mr GROSS: —and they were commenting.

The Hon. COURTNEY HOUSSOS: Are you able to provide on notice when exactly in February that was provided?

Mr GROSS: On notice, we can definitely provide those dates. Yes, we can.

The Hon. COURTNEY HOUSSOS: Who in Transport for NSW was it provided to? You can take it on notice.

Mr ARMSTRONG: We can take it on notice.

Mr GROSS: On notice, yes.

The Hon. COURTNEY HOUSSOS: How many versions of the guidelines have been developed?

Mr ARMSTRONG: I would need that on notice as well.

The Hon. COURTNEY HOUSSOS: Let me come back to this. I have 5.20 p.m., it was a few hours after the financial close of the CBD light rail project and a new copy of the guidelines was provided to Acciona. In their testimony to us, they say that caused a blowout of time of between 864 days and \$426 million, off the top of my head.

Mr GROSS: Yes.

Mr ARMSTRONG: Yes.

The Hon. COURTNEY HOUSSOS: Why was this document not provided to Acciona prior to that period?

Mr GROSS: I would like to take a step back. The structure of these documents, the hierarchy is network standards. Network standards were publicly available before the project was initiated and all the way through the project. The network standards are the standards that guide how our assets are adjusted, how our assets are amended or changed. We then produce guidelines, and the guidelines are about interpreting and assisting in the application of the network standards. They are not about changing the standards, they are not about creating new obligations. They are there to assist the interpretation. Of those network standards in developing what I mentioned earlier was the treatment plans.

The treatment plan is the plan associated with a specific set of assets. Whether it be the Grosvenor and George streets intersection, the treatment plans are how you treat those assets at a high level and then the next level is the detailed design. The documents all are set up such that you work through those processes as you have the detailed design. I should also say that when we were producing the guidelines we did not know where the rail

track or the rail concrete slab would be located in George Street. So you do not know. You cannot, therefore, do the detailed design because you do not know where the track is.

Mr ARMSTRONG: Can I also add, these guidelines actually state—and you will see this when we provide it—that the network standards govern what needs to be delivered and then they go on to try and provide some assistance in terms of how you might think about the work that needs to be done to integrate the light rail system with the Ausgrid assets. They are there to guide and assist. They do not govern how the work is to be done and the network standards have always been available on the Ausgrid website. So they were there long before this project was even thought about and continue to be today.

The Hon. COURTNEY HOUSSOS: I am sure you are familiar with the previous testimony of Mr Noonan at this Committee. The argument that he gave to us is that these were dramatically different, that this was a secret document that had been produced that resulted in a dramatically different outcome for the project. Is that correct?

Mr GROSS: We view it differently. The guidelines were there to assist the interpretation of the network standards which will then be used to develop the treatment plans.

The Hon. COURTNEY HOUSSOS: They subsequently rejected those guidelines. Do they have the ability to reject those guidelines?

Mr GROSS: I am not sure they did reject the guidelines. I am not sure what you are referring to, so I would welcome what that is.

The Hon. MATTHEW MASON-COX: It might be Transport for NSW.

The Hon. COURTNEY HOUSSOS: Sorry, Transport for NSW.

Mr GROSS: I hold the view that Transport for NSW did not reject the guidelines. Transport for NSW said that there was no need for joint production of the guidelines.

The Hon. GREG DONNELLY: I put to you this piece of testimony from the then representative of Transport for NSW, Mr Troughton. This is from his appearance on 4 October, page 50, at about page 2. The Chair asked, "They changed the guidelines at the last minute?" This is referring to the February peak date. Mr Troughton replied:

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 is schedule F8 to the contract—

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.

So unequivocal rejection by Transport for NSW—unequivocal.

Mr GROSS: Our understanding is the guidelines we produced, which we then delivered to Acciona and Transport for NSW on 27 February, are guidelines to assist in the interpretation of the network standards.

The Hon. GREG DONNELLY: Were you aware of this evidence in *Hansard* by Transport for NSW from the last hearing? Have you read it?

Mr ARMSTRONG: Yes, I have.

The Hon. GREG DONNELLY: What is your response to that?

Mr ARMSTRONG: My response is that the guidelines were there to assist and, quite frankly, the treatment plans were developed in a cooperative, collaborative manner with Transport. In the city, when you start to look at the difficulty of a congested George Street, this is not unusual in terms of the difficulties of massaging in a project of this nature, because when you excavate in the city—

The Hon. GREG DONNELLY: You reckon this was a massage job? Do you reckon we are talking about a massage job?

Mr ARMSTRONG: I will retract those words.

The Hon. GREG DONNELLY: What would you call it then?

Mr ARMSTRONG: Integration in terms of the nature of existing assets and the light rail project.

The Hon. GREG DONNELLY: You seriously believe that the issue of the amount of money and the time delay is a question of integration? Is that your submission?

Mr ARMSTRONG: From our perspective, the nature of the Ausgrid assets were always—

The Hon. GREG DONNELLY: That is not my question. My question is: Is it your submission today that the hundred million dollars of extra cost to this project and the over 800 days of delay is an integration issue?

Mr ARMSTRONG: I do not believe that is for us to comment.

Mr GROSS: We do not have a submission on that issue. Our issue is about Ausgrid's assets and how they were adjusted and the use of the guidelines, the network standards and the treatment plans.

The Hon. COURTNEY HOUSSOS: Let me come back to this: If this was purely an implementation of existing standards, why was Acciona not told you were looking at developing new guidelines? Let me go back a step. In February when you were having discussions with Transport for NSW, did you notify Acciona?

Mr ARMSTRONG: It was not our role to notify Acciona. As we do with a lot of these major projects in the city of this nature—and the Cross City Tunnel is a good example. We had the same arrangements in place with Transport as we have with the light rail project, and part of our obligations in that regard were to develop guidelines.

The Hon. COURTNEY HOUSSOS: Did you communicate with Acciona that you were developing new guidelines?

Mr ARMSTRONG: It is not our role.

The Hon. COURTNEY HOUSSOS: Did you ever communicate with Acciona?

Mr ARMSTRONG: We were party to some meetings on behalf of Transport, but we were there to provide support to transport pre signing of the Acciona contract.

The Hon. GREG DONNELLY: Did you conspire with Transport for NSW to not provide critical information to Acciona in terms of the preparation of their contract negotiations?

Mr ARMSTRONG: No.

Mr GROSS: No.

The Hon. GREG DONNELLY: It is a valid conclusion that we could come to that you have Transport for NSW, you have yourselves and being kept out of the loop—very deliberately, it seems—is Acciona, the contractor that is moving towards thinking this contract and what we have obviously over at least the month of February, and perhaps even earlier, are discussions between yourself and Transport for NSW over changes—critical changes it was found out—with respect to the agreement.

Mr GROSS: We do not—

The Hon. GREG DONNELLY: What other conclusion could we have other than there was a conspiracy to deny valid important information to the key contractor of this contract to keep them in the dark?

Mr GROSS: We do not consider that a valid conclusion. The guidelines were produced to interpret and assist the network standards, which were publically available through the whole process.

The Hon. GREG DONNELLY: Why did these guidelines just happen to be refined and a new iteration put out in February? Why were they not done in November or October when Acciona was trying to come to terms with the project and work through all of the contingencies associated with this project? Why was it dropped on them after the contract had been signed?

Mr GROSS: The guidelines assist in the interpretation of the standards so you can develop the treatment plans. To develop the treatment plans you need to know where the rail is going, and the concrete bridge of where the rail is actually in the road. That was not known. Once that is known you can then go through and look at the standards, develop the plans and develop the detailed design.

The Hon. COURTNEY HOUSSOS: Did anyone ever communicate that to Acciona or any of the other people who were bidding for this project?

Mr GROSS: I cannot comment on that but it is standard—

The Hon. COURTNEY HOUSSOS: Did you ever give advice to any of the people tendering for this project that there were going to be significant concerns about it—

The Hon. GREG DONNELLY: At the meetings that you attended. And in the evidence we received on the fourth, we have evidence that there were at least two, may be up to four, meetings where Ausgrid was represented. They were sitting there observing the companies that were tendering for the project. There was your opportunity to raise issues in regard to potential changing guidelines which clearly you had in mind in the lead-up to the end of the 2014 calendar year. Those guidelines were not developed over the months of January and February so in the second half of 2014 you were developing new guidelines whilst attending meetings with contractors and keeping it to yourself. Is that what happened?

Mr GROSS: To be clear the network standards which were there prior to the contract and after the contracts through the duration of this have not materially changed. They are the standards that guide how Ausgrid's assets are adjusted. The guidelines are there to assist in the interpretation of the standards.

The Hon. GREG DONNELLY: I am sorry to cut you off, but is it your testimony now that these new guidelines were, in effect, just a tweaking of existing guidelines? Is that your submission?

Mr GROSS: No, I did not say that.

The Hon. GREG DONNELLY: What are you saying?

Mr GROSS: What I said is we produce the guidelines to assist in the interpretation of the network standards. It is the network standards that guide and set how the assets are adjusted and amended. Those standards were available prior to the contract signing and prior to the contract being initiated. They are on our web site.

The Hon. GREG DONNELLY: No one is denying that.

Mr GROSS: They are publicly available.

The Hon. GREG DONNELLY: No one is denying that.

Mr GROSS: But they are the standards that set this.

The Hon. COURTNEY HOUSSOS: I want to stop you there because we have limited time. Mr Noonan gave evidence and said that Ausgrid's new requirements were the root cause of the project not being able to predict time. Do you accept that statement.

Mr GROSS: We see that differently.

Mr ARMSTRONG: Yes.

Mr GROSS: The guidelines were there—

The Hon. COURTNEY HOUSSOS: Who is not telling the truth, Mr Gross? Someone is not telling the truth.

Mr ARMSTRONG: Can I make the point—and I assume you have not seen the guidelines because you have requested a copy?

The Hon. COURTNEY HOUSSOS: No, I have not.

Mr ARMSTRONG: Right. The guidelines actually say the network standards are the first thing that have got to be considered. Then it goes into explaining how those network standards are to be considered in assisting the development of the treatment plans. They were to assist the contractor.

The Hon. COURTNEY HOUSSOS: Mr Armstrong, you disagree with Mr Noonan's evidence. Is that correct?

Mr ARMSTRONG: In the way it has been presented, yes, we think of it differently.

The Hon. COURTNEY HOUSSOS: It is clear. He says that Ausgrid's new requirements were the root cause of the project not being able to predict time. Is that incorrect?

Mr ARMSTRONG: I would argue that they are not new requirements. The Ausgrid's standards always existed.

The Hon. GREG DONNELLY: With respect to these guidelines, when did they commence being developed? When did Ausgrid commence developing the guidelines that hit the deck on 27 February?

Mr ARMSTRONG: I will take that on notice.

The Hon. GREG DONNELLY: You will take it on notice?

Mr ARMSTRONG: Yes.

The Hon. GREG DONNELLY: Do you mean you do not know?

Mr ARMSTRONG: Precisely?

The Hon. GREG DONNELLY: Approximately.

Mr ARMSTRONG: Well before—

The Hon. GREG DONNELLY: Well before? How well before? In the calendar year 2014?

Mr ARMSTRONG: We worked on the adjustment agreement with Transport in the year before.

The Hon. GREG DONNELLY: That is 2014?

Mr ARMSTRONG: Correct. And on that basis that agreement contemplated the need for the guidelines. On that basis we started working on that in 2014.

The Hon. GREG DONNELLY: Transport for NSW knew something was afoot. They were actually directly negotiating with yourselves over the nature of the new guidelines. Who was kept out of the loop?

Mr GROSS: We were developing—

The Hon. GREG DONNELLY: Indeed, Acciona and all the other contractors bidding on the contract were kept out of the loop.

Mr ARMSTRONG: No.

Mr GROSS: We were developing the guidelines to assist in the interpretation of the standards.

The Hon. GREG DONNELLY: We understand that.

Mr GROSS: The reason for that is to actually assist the project meet its time line—to assist the project.

The Hon. COURTNEY HOUSSOS: I have to stop you because I have limited time. Was Ausgrid aware that Acciona and other bidders were forbidden from discussing the utility treatments with Ausgrid?

Mr GROSS: These projects are generally complex. We have been involved in a lot of these projects.

The Hon. COURTNEY HOUSSOS: That is not the answer to my question. Were you aware?

Mr GROSS: If I can finish.

The Hon. COURTNEY HOUSSOS: Yes or no.

Mr GROSS: There were generally probity reasons that apply with these sorts of projects. It is a competitive tendering process. We adhere to those probity reasons. Just probity concerns and confidentiality concerns just like we do in other projects.

The Hon. COURTNEY HOUSSOS: If the bidders had questions of you about what the utility treatments were going to be, were you aware they were not allowed to raise them with you?

Mr GROSS: My understanding if bidders had questions they could go through and seek it through Transport for NSW.

The Hon. GREG DONNELLY: Who told you that?

The Hon. COURTNEY HOUSSOS: Did any bidder ever ask you a question about the utility treatments?

Mr ARMSTRONG: That is a very hard question to answer. We will take that on notice.

The Hon. COURTNEY HOUSSOS: You attended a series of workshops with a number of bidders through the contract process. Did Ausgrid ever provide presentations to those workshops?

Mr ARMSTRONG: I will take that on notice. I am not sure I can answer that.

The Hon. COURTNEY HOUSSOS: I would be interested to know whether you provided presentations or made any contributions at all to those. The evidence the committee received from Mr Noonan is that Ausgrid and other utility providers sat in and observed some of the pre contractual meetings.

Mr ARMSTRONG: That is true.

The Hon. COURTNEY HOUSSOS: That you observed?

Mr ARMSTRONG: To the best of my knowledge we sat in with Acciona on two meetings.

The Hon. COURTNEY HOUSSOS: You sat in on two meetings?

Mr ARMSTRONG: Ausgrid did, yes.

The Hon. COURTNEY HOUSSOS: Ausgrid sat in on two meetings out of 14 about the utilities?

Mr ARMSTRONG: Again, I can confirm that we were there for two meetings, yes.

The Hon. COURTNEY HOUSSOS: Did you communicate outside those meetings with anyone else other than Transport for NSW?

Mr ARMSTRONG: No, our responsibility was to provide—at that stage and I think it is important to clarify—I refer to what Richard has just said in terms of probity, it was in the evaluation of the selection process for who would be the proponent for the project, and our responsibility was to provide some advice to Transport for NSW about the quality of the bid.

The Hon. COURTNEY HOUSSOS: Did you ever suggest to Transport for NSW that an alternative route through the central business district other than George Street should be taken?

Mr ARMSTRONG: No, I do not believe so.

The Hon. COURTNEY HOUSSOS: You never suggested that the costs were going to be \$600 million, \$700 million in excess to go down George Street?

Mr ARMSTRONG: Very, very early in the peace there was some advice provided that we thought that George Street, in terms of the nature of our assets, and as I said, the integration of this project relative to our assets, could cost in that order.

The Hon. COURTNEY HOUSSOS: You did not, as part of that advice, suggest that they go on an alternate route?

Mr ARMSTRONG: To the best of my knowledge—I would like to take that on notice and check.

Ms CATE FAEHRMANN: I think it has been reported actually that a couple of Ausgrid employees—seconded to Transport for NSW—may have suggested Castlereagh Street would have been a much better option. Do you recall that?

Mr ARMSTRONG: They may well have and that is why I would like to take it on notice.

Ms CATE FAEHRMANN: Can you recall that story?

Mr ARMSTRONG: They may well have. That is why I would like to go and check that story. From an official perspective, from an executive perspective, they may have done that but certainly we did not say that from an executive perspective.

Ms CATE FAEHRMANN: You have just shown the committee a video of the very complicated nature of George Street. What is your view in terms of the Light Rail going down George Street from a utilities perspective?

Mr ARMSTRONG: It was always going to be a complex problem to solve to integrate the Light Rail system on top of the sort of assets that we have shown in the video.

Mr GROSS: I should say that this is a very large project and there are lots of factors. Obviously the utilities is one factor we are saying, the electrical infrastructure in George Street is complex and congested.

Ms CATE FAEHRMANN: You keep talking about the guidelines. I think you are saying they assist in the interpretation of the standards. Something has changed but what has changed in the network standards? Did the network standards change recently?

Mr GROSS: The network standards have not materially changed through this period.

Ms CATE FAEHRMANN: We are talking 2013-14 and they have not?

Mr ARMSTRONG: They did change but they actually changed in favour of the project. The network standards were modified particularly when it came to the pits to have smaller pits, and also allowed for obstructions and reduced pit height to enable this project to run forward. The network standards were actually in favour of a lower-cost solution than the opposite.

Ms CATE FAEHRMANN: Are you suggesting that if the new guidelines assisted the interpretation of the standards, the guidelines should have been easier as opposed to imposing substantial additional requirements?

Mr ARMSTRONG: That is correct.

Mr GROSS: Yes.

Ms CATE FAEHRMANN: The Chief Executive Officer of Acciona, Mr Noonan, appeared before the Committee, as we have been talking about. Part of his opening statement suggested that the biggest challenge or the main delay has been dealing with Ausgrid assets on George Street, in particular the substantially additional requirements imposed by the new Ausgrid guidelines. Are you saying that Mr Noonan lied to the Committee?

Mr GROSS: We see it differently, and it is probably worth recapping on that example—the one that Mr Noonan raised.

Mr ARMSTRONG: Yes, the one that has certainly generated some discussion previously was the Grosvenor-Bridge Street example.

Ms CATE FAEHRMANN: Yes, he mentioned that.

Mr ARMSTRONG: That is why I thought it was important for us to show a video on the nature of the congestion, noting that it is only the Ausgrid assets. In that case, we approved the treatment plan with the pits in situ. We did that promptly, as we were responsible to do so. Then the location of the track and the nature of the track slab was determined. On that basis, that intersected with the main pit and duck line, which meant that to enable the track slab you had to excavate into our pit duck line. Of course, that forced the issue of the duck line being moved. It was not because of our standard; it was because of the nature of where the track ended up and the nature of the track slab.

Ms CATE FAEHRMANN: This was not the only pit that has been delayed in this project.

Mr ARMSTRONG: Sure, and I am happy to talk about others.

Ms CATE FAEHRMANN: Many of them have been delayed by months and months—six months, seven months, eight months. It is not just this one.

Mr ARMSTRONG: We would argue that it is not because of Ausgrid but it is because of the nature of where the track slab ended up and the actual alignment of the rail system. The levels in George Street have been changing in every circumstance, because of the nature of other constraints like stormwater, for instance. From our perspective, we have responded and we have responded in a timely manner.

Mr GROSS: It is worth noting that north of Bathurst Street is where the rail track has the third line in the middle, which is the underground one that is running between the two rails. This is causing a lot of the issues for relocation of pits. South of Bathurst Street, where it is an overhead power system for the railway, the pit sizes have not changed.

Mr ARMSTRONG: And our pit lids are within the rail tracks. It is only where you have this underground power supply in the north of the city this has caused the pits to become larger. As I said earlier, we prefer not to have large pits. The other point that I make, back to Grosvenor and Bridge, when they went to excavate to lay the new duck line, they discovered that there were other utilities in the way. That is not unusual in this city. I have to say, experience tells me that whenever you excavate in the city—and I am talking about the main part of the city—you will find other obstacles. That drove us back again to review the treatment plan and the like. From my perspective, this is not unusual. Overall, in terms of what Ausgrid has done, we have actually enabled the project to run forward in a timely manner.

Mr GROSS: I also add—and this was in my opening statement—that there were 63 occasions that Ausgrid responded to emergencies for dig-ins and safety issues associated with our assets during the project.

Mr ARMSTRONG: And the Grosvenor-Bridge streets was one of those circumstances. When the ALTRAC contractor excavated, they damaged our assets. On that basis, that took time to rectify.

Ms CATE FAEHRMANN: Can you provide to the Committee with an assurance that you have applied enough resources to carry out your obligations under the agreement with Transport for NSW?

Mr ARMSTRONG: Yes.

Ms CATE FAEHRMANN: Have you responded to demands placed upon Ausgrid by this project?

Mr ARMSTRONG: Yes.

Ms CATE FAEHRMANN: Can Ausgrid assure the Committee that the resourcing you have applied has remained adequate, considering the scope changes?

Mr ARMSTRONG: Yes.

Ms CATE FAEHRMANN: Have you increased the resources as a result of scope changes?

Mr ARMSTRONG: We have, and to give you an indication to the extent that the cost that has been borne is in the order of \$15 million in terms of labour.

Ms CATE FAEHRMANN: When I say "increasing as a result of scope changes" is that cost additional or in total?

Mr ARMSTRONG: The total to date is of the order of \$15 million. It has been significant in terms of the effort that has been applied.

Mr GROSS: You must remember that our role is to approve the treatment plans and then endorse the detailed plans. That is the role for us, Ausgrid's role. We are not building this; we are not the contractor.

Mr ARMSTRONG: To show that we are serious, we actually put our people in the ALTRAC offices to work collaboratively, full time, to try to get through the treatment plans earlier. All of the treatment plans were settled in May 2016.

The Hon. SHAYNE MALLARD: Did you put people in the office from the beginning?

Mr ARMSTRONG: Very early in the piece, yes.

The Hon. SHAYNE MALLARD: Are they there today?

Mr ARMSTRONG: No, they are not because the treatment plans and the design are all done.

Ms CATE FAEHRMANN: When you spoke about "ALTRAC", I assume that you were communicating with Acciona as well as that time.

Mr ARMSTRONG: Sorry, I said "ALTRAC"; you can read Acciona.

The CHAIR: You said a number of times that you had no idea where the actual route of the light rail was going to go.

Mr ARMSTRONG: Can I clarify, Chair; clearly the route was going down George Street. There was no debate about which street it was in, but the location, vertically and horizontally, was not settled. More importantly, the nature of the track slab, which had to be integrated into the ground, was not known. Until that was known, it was very hard to determine just what the impact was.

The CHAIR: But you knew because of all your installations it was going to be a very complicated project to build with all the cables and pits and so on there?

Mr ARMSTRONG: Yes, that is true. To clarify a point I made in response to a question by Ms Faehrmann about the several hundred million dollar comment, that was making the assumption that we would relocate all of our assets outside the rail track corridor. That report was not about what we have set about doing. Of course, the hierarchy is leave in situ, modify, relocate. That very early report referred to was very much about the assets that are under the rail track being moved outside. That is where that report came from in the very early days. It is not what we have set about doing now.

The CHAIR: Because of your knowledge about what was under George Street over the years, did anyone ask you whether there was a better route, such as Elizabeth Street? Would Elizabeth Street have the same complications with infrastructure?

Mr ARMSTRONG: Can I clarify the question: Are you referring to me personally and my experience?

The CHAIR: Yes.

Mr ARMSTRONG: No is the answer to that question. Nobody asked me specifically about suggesting a better location in terms of the street.

The CHAIR: Do you think that Elizabeth Street would have been a better location?

Mr ARMSTRONG: That is a very difficult question to answer. Elizabeth Street also has complications in terms of our assets. I should say the roads in the city for us are all of our main arteries that feed the buildings. It does not matter where you go within the one kilometre by three kilometres in the city, the roads are used for the 11 kV network that supports all of the large buildings. It would not matter where you go, you are going to end up with difficulties. It is a degree question, and let us leave it at that.

The CHAIR: That is the basis of my question, the degree question. Would it have been simpler in Elizabeth Street?

Mr ARMSTRONG: I am not sure that is the case, but until you do all of the detailed work.

The Hon. SHAYNE MALLARD: Thank you for your 2013 presentation. I was a city councillor, so I was well aware of the complexity of what is underground. You did not demonstrate the other assets like stormwater, sewerage, Telstra, gas.

Mr GROSS: Yes, it was only the electric assets.

The Hon. SHAYNE MALLARD: Did other agencies have as big a stake in this project as Ausgrid in confronting asset management issues?

Mr ARMSTRONG: That is hard for us to really judge. Certainly stormwater, for instance, and sewerage run down George Street as well, so it is hard for us to put a qualitative—

The Hon. SHAYNE MALLARD: The Committee heard evidence from Acciona about the pits having to be made bigger. And you have given us more information than I thought we understood before about why they are bigger—we were not told about the slab and the tracks. That then led to stormwater, sewerage and other services having to be relocated and the whole domino effect.

Mr GROSS: It is a congested street in terms of utility assets.

The Hon. SHAYNE MALLARD: In your opening statement you talked about the hierarchy of the operational approach to the network standards. I just did a Google search for Ausgrid network standards and I have found them on your website.

Mr ARMSTRONG: Yes.

The Hon. SHAYNE MALLARD: Have they always been there?

Mr GROSS: Yes.

The Hon. SHAYNE MALLARD: They are dated and uploaded properly?

Mr ARMSTRONG: Correct.

The Hon. SHAYNE MALLARD: So they are not hidden or a secret. They are not hard to find.

The Hon. GREG DONNELLY: No-one is saying they are hard to find.

The Hon. SHAYNE MALLARD: I did not interrupt your questions.

Mr ARMSTRONG: Can I just add to that? The second part, in the city, the four kilometres are the subject of these treatment plans; the other eight kilometres are subject to normal contestability. Normal contestability is such that there is what is called accredited service providers who do the work and who must comply with out network stands. It would have been very easy for us to say that the whole route was to be done under the application service provider arrangement but we knew to assist in the project that putting in place, as we did with the Cross City Tunnel, a deed with Transport and an arrangement to help interrupt the nature of our standards when it came to our assets would assist with the delivery of the project.

The Hon. SHAYNE MALLARD: To be clear, you said in your opening statement it was sections one to three, was it not?

Mr ARMSTRONG: Yes.

The Hon. SHAYNE MALLARD: That is the area the dispute is fundamentally around the pit size?

Mr ARMSTRONG: The guidelines and the treatment plans.

The Hon. SHAYNE MALLARD: The rest of the network was treated with a different approach?

Mr ARMSTRONG: That is right. It is treated as we treat all other works in terms of relocation.

The Hon. SHAYNE MALLARD: The development of the project et cetera.

Mr ARMSTRONG: That is right.

The Hon. SHAYNE MALLARD: You have got the network standards and the guidelines, which is the dispute that we have discussed here, then we have the treatment plans. Are the treatment plans a new innovation for this project or have you had those before?

Mr ARMSTRONG: Treatment plans are a way to dress up concept design. But coming back to the earlier point, we thought okay, with the original light rail project that runs through Hay Street we relocated all the assets outside the track—then it is easy for operation in the future and the like. In this case, when we looked at that, the costs were extortionate, and on that basis we said, "Okay to integrate the system on top of our assets, we need an arrangement to work through each of our assets sensibly and come up with a concept design." That is, again, the hierarchy: leave in situ, modify or relocate. That is the reason the treatment plans came up.

The Hon. SHAYNE MALLARD: The network standards are on the web. Are the guidelines publicly available?

Mr ARMSTRONG: Not to my knowledge.

The Hon. SHAYNE MALLARD: You said earlier that they were adjusted or modified?

Mr ARMSTRONG: No, the network standards were adjusted. The guidelines were there to assist in the understanding of the network standards.

The Hon. SHAYNE MALLARD: Mr Donnelly talked about the evidence from Mr Troughton, from Transport for NSW, that the guidelines were rejected. Is that your understanding?

Mr GROSS: It is not our understanding that they were rejected.

The Hon. SHAYNE MALLARD: But they had the guidelines?

Mr ARMSTRONG: They are Ausgrid's guidelines to assist in understanding network standards.

The Hon. WES FANG: If the contractor had rejected the guidelines, that would not preclude you from rejecting their treatment plans and detailed designs if they did not satisfy the Ausgrid guidelines?

Mr ARMSTRONG: But they had to satisfy the network standards.

Mr GROSS: It is the network standards that have to be satisfied; the guidelines assist in the manner of getting to accepting those.

The Hon. WES FANG: But Ausgrid would not approve anything that was outside those network standards and therefore the guidelines to implement those standards?

Mr ARMSTRONG: For the record—because I think it is really important—I will read directly from the guidelines. Chapter two of the guidelines talks about pits and ducts, and the first comment is "The adjustment works to the pits and ducts shall comply with the Ausgrid network standards." It then goes on to explain how to think about the network standards. In every chapter of the guidelines it is about complying with the Ausgrid network standards. That has been there all along and it is consistent with the way we think about this type of work—whether it is in the CBD or in Randwick.

The CHAIR: So you see the guidelines as interrupting the standards.

Mr ARMSTRONG: They are there to assist the interpretation to develop the concepts or the treatment plans to enable the works to continue.

Mr GROSS: When the treatment plans are produced, Ausgrid has 20 days to actually approve those treatment plans—

Mr ARMSTRONG: Or to reject them.

Mr GROSS: Or to reject them. Then they come back with the design and then Ausgrid has 20 days to endorse the design.

The Hon. SHAYNE MALLARD: You would reject the suggestion of a conspiracy to withhold information from the contractor?

Mr ARMSTRONG: Yes.

Mr GROSS: We reject there is no conspiracy.

Mr ARMSTRONG: And the fact that it was serendipity on the day of financial close, we did not know that. We were going about discharging our responsibility in respect of being able to understand how to deal with our assets relative to the project.

The Hon. MATTHEW MASON-COX: So you had no notice that financial close was on that day?

Mr ARMSTRONG: We did not—

The Hon. MATTHEW MASON-COX: It was simply a coincidence.

Mr ARMSTRONG: It was a coincidence, we did not know. It is shrouded in probity.

The Hon. MATTHEW MASON-COX: Does that surprise you? Is that usual practice?

Mr GROSS: We are not a party to that contract. I have been involved in a lot of transactions and it is pretty close as to when financial close is actually—

The Hon. MATTHEW MASON-COX: You are not a party to the contract; you are a separate entity to the Government but you are a key part of the project. You have been part of it since 2013 and a memorandum of understanding was signed in 2014. So you have been an ongoing part as a key infrastructure provider to the project yet you did not know when the financial close was?

Mr ARMSTRONG: We did not know that day was financial close.

The Hon. SHAYNE MALLARD: Would the other infrastructure asset organisations I listed before such as Sydney Water and Telstra been providing documentation and their operational plans to the contractors as they had just been awarded the contract?

Mr GROSS: I cannot comment.

The Hon. SHAYNE MALLARD: You were not competing with that sort of thing?

Mr GROSS: Do not know.

The Hon. SHAYNE MALLARD: There was not a roundtable with all the assets—

Mr ARMSTRONG: What we knew was that this was going to be a very complicated project.

The Hon. SHAYNE MALLARD: All of Sydney knew that.

Mr ARMSTRONG: Yes. We were providing advice to try to unpick and understand how the project would go together.

The Hon. SHAYNE MALLARD: Would your companies like yours overseas or interstate have the same sort of approach?

Mr ARMSTRONG: I can draw on the Cross City Tunnel example. The Cross City Tunnel, particularly at the Bathurst Street end, was a very complicated integration in terms of our assets. In that case we had a very similar approach and we had the same sort of agreement in place with Transport for NSW to deliver that project.

The Hon. SHAYNE MALLARD: Do you think a multinational, global organisation like Acciona, which had built and constructed in other cities—we heard that from the chief executive officer—would have its eyes wide open to the potential of these types of infrastructure requirements?

Mr GROSS: We cannot comment on Acciona or ALTRAC for that matter.

The Hon. SHAYNE MALLARD: Putting those aside, would you expect a multinational company to understand?

Mr GROSS: Ausgrid's process is standard and, as Mr Armstrong said, it was shown to be standard for other projects such as the Cross City Tunnel.

The Hon. MATTHEW MASON-COX: I want to clarify a couple of issues. In your opening statement you noted that you dealt first with Transport for NSW in 2013, which led to a memorandum of understanding signed on 20 February 2014—a year before financial close. Did that memorandum of understanding agree with Transport for NSW that you would prepare the adjustment guidelines that were provided in February 2015?

Mr ARMSTRONG: Did it contemplate the?

The Hon. MATTHEW MASON-COX: The preparation of guidelines to assist with interpreting the operating standards?

Mr ARMSTRONG: I am not sure that the memorandum of understanding did, but what I can say is that the deed that was signed after the MOU certainly did contemplate the need for adjustment guidelines.

The Hon. MATTHEW MASON-COX: When was the deed signed?

Mr GROSS: The deed was signed 5 February 2015.

The Hon. MATTHEW MASON-COX: It must have been well before then that you made the decision with Transport for NSW to provide adjustment guidelines. Can you clarify what date you came to that decision to provide those guidelines? Perhaps you can take that on notice.

Mr GROSS: Could we take that on notice?

The Hon. MATTHEW MASON-COX: Could you also provide us with a copy of the MOU that was signed with Transport for NSW on 20 February 2014?

Mr GROSS: Yes.

The Hon. MATTHEW MASON-COX: Take that on notice.

Mr GROSS: Yes.

The Hon. MATTHEW MASON-COX: Can I understand a little bit more about Ausgrid's authority and your relationship with Transport for NSW. You are the approving authority in relation to all of the, if you like, electrical infrastructure down George Street, or wherever it might be, in relation to this project. Is that correct?

Mr ARMSTRONG: They are our assets, so by definition we are responsible for those assets, we control those assets, and on that basis we determine what needs to be done to those assets, that is right.

The Hon. MATTHEW MASON-COX: There would be no doubt about the fact that Transport for NSW would need your consent as to how those assets would be treated in any particular situation?

Mr ARMSTRONG: Correct.

The Hon. MATTHEW MASON-COX: You would be jealously guarding your authority in relation to those assets and your involvement in relation to how they are being used.

Mr ARMSTRONG: Yes, and you think about our responsibility in the city.

The Hon. MATTHEW MASON-COX: The safety issues.

Mr ARMSTRONG: Safety, and of course if the lights go out in the city everybody knows about it, and on that basis—

The Hon. MATTHEW MASON-COX: Who do they come and see? You.

Mr ARMSTRONG: Exactly.

The Hon. MATTHEW MASON-COX: I want to be absolutely abundantly clear about that. In relation to the treatment plans, first of all the financial close occurred and I presume the next stage in the sequence would have been to work through each of the treatment plans for the pits down George Street. At each of those meetings you would have been present to work through those issues?

Mr ARMSTRONG: That is correct. That was a collaborative.

The Hon. MATTHEW MASON-COX: Was that over the course of the next six months, or, as you mentioned, on an as needed basis?

Mr ARMSTRONG: As I say, all of the treatment plans were finalised by May 2016. But, certainly that was front loaded, and it was the Rawson Place treatment plan that was last. A lot of the work was focused on the northern end of George Street, and that was done expeditiously after contract, after the middle of the year, I think it was around June most of the work commenced and it was about a period from there through to May.

The Hon. MATTHEW MASON-COX: I put to you some evidence given by Transport for NSW which I want to clarify with you. In response to questions that we put to Transport for NSW, we were informed that your adjustment guidelines were neither endorsed nor approved by Transport for NSW and were issued without their concurrence. Your view on that is that they are your guidelines and you are the authority that actually produces the guidelines and you had better comply with the guidelines because you are in control, which is fair enough. That is how you would characterise it, I presume?

Mr ARMSTRONG: True.

Mr GROSS: Correct.

The Hon. MATTHEW MASON-COX: Transport for NSW goes on to say that these guidelines were withdrawn on 25 May 2015. Is that your understanding?

The CHAIR: Were they ever withdrawn?

The Hon. MATTHEW MASON-COX: Were they ever withdrawn?

Mr ARMSTRONG: I would take that on notice. But to answer the question, if they had have, it would not have made any difference, because we had a collaborative, iterative process with ALTRAC-Acciona in terms of developing solutions for each of the locations where our pits and ducts were in George Street.

Mr GROSS: Could I ask you to clarify what document you are referring to, to say that they were withdrawn?

The Hon. MATTHEW MASON-COX: I am referring to the response by Mr Troughton to questions put on notice in the further hearing. It may not have been published yet. Sorry, you are coming at this with a disadvantage, but it will be published shortly. It says specifically that the adjustment guidelines were withdrawn on 26 May—

The CHAIR: We have published it.

The Hon. MATTHEW MASON-COX: We have published it. It says specifically that on 26 May 2015 Ausgrid separately issued an email to ALTRAC withdrawing the adjustment guidelines.

Mr ARMSTRONG: We take that on notice.

Mr GROSS: We take that on notice.

The Hon. MATTHEW MASON-COX: It is important to clarify that. It goes on to say that, "Subsequently ALTRAC made a number of other claims in relation to the treatment of Ausgrid assets under the SLR project deed, and these claims have been accessed by Transport for NSW in accordance with the SLR project deed and are commercial-in-confidence." If you could take this on notice and clarify what those other claims were. It may well be what you have mentioned earlier, the separate track that meant that you had to enlarge the pits.

Mr ARMSTRONG: The APS, the electrical underground system that meant that the pit lids could not remain within the tracks, and on that basis—

The Hon. MATTHEW MASON-COX: It may well be that, but if you could clarify that, that would be useful so that we ensure we marry up the evidence from different parties.

Mr GROSS: Could we have those specific references so that we know where we are going?

The Hon. MATTHEW MASON-COX: We will send them to you and ask you to respond specifically to that.

The Hon. WES FANG: Are the treatment plans submitted to you for approval? Do you typically give feedback on changes that may be required, and in that collaborative approach where you had people in the office, would they have been worked on together before their submission, or is there a to and fro on the treatment plans?

Mr GROSS: It is a collaborative approach in working up the treatment plans. Yes, they are submitted to us for approval.

Mr ARMSTRONG: Or, dare I say, rejection. But in the case that was outlined, certainly our approach was "elaborate". And it was other issues that were drawn in afterwards, like the electrification on the ground supply, like where the track slab ended up, that drove us to go back and revisit the treatment plans with ALTRAC.

The Hon. WES FANG: Of the treatment plans that were submitted to you for approval, how many were rejected?

Mr ARMSTRONG: I will take that on notice, but not very many.

The Hon. WES FANG: Would that be because you had people seconded into those offices to work on the treatment plans before submission?

Mr ARMSTRONG: Actually, I can answer that question for you. Out of the treatment plans, of which there were 21, there were only four treatment plans that got rejected.

The Hon. WES FANG: How many treatment plans were required to be resubmitted because there were changes to the scope, that is the third electrified rail?

Mr ARMSTRONG: Several.

The Hon. WES FANG: They were handled in a timely manner?

Mr ARMSTRONG: They were.

The Hon. WES FANG: The costs for the work that may have been additional from the original treatment plans that were approved, were because of those changes to scope, not because of anything that you required that was different to the approved initial treatment plan?

Mr ARMSTRONG: Our functionality did not change. In other words, the things that drove the changes were largely exogenous factors, or something external to what we were doing, i.e. when they went to excavate they found telco, or they found something else, or they determined where the track slab was going and it clashed with our pit and duct system.

The Hon. WES FANG: Once you had the treatment plans approved and you then moved to the detailed design work, they needed to be resubmitted. How often were the detailed designs rejected?

Mr ARMSTRONG: I have not got the information at hand. We will be happy to come back to you on that, but they needed to comply with the network standards.

The Hon. COURTNEY HOUSSOS: I am again going to refer to some questions on notice that have been provided and, as we have been informed, they have been published this morning. Because you have not had

a chance to read them I will read it out for you. Transport for NSW was asked a specific question: When did Transport for NSW become aware that Ausgrid had new guidelines that were different to those set out in F8, the schedule of the contract? The response from Transport for NSW is "Transport for NSW received the draft document in this form at the same time as Acciona." Who is not telling the truth?

Mr GROSS: We need to take it on notice.

The Hon. COURTNEY HOUSSOS: Your earlier testimony was that throughout February you had been working through this document. Transport for NSW has explicitly told us that they received it at the same time as Acciona.

Mr GROSS: There might be a nuance as to what that is. We were working on drafts. We will testify that we were working on drafts with Transport for NSW on 9, 19, 20 and 23 February.

The Hon. COURTNEY HOUSSOS: Can you just say those dates for me again?

Mr GROSS: Nine, 19, 20 and 23 February. We were working on drafts with Transport for NSW on the guidelines.

Mr ARMSTRONG: That might not be in the exact form as you see it and that is why we say there is nuance, but the content, as has been put, has been worked on previously.

The Hon. COURTNEY HOUSSOS: So someone has been a bit tricky with their wording to discount these earlier discussions that are occurring. At these earlier discussions on 9, 19—

Mr GROSS: At 5 February, when we signed the deed with Transport for NSW, the deed forecast the development of guidelines.

The Hon. COURTNEY HOUSSOS: Was Acciona a party to that deed?

Mr GROSS: No.

The Hon. COURTNEY HOUSSOS: Or ALTRAC?

Mr GROSS: No.

Mr ARMSTRONG: No.

The Hon. COURTNEY HOUSSOS: You signed the deed on 5 February. Can you give me those dates again that you met with Transport for NSW?

Mr GROSS: Nine, 19, 20 and 23 February.

The Hon. COURTNEY HOUSSOS: I want to go to this meeting on 27 February that happened with Ausgrid, ALTRAC, Acciona and Transport for NSW. Was that the first time that the three parties were in the room together?

Mr ARMSTRONG: That is the official kick-off meeting.

The Hon. COURTNEY HOUSSOS: Were either of you present at that meeting?

Mr GROSS: I was not.

Mr ARMSTRONG: I cannot recollect if I was there or not.

The Hon. COURTNEY HOUSSOS: Can you provide that on notice?

Mr ARMSTRONG: Sure.

The Hon. COURTNEY HOUSSOS: Because you very confidently, Mr Armstrong, said that there was no discussion at that meeting about the date of the financial close that occurred on that day.

Mr ARMSTRONG: I cannot recall being aware of the financial close being on that day.

The Hon. COURTNEY HOUSSOS: So it is not your testimony then that Ausgrid employees present at that meeting may have been aware that this was the day of financial close.

Mr ARMSTRONG: Possible.

The Hon. COURTNEY HOUSSOS: That is not what your earlier testimony was. Your earlier testimony was that you personally were not aware if you were at the meeting. Is that correct?

Mr ARMSTRONG: I would like to be clear on your question.

The Hon. COURTNEY HOUSSOS: I want to know whether anyone at Ausgrid knew that 27 February 2015 was the financial close of the deal. Both of you said that you were not aware.

Mr ARMSTRONG: Correct. Trevor Armstrong was not aware, absolutely. But we will confirm whether any Ausgrid person was aware that that was financial close.

Mr GROSS: We should say we will attempt to confirm.

Mr ARMSTRONG: Yes, we will attempt to confirm.

The Hon. COURTNEY HOUSSOS: But you would assume that given that this is the kick-off meeting, in your words, that there would have been some discussion about the fact that the financial close was—

Mr ARMSTRONG: Hypothetically you could have assumed that financial close was complete.

The Hon. COURTNEY HOUSSOS: The point that we are getting to is there is a document that is produced after the close of business that is given to the parties that Transport for NSW is telling us they have never laid eyes on before—it turns out they are being a bit tricky with their wording in this form, but that it has been given after there is no opting out from any of the other parties.

Mr GROSS: The guidelines are there to assist. The treatment plans are all post financial close. All the detailed documents or the detailed plans associated with the design are all post financial close.

The Hon. GREG DONNELLY: Just picking up on that point. Did you just say that all of the detailed project plans—

Mr GROSS: If I did I withdraw that. What I am saying is the treatment plans, and therefore the detailed designs that flow from that, are all post financial close or post the 27 February date.

The Hon. GREG DONNELLY: That is normal practice, is it?

Mr GROSS: It is normal practice because we do not know the detailed design of what the rail line is, we do not know where the rail slab is going to go in the streets. If you do not know that you cannot do the asset stuff, you cannot do the detailed design.

The Hon. GREG DONNELLY: I am grateful that you are taking us through this. Can I reverse back to 2014 where Ausgrid attended, I think from the testimony of Mr Armstrong, and Transport for NSW were there, two workshops where Acciona was looking at the proposed project? With respect to those two workshops, did Ausgrid make any presentations to Acciona or indeed anyone else that might have been at those workshops? Did you speak to the participants at the workshop?

Mr ARMSTRONG: I think that question was asked earlier and I think I took that on notice in terms of presentations. We will come back to you on that.

The Hon. GREG DONNELLY: When you do that can you confirm or otherwise that with respect to the presentation—to the extent the presentation did take place—either in front of the people who were present or some follow-up documentation you may have forwarded to them, that you provided them with an explanation of the infrastructure projects hierarchy that you have described to us this morning, namely, starting with the network standards running down to the adjustment guidelines, then the treatment plans and the detailed designs? Because what I would like to know is whether or not with respect to this project that Ausgrid explained to Acciona the nature of that hierarchy and what that hierarchy is.

The Hon. COURTNEY HOUSSOS: Can I ask one final question?

Ms CATE FAEHRMANN: What we have usually done, if Labor has asked a question you answer the question that Mr Donnelly just put to you.

Mr ARMSTRONG: The specific question there I understood was can you come back and say whether or not the hierarchy was provided with the network standards, treatment plans and detailed designs? I understand and we will take it on notice.

Ms CATE FAEHRMANN: In the *Australian* in May this year it was reported that the "Premier's team short by \$600 million on light rail costs", and it was reported that "Negotiations between Ausgrid and Transport for NSW over the cost of the utilities broke down in 2014, amid suggestions Ausgrid was 'gold plating' in its estimates". Were you?

Mr ARMSTRONG: We would argue that we do not gold plate.

Ms CATE FAEHRMANN: Why did negotiations break down at that time if it was not for that reason?

Mr GROSS: I am not sure that negotiations did break down—that is the first point. The second point is that we do not gold plate; we are just ensuring that any adjustments to our assets are consistent with our network standards for safety reasons—safety and performance reasons. There is scope within the contracts if there is a betterment for us that we are then liable to pay or enter into negotiations to pay. We have not entered into any agreements and agreements for us to enter into have not been sought from either Transport for NSW, ALTRAC or ourselves.

Ms CATE FAEHRMANN: It was also suggested in testimony, I think at the last hearing that we had, the same thing, that Ausgrid were gold plating.

Mr GROSS: We are not gold plating. The adjustments to our assets are consistent with the standards.

Ms CATE FAEHRMANN: You said that the network standards changed some time in 2013. When was that?

Mr ARMSTRONG: It was during the project, so after, let us call it, the kick-off meeting, they changed.

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

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

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

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

Ms CATE FAEHRMANN: Other than pit size?

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

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

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

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

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

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

Mr ARMSTRONG: No.

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

The CHAIR: In your written submission to us today you said the vast majority of construction work then undertaken is undertaken by ALTRAC contractors or accredited service providers, not Ausgrid. Ausgrid's role is actually quite limited. Did Ausgrid do any construction at all with the light rail?

Mr ARMSTRONG: Yes, we did. We did it at the request of ALTRAC to support their construction program. By the nature of the construction of some of the pits they sought us to do that work. It was only one or two locations in the city that we supported them. We did that on time and to their schedule.

The CHAIR: Was there any further complications caused as to the construction of the light rail going down George Street, because George Street originally would have been Colonial Street? There may have been developments underground of which there are no maps or records. Did that become a factor in adding to the confusion or what was required?

Mr ARMSTRONG: There were certainly other services that were not on drawings, for instance, that were discovered.

The CHAIR: No maps.

Mr ARMSTRONG: And as you say, chair, it dates back and our infrastructure has been in the ground for 100 years in George Street. The level of the roads change and the specific location of the assets relative to the road level do change. That probably did make it difficult. As I said earlier this is usual, this is what you expect when you excavate in a city road.

The CHAIR: Have you seen the recent media reports of the discovery of a very old cemetery in George Street?

Mr GROSS: We have seen those reports.

Mr ARMSTRONG: Devonshire, yes.

The CHAIR: The criticism has been made in the media how offhanded the workers were, but they are not Ausgrid workers?

Mr GROSS: They are not Ausgrid workers. At Ausgrid we do dig up a lot of roads and infrastructure and we respect all aspects whenever we do any digging.

The Hon. SHAYNE MALLARD: We want the record to reflect that your view is that you prefer it not to have been George Street. Ausgrid pointed to the amount of assets. It was not the only view that was taken into account. I was involved a little bit in the early days. Every street has infrastructure challenges?

Mr ARMSTRONG: It does.

Mr GROSS: It does.

The Hon. SHAYNE MALLARD: And other stakeholders have a view about the route—emergency services, fire brigade, the council and urban planners—it is not just Ausgrid that was the stakeholder that had the say in where the light rail went, is that correct?

Mr GROSS: That is correct.

The Hon. SHAYNE MALLARD: The notion of the treatment plans, which you said a fancy word for?

Mr ARMSTRONG: Concept design.

The Hon. SHAYNE MALLARD: That is what you normally call it?

Mr ARMSTRONG: Yes. It is what you do with the Ausgrid asset: Do you move it, do you modify it, do you leave it in situ.

The Hon. SHAYNE MALLARD: I understand that. This is a response to the fact that it is almost like real-time planning and construction?

Mr ARMSTRONG: That is correct.

Mr GROSS: In a complex environment.

The Hon. SHAYNE MALLARD: The Opera House was built that way. The designs coming off the drawing board and engineers were working out solutions as it is being built. That is not unusual today?

Mr ARMSTRONG: You contemplate difficulties when you excavate the road.

The Hon. SHAYNE MALLARD: You went into this as a stakeholder?

Mr ARMSTRONG: Yes.

The Hon. SHAYNE MALLARD: There was not a finalised design of where the track was going to be and you did not know about the middle rail?

Mr ARMSTRONG: Correct.

The Hon. SHAYNE MALLARD: There were other issues with what is below, the railway network, the heavy rail on George Street. It was a flexible thing. You had to massage it. The Hon. Greg Donnelly took offence to that term.

Mr ARMSTRONG: Yes.

The Hon. SHAYNE MALLARD: It is a bit like that.

Mr ARMSTRONG: You had to integrate.

The Hon. SHAYNE MALLARD: You had to work through all those competing priorities. That is the model that is world's best practice to approach this type of thing that is being built as it is planned?

Mr ARMSTRONG: Yes. We know in the city, because of the complexity of the city, you have to have that type of arrangement in place otherwise you will not get the work done.

The Hon. SHAYNE MALLARD: It is the planning of today?

Mr ARMSTRONG: Yes. The one-kilometre Circular Quay to Central, Darling Harbour to Hyde Park, that is the most dense part of the electricity infrastructure in Australia and it is comparable, as Mr Gross said, to New York. That is just the electrical infrastructure, then you add telco and all the rest. You have to have a system in place to work through all the issues, and we did it collaboratively.

The Hon. WES FANG: It is my understanding that we have heard testimony that the guidelines sent to the contractor on 27 February materially changed the way they costed and approached the project. But, it is my understanding from your testimony that those guidelines are effectively a way to implement the network standards. Without any guidelines in place the network standards would have to be satisfied. Whatever the contractor had signed on to do at the time would have to have satisfied the network standards. The only changes to the network standards—I know you have taken this question on notice—at this stage in your testimony is to make the cost cheaper or to be integrated into it. Therefore, do you believe those guidelines can materially change the cost of the project to the contractor?

Mr ARMSTRONG: I think it is difficult for us to say what the baseline cost of the contractor's works were. I do not believe we are in a position to answer that.

Mr GROSS: We cannot.

Mr ARMSTRONG: The contractor had a contract and we were not privy to that contract. We had our network standards and we had network standards all the way through the process. As I made the point, we could have said this whole project is contestable from Randwick and Kensington to Circular Quay and on that basis it would have been over to the contractor, over to ALTRAC, to determine what needed to be done and we would have proved it. What we did was set about a process that enabled the contractor to understand our guidelines and to be able to interpret them in terms of their works. On that basis, as I said, of the 21 treatment plans we only rejected four, on that measure alone the guidelines were working.

The Hon. WES FANG: Distilling everything down, nothing materially changed from your perspective that increased the cost markedly after the signing of the contracts?

Mr ARMSTRONG: We cannot answer that question because we do not know what the contract assumed in terms of their costs.

Mr GROSS: In terms of the network standards, the network standards did not materially change.

Mr ARMSTRONG: Correct.

Mr GROSS: The guidelines were put in place to assist in the interpretation and delivery of those standards such that you could do the treatment plans and then do the detailed design.

The Hon. GREG DONNELLY: Transport for NSW said ignore them. That is the evidence.

Mr ARMSTRONG: Yes.

Mr GROSS: We need that reference to go through it.

The Hon. GREG DONNELLY: That is what I tried to do. Mr Troughton said, "We do not accept these guidelines coming from TransGrid" and said to Acciona, "Forget about it".

Mr GROSS: TransGrid or Ausgrid?

The Hon. GREG DONNELLY: Ausgrid.

Mr GROSS: With due respect to Transport, they are our guidelines.

The Hon. GREG DONNELLY: I do not disagree, but that is precisely the point. An agency of the government and the department are left hand and right hand and you have, in effect, complete competition between the two in terms of what is the position on something. That is quite extraordinary.

The Hon. COURTNEY HOUSSOS: I have one more question. Mr Armstrong, you talked about a collaborative approach. In December 2014, ALTRAC and Acciona were announced as the successful tenderers. They were going to build the light rail. You met four times in February to develop these guidelines in a collaborative way and they were not part of the process. Did anyone from Ausgrid ever ask why they were not present? I am happy for you to take that on notice.

Mr GROSS: Yes, I think it is wise we do.

The Hon. COURTNEY HOUSSOS: What changed between 23 February and 27 February? If you were not aware that it was the financial close, why was it that on 27 February you decided to "cc" them in on the email, but it did not happen on 23 February?

Mr GROSS: We need to take that on notice, but it could have been that they were just finalising the guidelines.

Mr ARMSTRONG: Yes.

The CHAIR: Thank you very much for coming in and sharing your knowledge on what has become a complex project. We all know that, but we hope and pray that the light rail will be finished and we will all have a ride on it in the not-too-distant future. The secretariat will help you remember what questions were on notice. They will send you a copy of those questions, which will be the accurate ones. You are required to answer within 21 days. They may be a bit different from your memory. Thank you very much for your attendance.

Mr GROSS: Thank you.

Mr ARMSTRONG: Thank you.

(The witnesses withdrew)

The Committee adjourned at 13.31