

<1>

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Friday 26 March 2004

Examination of proposed expenditure for the portfolio area

TRANSPORT

The Committee met at 10.00 a.m.

MEMBERS

The Hon. J. A. Gardiner (Chair)

The Hon. J. C. Burnswoods
The Hon. Michael Gallacher
The Hon. Kayee Griffin

Ms S. P. Hale
The Hon. D. E. Oldfield
The Hon. Peter Primrose

PRESENT

Mr Vince Graham, *Chief Executive Officer, Rail Corporation NSW*

Mr John Lee, *Director-General, Ministry of Transport*

Mr John Stott, *Chief Executive Officer, State Transit Authority*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates
General Purpose Standing Committee Secretariat
Parliament House
Macquarie Street
SYDNEY NSW 2000**

CHAIR: I welcome you to this public hearing of General Purpose Standing Committee No. 4 and thank the three departmental officers for attending. At this meeting the Committee will continue to examine the proposed expenditure for the portfolio area of Transport.

There are some procedural matters to be dealt with before we proceed. Firstly, in relation to the broadcasting of proceedings, as you would be aware, part 4 of the resolution referring the budget estimates to the Committee requires the Committee to hear evidence on the budget estimates in public.

Under Standing Order 252 of the Legislative Council, this Committee has resolved to authorise the media to broadcast sound and video excerpts of its public proceedings held here today. The Committee's resolution conforms with the guidelines governing the broadcasting of proceedings adopted by the Legislative Council on 11 October 1994. The attendant on duty has a copy of those guidelines.

I emphasise that only members of the Committee and the witnesses before them may be filmed or recorded. People in the public gallery are not considered to be part of the proceedings and, therefore, should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee, as with reporting the proceedings of both houses of Parliament, you must take responsibility for what you publish or what interpretation is placed on anything that is said before the Committee. Members and their staff are advised that any messages should be delivered through the attendant on duty or the clerks.

The Committee has resolved to apportion questions according to the Chair, in the same way it has proceeded in the past in these hearings. The Committee's latest reporting date is Wednesday 31 March 2004 so if there are any question put on notice, replies need to be in the Committee's possession before Tuesday of next week. I declare the proposed expenditure open for examination. I note that Mr Graham has an important commitment, and the Committee will proceed with questions to him firstly so that he can get away on time.

The Hon. MICHAEL GALLACHER: Mr Graham, in light of the recent controversy over the evacuation policy of RailCorp, will you indicate what consideration is now under way within RailCorp and the State Government to reverse that policy or to consider further options to allow for emergency evacuation of passengers on trains?

Mr GRAHAM: Yes, I can. The current policy of the organisation that has been place since the early 1990s involves not allowing passengers uncontrolled egress from a train in any emergency situation. In some major accidents and incidents that we have had, certainly at Glenbrook and Waterfall, that policy has served us very well in the sense that there have been no further injuries or fatalities in those accidents as a result of passengers undertaking uncontrolled egress.

There have been issues raised in the Waterfall Commission in expert evidence last year by Mr Lowby from the United States of America, who proffered evidence to the commission and specific circumstances of accidents in the United States, even though their trains were fitted with some emergency evacuation process, where the inability of passengers to undertake passenger initiated egress led to fatalities in those accidents, one of which was a fire and another a derailment which went into a watercourse.

As a result of that, and the recommendations that have come about in the regulator's report on Waterfall, there is a comprehensive review of the current policy under way that not only involves RailCorp but involves the regulator. The interim report of the Waterfall Commission has identified that specific issue of emergency passenger egress is a matter it wishes to consider, and is considering taking evidence on under terms of reference two and three of the Waterfall Commission. A comprehensive list of matters that the commission is considering is set out on pages 367 and 368 of the report of the Waterfall Commission.

In summary, the current policy is under review involving three parties, three processes: the Waterfall Commission is doing it specifically as part of its terms of reference two and three, the regulator is doing it as part of one of three recommendations of his own report, and RailCorp is involved in that review process.

The Hon. MICHAEL GALLACHER: When was the policy decision taken of not allowing passengers by their own actions to evacuate a train in an emergency?

Mr GRAHAM: As I understand it, in 1990.

The Hon. MICHAEL GALLACHER: There have been discussions about Tangara trains being fitted at one stage with an emergency handle and then the handles were removed. When did that take place?

Mr GRAHAM: At about the same time. It was the policy decision at that stage that resulted in the internal door release mechanism on the Tangara being removed.

The Hon. MICHAEL GALLACHER: Is it right to assume, therefore, that at the time that decision was made it was in keeping with what was considered to be best practice around the world with other similar railway systems?

Mr GRAHAM: In terms of understanding the comprehensive process that went on in the 1990s, clearly you would have to ask those who were more directly involved in it. But I do understand that the practice put in place at that time considered a circumstance that occurred on the network in the vicinity of Redfern when, because a train was unable to move, an uncontrolled passenger evacuated from the train onto adjacent running lines. That circumstance led to a concern. Might I say that even in the current circumstances with this policy, I think over the past three months we have had three fatalities on the network as a result of passengers egressing the trains between cars.

We have had one circumstance where an individual went through the walkway at the end of the car and appears to have climbed on to the top of the carriage and been electrocuted in an attempt to train-surf, as we understand it. We have had two other passengers who used the gap between trains, and the ability to walk between carriages, to jump from the train into the path of another train in one circumstance, and under that train in another circumstance.

The point is that there are a range of scenarios and policies. Our experience, and international experience, says that there is no perfect solution because in different accident circumstances there will be different outcomes. I think that the work the commission is doing is extremely important in ensuring that there is a comprehensive review of Australian, New South Wales and international best practice in coming to a conclusion as to what the best possible safety outcomes are for passengers.

The Hon. MICHAEL GALLACHER: What consideration was given in July 2000—I know it may well be before your time but you have been quite outspoken on behalf of RailCorp in its former guise on this issue and therefore I assume you are aware of the discussions that occurred at that time—following the fire located in the airconditioning unit on the Blue Mountains intercity service that caused panic amongst passengers, when passengers were forced to kick out the windows and police were forced to use their batons to broke open the windows? Was any consideration given back then that perhaps this policy that is now under review was not quite the best policy?

Mr GRAHAM: Are we talking about the incident at Linden?

The Hon. MICHAEL GALLACHER: Yes.

Mr GRAHAM: The incident at Linden, as I understand it, was a fire in the high-tension area. That particular fire led to smoke filling one of the carriages, in response to which the onboard train crew evacuated the passengers from that car into safe carriages. Because the train was between stations they did the sensible thing: put the passengers into a safe and obviously smoke-free environment and then proceeded in accordance with regulation to protect the train by the use of detonators. In that circumstance I think the controlled management of the passengers worked particularly well to secure their safety.

The Hon. MICHAEL GALLACHER: The potential was for that fire to be much greater. Was consideration given in the post mortem, for want of a better term, of the fire to say that if it had occurred in, for example, a Tangara, a G-7 or indeed as we move towards the new generation of Millennium trains how would we handle it? Why was the policy that is now under review not considered suitable for review in 2000? We knew then that the windows could not be kicked out and that the handles of the doors to

release emergency release mechanism were removed. Surely some consideration must have been given to that?

Mr GRAHAM: We also know that in that circumstance the controlled management of the passengers by the train crew led to a safe outcome.

<2>

Mr GRAHAM: I think we also know that in that circumstance the controlled management of the passengers by the train crew led to a safe outcome. In the event that the circumstances had been different or that the passengers in that circumstance had uncontrolled egress onto the adjacent running line, where that incident happened, and the potential for there to be a train at fairly high speed on the adjacent track, unknown to the passengers, clearly that could have led to some fatal consequence. I only make that point to say that there is no simple or simplistic policy or solution to this issue. It is a complex issue dealt with in different ways around the world. Again I come back to the importance of RailCorp contributing both to the review that is embedded in the regulator's Waterfall recommendations and contributing, as we are, to the review being undertaken by the Waterfall commission.

The Hon. MICHAEL GALLACHER: I am concerned that there is an attitude within the organisation that: Because it was a good result from the Blue Mountains, therefore, we are satisfied in a reactionary way that everything went well. What took place proactively after that to find out what could be learned from this? It does not appear that anything took place. If a train derails—

Mr GRAHAM: Could I correct that statement within what you just said?

The Hon. MICHAEL GALLACHER: Yes.

Mr GRAHAM: Please understand that the policy position of the organisation is to support the current review. I have said that both in evidence to the Waterfall commission and I have said that in other places publicly. Indeed, in July of last year, having arrived at the organisation in around April, I personally initiated that review within RailCorp as well, so there is no attitude within the organisation that because it has been there since 1990 it is right. Quite the contrary. There is an acceptance that a comprehensive review is important, and we are fully participating in that review both with the regulator and the commission.

The Hon. MICHAEL GALLACHER: The point I make is that your Government commences a review only after the event. I am yet to see somebody stand up and say, "We are doing something before there is a need for it to occur. We are proactively anticipating the need to do something," rather than, "Now the commission is calling for this we will conduct a review", and up until that time saying, "No, our policy is to keep the passengers on the train".

Mr GRAHAM: Just let me repeat what I said while you were dealing with that a moment ago. In July last year I personally initiated that review, having been in the organisation approximately three months at that time. Again let me repeat: There is an openness within the organisation to ensure that we finish up with the best possible safety outcome here for our passengers.

The Hon. MICHAEL GALLACHER: That review took place in July, following what incident?

Mr GRAHAM: I initiated that in July following Mr Lowby giving his evidence of international incidents to the commission.

The Hon. MICHAEL GALLACHER: Then why is it that when we released the information from EDI last year, when it said it wanted to have all its liability waived, there was never any statement to the effect that "This is now under review." It was always, "This is our policy and this is the best policy for New South Wales".

Mr GRAHAM: Because I think if you go back chronologically, the release of information by the Opposition relating to EDI was ahead of the evidence being given by Mr Lowby in the commission.

The Hon. MICHAEL GALLACHER: So the Opposition was ahead of State Rail in realising it had a problem. Thank you very much.

Mr GRAHAM: My mother always told me about self-congratulation.

The Hon. MICHAEL GALLACHER: My next question is about vigilance controls, and I am not sure we will get through it in time because it is an involved issue. It comes about because there is a need for us to have a greater understanding of how these controls work. Is it correct to assume that between 15 and 55 seconds the vigilance control lights start to flash on a random time?

Mr GRAHAM: No, that is not correct. I am happy to take the time to explain how it works, if that would help.

The Hon. MICHAEL GALLACHER: I am very interested to find out. As you answer the question you might address whether the Waterfall incident would have been prevented had a vigilance control mechanism been in place, given the times that the vigilance control activations take place as well as the subsequent reaction time available to the driver and then the subsequent brake pipe being released—the time frames allowed there in light of what we have learnt from Waterfall?

Mr GRAHAM: Let me first of all give a short explanation, for the benefit of the Committee, as to how vigilance control works. A vigilance control system is an additional feature of a train's braking system that requires a driver to proactively hit a button or press a pedal to acknowledge that he is alert, awake and fully capable. In the event that that acknowledgment is not provided within a defined period of time—and that defined period of time is speed-related on some of our vigilance fitted trains at the moment, but let me just take the base case that is not speed-related—unless the driver acknowledges within a period of 45 to 50 seconds that he or she is alert, then a flashing light goes off.

If that flashing light is not responded to within a defined number of seconds, then an audible bell alarm sounds. If that bell is not responded to, then the brakes are automatically applied without further involvement from the driver, and from the start of the cycle to the application of the brakes is approximately 60 seconds. That 60-second period reduces on some of our vigilance control devices as the speed of the train increases. Had a 60-second vigilance control system been fitted to the train at Waterfall, the expert evidence tendered to the commission, as I understand it, is that that accident would most likely have been prevented.

That judgment is based on a judgment as to when the deceased driver would have in fact undertaken the last tasked linked activity. What I mean by tasked linkage is any time a driver moves the throttle of the train or applies the brakes on the train, that is read by the vigilance control system to be that the driver is alert. So it interrupts and restarts the vigilance cycle, which means the driver in that circumstance does not have to press the button. So in the Waterfall situation there needs to be a judgment made as to when the driver, pulling out of the station after having been stationary, would have undertaken the last tasked linked activity, and that is most likely moving the throttle notch of the train from notch three to the notch four position. Having considered all that, as I understand it the expert evidence to the commission was that a vigilance control system would most likely have prevented the accident.

The Hon. MICHAEL GALLACHER: And is the dead man's hand being activated a tasked linked activity?

Mr GRAHAM: The dead man's device?

The Hon. MICHAEL GALLACHER: Yes, the dead man's brake?

Mr GRAHAM: Yes, it is a tasked linked activity at some phases of the vigilance control cycle.

The Hon. MICHAEL GALLACHER: So if the driver is slumped forward and the dead man's device is continually activated, is that then read by the vigilance control as a tasked linked activity?

Mr GRAHAM: If a driver is incapacitated and the dead man's device is activated, then that completely overrides the vigilance control system. If the driver has let go of, for example, the T-bar that is required to hold the dead man out—if the driver is incapacitated and lets that go—the emergency brakes on the train apply instantaneously and that does not, in any circumstances, require the vigilance control system to go through its cycle. The dead man has applied the brakes on the train.

Ms SYLVIA HALE: Is it correct that the cost of the Waterfall inquiry is in the vicinity of \$40 million?

Mr GRAHAM: I cannot substantiate that number for you. I think the cost of the Waterfall inquiry is probably a matter administratively dealt with by the Premier's Department.

Ms SYLVIA HALE: Could you obtain that information for the Committee from the Premier's Department?

Mr GRAHAM: No, I could not.

Ms SYLVIA HALE: Is the cost of the inquiry likely to be met from the rail maintenance budget?

Mr GRAHAM: My understanding is that the cost of undertaking the inquiry, that is the inquiry staff, is certainly met external to the State Rail budget and met through some arm of the Premier's Department. State Rail is obviously responsible for its costs associated with representation at the Waterfall inquiry and for terms of reference No. 1. Around 80 per cent of our cost associated with representation of the Waterfall inquiry is met by our public insurance policy. The remainder of it obviously is met from the legal budget of the organisation, none of which at all interferes, impacts or reduces a maintenance budget.

Ms SYLVIA HALE: The cost so far as State Rail is concerned will be met either by the insurance you have or by the legal budget?

Mr GRAHAM: That is correct.

Ms SYLVIA HALE: At our last meeting I asked you about figures for public subsidies of CountryLink and CityRail services and I quoted the figure of 14¢ per passenger kilometre for CountryLink and 20¢ per passenger kilometre subsidy for CityRail. You said you had never heard of those figures. Can I now inform the Committee and you that those figures appear on page 47 of the Parry report under section 5.2.3, which states that "CountryLink's general subsidy is 14¢ per passenger kilometre while CityRail's is 20¢ per passenger kilometre". We assume those figures are correct. Given this information, what is the basis for claiming that CountryLink's public subsidy is unsustainable?

Mr GRAHAM: Sorry, where are you going? What is the source of the claim?

Ms SYLVIA HALE: It is the Parry report at page 47, section 5.2.3. Why should CountryLink be singled out on the basis of its unsustainable public subsidy when CityRail's subsidy is so much greater?

Mr GRAHAM: I cannot respond to a question on the language used by Dr Parry. They are his numbers, it is his report. It is his comment that it is unsustainable and given that it is his report, I think that is a matter better dealt with by Dr Parry and not by me.

Ms SYLVIA HALE: But surely you would be taking notice of the report. You must have some response. If it is a load of rubbish you would be required to say so.

Mr GRAHAM: You are asking me to give an understanding of what is behind a comment by Dr Parry in his report that CountryLink was unsustainable. As I say, I do not know. Clearly, he has made a judgment on the basis of his inquiries and what his researches indicated and I do not intend to interpret what was in his mind on that issue.

Ms SYLVIA HALE: But you would agree that we are seeing an environment in which CountryLink services are being cut or are proposed to be cut.

Mr GRAHAM: No, I do not agree with that. I would be more than happy to understand the basis of your comments that CountryLink services are being or proposed to be cut.

Ms SYLVIA HALE: There seems to be a lot of agitation in the rural press at the moment at the prospect of these cuts occurring, and there seems to be general consternation at the way in which maintenance of CountryLink services is not being carried out appropriately.

Mr GRAHAM: Again I will come back to the basis of your question, which I do not agree with, that there have been or propose to be cuts in CountryLink services.

Ms SYLVIA HALE: But last time you gave evidence I believe you commented that there could well be a replacement of CountryLink rail services by bus services.

Mr GRAHAM: No, you specifically put that question last time and I rejected that question.

<3>

The Hon. DAVID OLDFIELD: Are you aware of any other fires occurring on trains in the last five years?

Mr GRAHAM: Yes, I think there have been a couple of incidents that I am aware of associated with the high tension area of pantographs on particular sets, particularly when those sets are negotiating steep grades in the Blue Mountains in particular.

The Hon. DAVID OLDFIELD: In the not too distant future can you give the Committee written details of when, where, how, et cetera, in relation to those fires?

Mr GRAHAM: Given the time frame that has been set of next Tuesday, I will certainly do my best to provide a concise summary of the incidents that we can extract for you in that period of time.

The Hon. DAVID OLDFIELD: And any action that was taken as a consequence to avoid subsequent fires?

Mr GRAHAM: Certainly.

The Hon. JAN BURNSWOODS: I understand that the reason you have to leave early today is that you are convening an antiterrorism conference. Will you tell the Committee about that and its implications for State Rail?

Mr GRAHAM: The week before last there was a meeting of the National Counterterrorism Task Force which I attended, along with the Deputy Commissioner of NSW Police. At that stage we had a comprehensive briefing from both ASIO and the Office of National Assessment on the post-Madrid circumstances. An initiative of that meeting was that the Federal Department of Transport would convene a meeting, as a matter of some priority, of all the operating metropolitan rail roads, so that we could together have an understanding of the intelligence assessment and, obviously, look at what each organisation was doing in terms of their counter-terrorism actions, and seek to establish what the best practice benchmarks are, learn from one another and then move on from that learning to modify existing actions under the alert procedures as appropriate.

The Hon. JAN BURNSWOODS: I do have other questions to ask, but if members of the crossbench do not have any further questions, I wonder whether we should finish early and allow Mr Graham to go to the conference.

The Hon. MICHAEL GALLACHER: I have other questions.

The Hon. JAN BURNSWOODS: We have 20 minutes for Government questions but we are happy to waive those, given that Mr Graham has to leave. Otherwise we will go on with our questions.

CHAIR: I suggest you do that.

The Hon. JAN BURNSWOODS: I really think it would be more useful if Mr Graham could go a little early. I know he spoke to you before the hearing started. Obviously, it is a very important event.

CHAIR: Mr Graham indicated that he would like to get away in an hour from the commencement. I propose that we continue with our questions. If you want to skip your questions, the Hon. Michael Gallacher could ask his questions and we could then let Mr Graham go.

The Hon. MICHAEL GALLACHER: It would save time if the Government did not want to ask questions.

The Hon. JAN BURNSWOODS: Of course we have questions, but it seems to me that people may think Mr Graham's involvement in the counter-terrorism conference would outweigh the importance of our questions. I am happy to waive them, but not if it means more pettifogging questions from the Opposition, because that would be totally useless.

The Hon. DAVID OLDFIELD: Can I have some clarification? Is the Hon. Jan Burnswoods suggesting that the significance of what Mr Graham has to do outweighs the significance of her questions only if it also outweighs the significance of the Opposition's questions?

CHAIR: I think so, but we will proceed, because Mr Graham indicated to me what his timetable was.

The Hon. JAN BURNSWOODS: Could you give us an indication of the success of yesterday's fare-free day and its budgetary implications?

Mr GRAHAM: Because of the disruption that the network suffered during recent industrial issues associated with driver overtime bans, during the course of the disruption we offered our weekly and periodical passengers a week's free travel. We implemented that during the period of disruption and announced at that time that once we were through that period of disruption we would also provide our daily commuters, those who do not purchase periodical tickets but work on a daily, single or return ticket, a fare-free day as some compensation for those who were affected by the disruption. That fare-free day occurred yesterday. Judging from the passenger numbers, particularly passengers who took the opportunity for a free trip to the Blue Mountains, we certainly had significantly higher levels of passengers than normal, which underpins that basic economic principle that when the price is free the demand is potentially infinite.

We certainly saw a response to that. That fare-free day was by way of an apology to our customers for the problems that they encountered during the period of disruption. While we did have an unfortunate fatality last evening at Glenbrook, it appears to be not associated with a rail accident. We had a fatality at around 6.00 p.m. last night and, because of the associated police operation, we shut down the main western line around Lapstone for a period of time. That would have, unfortunately, disrupted some of the later transport activity for people going to and coming from the Blue Mountains. But I am sure the community broadly understands the need for those closures in that type of police operation.

The Hon. JAN BURNSWOODS: I would say again that, looking at the questions I have at this stage, I think it would be much more sensible if the Committee allowed Mr Graham to go about his important business. As this stage I will delay any further Government questions unless there is another round.

The Hon. MICHAEL GALLACHER: In regard to random drug tests, if, for example, a driver is tested today at a station, how long is it before you get the result of that random drug test?

Mr GRAHAM: It is a urine-based drug test, so once the sample is taken—and there are very substantial control procedures, a chain of custody issues associated with that testing—that sample then goes to an accredited laboratory and the results would be back to us within 48 to 72 hours as normal.

The Hon. MICHAEL GALLACHER: If the driver is subjected to a random drug test as opposed to a random breath test—because the breath test will give instantaneous results for alcohol—he undergoes the urine test and continues with his duties for at least the next 48 to 72 hours?

Mr GRAHAM: That is correct.

The Hon. MICHAEL GALLACHER: Is there a better way to get a more instantaneous result?

Mr GRAHAM: Yes. I think the difficulty is that we do not have technology that is currently available, as random breath testing is, for an instantaneous response to the range of drugs that are of concern and covered by the urine-based drug test that we do.

The Hon. MICHAEL GALLACHER: Are you aware of the patent that was given in April 2002 to an on-the-spot drug testing procedure called Rapiscan by Cozart, an English company? The Italian police are using it, the English police are using it and the Victorian police are now considering using it. It gives an on-the-spot test result in 12 minutes. Why have we not gone down the path of looking at this sort of technology?

Mr GRAHAM: I am aware that the Victorian police are testing that. The New South Wales police, as I understand it, have elected not to test that at this point in time. We do need to have an accredited process under the Australian standard and under the regulations provided by the regulator. At this point in time urine-based drug testing under Australian standard 4308 is a specified test by the regulator for rail operators who are undertaking a drug and alcohol testing program.

The Hon. MICHAEL GALLACHER: What inquiries have you conducted in the process of moving towards the random drug testing introduction to look at alternatives to our 72-hour proposal, which I do not think the public will be particularly excited about, in light of what I have just told you with Rapiscan?

Mr GRAHAM: Again, could I come back to the fundamental assumption in the question: Why does one undertake random drug testing? It is to ensure that there is an understanding in the work force that if you are going to use illicit drugs and be under the influence of illicit drugs at work there is a high probability that you will be caught and that there are consequences as a result of being caught. We undertake the drug testing program as a preventive measure to ensure that our staff understand that if you are under the influence of drugs or alcohol then there is a probability that you will be caught and that there will be consequences as a result of that. The introduction of drug testing in our organisation commenced in February of this year. We have undertaken approximately 50 of those tests, and I have already, personally, been tested under the random urine-drug testing program.

The Hon. MICHAEL GALLACHER: The problem as I see it is that it is a bit like the emergency evacuation procedure: until the Government is challenged it does not do anything about it. It proceeds full steam ahead. In the area of drug evaluation we have technology available that can give the community confidence to know that the absolute utmost is being done to use technology to prevent an accident. I would hate to think that we have to wait for an incident for the Government to say, "Our 72-hour policy is not the right one, and we are going to introduce something new" when it is available on the market now. Why are you not standing up and saying, "We are in the process of looking at this" rather than waiting for the police? Why is RailCorp, which has a bigger problem with its culture right now, not standing up and saying, "We are going to initiate a review of this as well as the evacuation procedures"?

Mr GRAHAM: As I said, the introduction for the first time of random urine-based drug testing is a very significant and substantial improvement in the testing programs and the drug and alcohol program of the organisation at large. It is a significant step ahead in ensuring that we have in place accredited processes, accredited by the regulator, to introduce random drug and alcohol programs. I have no doubt that over time technology for drug testing will improve to the point where regulators are prepared to accredit it as a defined testing process. At this point in time that technology is not to a standard that the accrediting authorities are prepared to incorporate in its regulation.

The Hon. MICHAEL GALLACHER: Is the union movement the accrediting authority in this?

Mr GRAHAM: I think the issues associated with random alcohol and drug testing have been, in organisations, a concern. I am not just talking about rail here: I am talking about the aviation and other industries both in this country and in other countries. The issues associated with that have been of concern to the union movement, and I understand that. But we have pressed ahead in accordance with the timetable we have nominated for the introduction of both random alcohol testing last October and random drug testing, on schedule, from February.

The Hon. MICHAEL GALLACHER: Before you move towards introducing new technology that would give you a virtual instantaneous result, which we are seeing other jurisdictions apply, do the unions have to sign off and agree? That is, technology other than the 72-hour technology that we have now, which also depends on how many samples you undertake, and the turnaround time.

Mr GRAHAM: I think the union movement would be more than happy to adopt the best technology that is available. Presumably, we all have an underlying priority here, and that is the protection of public safety.

<4>

The Hon. MICHAEL GALLACHER: I understand that in the Rail Corporation guidelines for random drug testing methadone as a substance is not tested. Is that correct?

Mr GRAHAM: I would need to get technical advice in terms of the chemical constituents of methadone before I gave a response to that.

The Hon. MICHAEL GALLACHER: Are you prepared to come back to the Committee with a response to that? Can you also indicate to the Committee if in fact it is the case that methadone is not a substance tested in a random drug test? Why is methadone not tested in a random drug test?

Mr GRAHAM: I am more than comfortable to come back with a response to that question.

The Hon. MICHAEL GALLACHER: Is there a limit to the number of drug tests that you propose in the first year?

Mr GRAHAM: A limit for the individual, or a limit for the organisation?

The Hon. MICHAEL GALLACHER: A limit for the organisation.

Mr GRAHAM: I certainly have a budget allocated for that on the basis of the original proposal put to me for the number and cost of tests. I took a decision to triple it.

The Hon. MICHAEL GALLACHER: Can you tell us how much that budget is and how many tests will therefore be the subject of that tripling?

Mr GRAHAM: I do not intend to convey the number of tests that will be conducted or the areas they will be conducted because it is the random nature of these tests that is important in terms of its deterrent. Just as the police do not let you know the time of day that they will be undertaking random breath tests in your local area, I do not intend to foreshadow and diminish the random nature and deterrent effect of our drug and alcohol tests.

The Hon. MICHAEL GALLACHER: But surely you are in a position to tell us how much has been allocated in the budget.

Mr GRAHAM: I am more than happy to come back with the budget number.

The Hon. MICHAEL GALLACHER: So you do not know.

Mr GRAHAM: Off the top of my head on that issue, given that this is the fifth time I have been here, and given that you have had ample opportunity to give us pre-notice of questions that you

want to ask at these proceedings, had you taken the initiative to do that I would have been able to give you that number.

The Hon. MICHAEL GALLACHER: But a few moments ago you said you tripled it. Therefore, you must have had an understanding of what the base figure was.

Mr GRAHAM: Yes, I had an understanding of the base number of tests that were proposed, and I tripled that base number of tests and consequently tripled the budget in terms of the price per test.

The Hon. MICHAEL GALLACHER: But you do not know the exact amount allocated in your budget.

Mr GRAHAM: I will undertake to come back to you with that precise amount.

CHAIR: If I could ask you a question about train-to-train communications, and referring to the Glenbrook final inquiry, can you advise the Committee why the metronet and countrynet train communications systems are still not compatible?

Mr GRAHAM: In terms of giving you the technical response to that incompatibility, I would need to take advice of the technical specialists, but in terms of the implementation of the effective communication process, recognising that we have a countrynet radio system that is not only the system used by the Rail Corporation and State Rail; it is the system in the country areas that is used by all other operators. The issues associated with mandating and regulating the totality of that system is something that is also a matter for the regulator.

CHAIR: Is it correct that there is a review under way? I understand from the RTBU Rail Corporation update a month ago that a train-to-train communications review is being undertaken, which will include input from the RTBU locomotive division. Is that correct?

Mr GRAHAM: Yes, and it goes a little broader than that as well. Because of the interstate nature of operators who are utilising this radio system in New South Wales—for example, we have trains coming into New South Wales from Adelaide, Perth and Melbourne, each of those networks having its requirement for either UHF or VHF radio systems—part of the review that we are undertaking, in consultation with the Federal authorities, is to determine whether as part of this review we cannot get a spectrum allocation from the spectrum management authorities that will allow us to introduce a common frequency and a common spectrum for all railway operations throughout Australia, rather than have the 19 or 20 different radio frequencies and systems that are required of interstate operators on the Australian network at this point in time.

CHAIR: When is that review expected to be completed?

Mr GRAHAM: The elements of the review are on different time scales and depending on the specificity of that question I would do my best to get a response to you on that question by your stated time of, I think, next Tuesday.

The Hon. MICHAEL GALLACHER: Turning back to the issue of the drug testing, how many random drug tests have you done so far?

Mr GRAHAM: I think it is somewhere between 50 and 60.

The Hon. MICHAEL GALLACHER: Fifty or 60 for what period of time?

Mr GRAHAM: Since we introduced it in February, so over the past three weeks approximately.

The Hon. MICHAEL GALLACHER: I have been told that there will be a total of 3,000 tests done in the first year. I recognise that you will not answer that question. However, let us just imagine that it is 3,000 and you reach that 3,000 figure by, I do not know, vigilance and everyone is

out there doing their job. You reach it by September. What happens then if there is no money left in the budget?

Mr GRAHAM: The amount of money in the budget and the number of tests undertaken will be done on the basis of an audit plan for the duration of the financial year. So the pace at which we undertake these will recognise both our deterrent strategy and the budget and the period of time.

The Hon. MICHAEL GALLACHER: Do you agree that the tests that you conduct are directly related to the deterrent effect? Therefore, the stronger the number that you are putting out there—if you were to say you are going to test 3,000 this year and if you run out of money you will get more money, instead of sitting back and saying, "I am not going to tell you how many"—and I have a differing view in terms of the police. The police do not say, "We are running out of money. We are going to stop random breath testing or random drug testing". They keep going. Why are you not pushing it much stronger?

The Hon. JAN BURNSWOODS: Presumably they have a plan.

The Hon. MICHAEL GALLACHER: That is the point. The interjection from the Hon. Jan Burnswoods is right.

The Hon. JAN BURNSWOODS: If you stopped asking hypothetical questions and asked a real question—

The Hon. MICHAEL GALLACHER: Presumably the police have a plan. The concern I have is that the Rail Corporation does not have a plan on this.

The Hon. JAN BURNSWOODS: The witness has already told you that he does.

The Hon. MICHAEL GALLACHER: Why are you not out there? Instead of sitting back and not saying how many tests, if you have 3,000, why are you not out there saying, "We are going to do these. We guarantee that one in three or one in two will be tested."

Mr GRAHAM: I have no financial constraints on the totality of the number of tests or the budget that I can expend on this program. We will ensure that the program that is put in place is comprehensive and that it has a deterrent effect.

The Hon. MICHAEL GALLACHER: Let me get it right. Someone uses heroin this morning, they turn up to work and get on their train to start work for the day. For the next couple of days—in fact, anywhere up to the next three days—am I right: If they undergo that test today, although they have used heroin or amphetamine this morning they are not likely to be pulled up by you as a result of the drug test for at least another two to three days, allowing them to drive trains on our system unchecked.

Mr GRAHAM: Asking the question in a louder voice does not in fact change the question you asked me about 25 minutes ago.

The Hon. MICHAEL GALLACHER: But you have not answered it, clearly. Are you saying that you are allowing them to roam around the system? They are roaming around unchecked.

Mr GRAHAM: I have already answered your question.

The Hon. MICHAEL GALLACHER: Then why are you not doing something more positive about it.

The Hon. PETER PRIMROSE: We do not want a statement from you. Let us just hear what the answer is.

Mr GRAHAM: I have already indicated to you that under the requirements of the regulator, under the requirements of Australian standard 4308, we are implementing that standard. We are implementing that process. We are for the first time implementing random drug testing in the

organisation in a way that is accredited and within the Australian standard. The fact that it takes a laboratory a period of time to do this test or to do any other pathology that laboratories undertake is a direct result of the accredited process we are undertaking. To suggest that that is not a significant improvement in the safety management of the organisation just defies belief.

The Hon. MICHAEL GALLACHER: What defies belief is that you are not saying that this is not good enough.

The Hon. JAN BURNSWOODS: Point of order: When the Government members said that we would leave our questions for the moment, the Opposition since then has had 16 minutes. Mr Graham's time expires in seven minutes so should it not be well due that the crossbenchers and then the Government have their second round? Well overdue, I would have thought.

CHAIR: I did not know you were going to have a second round.

The Hon. JAN BURNSWOODS: I said that we would leave our questions for the moment because we firmly believe that Mr Graham could go and do something else but the crossbenchers also have rights here. The Opposition has now spent 17 minutes on its second round, yet there is now only six minutes for Mr Graham to go. So it does seem to me that by now we should have had the crossbenchers and be back to the Government.

CHAIR: I think it is very generous of you to look after the crossbenchers. I have been casting my eye in their direction and I am sure they can speak up.

The Hon. DAVID OLDFIELD: I have been very interested in Mr Gallacher's questions but perhaps Ms Sylvia Hale has some questions.

Ms SYLVIA HALE: I have one specific question to ask, but I am happy for Mr Gallacher to—

The Hon. PETER PRIMROSE: Harangue the witnesses.

Ms SYLVIA HALE: —take what time is left over after the answer to my question to obtain more detail. Mr Graham, with the drug testing, you say that it is random and you certainly do not wish to give any details. Are the tests being distributed proportionately across CountryLink and CityRail drivers, or are you focusing on one branch as opposed to the other, so there will not be a focus just on one of those arms?

Mr GRAHAM: No, as a total group of drivers there would be no difference in the audit plan between CountryLink and CityRail rivers.

Ms SYLVIA HALE: So there would not be a singling out of CountryLink drivers for testing prior to the testing of CityRail drivers?

Mr GRAHAM: No.

Ms SYLVIA HALE: None whatsoever.

Mr GRAHAM: No. What I have indicated in my discussions with the unions is that the roll-out of random urine-based drug testing will follow a briefing program and an education program that we are currently rolling out at each location. I have given an undertaking to each of those groups of employees that the random testing would not commence before 14 days had elapsed after the briefing sessions at their location. I think it is fair that the employees are provided at each of the locations with an understanding of the regime and the testing program so that they clearly understand its implication.

Ms SYLVIA HALE: So how are you determining the order of locations for the briefing?

Mr GRAHAM: I am not personally doing that but clearly we have to get that right across the organisation, and that is being prioritised by the management in the area that is looking after this.

Ms SYLVIA HALE: So there will not be any prioritising of, say, CountryLink as opposed to CityRail?

Mr GRAHAM: No.

Ms SYLVIA HALE: You will be doing both simultaneously?

Mr GRAHAM: Yes, within the resources we have available. There is certainly no intention to prioritise one group of drivers over another group of drivers.

The Hon. KAYEE GRIFFIN: Mr Graham, my question relates to issues of easy access in terms of where things are at present with the roll-out of all the stations having that easy accessibility. I know that this may get into future budgetary questions, but what is the program at the moment and where is it going from here?

Mr GRAHAM: The easy access program is a program of station upgrading that is required under Federal disability legislation. Under that program, we are required to provide appropriate access to our 302 stations by 2022. We are currently approximately one-quarter of the way through that program, and there is a continuing commitment at an expenditure of about \$80 million per annum to continue in forward years with that program.

<5>

The detail of the individual stations that are subject to upgrading under that easy-access program is continually part of the broader State Government announcements on the capital program for the State. I would expect that commitment to \$18 million a year into the future would continue to allow us to implement the easy-access station upgrading program.

The Hon. JAN BURNSWOODS: Mr Graham, could you tell us about the airport line, that expensive monument to the Fahey Government—

CHAIR: I indicated to Mr Graham that we would allow him to leave at 11.00 a.m.

The Hon. JAN BURNSWOODS: Excellent! I waive my question.

CHAIR: Mr Graham, how are you going with the reply to the question on notice regarding the rail contractors?

Mr GRAHAM: I have that documentation with me. I will leave it with you.

Documents produced.

(Mr Graham withdrew)

The Hon. MICHAEL GALLACHER: Mr Stott, can you indicate why Mr Bill Watson is not here? Why has he not been invited to attend today, as he is still a public servant?

Mr STOTT: Mr Watson is not here because he was removed from his position yesterday afternoon, at 3 o'clock.

The Hon. MICHAEL GALLACHER: Who made the decision to remove him from that position?

Mr STOTT: I did.

The Hon. MICHAEL GALLACHER: Was he invited to attend this morning?

Mr STOTT: I understand that he was requested by the Committee to attend.

The Hon. MICHAEL GALLACHER: Did you speak to him about this at all, about him attending today?

Mr STOTT: No.

The Hon. MICHAEL GALLACHER: No discussion with him whatsoever about his attending today?

Mr STOTT: No.

The Hon. MICHAEL GALLACHER: I take it, therefore, that you will be in a position to answer all questions in relation to Sydney Ferries, to the full satisfaction of the Committee, in his absence?

Mr STOTT: Any questions that I cannot answer on Sydney Ferries today I will be pleased to take on notice and respond by close of business Monday.

The Hon. MICHAEL GALLACHER: Can you indicate why Mr Watson was dismissed at 3 o'clock yesterday afternoon?

Mr STOTT: I was provided earlier this week with information that indicated that certain decisions had been taken within Sydney Ferries. Those decisions caused me some serious concern. I inquired further and satisfied myself that Mr Watson's position was no longer tenable and I removed him.

The Hon. MICHAEL GALLACHER: Are we talking about maladministration or corruption in terms of those decisions?

Mr STOTT: We are talking about some management decisions. I would prefer not to go into detail; there are related investigations still under way.

The Hon. MICHAEL GALLACHER: In the course of those related investigations are you in a position to tell the Committee whether you have referred them to an outside authority? If so, which outside authority?

Mr STOTT: I have not referred them to an outside authority.

The Hon. MICHAEL GALLACHER: You are dealing with them internally at this stage?

Mr STOTT: They have been referred to me by an outside authority. I am dealing with them through my normal audit function, in which I have complete confidence, and I have the assistance of an independent adviser who is doing the detailed investigation work.

The Hon. MICHAEL GALLACHER: What sort of time frame are you talking about, for both the allegation and the investigation?

Mr STOTT: My report to the authority that referred the material to me is returnable in about two weeks time.

The Hon. MICHAEL GALLACHER: Had you conducted any preliminary investigations before dismissing Mr Watson?

Mr STOTT: My audit team has been investigating a series of issues for some time. They were in a position this week to provide me with information which showed that I should be seriously concerned about certain actions within Sydney Ferries.

The Hon. MICHAEL GALLACHER: Has Mr Watson been interviewed by you as yet?

Mr STOTT: Mr Watson was interviewed by me yesterday morning and again in the afternoon.

The Hon. MICHAEL GALLACHER: Without going into great detail, because I suspect you will not tell us anyway, is it normal practice to dismiss or to stand down pending the outcome of an investigation?

Mr STOTT: It depends on the nature of the incident or the issue. In the case of senior executive service people, when there are issues which are clearly of major concern, it is appropriate to remove the officer. In less serious cases an officer might be suspended or stood aside.

The Hon. MICHAEL GALLACHER: Are we talking criminal offences here?

Mr STOTT: I prefer not to comment.

The Hon. MICHAEL GALLACHER: We are talking about some fairly drastic action taken by you on the eve of a witness appearing before the Committee, a witness who has never been called before the Committee.

The Hon. JAN BURNSWOODS: I am sorry, the witnesses were called last time but we did not get around to them.

The Hon. MICHAEL GALLACHER: No, Mr Watson was unable to attend.

The Hon. JAN BURNSWOODS: Let us get things straight, Mr Gallacher, rather than make things up as we go along.

The Hon. MICHAEL GALLACHER: I am very interested to hear the circumstances leading up to that dismissal, to be confident that there is not something else at stake for his non-appearance today.

Mr STOTT: Let me say categorically and absolutely clearly that the issues relating to Mr Watson's removal yesterday have absolutely no connection with this hearing today. As I dealt with Mr Watson yesterday the matter of this hearing today did not cross my mind.

The Hon. MICHAEL GALLACHER: Did Mr Watson agree or disagree with the allegations?

Mr STOTT: Mr Watson accepted my decision.

The Hon. MICHAEL GALLACHER: He accepted your decision that he should be sacked immediately?

Mr STOTT: He accepted my decision that he was to be removed.

The Hon. MICHAEL GALLACHER: Stood down or sacked?

Mr STOTT: Removed, under section 77 (1) of the appropriate legislation, which permits the removal of a senior executive service officer summarily and without giving reason.

The Hon. MICHAEL GALLACHER: In a public service sense, not a physical sense, where is Mr Watson now?

Mr STOTT: Mr Watson is not an employee of State Transit or Sydney Ferries. He is not on our premises.

The Hon. MICHAEL GALLACHER: Is he still a public servant?

Mr STOTT: No.

The Hon. MICHAEL GALLACHER: He has been removed completely?

Mr STOTT: He has been removed.

The Hon. MICHAEL GALLACHER: Removed completely, so he has been dismissed. On the issue of the *Lady Herron* crash, are you able to indicate whether the master was undergoing type rating?

Mr STOTT: I am not in a position to answer, I will have to take that on notice.

The Hon. MICHAEL GALLACHER: Of course, that is the concern I have, that Mr Watson takes with him the very information that this Committee was seeking on a number of issues.

Mr STOTT: I do not think that is a good conclusion at all.

The Hon. MICHAEL GALLACHER: I think it is a fair conclusion.

Mr STOTT: Mr Watson does not have in his mind everything that happens in Sydney Ferries, and he is certainly not the only person who has that information. There are several other people and there is also, as you know, a Waterways Authority investigation. There is no difficulty in providing you with a complete update on the *Lady Herron* by close of business Monday.

The Hon. MICHAEL GALLACHER: Has that investigation concluded?

Mr STOTT: I cannot answer that. I am not doing the investigation.

The Hon. MICHAEL GALLACHER: Do you monitor the progress of the investigation?

Mr STOTT: I shall be doing that from today.

The Hon. MICHAEL GALLACHER: When did you take a decision? When did this investigation commence into Mr Watson?

Mr STOTT: I was provided with information about the decisions that had been taken in Ferries, earlier this week. On Wednesday—

The Hon. MICHAEL GALLACHER: By an outside authority?

Mr STOTT: No. Matters were referred to me by an outside authority. I have had people investigating this, both internal and external people. I was provided by those people with information earlier this week, Wednesday to be precise, as to some decisions that have been taken in Sydney Ferries and I decided I had to act on those at that time.

The Hon. MICHAEL GALLACHER: Was that a watchdog authority, a departmental or government authority?

Mr STOTT: The Independent Commission Against Corruption.

The Hon. MICHAEL GALLACHER: Thank you. I take it therefore that there is no value in asking you any further questions about the *Lady Herron* case at this stage?

Mr STOTT: No, but I will willingly take your question on notice. As you know, I will work hard to give you all of the details you require.

The Hon. MICHAEL GALLACHER: I appreciate that, thank you. Are you aware of all the issues in regard to the Parramatta RiverCat service?

Mr STOTT: Which particular ones?

The Hon. MICHAEL GALLACHER: I am concerned about the suggestion that Sydney Ferries will shortly announce that services to Parramatta are to be reduced. I wanted Mr Watson's view in regard to those concerns.

Mr STOTT: I can tell you that there are very significant concerns about erosion in the upper Parramatta River. The work that has been done shows that erosion is largely caused by vessel movements. There is a major decision to be taken about how we can continue to justify transitions of heavy vessels. That does not mean that there should not be a ferry service, but there has been long-term monitoring performed by the Waterways Authority over some six or seven years. It is quite clear that a lot of the bank erosion comes from vessel movements. Given that the Parramatta service specifically has a fairly significant sightseeing component, as opposed to a commuter component—because you will appreciate that the travel time from Parramatta to Circular Quay is 65 to 70 minutes, whereas it is about 18 minutes by rail—it is not a natural mass transit corridor.

A decision has to be taken about just what sort of traffic the river can bear. The long-term study shows that, for instance, in areas around Duck Creek growing mangroves are being loosened. It also shows some evidence of siltation. I have lived with this for 12 years, because I project-managed the dredging there. I am acutely aware of just how fragile that environment is. If, in fact, the main attraction of that trip is that people like to travel up to Parramatta and want to see something of Parramatta, want to see what remains of some of our natural riverfront, we will have to find a way to take care of it.

The Hon. MICHAEL GALLACHER: Mr Stott, I have been told that what will happen very shortly is that the Parramatta services will be reduced, in fact some will be terminated, and will commence from Rydalmere. Is that consistent with what you believe at this stage?

Mr STOTT: I cannot really add to what I have already said.

The Hon. MICHAEL GALLACHER: Is Rydalmere affected by the tidal flows and erosion by boats?

Mr STOTT: Rydalmere is still close to affected areas, just across the river from the Duck Creek-Silverwater-Auburn areas. I am not putting this lightly; there is a significant environmental problem in that part of the river. We could convert it into something like the Cooks River, where in the 1950s we sheet-piled the whole river. It has now become a drain, as Ms Griffin knows only too well. It was a very poor decision, and we now have river that is unuseable.

The Hon. MICHAEL GALLACHER: Are you aware of a previous agreement between Sydney Ferries and Premier Cabs to assist Sydney Ferry employees in the evening, that allowed Premier Cabs to take employees home?

Mr STOTT: There is an agreement that goes back quite some years. Is that the one you are talking about, or a more recent one?

The Hon. MICHAEL GALLACHER: One that was cancelled about 12 months ago.

Mr STOTT: Okay, yes, I am aware of that.

The Hon. MICHAEL GALLACHER: The circumstances surrounding the cancellation and the subsequent reallocation, if you like, of that agreement to another organisation, is that subject to any internal investigation being conducted by you right now?

Mr STOTT: No.

The Hon. MICHAEL GALLACHER: It is not?

Mr STOTT: No.

The Hon. MICHAEL GALLACHER: Have you investigated those concerns? Obviously you are aware of what I am referring to?

Mr STOTT: I have not had concerns about that particular issue referred to me.

The Hon. MICHAEL GALLACHER: But you are aware of the previous agreement. Who now has the agreement in light of the fact that Premier Cabs no longer has it?

Mr STOTT: No, I am not aware of that. I will have to get back to you.

The Hon. MICHAEL GALLACHER: Have you ever inquired into why the contract with Premier was ended?

Mr STOTT: As I said, this matter has not been referred to me as an issue.

The Hon. MICHAEL GALLACHER: But you indicated that you were aware of it?

Mr STOTT: I was aware of it; I had heard that the contract had changed.

The Hon. MICHAEL GALLACHER: You never inquired as to why the change?

Mr STOTT: It was not referred to me as being a problem. I took it as being a routine change of supplier.

The Hon. MICHAEL GALLACHER: Has there ever been raised with you a suggestion of a potential conflict of interest with Mr Watson in regard to this new contract?

Mr STOTT: No, there has not.

The Hon. MICHAEL GALLACHER: You know nothing further at this stage?

Mr STOTT: Nothing.

The Hon. MICHAEL GALLACHER: Nothing?

Mr STOTT: In terms of the details that I have dealt with in the last two days, there is no mention of any contract with any transport provider.

<6>

CHAIR: How many staff members are in the Sydney Ferries operational management team?

Mr STOTT: I met with the management team this morning. There are roughly 11 people on the team. I may be one or two out.

CHAIR: Have those numbers stayed reasonably consistent over the past four years?

Mr STOTT: There were some significant changes in the management structure of Sydney Ferries following the Waterways review—the Taylor review—of Sydney Ferries that commenced in 2001.

CHAIR: But have the numbers stayed at about 11? Is that correct?

Mr STOTT: There are probably additional management positions now compared with pre-2001. In particular, the training and safety functions have been significantly expanded.

CHAIR: By how many?

Mr STOTT: A training manager and a safety officer have been added to the team. That was a specific recommendation of the Taylor review.

CHAIR: Could you give us the actual numbers for 2000 and the present by close of business on Monday?

Mr STOTT: Certainly.

The Hon. MICHAEL GALLACHER: Mr Stott, returning to the issue we were discussing previously, will you give an undertaking to the Committee to investigate allegations of a conflict of interest and a possible relationship between Mr Bill Watson, former General Manager of Sydney Ferries, and Mr John Aquilina—no relation to the Speaker of the Legislative Assembly—who is alleged to operate a trunk service that has taken over from the agreement that existed previously between Sydney Ferries and Premier cabs? Could you look at that contract in the course of your investigations?

Mr STOTT: I will give an undertaking to the Committee that I will have investigated any allegation that is referred to me officially in writing, with sufficient supporting detail for me to pursue the matter. That is standard practice in my agency. If someone can indicate their concerns we will investigate those concerns fully.

The Hon. MICHAEL GALLACHER: The Opposition has been told that there is a relationship between Mr Watson and the operator of this trunk service who now has an agreement with Sydney Ferries. That relationship is a brother-in-law relationship. Do I take it therefore that you will now look at that agreement and report back to the Committee?

Mr STOTT: This is the first time that I have heard mention of Mr Aquilina. It is not a name that has been on my radar previously. As I said before, I assure the Committee that if I can be provided with any information officially—if someone can write to me and give me these allegations—I will investigate them. I think it is a bit broad to say, "Here it is now; will you go away and look at it?" Certainly I will, but if you can give me the details out of here I will chase them down.

The Hon. MICHAEL GALLACHER: I have given you the details. The details I have given you will be recorded in the transcript and available tomorrow.

Mr STOTT: I assume that you have additional material besides this bare statement.

The Hon. PETER PRIMROSE: Point of order—

CHAIR: I suggest that we consider the matter at the deliberative after the hearing and then write to Mr Stott.

The Hon. PETER PRIMROSE: Given the issue of parliamentary privilege, I am sure that the Leader of the Opposition is well aware that because he has raised the issue here it cannot be considered by any tribunal outside here. It would be appropriate for him to write and to raise these allegations. No-one has problems with their being raised, but there are real problems about raising matters under privilege and for those matters then to be considered by an outside body. That is my only comment. I leave the rest in your hands, Madam Chair.

The Hon. MICHAEL GALLACHER: I make the point that I have raised the matter with Mr Stott. He is investigating other matters that we are told are not related to this issue but they may subsequently be related to it—who knows? We do not know because we have not been told.

The Hon. PETER PRIMROSE: Give him the evidence in writing.

The Hon. MICHAEL GALLACHER: I have put the allegations to you, Mr Stott, and I ask you at least to consider what I have told you today and consider looking at the agreement that has been in place for the past four months.

The Hon. JAN BURNSWOODS: Madam Chair, I think the Clerk is trying to advise you. It might be sensible if Mr Gallacher kept his mouth shut.

The Hon. PETER PRIMROSE: Especially if he does not understand privilege. I am not trying to stop this from happening; I am simply suggesting that it is very difficult, now that it has been raised in this forum, for it to be considered.

CHAIR: As I said before, we can consider this matter at the deliberative after the hearing and decide whether the Committee will write to Mr Stott or whatever.

Mr STOTT: The normal course of action for allegations is that the person concerned communicates either with one of the watchdog agencies or directly with the agency concerned, puts their evidence forward and we investigate and report back. All I am asking is, rather than having a broad allegation—I assume there is more information than that—I would like to have the whole picture before I start having this matter investigated.

The Hon. MICHAEL GALLACHER: We were expecting Mr Watson to be here today. Those allegations were going to be put to him. But in the absence of Mr Watson we put them to you, as you are now conducting an internal investigation. That is why I put the allegations to you in that form. I take on board your comments but I want to explain to you the rationale for raising them with you in light of what you are currently undertaking.

Mr STOTT: I fully understand that. I am saying that it is my practice to fully investigate any concerns or allegations referred to me that appear to have substance.

Ms SYLVIA HALE: Mr Stott, it has been a characteristic of all these hearings that witnesses are accompanied by a phalanx of advisers. Yet today there were three and now there are only two. In light of Mr Watson's departure, do you think it would have been advisable for you to be accompanied by some assistants who could provide you with the relevant information?

Mr STOTT: You may have noticed over the past four hearings that it is not my habit to appear with a phalanx of advisers.

Ms SYLVIA HALE: They were Mr Lee's.

Mr STOTT: Mr Lee is not accompanying me.

Mr LEE: May I make a point on that issue, Madam Chair?

Ms SYLVIA HALE: I withdraw that remark. It is irrelevant.

Mr LEE: May I make a point, Madam Chair?

CHAIR: No, we will get back to you later, Mr Lee.

Mr STOTT: In respect of Sydney Ferries, I think it is pertinent to note that I have had overall carriage of Sydney Ferries management for some eight years and I am well across the business dynamics of Sydney Ferries. I may not be as well across the issues over the past three months because, as I explained at an earlier hearing, Sydney Ferries is going through a process of disassociation from State Transit. As it moves towards corporatisation, State Transit management has had less day-to-day involvement. I am now, as of yesterday, resuming my role.

Ms SYLVIA HALE: I would like to address the question of drug and alcohol testing for the ferries. Can you explain how Sydney Ferries will operate its drug and alcohol testing regime, which I understand is to commence on 31 March?

Mr STOTT: In the case of ferries and buses, we are some months behind the rail initiatives. The Minister announced earlier this year that he was bringing forward the alcohol-testing requirements from July to March. In both of those divisions we have now completed most of our preparations, and by 31 March we will be ready to proceed. We are moving on alcohol first. The deadline for a drug-testing regime is September this year. All of our work at the moment has gone into alcohol testing. We will be providing a random testing regime, which will test people primarily before sign-on but also during working hours. Our thinking is that the primary objective is that if anyone were alcohol affected we would like to ensure that they do not get on the road or on the water. That will be supplemented with testing where we have cause for concern that someone might be impaired. There are also some situations in which testing is automatic, such as incidents on the water. If there is a ferry incident it is regular practice to automatically test the crew. That will continue.

Ms SYLVIA HALE: How many workers do you anticipate testing each week?

Mr STOTT: I cannot give you a figure here and now. We are implementing a test regime that is based essentially on random tests. The random testing is done to a scientifically designed sampling process—it is not the number you test that matters; it is where you do them, when you do them and the degree of announcement. This is like quality-control sampling. You can do an awful lot by placing your testing well. At the moment because of the shortness of time we have retained an external provider to do the testing. It is accredited and works for other major agencies and businesses. That relationship is for a short period—three months. During that three months we will be publicly tendering for the supply of services. At that stage the size and shape of our program should become evident.

Ms SYLVIA HALE: How long do you expect each test to take?

Mr STOTT: A test that proves negative will take about 30 seconds.

Ms SYLVIA HALE: With regard to alcohol, I presume that you do not expect the testing to result in any delay to scheduled services?

Mr STOTT: No. The only delay would be in the hopefully nonexistent event that somebody blew positive, in which case we would need to take them away for detailed breath analysis. You will be aware that the sample test is not accurate and acceptable in the courts so we would have to find an alternative operator quickly.

Ms SYLVIA HALE: If someone tested positive do you anticipate that the scheduled service would be cancelled?

Mr STOTT: No.

Ms SYLVIA HALE: So you have no feeling that normal services will be disrupted in any way by the testing regime?

Mr STOTT: We are taking particular care to be sure that we can continue to provide services. We have consulted with our staff all along the way about this and their response is very positive. Our staff on the road and on the water have worked for many years within breath testing regimes enforced by police or water police. So they are actually seeing an upgrading of the system. I think most of them understand that this is something that gives the public confidence. They also understand that we will not test in a way that causes our services to be delayed.

Ms SYLVIA HALE: You said that you were "taking particular care". What do you mean by that phrase?

Mr STOTT: "Particular care" means—

Ms SYLVIA HALE: What specifically are you doing?

Mr STOTT: "Particular care" means that you do not intercept somebody who has already signed on and is walking out to get on the ship or on the bus—in which case, you would certainly cause delays. A lot of random testing will occur in the depots before sign-on because, under the legislation, you are subject to testing once you leave home on your way to undertake transport safety work. We will also do some testing at turnaround points—at wharves and at lay-over points for the buses—when people have time, 5 or 10 minutes, before the next test.

Ms SYLVIA HALE: If someone tested positive at a turnaround point 5 or 10 minutes before their shift what impact would that have?

Mr STOTT: If someone tests positive it will be necessary to find quickly another operator who can run the service. I cannot rule out the fact that we might test someone positive at Homebush Bay wharf, for example, and there will clearly be a delay before we can put someone else on. But I think we are talking about very low probabilities.

Ms SYLVIA HALE: But you say that you envisage having a pool of people available for service should they be needed instantly.

Mr STOTT: No, I do not need to employ extra staff on the supposition that somebody might be tested. We have regular adjustment of services. For instance, in the bus area we have a component of work called "work as directed". This is because when you pack work into a roster, even though it is done in a very sophisticated manner with a highly complex computer system, you still find bits of the day that you cannot fully fill.

<7>

So at any given time there could be somebody around who has 15 or 20 minutes to spare. If worse comes to worst, our inspectors are always within about 15 or 20 minutes of any of our buses or ferries.

Ms SYLVIA HALE: Mr Stott, in relation to the *Collaroy*—which has apparently been out of service since 29 December, and I understand it will not be back in service until May—I believe its last refit was three years ago, and that cost about \$5 million. Could you tell us why it is going to be out of service so soon after the last \$5 million refit?

Mr STOTT: The 2000 refurbishment was a major redesign and rebuild of the vessel; it included changes to the superstructure and changes to the interior. That was done under the Action for Transport 2010 process, which was funded by the Government, so there were some grounds for that. There was some additional work done at the time. But separately to that, vessels like the *Collaroy* go through a regular docking program, which is driven by their obligation to undergo a marine survey. The *Collaroy* was again due for survey last year, she was surveyed in December, and at that time a number of heavy maintenance tasks were carried out. My understanding is that there were also some machinery problems with the vessel, and they are the things that have caused the delays.

Ms SYLVIA HALE: Do you think it would be reasonable, in so short an interval between 2001 and 2003, for these heavy maintenance issues to have become apparent?

Mr STOTT: The docking programs are like a rego check for your car. You plan a lot of your heavy maintenance in association with that, because generators wear and engines wear and you plan to do that work as part of the docking program. Sometimes you find that you encounter faults or breakages that were not anticipated and they can cause some trouble. I think with the *Collaroy* there has been a problem with sourcing some parts from overseas.

Ms SYLVIA HALE: Do you think it would have been unreasonable to expect a lot of this maintenance work to have been carried out in 2000-01?

Mr STOTT: Work was done then, but we have now gone through another cycle. The issue this time is that the work should not have taken as long as it did, and we are not happy about that.

Ms SYLVIA HALE: Why did it take so long?

Mr STOTT: Because there were unexpected faults and, as I understand it, some components were not available in Australia. The Manly ferries are not production vessels, so that everything on them is unique to a fleet of four. As I understand it, they were the delays. I can certainly give you a more detailed statement if you wish.

The Hon. DAVID OLDFIELD: Mr Stott, with regard to Mr Watson, do I understand from your previous answers that as of yesterday he is now unemployed?

Mr STOTT: He is removed as a senior executive service officer.

The Hon. DAVID OLDFIELD: And he is nowhere else in the public service, so we can presume that, unless he has found a job since yesterday, he is now unemployed?

Mr STOTT: I think that is a reasonable conclusion to draw.

The Hon. DAVID OLDFIELD: I understand that under the Act a person can be summarily removed from the public service. It seems to me to be unusual. Is it unusual, or are people summarily removed from the public service?

Mr STOTT: During my career as a senior executive service officer, it is the third summary removal that I have had to undertake.

The Hon. DAVID OLDFIELD: That is, in the eight years that you have been in that position?

Mr STOTT: No. I have been part of the senior executive service since it was formed in 1988, and during that time I have had to be associated with three removals.

The Hon. DAVID OLDFIELD: Three in 16 years?

Mr STOTT: Yes.

The Hon. DAVID OLDFIELD: Can you tell us which outside agency you were referring to as having referral problems?

Mr STOTT: As I told Mr Gallacher earlier, it was the Independent Commission Against Corruption.

The Hon. DAVID OLDFIELD: The Independent Commission Against Corruption came to you?

Mr STOTT: They referred an allegation to me. This is normal practice. If a person refers a matter to ICAC, the standard practice is to refer it to the agency, to invite the agency to investigate and report back. That is the process we are going through.

The Hon. DAVID OLDFIELD: I understand from your previous answers that the allegations that have been referred to you are not at all related to the other allegations that have been previously raised by the Leader of the Opposition. If

Mr STOTT: I have not seen any allegation about Mr Gallacher's issue about the taxis.

The Hon. DAVID OLDFIELD: You have only seen the other allegations referred to you by ICAC?

Mr STOTT: Yes.

The Hon. JAN BURNSWOODS: Mr Stott, the transport disability service standards were recently passed into law by the Federal Government. Can you advise the Committee what role the State Transit Authority played in developing those standards, where it stands now in terms of the timetable for implementing the standards, and what the State Transit Authority has already achieved in this important aspect of transport policy?

Mr STOTT: I think I should start by saying that personally I have been involved in this issue for some 12 years now. I led the national task force that developed the disability standards under the Disability Discrimination Act, and I negotiated the agreement between the Human Rights and Equal Opportunity Commission and the State Transit Authority. Before I joined the State Transit Authority I negotiated the agreement, which the State Transit Authority took on, intending to develop an easy access program. When I joined the State Transit Authority I was then able to take over the implementation of the agreement.

I think it is fair to say that the State Transit Authority really leads the nation in terms of the quality and presentation of its buses and the operation of dedicated wheelchair services. We have 350 bus routes in the Sydney metropolitan area, and over 100 of those now have programmed accessible services built into them. We have worked hard to encourage the rest of the bus industry to come along with us. Since 1996 we have exclusively procured low-floor, easy-access buses. They have generally

set the standard for the rest of the trade, and as it stands at the moment we are now more than five years ahead of the national program.

What that means in round terms is that out of our fleet of 1,900 buses almost 650 are now accessible in one form or another. We have issued a disability strategic plan, which is publicly available. That plan acknowledges both the Federal disability standards and also the New South Wales disability legislation, both of which are appropriate. The Federal legislation is stronger inasmuch as it is complaints based, which means that you do not have a policing authority. Under the Federal legislation, anyone who feels that they have been discriminated against can lodge a complaint with the Human Rights Commission and that complaint can be taken up with the provider.

In more recent times, we have just finished taking delivery of 300 low-floor buses from Mercedes-Benz. We now have coming down the production line another 60 from Volvo, that is in addition to the 30 that we put in place in Newcastle last year. It is my expectation that by 2010 every single one of our bus routes will have programmed accessible buses. I would expect that by that stage the number of accessible buses in the fleet will be well in excess of 1,000. By world standards, that is a good achievement.

Turning to the buses themselves, the general approach is to design a bus for wheelchair access, even though the wheelchair requirement is relatively slight. The reason for doing that is that by designing a bus so a wheelchair can board, you also make it easier for prams and strollers to board, you also make it easier for older people and mobility-impaired people to go on board. In recent times we have confronted the difficulty of some prams and some types of wheelchairs that are not necessarily stable on board. In the past year we have responded to that by rolling out a program of safety straps, so that people who feel that their wheelchair or whatever is a little unstable going around corners are able to secure the item on the bus. That appears to be quite a significant progress.

So we have a bus that, firstly, can be lowered, to reduce the ground clearance when we are at the bus stop, and, secondly, we can deploy a ramp so that people can wheel on board. There are spaces on both sides of the bus where we can accommodate two wheelchairs. There are also ample spaces on our newer buses for older people, who may be not as mobile as the rest of us. We also go to some trouble to put things like high-visibility units on board so that people can see where they are going. We have made a commitment that we will only acquire accessible buses, and we wish to stay well ahead of the game.

Turning to the ferries, essentially most of the interfaces between wharves and vessels are accessible. There are one or two exceptions, notably at Queens Wharf in Newcastle, where the council has now determined that it will soon be improving that and providing disabled facilities. It is undeniable that in relation to one or two wharves around Sydney Harbour there are difficulties gaining access to the wharf because of the cliff faces and so forth. Eight or nine years ago we opened the Chiswick wharf, which is a good example. Beside the steps we constructed a zigzag path down to the water for people with disabilities.

We will not be satisfied until we have a more significant proportion of services. We are now in a position where we can generally provide good, accessible services on routes where we know there is demand. Generally they involve health institutions, universities, colleges and so forth, and we are progressively rolling timetabled services out into other areas.

The Hon. JAN BURNSWOODS: Most of what you have said relates to the government bus fleet. Earlier I think you referred to the obligations on private buses. Can you tell us what sort of role the Government has in that and how private bus operators are meeting the standards?

Mr STOTT: The same legislation applies to everyone in the industry. It is fair to say that in the first two years or so private-sector operators expressed some concern about the impositions that accessible buses would place on them. I think that probably relates as much to the fact that smaller operators tend to have less of a technical and engineering function, so some of these things may look a little insurmountable. Whereas, in the State Transit Authority, where we are ordering buses in lots of 250 and 300 and we have a significant engineering presence, I think we are less concerned by those sorts of blockages; we know it can be done.

I think we showed the way. It is fair to say that since roughly 1998 virtually all the city buses that have been built for operation in metropolitan Sydney have been accessible. There are differences, of course, for school buses where accessibility is not an issue. The regulations allow for alternative forms of compliance. For example, if you are a rural school bus operator and you have one child in your community who has a disability, it is quite legitimate to provide physical assistance to get them on board; in other words, having somebody lift them on board, for example. Where we stand now, the bus industry in general accepts its responsibilities and is doing its level best to roll out a fully accessible fleet.

<8>

The Hon. JAN BURNSWOODS: You mentioned a separate program for making the fleet of government buses in Newcastle accessible. Would you provide the Committee with more information?

Mr STOTT: Newcastle was a slightly different situation for us because it was not possible to program accessible services on to individual routes when you only had a very small number of buses. Newcastle has about 160 in its fleet and putting buses in at nine a year on the normal replacement program does not really give you the opportunity to start rolling them out because you cannot dispatch them. You could possibly put them onto one single route but this is not a very equitable thing to do. In 2002 we elected to procure 30 low-floor buses. They were all fully delivered last year and we are now in a position where we are starting to roll out accessible services in Newcastle. Naturally the key targets there will be the John Hunter Hospital and the university, where there is a demonstrable need.

The Hon. JAN BURNSWOODS: Are more buses put on some routes because you have measured the need for them?

Mr STOTT: We try to put them where the need is, but we also try to bear in mind that there are needs all around. Newcastle certainly in its bus users has a higher proportion of older people than Sydney. In Newcastle we need to replace about 10 buses a year and we will progressively then get ourselves up to the same 2010 target.

Mr LEE: As the regulator we have a series of contracts with private operators. Mr Stott is right in that they did not, if you like, take up the challenges as quickly as the public sector in getting accessible buses. But it is fair to say, on two fronts. One, when you look now at supply with most of these buses coming out of Europe it is becoming a standard. Where historically it used to be an added cost for an accessible bus, it is now becoming an additional cost not to have an accessible bus, because it has become the norm.

The other point to make about service delivery is through my experience as an operator in the Maitland area. Again, it was a small operator who had a limited number of accessible buses. It then became important when there was a community demand for a particular service to have accessible buses that the depot was able to allocate those accessible buses to those routes. That is fairly common practice now even in Western Sydney that you might not have 50 per cent or 60 per cent of your fleet accessible but you can target those services where you get less able people who want to access buses on that basis.

The demographics of the Glenmore Park region is that there are a lot of parents with young children and, having done the shopping, it is hard for them to take their children out of the pram and hop on the bus with the groceries and the like. There has been a focus in that area to provide more accessible buses on the Glenmore Park services, as an example.

The Hon. KAYEE GRIFFIN: Some private operators have made substantial complaints about traffic management schemes in certain areas. Given that accessible buses are lowered, have issues arisen in relation to traffic management schemes in local areas that may or may not cause more problems with accessible buses rather than the normal buses? I received many complaints in my other life, I suppose, that related to a private bus company having to negotiate roundabouts, speed humps et cetera.

Mr STOTT: It is a significant issue. On all of our bus routes we have had to make detailed surveys before we have been prepared to put in low-floor buses. It relates to roundabouts, chicanes, speed humps in some case—although thankfully not many bus routes have speed humps—spoon drains and dish gutters, where there is a discontinuity between two roads, and in that circumstance it is quite easy to bottom out the bus. In general, we have taken up those issues with local government and by and large it has been very helpful because they want the services to work in removing most of the impediments.

There is also an issue in some areas. We operate on the transitway way through Wetherill Park—it also happens in other areas in the western suburbs—where certain developments are not kerbed and guttered. There is an aesthetic design for the roadside so it provides a nice gentle spoon drain and a bit of grass behind it. No matter how far you can lower your bus you cannot deploy a ramp to the right level. Not only that, some people who are mobility impaired even though they are walking on sticks or with walking frames cannot climb a step.

So to try to deal with that, some years ago in State Transit we produced a document entitled "The Bus Stop Style Guide", which was circulated to local government to say, "This is how a bus stop should be laid out. This is what the road camber should look like. This is how high the kerb should be. You need to leave some room between the bus stop and the kerb so that people can get by". It has been pretty well received, and a number of councils have now started implementing it. The other issue is road camber. In some areas you can pull up alongside the kerb and find that your bus is leaning over five, six or seven degrees, which again complicates the boarding situation. Again it is fair to say that most local councils observe their responsibilities because again they have an exposure under the disability discrimination legislation as well.

Mr LEE: If you look at old Sydney, or Sydney developed between the 1960s, it was rarely focused on a grid-like urban development arrangement which allowed for the easy transit of public transport. Then there was a shift in the development of Canberra, and the American view, that you should have a certain amount of containment within a local suburb that really resulted in a series of kerb-linear cul-de-sac type arrangement which became very disadvantageous for buses to access. In Glenmore Park a subdivision that won world acclaim for its design standards could not have buses travel or transit through it. It became impossible to get to the two hubs.

It is so much better to have a grid arrangement with that intermodal matrix where you can get crossovers and be able to access the hubs very easily compared to the more modern way of urban development, which has limited that. I am very happy that Jennifer Westacott as the Director-General of the Department of Infrastructure, Planning and Natural Resources has made this a focus now to ensure that as councils approve subdivisions there is a strong commitment to accessibility issues for mass transit. It is an important issue.

The Hon. JAN BURNSWOODS: Would you tell the Committee about the environmental benefits of the fleet of compressed natural gas buses of State Transit? More precisely, what impact will there be on the recent decision of the Federal Government on fuel excise for alternative fuels?

Mr STOTT: We now have 400 compressed natural gas [CNG] powered buses in our fleet. Environmentally we have a double bonus out of them. Firstly, the general emissions are about 50 per cent lower than the present Euro-2 fleet—Euro-2 being the European ECE standard for diesel engine emissions. Our latest buses are a Euro-3. Gas is still lower in emissions. Besides having zero particulates and lower levels of oxides of nitrogen and carbon monoxide we have a bonus in as much as gas buses are spark-ignition rather than diesel, so the sound level is very much lower, which is quite an important issue around city areas.

We are shortly likely to be issuing tenders for new buses for our next four-year program. We are strong supporters of gas for a number of reasons. Firstly, to us it seems that it is likely to be price stable: it is an indigenous product and is not affected by movements in oil prices around the world. Secondly, we have very large amounts of it in Australia and so we are unlikely to see supply problems in the long term. Next time when we go to tender we will be tendering for people to provide us with offers for both gas and diesel. In the diesel area we are shortly to go to Euro-4, in about 18 months, and that will have a further significant cleaning of diesel exhausts. In emission terms, gas buses would still be superior.

But what is concerning us now is that over the past year or so the Federal Government has been re-evaluating its policies towards the support of alternative fuels. So far, for the past decade, diesel has carried full excise but alternative fuels such as gas and biodiesel and so forth have been excise-free, except in the strange situation where, for instance, canola oil is excise-free, ethanol is excise-free but if they are blended together, heated and called synthetic diesel they suddenly become taxable, which I have never fully understood.

The Federal Government has now announced that from 2008 it will be introducing an excise policy for alternative fuels. That will be calculated on the basis of the heat value of the fuels concerned so it will relate back to what is the inherent heat capacity of a litre of diesel or a cubic metre of gas at a certain pressure, or whatever. It appears as though the excise will be phased in from 2008 I think to 2012, and will be raised to 50 per cent excise.

At the moment we are ahead on cost with CNG. We are roughly 28¢ a kilometre cheaper in terms of gas than diesel. That is broadly about an 8 or 9 per cent lower fuel cost. The other advantage we have with alternative fuels is that the Federal Government has rebated half the cost of the alternative fuel installation. So that has been of significant assistance in terms of funding the conversion because you are looking at \$20,000-\$25,000 to put in gas facilities and you have several large expensive tanks on board that have a lot of special control gear.

CHAIR: Thank you, Mr Stott.

The Hon. JAN BURNSWOODS: Can he finish the answer?

CHAIR: If it is not very long.

Mr STOTT: The situation is that we are not confident that that rebate will happen. That means that gas on a whole-of-life basis will be more expensive than a diesel bus.

CHAIR: Is it correct that at Mona Vale there are 15 bendy buses?

Mr STOTT: It is.

CHAIR: Is it correct to say that about half of them at any time are on the road and the other half are in for repair?

Mr STOTT: It is correct to say that at present about half of them are off the road for repair.

CHAIR: Eight out of 15 are in for repair?

Mr STOTT: The reason is that they are getting on in their service life and we have discovered some structural cracks and the buses have had to be withdrawn to be repaired.

CHAIR: When were the structural cracks discovered?

Mr STOTT: I cannot remember precisely, but within the past six weeks.

CHAIR: It is not unusual for retrieve towing to have to tow at least three buses on nearly every day of the week?

Mr STOTT: It is not unusual to have three tows per day across the Sydney Buses network. We have 15,000 bus movements every day. It is not unusual to find three tows.

<9>

CHAIR: What about at Mona Vale?

Mr STOTT: I cannot answer that. I would have to take that on notice. I read the bus diary every day, and I have got no indication that there are three tows from Mona Vale every day of the week.

CHAIR: Are these structural problems that have been detected safety-critical issues?

Mr STOTT: We believe they are. That is why we have removed the buses and we will repair them before they go back into service.

CHAIR: Do you know roughly when they will be back in service?

Mr STOTT: I cannot tell you precisely. I would be guessing, but it is a matter of weeks, not months. These repairs will be outsourced.

CHAIR: You say they are now ageing. What is their life expectancy, particularly in light of this structural problem?

Mr STOTT: The life expectancy of that generation of bus was about 24 years. I think the youngest of those buses is 19 and the oldest is 22 or 23.

The Hon. MICHAEL GALLACHER: Mr Lee, I want to speak to you about smart card, but before I do could you just clarify for me what position Mr John Whelan holds in the ministry?

Mr LEE: He is the Director of Community Transport.

The Hon. MICHAEL GALLACHER: Does he work under you or under Michael Costa? Where does he fit in?

Mr LEE: He reports to me. He is under me.

The Hon. MICHAEL GALLACHER: He reports to you?

Mr LEE: Yes.

The Hon. MICHAEL GALLACHER: How long has he had that position?

Mr LEE: I think Mr Wheeler was appointed late last year or early this year.

The Hon. MICHAEL GALLACHER: Was that position advertised?

Mr LEE: Yes, it was.

The Hon. MICHAEL GALLACHER: What does he do?

Mr LEE: He is the Director of Community Transport. Following on from the Parry review, the interim report of Parry highlighted that there was a need to better understand community transport, specifically for areas in regional New South Wales where there are a number of transport disadvantaged and it was a criticism, if you like, in the Parry report that the ministry had not focused on the service-delivery elements of community transport. On that basis I looked at the structure as it was positioned and took the view that we needed to add a community transport director's position. Ultimately, there are a number of different schemes that provide for community transport and it is funded through joint arrangements between the State and Federal governments.

If you talk to people who work in the community transport sector, there is a lot of red tape surrounding running those sorts of services. They are mainly for the most disabled or the frail members of our community and, if the fact be known, many of them have been run by volunteer organisations. I took the view that we needed to formalise those arrangements and put in place clear systems to allow those organisations to access that type of funding.

The Hon. MICHAEL GALLACHER: What qualifications does Mr Whelan have to hold this position?

Mr LEE: I will take that question on notice, but I would point out that he was appointed under the Public Sector Management and Employment Act and there was a full competitive process that was undertaken, but I did not sit on the panel so I do not know—

The Hon. MICHAEL GALLACHER: But you wrote the job description, did you, when you made the decision that this community transport position needed to be put in place? Did you put down certain criteria for the job?

Mr LEE: What I can confirm is that upon reading the Parry report and coming to the view that there was a need to set up a directorship within the ministry, I engaged our employment relations professional, Reno Lucarini, whom you have called before the Committee on a previous occasion, and we discussed what capabilities and what we thought the role would entail. Albeit it is a new role, it does take time to actually flesh out exactly what the core outcomes might be, but we set a framework for those responsibilities and from that the employment relations section developed a position description, and from the position description there was an advertisement that was designed and signed off on, and it was advertised.

The Hon. MICHAEL GALLACHER: How long have you known Mr Whelan?

Mr LEE: Personally, how long have I known Mr Whelan? I would guess seven or eight years.

The Hon. MICHAEL GALLACHER: He is former Minister Paul Whelan's son, is he not?

Mr LEE: I think he would be.

The Hon. MICHAEL GALLACHER: You think he is?

Mr LEE: Yes.

The Hon. MICHAEL GALLACHER: Can you tell me how much he gets for this position?

Mr LEE: He has been appointed to the position as an SES level 4.

The Hon. MICHAEL GALLACHER: What is the remuneration for that?

Mr LEE: Again, there was a recent amendment to the actual pay scales, so I would have to take that on notice, but I think it is somewhere in the ballpark of \$190,000.

The Hon. MICHAEL GALLACHER: That is not bad, is it?

Mr LEE: For the Committee's benefit, I should reinforce that this is one of my direct reports. It is a very senior position within the ministry.

The Hon. MICHAEL GALLACHER: But you do not know what qualifications he has for that position?

Mr LEE: What I do know is that we went through a competitive process and I am aware that Mr Whelan has had experience in dealing with the community—

The Hon. MICHAEL GALLACHER: That is good!

Mr LEE: —and specifically has had a lot of experience in community policing. I would encourage the Committee to talk to the community transport organisations, which do real valuable work in the community. I understand that yesterday Mr Whelan was in Armidale meeting with representatives. What we are looking at is developing a better regime, a flexible regime of service provision for these very disadvantaged members of the community, and we take that matter very seriously.

The Hon. MICHAEL GALLACHER: When you wrote the advertisement for this position was ALP membership a desirable or an essential qualification?

Mr LEE: Madam Chair, I would refer the member to my previous answer, which was that I did not write the position description; I had a meeting with employment relations, who ultimately put that together. I would remind the member, though, that when seeking to employ people in the public sector, it would be against the spirit of the Act to discriminate against people based on association. It would be unfair to discriminate against someone based on their religion—and for that matter I did not get to declare last meeting that I am also a Catholic like Mr Graham but, unfortunately, I do not support Penrith. I support the Parramatta Eels, and I hope you would not hold that against me, but we are probably going to beat the Knights tomorrow night and I know you are a Knights fan.

The Hon. MICHAEL GALLACHER: It is really disappointing to think that there is not a suitably qualified public servant in the system or someone in the community who is far better qualified and who would have a lifelong commitment to community transport who would have been better suited for this job than one of your ALP mates.

Mr LEE: Ultimately that panel was assembled, and there were three people on the panel, two of whom were independents, very senior public servants. I do not think it is appropriate for you to cast aspersions on the work that that panel did. I think that is very unfair.

Ms SYLVIA HALE: Could you tell us the names of the panel?

The Hon. MICHAEL GALLACHER: Can you tell us their names?

The Hon. JAN BURNSWOODS: Perhaps we should ask Mr Gallacher his qualifications for his salary and allowance. Perhaps he would like to put those on the record.

The Hon. MICHAEL GALLACHER: Unlike you, Jan, mine are in real life. Would you mind telling us who the people on the panel were?

The Hon. JAN BURNSWOODS: I would really be interested in your salary and allowances being put on the record here, Mr Gallacher, as a comparison—

Ms SYLVIA HALE: Ours are all public knowledge.

Mr LEE: So are ours.

The Hon. JAN BURNSWOODS: —given the noises he has made about others' salaries.

The Hon. MICHAEL GALLACHER: I get paid more than you. Mr Whelan, I will come back to you later on.

Mr LEE: Mr Lee.

The Hon. MICHAEL GALLACHER: Mr Lee, sorry. You all look the same to me.

The Hon. JAN BURNSWOODS: That tells us a lot about you too, doesn't it—a very telling observation.

The Hon. MICHAEL GALLACHER: On the smart card issue, this \$320 million project, are you aware of the comments of the new managing director of ERG, Mr Alan Sullivan on 22 February that, "We are world-class in bidding for contracts but our project management is weak. We have a bad reputation for delivering. Some customers are pleased but generally we have a bad reputation." This is the new managing director of ERG, the company that your Government has a \$320 million project with. Considering that it lost \$43 million in the second half of 2003, do you seriously have confidence in ERG to deliver on this \$320 million project, given its own managing director's comments?

Mr LEE: Yes, I do. And I would also refer to comments made by the new chairman, Mr Tony Shepherd, a pre-eminent member of the community.

The Hon. MICHAEL GALLACHER: Was he a member of the ALP?

Mr LEE: Sorry?

The Hon. MICHAEL GALLACHER: Was Mr Shepherd a member of the ALP?

Mr LEE: Mr McCarthy—Mr Gallacher, I am not sure of what Mr Shepherd's membership is; I just know he was an Integral engineer and member of Transfield. He helped build the Sydney Harbour Tunnel; he helped actually build the city link road in Melbourne.

The Hon. MICHAEL GALLACHER: He used to be on one of your Government boards to do with transport.

Mr LEE: He is a pre-eminent business manager.

The Hon. MICHAEL GALLACHER: But until it was pointed out by the Opposition, there was a clear conflict of interest. He was holding two positions, was he not? He was on a Government-appointed board in relation to transport and he was also the newly sworn chairman of ERG, and until such time as it was pointed out, he held both positions.

Mr LEE: I think you will find he declared his conflict.

The Hon. MICHAEL GALLACHER: After we raised it.

Mr LEE: Madam Chair, if we can answer some of these questions, that would be good.

Mr STOTT: I can answer this particular question because Mr Shepherd was a member of my board at the time that he was approached by ERG. Mr Shepherd was firstly offered a consultancy with ERG and he declared that in the board and he stood aside from any discussions. Shortly after that he was offered the chairmanship of ERG and he resigned from my board.

The Hon. MICHAEL GALLACHER: At exactly the same time it was raised. Mr Lee, given that ERG lost \$43 million in the last six months of 2003 and has consistently reported negative cash flows since 2002, has the Government conducted an analysis of the financial impact on the State if ERG is not able to fulfil its part of the contract?

Mr LEE: The Government is confident that ERG will fulfil its requirements under the contract.

The Hon. MICHAEL GALLACHER: What contingency plans are in place if ERG goes under?

Mr LEE: That is a hypothetical question because ultimately we have a contract for the delivery of a ticketing system. We also have extensive evidence of this company rolling out similar product in other major cities, examples being San Francisco and also many parts of Europe. It is currently the provider of a lot of machines for private bus operators in Sydney, so it is fair to say that it has got experience in delivering this type of project.

The Hon. MICHAEL GALLACHER: Is it fair to say, therefore, by your answer, that you do not have a contingency plan in place if it goes under?

Mr LEE: What I said to your previous question is that that is a hypothetical question.

The Hon. MICHAEL GALLACHER: But that is what contingency plans are based on, is it not, hypothetical situations occurring?

Mr LEE: The plan that we have in place is to roll out the integrated ticketing system, and I think the Government made an announcement in November last year about its preferred roll-out strategy and I must say that I think that strategy is a good one because ultimately it will now focus on school student transport travel. It is developed in a way so that the infrastructure—as it rolls out to the private operators who are trialling the system, we will get to be able to identify issues as they arise. We will also be able to manage the distribution in a way that, when tested with that interface, we will be able to assess to what extent there is need for amendment or enhancement to the way in which the project is rolled out.

Let us put this in context. The roll-out of smart cards, known as T-card for Sydney, is not a brand new technology. It is an existing technology. The TP 5000, the actual ticket machine that is used with the transponders, is currently operational in parts of Europe. It is not new. We actually find that the cards are currently being used in parts of Hong Kong and also in Singapore. It is a tried and tested form of ticketing. What we do know—

The Hon. MICHAEL GALLACHER: The same ticketing that the Government promised to have in place for the Sydney Olympic Games.

Mr LEE: What we do know is that the current mag-stripe system is an antiquated, outdated system, so it is important at this stage for mass transit to look at better ways of integrating services and modes for the travelling public of Sydney.

The Hon. MICHAEL GALLACHER: Do you believe that ERG has enough working capital to complete the implementation and provide the ongoing operation and maintenance of the integrated ticketing system?

Mr LEE: Yes, I do.

The Hon. MICHAEL GALLACHER: What do you base that on?

Mr LEE: I actually asked my director of financial and corporate services, following the recent publication of their annual report, to undertake an assessment of their financial viability and I was briefed on that analysis by the director and I am satisfied with their current position.

The Hon. MICHAEL GALLACHER: When did that briefing take place?

Mr LEE: Within the last fortnight. The results were only released, I think, late February.

<10>

The Hon. MICHAEL GALLACHER: How much has the Government paid ERG so far?

Mr LEE: I will have to take that on notice so far as specifics, but what I can confirm is that there are a number of milestones with this project. For example the first two milestones, ME1 and ME2, do not require any form of financial payment to ERG. That probably, therefore, gives some sort of insight as to why Mr Sullivan made the comment. For a lot of these contracts for ERG they actually signed up and are required to deliver the technical design spec and how the infrastructure will be delivered and in some respects even the manufacturing of some of that infrastructure before they actually receive any payments. For them they are very highly geared to the design end and they do not receive their payments until they reach the milestones.

The Hon. MICHAEL GALLACHER: Given that ERG has stated that the profit margin of their operations and maintenance divisions is around 3 per cent to 5 per cent and that ERG will have responsibility for operating and maintaining the Sydney ticketing system for 10 years, what contingency plan do they have in place for the ongoing operation and maintenance of the system that you are aware of?

Mr LEE: You would have to refer that question to ERG.

The Hon. MICHAEL GALLACHER: Do you not think that you should be looking at those sorts of things?

Mr LEE: I think in previous questions I have attempted to convey to you why I am satisfied that in the current circumstances and operation environment we have no reasons for concern with ERG.

The Hon. MICHAEL GALLACHER: You do not see it as your responsibility to make sure that they have contingency plans in place for the next 10 years?

Mr LEE: I have responsibility under the director-general to ensure that the contracts that are afoot with the New South Wales Government and as the principal to that contract I have a responsibility to ensure that the contractor, that is ITSL known to you as ERG, are meeting the conditions of the contract. I am satisfied a number of mechanisms are in place to be assessing that those criteria, or the conditions of contract, are being met and to date I am satisfied that they are meeting those. But let us remember that this is not a brand new technology, this is a technology that is working in other major cities around the world that is about to be implemented to our city.

It is being focused on the school student transport scheme because that is where we think it is best trialled, that is where we think we can get a better understanding, for example, in data terms of the actual travel being undertaken by students. There have been reports going back to even Mr Tink's parliamentary accounts committee report of either 1990 or 1991 that said that it is a weird science, school travel. It is not identifiable as to the actual data, the number of trips taken by students. So I think it is a step forward that we have a contract in place to be able to better understand the level of travel by school students for the school student transport subsidy.

The Hon. MICHAEL GALLACHER: But you cannot say for sure, therefore, going by your answer, that there are contingency plans in place for the next 10 years?

Mr LEE: I refer to my previous answer.

The Hon. MICHAEL GALLACHER: I am asking you a question, quite a serious one, based on the fact that you said they are meeting the conditions of the contract.

Mr LEE: They are.

The Hon. MICHAEL GALLACHER: But I have asked you is part of the condition of the contract that they have contingency plans in place.

Mr LEE: I would have to refer back to the contract.

The Hon. MICHAEL GALLACHER: But you do not know?

Mr LEE: I do not have that information before me today.

The Hon. MICHAEL GALLACHER: But you said you are satisfied. How can you sit here today and say you are satisfied that they will be able to deliver it, but you are not in a position to actually be able to go on any further about contingency plans should they fall over, or the ability to maintain the system for the next 10 years?

Mr LEE: I suppose I would make two points to that statement. The first point would be that there are a number of risk-management processes put in place for this project. There are a number of risk workshops that have been undertaken. And with any new projects it is important to take that risk approach, and that has been adopted and that is reported through the project control group, which is the appropriate mechanism and the appropriate place to assess those risks and to make calls on those risks. The other point I would make, though, is that one does not plan for failure, one plans for issues that might arise and how you manage those. On that basis I think the approach to the project has been very proactive rather than reactive. It is important with this type of project that you fully assess what you are trying to achieve as your outcome and then identify if there might be some impediment to achieving that. What we have endeavoured to do through the risk-management processes is undertake, through some independent assessment and assistance, a very professional and proactive approach to the management of risk.

The Hon. MICHAEL GALLACHER: What is the current total expenditure by the Government with regard to its legal dispute with Cubic Transportation Systems?

Mr LEE: I understand that matter was settled last year.

The Hon. MICHAEL GALLACHER: Are you in a position to indicate to the Committee for how much?

Mr LEE: I will take that on notice. I understand it was Cubic who chose not to proceed with the matter in the Supreme Court, and I thought they would have advised you of that.

Ms SYLVIA HALE: Is the airport rail link still in administration?

Mr LEE: I am sorry, that contract sits with RailCorp. It is probably a matter you should have taken up with Mr Graham when he was here before.

Ms SYLVIA HALE: You have no knowledge of the position of the airport link?

Mr LEE: No. Ultimately that was the contract signed in the early months of 1995. It was a contract between the then State Rail and the Airport Link Consortium to build—I think it was a full boot scheme—on that basis I understand it was with State Rail and they ultimately would have been managing the administration process.

Ms SYLVIA HALE: Can I put some questions to you and can you take them on notice?

Mr LEE: I am happy to take on notice areas of my responsibility.

Ms SYLVIA HALE: But you do not regard the airport rail link as part of your responsibilities?

Mr LEE: What I can confirm is that there is a community service obligation contract between RailCorp and the ministry, but, no, I do not have specific carriage of contracts for issues to do with rail.

Ms SYLVIA HALE: You were about to give us the names of the panel of people for the selection of John Whelan. Could you provide those names?

Mr LEE: Yes. I can only recall two out of the three, so I will take it on notice if you do not mind. The Chair was actually the Director of Finance and Corporate Services, Peter Scarlett, and one of the independent members was the Director-General of the Department of Ageing, Disability and Home Care.

Ms SYLVIA HALE: Could you confirm whether John Whelan has ever worked for the Minister for Transport Services?

Mr LEE: Yes, he has. He was his chief of staff.

Ms SYLVIA HALE: For how long was he his chief of staff?

Mr LEE: I would have to take that on notice. I am not sure.

Ms SYLVIA HALE: My questions now refer to ferries. I believe the *Queenscliff* is now back in service?

Mr STOTT: Yes.

Ms SYLVIA HALE: But it only recently had an overhaul. Could you explain why it went out of service?

Mr STOTT: I think this is the vessel that had the difficulties with its variable pitched propeller. It was inadequately prepared by a contractor.

Ms SYLVIA HALE: It was inadequate work by private contractor?

Mr STOTT: Yes, it had to be repaired under warranty.

Ms SYLVIA HALE: Did Sydney Ferries have to charter a number of vessels over the summer period?

Mr STOTT: It is not uncommon for Sydney Ferries to charter vessels in peak times.

Ms SYLVIA HALE: They did?

Mr STOTT: I cannot say to you categorically it happened this year, but in my experience it happens every year at peak times.

Ms SYLVIA HALE: You would be able to get back to me with the numbers and the length of period that they were chartered?

Mr STOTT: Certainly.

Ms SYLVIA HALE: Given that in the case of the *Colloroy* you have what appears to be a rolling program of inspections and maintenance, what regime do you have in place to ensure that when those ferries are taken out for service there are ample vessels there to fill the breach?

Mr STOTT: In the case of the Manly ferry service it is a three-vessel service, but there are four in the fleet. In the case of JetCats it is a two-vessel service, but there are three in the fleet. In the case of supply class, the first fleeters, I think there are, I cannot remember now, 11 or 12 vessels in the fleet and I think it is about an 8 or 9-vessel service. It is more efficient, obviously, if you have more in your fleet, because then you get by with fewer spares. But once in a while, if something unexpected happens, especially with the Manly ferry if an unexpected fault occurs with the vessel or one is under repair it becomes a difficulty.

Ms SYLVIA HALE: As you know, there was a fare-free day on 20 September, I think that was the date. Have Sydney Ferries resolved the issues that led to that fare-free day?

Mr STOTT: I believe so.

Ms SYLVIA HALE: How have they done that?

Mr STOTT: There has been a good deal of re-engineering done in Sydney Ferries in terms of getting people to focus on good customer service and on reliability and delivering services.

Ms SYLVIA HALE: You think that is bound to—?

Mr STOTT: I cannot give you more detail. It is not something that I have been close to in the past three months.

Ms SYLVIA HALE: What do you see as the major issues that resulted in that fare-free day?

Mr STOTT: I would prefer to take that on notice. I do not have enough detail here.

Ms SYLVIA HALE: I understand that negotiations are under way for enterprise bargaining agreements with ferry workers?

Mr STOTT: yes.

Ms SYLVIA HALE: Could you tell me the unions that are involved in that?

Mr STOTT: The unions that are involved with Sydney Ferries are the Maritime Union of Australia, the Australian Marine Officers Union, the Institution of Marine Professional Engineers, they are called power engineers, and the Australian Services Union.

Ms SYLVIA HALE: When do you expect those negotiations to be complete?

Mr STOTT: They will need to be completed in the next few months. I will confirm to you precisely the date. I do not know the expiries right at this moment.

Ms SYLVIA HALE: Could you tell the Committee the main issues that are up for negotiation?

Mr STOTT: I think the significant issue is about rostering and associated with that is total hours of work. There is an issue of everyone being satisfied that people are not working shifts that expose them to undue risk of fatigue. A significant component in all of our enterprise agreements in State Transit this year is to develop some initiatives that recognise work and family balance. It has been a significant concern for us that working in seven-day-a-week rostered environments can be very difficult for people families.

Ms SYLVIA HALE: What progress has been made on these issues?

Mr STOTT: My advice is that we are progressing slowly and steadily. Some unions are making more progress than others. That there is what is happening in our bus division at the moment as well, because we have enterprise agreements maturing there as well.

Ms SYLVIA HALE: Have any of the enterprise bargaining agreements expire?

Mr STOTT: Yes, I think so. I will have to confirm that to you.

Ms SYLVIA HALE: If you could.

Mr STOTT: May I just say that technically speaking an enterprise agreement does not expire. It usually is set for a date but if it is not replaced it remains on foot. So there is nothing that forces you to immediately write another one, although both parties prefer to renew on the spot. It is not a significant issue if the parties decide that they were to go on a little longer.

Ms SYLVIA HALE: It is not a significant issue so long as both parties agree to the continuation of the status quo?

Mr STOTT: That is right. Neither party can withdraw. The enterprise agreement exists. It does not actually have a termination clause in it.

Ms SYLVIA HALE: You said earlier that they must be completed within the next few months. Why?

Mr STOTT: That is what we would like that to happen.

Ms SYLVIA HALE: That is not mandatory requirement, rather a wish?

Mr STOTT: Both management and unions like to resolve these things. As it happens, frequently in the process of negotiation there are issues that can take longer to resolve than either side expects and it is not uncommon in State Transit to find that EAs are signed technically after the date that you wanted to do them.

Ms SYLVIA HALE: In 2001 the then Minister for Transport commissioned what became known as the transport report. As I understand it, this review of Sydney Ferries was prompted by a series of vessel incidents and accidents, and the report found a number of deficiencies in Sydney Ferries and made many recommendations. Can you remind the Committee of the most significant of those recommendations and whether or not they have or have not been met or complied with?

Mr STOTT: This is what is colloquially known as the Taylor report. It was managed by Matt Taylor, the chief executive of the Waterways Authority. I think in a nutshell the most important recommendations that came out of there was the need, firstly, to adopt the international safety management code, which is in fact a blue water code, it is not strictly a sheltered water code, but we modified it to so that we had a clear quality management system for safety.

<11>

Secondly, there was a strong recommendation that we significantly upgrade our staff education and training. As a result of that, every ferry master went to Launceston to the Australian Marine College and did their high-speed vessel course, and a range of training courses were introduced across Sydney Ferries. There were in fact some 60 recommendations in the report, and we established a task force to monitor that. That task force included the Director-General of Transport, me and Matt Taylor as the chief executive of waterways. We were satisfied by the end of 2002, early 2003, that all of those issues had been signed off except one, and that was the question of introducing minimum shift lengths on one ferry service.

That has subsequently reached in-principle agreement, although there is still more work to do. I have recently sought advice from the original company that made the study, and I have asked them if they would come back now and confirm to me that everything they thought should have been done has been done. I requested that last year before ferries separated itself from us, and I am waiting to see the outcome of that.

Ms SYLVIA HALE: Presumably the recommendation about the minimum shift lengths would be feeding over into enterprise bargaining.

Mr STOTT: It is. It is a factor in that debate. You will appreciate that people like to maximise their leisure time and compress their work time as much as possible, but there are limits that you cannot exceed.

Ms SYLVIA HALE: I understand that there is a five-year plan for Sydney Ferries. Can you tell me what the main goals of the plan are and what period you expect it to cover?

Mr STOTT: I think that plan is part of the statement of business intent, which is being drawn up under the corporatisation proposals. I have not been party to that.

Ms SYLVIA HALE: So you are not familiar with—

Mr STOTT: I am not. I have not been party to the development of the SBI through the last three months because, essentially, as of the end of last year Sydney Ferries was functionally separate.

The Hon. DAVID OLDFIELD: Mr Lee, who was the director-general who was on the John Whelan selection panel?

Mr LEE: The director-general of the Department of Ageing, Disability and Home Care.

The Hon. MICHAEL GALLACHER: And the name?

Mr LEE: Margaret Allison.

Ms SYLVIA HALE: You said that Peter Scarlett was the director of finance. Was that right?

Mr LEE: Yes, he is the director of finance and corporate services in the ministry.

The Hon. KAYEE GRIFFIN: Mr Lee, last week the Minister released the final report of the Unsworth review of bus services in New South Wales. One thing you commented on in a previous answer related to community transport. Can you perhaps expand on the issue of community transport?

Mr LEE: Yes. What has become apparent is that that contracts that were set up after the reform of 1990 provided many opportunities for the private sector to run a business in a way that could be maximised by transporting school students. It also set out some minimum service levels for

route services. What it did not address is that other part of the real community disadvantaged who are unable in a sense to even walk to a bus stop or for those who require specialised assistance like being transferred literally from their bedroom or living room to a hospital or to a medical appointment and then home.

I suppose with the Unsworth report for the first time where it has been suggested we move away from those very prescriptive arrangements, if you like, with MSLs, where it sets down categorically where you must run, when you must run there and how many times you must run there per hour to a more flexible arrangement that provides for services that meet demand and also the ability to better fund community transport. In general terms, if I can comment on the review, the interim report, which was handed down in July last year, was done following consultation with over 1,300 submissions from the public, which involved a combination of individuals, community organisations, commercial entities and even other government departments.

That review, commenced in July 2003 and released in November 2003, highlighted a number of findings, and those findings were in three main areas. The first area was that there does not appear to be a real bus network that serves metropolitan New South Wales. It has been fair to say—and I think I made the point in the last estimates hearing—that you need a consolidation of geographical locations to get that network benefit. State Transit has been very successful by being able to secure an area like the eastern suburbs, the inner west, the northern beaches and the northern west, heading up to as far as Macquarie Park and then through to Parramatta. Those four discrete areas showed that then you can get the operator to build a network around services.

It usually involves the development of a core line like Victoria Road or Anzac Parade and a number of services that feed into them, like a river delta effect, heading to the major hubs. It was clear that in Sydney, where we currently have 113 contracts with 38 different operators, that that patchwork arrangement is unsatisfactory. It also did not allow for services to operate freely outside their exclusive area. To give you an example, in the north-west region around the key development area of Kellyville and Rouse Hill, where the boundary in essence was Old Windsor Road, Westbus was picking up people in the Kellyville area but they could only set them down, on the way into Blacktown, on Sunnyholt Road; they could not pick up anyone else because of the protected boundaries that were in place.

That is the greatest problem with having these types of exclusive contracts and contract rights on a geographical basis. The Unsworth report identified that as a serious problem. It also had contracts that were not enforceable. What we learned with the demise of King Brothers last year—quite a public issue involving the National Australia Bank and administration—was that even when we referred to the Act constructed in 1990 and then the contracts, which, let us be honest, were constructed in good faith by all parties but ultimately did not allow you to terminate an operator. The conditions within the contract were very weak and I found myself, when taking up the role last year, that although we had a sense that King Brothers were delivering on their school students obligations, when we learned that they were not financially viable we could not even terminate them on the spot and put in another operator like State Transit or Blue Ribbon to run those services on a temporary basis. All we could do was serve notice.

On that basis, it is important to identify that the contracts were not enforceable, and a lot of the performance issues that you want to make enforceable in a contract, similar to the contract that State Transit had for the transitway, currently sit in the Act. If you look at the Passenger Transport Administration Act I think there are too many prescriptive clauses in that Act that should be contained in a contract to give you that flexibility. As well as the transitway contract, the other most recent contract has been the Olympic Park bus contract. If you are an avid reader of newspapers you would have noticed on Monday that we have called for tenders for one of those contract areas because ultimately the operator was not meeting the standards set out in the contract so we could not take up an option; we could choose to go back out to a competitive process. It is important that you get that, because if you do not have that type of benchmarking and the ability to enforce, some operators do not deliver good service and you do not get the opportunity to apply the stick, to say, "Improve what you are doing or we could terminate".

I suppose the second thing that the interim Unsworth report highlighted was that there are hundreds of millions of dollars, also highlighted in the PAC report of 1990 that Andrew Tink chaired

on SSCS, that we have this arrangement where we pay on bus pass applications that are processed, rather than on actual travel. It has been a very difficult issue for all governments to deal with. To talk about the algorithm, it becomes even more complex because operators must provide 92 per cent of capacity for, say, 100 students at Castle Hill High School. They get paid for 77 per cent but our surveys would suggest that we are really only carrying about 57 per cent. That is why integrated ticketing is so important, because it will give us our first real base of data to better manage the hundreds of millions of dollars that go into school student transport.

Barrie Unsworth rightly said that we should move to actuals as quickly and as practicable as possible, but you need a vehicle like integrated ticketing to deliver that. The third thing that also became apparent was that in regional New South Wales there are a number of what we call non-commercial contracts that literally require the operator to pick up students, mainly from a village to town arrangement, and drop them off at school and then the bus is not utilised again until 3.00 p.m. Ultimately, under the model again—there was a model before the PWC model; again, it was in the early 1990s—the government is in effect paying for the capital yet they are only utilising it twice a day. From that interim report there were a number of recommendations.

I have a keen interest in chemistry. For me, when you look at the provision of bus services in a city like Sydney, in many ways it is like a series of molecules where you are wanting to get these molecules or people to a centre place like a hub and that is where you form a polymer. It is like getting these molecules to become a polymer so that they can get to where they want to and move on. At this stage we have provided that many barriers to the establishment of a polymer in Sydney. We have had a contract regime that limited it. We had exclusive rights that restricted access. So in essence the molecules were denied access to form or to get to where they wanted to go. Let us be frank: a good example is for people travelling from Parramatta to Chatswood via Macquarie.

At this stage we have a dedicated service because we have a network benefit there. We have an ability for an operator to travel or the way through, which is important, and Macquarie serves as the polymer for those services. The other key recommendation to focus on is that we have said we need to have a partnership approach with the operators and government. We also need greater community input. I think what we will find in the next two to three months is a blueprint that sets out how you consult and actively communicate with the community about what sorts of services they require. There have been a couple of initiatives. I noted in the final report there is a table or a diagram that looks at the Dubbo, Hay and Ryde scenario for a regional centre.

<12>

There have also been examples in Sydney and Auburn with Flexibus, run by Baxters bus company, and also Nightrider in Penrith. There have been a couple of examples of engaging the community in a different type of service without being too prescriptive. They are probably some of the major issues. I am happy to talk further about the next step following the report, or other things.

The Hon. KAYEE GRIFFIN: You commented in relation to contracts where you could give notice that there were issues with the contracts. You said some of the prescription was not in the contract, it was in the Act. Presumably one of your concerns is with either the current regime or when the new recommendations are implemented, that there needs to be a lot of thought given to how future contracts are written so that you will have the opportunity to make substantial changes if needs be, and not just put companies on notice. You need a better way of dealing with the fact that they are not living up to their contract.

Mr LEE: That is correct. Ultimately we are learning from other jurisdictions that you need a contractual regime that allows, in essence, for a partnership approach between the operator and the Government. Ultimately, as the purchaser of those services, you want to be able to say, "I will reward you or give you a bonus for performance" or "I will penalise you or place restrictions on you, if you do not deliver, if you do not perform". That has to be reflected in the contract. Again, it does not help to be just topped down. We had to have a process in place where during the life of the contract we communicate to those operators how they are performing. We need to clearly set out the key performance indicators and we hear in a commercial sense about the triple bottom line. We think it is important that operators have an absolute accountability on how they manage community issues and customer issues. We think they have an obligation about safety.

It is not only financial issues that would be dealt with when we look at the key performance indicators. We would want feedback to the operator, on an annual or biannual basis, on whether they are doing well and where they need to improve. We need to set that out. At the last estimates committee I said that I do not think the Thatcher approach works for mass transit. That has been a valuable lesson and that is why the policy in the United Kingdom and in Perth has been about having a benchmark arrangement to get the right outcome for customers. To have competitive tendering every five years can mean an extra cost to government. I know the Greens have had a strong interest in this. Ultimately if you go to tender every five years, you get two options: First, you get some operators who participate in what is known as capture the regulator, or bid fever. They bid low so they get the contract and then they appeal one year later for not been able to continue, because they bid so low. Second, in a more monopolistic bidding arrangement, operators place their bid and place a high value on the basis that they might lose that within five years. They put that as part of their bid cost, and ultimately that is an extra cost to government.

I reiterate, we think the approach should be putting in legislation or amending legislation to extrapolate some of that prescriptive information, and putting it in the contract, and putting more teeth in the contract, to allow me as the director-general or the Ministry to take steps to ensure that they deliver on the service that they have been contracted to do. Having said that, there have been some very good private operators and the STA delivers a very good service to parts of Sydney. We should recognise that there have been some benefits of the Transport Administration Act, but also some operators who, because financially they have been struggling, have not delivered on the level of service that the community would expect.

The Hon. MICHAEL GALLACHER: Were you involved in the sacking of Mr Bill Watson?

Mr LEE: I did have communications with Mr Stott about the process.

The Hon. MICHAEL GALLACHER: When was that?

Mr LEE: Yesterday afternoon.

The Hon. MICHAEL GALLACHER: Was that the first you became aware of it?

Mr LEE: I became aware of a protected disclosure matter back in January this year. It was at that time that I referred the matter to Mr Stott for investigation, because I did not have the capability within the Ministry to undertake that type of investigation.

The Hon. MICHAEL GALLACHER: I am sorry, I thought ICAC referred it to Mr Stott for investigation?

Mr STOTT: There are actually two referrals, they overlap.

The Hon. MICHAEL GALLACHER: Same story, different actors?

Mr STOTT: Similar stories; they overlap.

Mr LEE: Some people with a protected disclosure choose to send it to a multiple number of addressees.

The Hon. MICHAEL GALLACHER: Mr Lee, you said earlier that you believed that Margaret Allison was chair of the selection panel for Mr Whelan.

Mr LEE: I refer to my previous answer.

The Hon. MICHAEL GALLACHER: Was she chair of the selection panel?

Mr LEE: I have already answered that question.

Ms SYLVIA HALE: No, you said she was a member. I do not think you said she was the chair.

Mr LEE: That is correct.

Ms SYLVIA HALE: Who was the chair?

Mr LEE: My previous answer was that the Director of Finance and Corporate Services, Mr Scarlett, was the chair. He is a member of the Ministry.

The Hon. MICHAEL GALLACHER: That is right. You stand by the choice Margaret Allison made on that occasion in regard to Mr Whelan's appointment?

Mr LEE: No, there was a panel of three, as I said. That panel made a recommendation, which was accepted.

The Hon. MICHAEL GALLACHER: Unanimous?

Mr LEE: I think it was, yes.

The Hon. MICHAEL GALLACHER: So you stand by her decision, if it was unanimous?

Mr LEE: The decision of the meeting—

The Hon. MICHAEL GALLACHER: You are satisfied with her decision?

The Hon. JAN BURNSWOODS: Let him answer the question.

The Hon. PETER PRIMROSE: What do you mean by "stand by her decision"?

The Hon. MICHAEL GALLACHER: I am asking whether he is satisfied that she made the best choice.

The Hon. JAN BURNSWOODS: You are not really asking the question, because before he gets halfway through the answer, you make another statement.

The Hon. MICHAEL GALLACHER: Mr Lee, would you continue?

Mr LEE: As I stated before, there is an Act of Parliament called the Public Sector Management and Employment Act. Under that Act there is a responsibility for the public sector to engage a panel for the appointment of senior public servants. The Act was ultimately established by the then Premier, Premier Greiner. It has provisions for the appointment of senior executives. That panel was convened and it made a recommendation; that recommendation was accepted.

The Hon. MICHAEL GALLACHER: Do you know why Margaret Allison was sacked on 12 March from her position as director-general of the Department of Ageing, Disability and Home Care?

Mr LEE: No, I am here to answer questions relating to the Ministry of Transport, basically related to the estimates of 2003-04. It is not my responsibility.

The Hon. MICHAEL GALLACHER: Earlier you spoke about King Bros, and said that you found out that they were in trouble, that there was nothing you could do to get other operators up there. Is that correct?

Mr LEE: No, I actually said that I was making reference to the current Act, and to the contract that the Ministry had with King Bros. One of the shortfalls of the Act as it currently stands, is, I think section 27. Is that it, John?

Mr STOTT: Yes.

Mr LEE: Under section 27 of the Act there is an ability, if an operator becomes financially unviable, to terminate. You must give the operator notice, and the operator then has 28 days to correct. In the case of King Bros there was an advice that they were no longer viable, and an administrator was appointed within 24 hours. That prevented the Ministry—and I did seek legal advice on this matter—from terminating the contract, because the company had already been put into administration.

The Hon. MICHAEL GALLACHER: Is that when you found out that they were in trouble, the moment the administrators turned up? Or were you aware of that beforehand?

Mr LEE: I had been in the role for only two weeks when—

The Hon. MICHAEL GALLACHER: You did say when you found out that they were in trouble, and I am trying to work out the chronology. When was that in terms of when they went under? Was it before or after?

Mr LEE: Could you repeat the question?

The Hon. MICHAEL GALLACHER: Were you aware that they were in difficulty, as per your earlier answer, before or after the administrator was brought in?

The Hon. JAN BURNSWOODS: Presumably when the administrator was brought in it was clear that there was some difficulty.

The Hon. MICHAEL GALLACHER: I know the Hon. Jan Burnswoods is having a problem with the English language, but I am asking Mr Lee.

Mr LEE: There was some suggestion before the administrator was appointed that there was an issue to bus financing.

The Hon. JAN BURNSWOODS: I think, Mr Gallacher, that your problems with the English language far outweigh those of anyone else. What a childish, petty, little person you really are.

The Hon. DAVID OLDFIELD: That is terrible. The Hon. Jan Burnswoods is attacking Mr Gallacher on the basis of his stature. This is 2004, she is an extreme left-wing member of the Australian Labor Party, she should certainly not make such statements about people.

The Hon. JAN BURNSWOODS: Is it the word "petty" that you object to?

The Hon. DAVID OLDFIELD: No, you said "petty, little person".

The Hon. JAN BURNSWOODS: Petty little performance, or questions.

The Hon. DAVID OLDFIELD: Now you are matching his quality to his size.

The Hon. JAN BURNSWOODS: Point of order: Madam Chair, I assume that you are dividing the 10 minutes remaining into three minutes each? The Government members have further questions. I assume the Opposition's time has now expired?

CHAIR: Order! Mr Lee was mid-way through an answer.

Mr LEE: I complete the answer on the basis that there was industry gossip at the time that there was a problem with King Bros. We were advised through the administration process of the appointment of Madden as the administrator.

The Hon. JAN BURNSWOODS: Point of order: It is now well and truly more than halfway through the remaining time, therefore, we are into the crossbencher's time, and following that there will be Government's time.

Ms SYLVIA HALE: I wish Ms Burnswoods would stop sticking up for the crossbenchers. It is most irritating. I would be much happier, and delighted, to give my time to Mr Gallacher to pursue the line of questioning.

The Hon. JAN BURNSWOODS: We have noticed where your questions have been coming from. Perhaps Mr Oldfield might have an opinion as well.

Ms SYLVIA HALE: I gave him my portion of the time. Mr Oldfield can worry about his.

The Hon. JAN BURNSWOODS: I am not sure how it is divided, and sometimes one of you has come in, and sometimes the other. Mr Oldfield may have an opinion. As I said, it is now two-thirds of the way through the time, so we are back to Government time. I would be happy to let Mr Oldfield ask a question.

The Hon. DAVID OLDFIELD: I understand we are still finishing at one o'clock. Ms Burnswoods, on behalf of Ms Hale, we would happily welcome you on the crossbench at any stage when you wish to leave the Labor Party.

The Hon. JAN BURNSWOODS: David, you are the one who has been in multiple parties, not me.

The Hon. DAVID OLDFIELD: Yes, it runs in the family. Mr Stott, what did you do when you received the protected disclosure in January from Mr Lee?

Mr STOTT: I referred it to my internal audit manager and requested it be investigated.

The Hon. DAVID OLDFIELD: You said there was some crossover. Was the disclosure essentially allegation-wise the same as that which you had received from ICAC?

Mr STOTT: There was a series of allegations. Some of those allegations were the same as I had in a separate disclosure.

The Hon. DAVID OLDFIELD: So, there were more allegations?

Mr STOTT: Some were different, some were the same.

The Hon. DAVID OLDFIELD: Was there any indication as to where the allegations had originated in either of the disclosures, from ICAC or from Mr Lee?

Mr STOTT: Protected disclosure is just that.

The Hon. DAVID OLDFIELD: I said "indication".

Mr STOTT: I do not believe that I can answer that. I do not want to be in the position of breaching the protected disclosures legislation.

The Hon. DAVID OLDFIELD: Is there any indication as to when ICAC will finalise its investigation?

Mr STOTT: I said earlier today that we had negotiated a short extension to allow the detailed examination of some issues, and that the report is returnable in the next fortnight.

The Hon. KAYEE GRIFFIN: The Unsworth final report made recommendations relating to the need to drive efficiencies in the State Transit Authority. Does that mean that the STA is to be privatised?

Mr STOTT: I do not know. I do not own the STA, do I?

<13>

The Hon. DAVID OLDFIELD: We are not sure. Is that perhaps part of—

Mr STOTT: Who knows? I do not think the Unsworth report gives any suggestion that the STA is to be privatised. It certainly indicates that the STA may have room for efficiency and it indicates that those efficiencies could free up funding that could be passed in for supporting bus services elsewhere in the Sydney system. Those efficiencies are part of a review that is being conducted for the ministry by an independent agency. It indicates that there are potentially some modest savings, and we will be building those into our statement of corporate intent for the year.

Mr LEE: I think it has also been pretty clear in the Parry report, which actually suggested that privatisation was not an outcome. In actual fact I think the Government's response to the Parry report made it very clear that the STA would not be privatised. I think it is fair to say that there has been some conjecture about that issue. But ultimately Mr Stott and the STA have a contract with the ministry to provide services in certain parts of Sydney. The final report refers to 10 regions in Sydney, and, of those areas, 6, 7, 8 and 9 pretty much fall within the current—albeit patchwork—contractual arrangements.

It pretty much replicates what State Transit runs at the moment. As the purchaser of those services, we are of the view that the STA is meeting its obligations. We would want to negotiate with the STA about this new contracting arrangement but in many respects that is dependent on legislation passing through Parliament. I would not want to foreshadow what might be considered by the lower and upper houses. It has been foreshadowed by the Government that it would like the legislation to better replicate some of the issues that came out of Unsworth, and they will be taken on board.

CHAIR: I thank Mr Lee and Mr Stott for their attendance before the Committee today and for their assistance.

The Committee proceeded to deliberate.
