

REPORT OF PROCEEDINGS BEFORE

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

INQUIRY INTO THE CROSS CITY TUNNEL

At Sydney on Friday 31 March 2006

The Committee met at 9.45 a.m.

PRESENT

Reverend the Hon. F. J. Nile (Chair)

Legislative Council

The Hon. A. R. Fazio
The Hon. G. S. Pearce
Ms L. Rhiannon

Legislative Assembly

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

CHAIR: Welcome to the eighth public hearing of the Joint Select Committee on the Cross City Tunnel. The Committee has released its first report, addressing terms of reference 1(a) to 1 (d), which specifically relate to the cross-city tunnel project, the disclosure of contractual documents and communication and accountability mechanisms between the Roads and Traffic Authority and the Government. Today's hearing and the hearing to be held on Monday 3 April 2006 will be primarily focused on terms of reference 1(f): "The role of government agencies in entering into major public-private partnership agreements".

I note that the Parliament's Public Accounts Committee is currently conducting an inquiry into public-private partnerships and will cover some of the same issues this Committee's inquiry is addressing. The two inquiries are complementary. The Committee previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of guidelines governing broadcasting of proceedings are available on the table by the door. In accordance with the Legislative Council guidelines for the broadcast of proceedings, members of the Committee and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee, the media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee. Witnesses, members and their staff are advised that any messages should be delivered through the attendants or the Committee clerks.

I also advise that under the standing orders of the Legislative Council any documents presented to the Committee that have not yet been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by any member of the Committee or by any other person. The Committee prefers to conduct its hearings in public. However, the Committee may decide to hear certain evidence in camera if there is a need to do so. If such a case arises, I will ask the public and media to leave the room for a short period. We are aware that people hold strong and divergent views about the cross-city tunnel. I emphasise that although this is a public hearing, it is not an open forum for comment from the floor. Only questions from the Committee and the evidence of witnesses are recorded on the transcript. Uninvited interruptions are not recorded and may make it more difficult for witnesses to fully express their views. I ask all present to turn off their mobile phones for the duration of the hearing. I welcome our first witness today, Mr Ross Woodward, Deputy Director General, New South Wales Department of Local Government.

ROSS KEITH WOODWARD, Deputy Director General, Department of Local Government, 5 O'Keefe Avenue, Nowra, sworn and examined:

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

Mr WOODWARD: Yes, I am.

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

Mr WOODWARD: Yes. I thought I would just give a brief overview of the situation in terms of public-private partnerships [PPPs] for local government to give you a bit of background about the legislation, the purpose of it and how the process works. The public-private partnerships regulatory framework for local government in New South Wales was instigated as a direct result of findings made by Emeritus Professor Maurice Daley as commissioner to the Liverpool City Council public inquiry. As you may recall, the Liverpool council was dismissed as a result of a failed PPP. Professor Daley made recommendations that outlined a framework for local government public-private partnerships. The Local Government Act 1993 was amended by inserting a new part 6 into chapter 12. The Act commenced on 1 September 2005.

The Act defines a public-private partnership, laws for the publication of guidelines by the Director General of the Department of Local Government and establishes the project review committee. The Department of Local Government, in consultation with the public and private sectors in the Local Government and Shires Associations of New South Wales prepared the publication entitled Guidelines on the Procedures and Processes to be Followed by Local Government in Public-Private Partnerships. The recommendations of Professor Daley were considered in the preparation of this document.

In developing the guidelines, consideration was given to publications such as the New South Wales Government publication entitled Working with Government Guidelines for Privately Financed Projects. The local government public-private partnership guidelines were released to local government on the 2 September 2005. The guidelines set out processes and procedures to be followed by councils, should they decide to enter into a PPP arrangement. The requirements are of the type that any responsible, prudent, transparent and well-managed council should be undertaking to ensure they meet their obligations to the communities they represent. This includes preparing business plans, probity plans, financial feasibility statements and risk assessments, undertaking appropriate public consultation, demonstrating the meeting of council objectives outlined in its strategic and management plans, and engaging in appropriate market-testing processes.

The department does not believe that the legislation or the guidelines will impose any onerous, additional burdens on councils entering into private-public partnerships. It is our view that any prudent organisation should undertake these investigations in any case. Councils considering a PPP must submit their proposal to the Director General of the Department of Local Government for determination as to whether a PPP project must be reviewed by the local government project review committee, prior to the council entering into the arrangement.

In making such a determination, the director general will assess the perceived risk levels inherent in the project, with high risk projects being referred to the committee for review. The director general will also refer significant projects, being those with a total cost in excess of \$50 million, or those where council contributions are more than 25 per cent of its annual income to the project. The local government project review committee established by the Act is chaired by the Department of Local Government and comprises representatives from the New South Wales Treasury, the Premier's Department, the Cabinet office and the Department of Planning. The committee's role is to assess proposed projects to ensure that councils adhere to the processes specified in the guidelines. At no time does the committee approve or refuse a proposed PPP project. It is assessing the project against the guidelines.

I would like to table, if I can, some documents, the first one being the guidelines that I have referred to, two brochures we have produced around frequently asked questions and a basic understanding of how the system works for local government PPPs, the relevant section of the Act, a regulation, and the membership of the project review committee.

Mr PAUL McLEAY: I move:

That the documents be tabled.

Motion agreed to.

Mr WOODWARD: I also have copies of the brochures for each of the members, if they wish.

Documents tabled.

CHAIR: Mr Woodward, I just have come general questions. Do you think local governments and shires have the expertise to enter into major public private partnerships?

Mr WOODWARD: I think it is varied. Public-private partnerships [PPPs] can be very complex arrangements. As Liverpool Council found, it is not an easy matter to enter into these arrangements. The view taken by the department has been that, provided they follow the guidelines and obtain the appropriate advice, councils should be able to enter into such arrangements. However, because they are so complex, local government itself recognises that the skills to do that are patchy.

CHAIR: You stated that the assessment is only to see whether they are meeting the guidelines, not to assess the economic feasibility.

Mr WOODWARD: The guidelines require them to assess the economic feasibility. The guidelines set out processes to be followed, including whether the council has obtained independent advice all along the way to ensure that the economic viability of the project is satisfactory. If that comes to the committee and the committee believes that the council has not obtained sufficient independent assessment, it can engage the necessary advice to do that work independently. We are putting the onus back on the council as the authority in charge of the project to do that work. Our role is to check that that work has been done properly.

CHAIR: Do you wish to add anything to what you have said to explain the intention of the changes to the Local Government Act relating to PPPs?

Mr WOODWARD: The intention of the Act is to ensure that all councils have a clear understanding of the risks they are entering into and to ensure they have covered them. It also ensures that the projects have community support. One of the underlying philosophies of the guidelines is that this process is open and transparent, that projects coming to the committee are well known in and supported by the community, and that they are in the council's management plan. It should not be a situation in which a developer approaches a council and the council, in secrecy, thinks it is a good idea and wants to progress it. When the project comes to the department, all that must be in the public domain and have been properly assessed in terms of economic viability.

CHAIR: What is the role of the Department of Local Government and the Minister for Local Government in PPPs that are entered into by councils and shires?

Mr WOODWARD: The department assesses all projects. No matter how big or small, if a council wishes to enter into a PPP arrangement, once it has resolved to do that it formally approaches the department and the department assesses whether it meets the criteria to go to the committee. The criteria are that the project is valued at more than \$50 million, involves 25 per cent of the council's annual income, or is high risk. Even though it might be a small project, it might have not only financial risks but also problems with community acceptance. The department can refer those projects to the committee.

The department's role is to oversee all PPPs generated by local government in New South Wales. The Minister's role is to call in projects if there is a view that a council has tried to bypass the Act and the requirements in the guidelines. The Minister's powers are there to ensure the legislation is complied with. In other words, if a council enters into a PPP or intends to do so without having gone through the committee or the guideline process, the Minister can call in that project and require it to go to the committee for assessment.

CHAIR: What impact, if any, will the recent amendments to the Environmental Planning and Assessment Act have on the capacity of shires and councils to enter into PPPs?

Mr WOODWARD: My understanding of the legislation is that there will be no formal change to the arrangements, because that is how development assessment is done. That is a separate process to the PPP guidelines. If a project goes through the committee, it does not mean the committee supports the planning decisions that have to be made, sometimes after that process. If the PPP committee process does not impinge on any other legislation; the planning assessment part stays completely separate. It is my understanding that there would not be any formal impact.

Mr ANDREW CONSTANCE: The Auditor-General expressed concern about the degree of expertise that exists in the New South Wales public sector to manage PPPs. What is the department doing, if anything, to ensure that its own bureaucrats are up to speed in terms of managing the processes involved with PPPs? In light of all other activities it has to undertake, do you believe that local government has the capacity to manage PPPs?

Mr WOODWARD: First, the department does not profess to be expert in PPPs. That is one of the reasons that its membership includes officers from other agencies, including Treasury, to assess any proposal. The legislation also allows the department to appoint other members to the committee as necessary. That could be around specific expertise or a particular project. It also has the ability to call in other expertise if it is of the view that the council has not covered the issues required of it in the guidelines.

In terms of the capacity of local government to deal with PPPs, as I said earlier, they are very complex arrangements. It depends on the nature of the arrangements. Some councils have been entering into small-scale PPPs for waste transfer stations, composting and things like that for some time. There is not a high risk in those arrangements. It is the large projects that involve major risk. One of the committee's roles is to ensure that there is a clear understanding of the risks involved and that there has not been a transfer of risk from the private sector to the council without the council's knowledge. The process is designed to ensure all that is on the table and well understood by all the parties before any contracts are entered into. We will call in whatever expertise we need to ensure that the proposal meets those criteria. Some councils may see one of these projects once in a lifetime. Therefore, we cannot expect them to have that sort of expertise on tap.

One of the things we have built into the process, and it is in the legislation, is that the general manager of the council must sign off that the guideline requirements have been met. One of our concerns is that sometimes councils could be tempted to employ a consultant or project manager—that is, an external person—with no direct accountability to the council or the community. We ensure that the general manager becomes the accountable person to say that the guidelines have been met. We also require that throughout the process the decisions are made by council resolution. That also means the council itself is paying attention. There were occasions prior to the enactment of the legislation on which the department met with councils and asked questions and the mayor and the general manager deferred to a consultant. Our alarm bells rang because that showed a lack of understanding on the part of the people responsible for the project. We have enshrined that in the legislation. We are providing training across the State for councils about this process.

Mr ANDREW CONSTANCE: What about in-house training?

Mr WOODWARD: We make sure we are up to date with whatever is happening. We work with other agencies to ensure that we are up to date with current thinking. We have an expert on hand; we have engaged a PPP expert, an economist who does the initial assessments in house. That person's role is to check that the appropriate processes have been carried out. One of the problems with

Liverpool was that the council shopped around until it got the advice that suited its purpose. We look to ensure that that has not occurred.

Mr ANDREW CONSTANCE: Was the department aware of local government concerns in Eastern Sydney about the cross-city tunnel?

Mr WOODWARD: Not specifically; we were not involved in that regard at all.

The Hon. GREG PEARCE: How do the guidelines direct councils to deal with unsolicited proposals? I think Woodward Park at Liverpool was probably more or less unsolicited.

Mr WOODWARD: Unsolicited proposals are a major concern. We prefer that the proposal come from a council itself. The alarm bells start to ring when there are unsolicited proposals but the guidelines require councils to deal with unsolicited proposals in such a way that if they think the proposal is a good idea, they take ownership of it and run it through the normal processes. In other words, it still has to be market tested and go through the normal process, but it can only be at the resolution of the council. An unsolicited proposal is really just an idea somebody has had that has been put to the council and the council may or may not think it is a good idea. If council thinks it is a good idea, it can formally resolve to investigate it. The department and the committee's role only comes into play when the council resolves to proceed. We caution councils to be very wary of unsolicited proposals. If they do arise, it may well be that it is a good idea, so the council should then assess it as if the proposal was its own idea and test the market and not give any favoured treatment to any person who has come forward with the unsolicited proposal. In other words, it is dealt with in exactly the same way as a proposal they have thought of themselves.

The Hon. GREG PEARCE: How do councils decide that something is a PPP—I do not like the jargon—rather than a normal procurement contract?

Mr WOODWARD: The PPP is defined in the legislation. We often get requests for interpretation, I guess. We only get involved once a council has resolved. There is a lot of discussion with some councils early in the piece about whether it is a PPP and what are the rules around it, because there are some grey areas around PPPs. It is defined in the legislation. Broadly it is where there is an ongoing involvement by the council with the private partner into the longer term.

The Hon. GREG PEARCE: What are the probity requirements for local government in the contracting process?

Mr WOODWARD: The guidelines spell out a whole range of issues to be dealt with around probity. We require an independent assessment that the whole probity issue has been properly addressed. That is another question. If it comes to the department or to the committee and we believe probity has not been dealt with appropriately, we will engage a probity adviser to advise us on that. Probity is one of the key aspects. Probity and financial assessment are probably the two key issues that we look at, on the assumption that the process has been open and transparent and supported by the community before it comes to us. That is the third major category, I guess.

The Hon. GREG PEARCE: Liverpool, Woodward Park and the whole Bulldogs saga bore a resemblance to one of the worst features of the cross-city tunnel, which was the up-front payment. The whole Bulldogs thing involved various payments to Liverpool council. What is your attitude to those sorts of payments and how do you ensure they are appropriate, or are they allowed at all?

Mr WOODWARD: There are not disallowed but it is something we look at closely because our concern is to make sure that the council is not at risk of losing its money, basically. That is one of the key things we look at. The guidelines and the view of the department are not to support PPPs and not to not support them, so it is a neutral process. Our main concern is to make sure the council understands the risks and is not putting both existing and future ratepayers at risk. Up-front payments by a council normally would raise our concern. If that was built in early on we would certainly have a very close look because the concern obviously is what happens if further down the track the project does not proceed and the council has lost its money. That is a key concern we have.

Mr ANDREW CONSTANCE: Have you seen many instances of business consideration fees with local government?

Mr WOODWARD: No. So far we have not had many projects. Three projects have gone to the committee and three projects have come to the department that did not require to go to the committee. It is still early days for us in terms of these projects.

Ms LEE RHIANNON: You may have answered a question I was going to ask about the number of projects. So three have gone to the committee and three have gone to the department that did not need to go further?

Mr WOODWARD: That is right.

Ms LEE RHIANNON: Of those that went to the committee and on which you have given advice, was your advice taken? Do they go away and change it?

Mr WOODWARD: No. The advice must be followed, and if it is not we can intervene and the Director-General can require that it come back to the committee if there are variations. If our advice is not followed there are serious consequences for the council involved.

Ms LEE RHIANNON: You said that you are neutral in terms of whether you think it is good or bad; you are just giving them advice so they do not get caught out. Is there any active encouragement of councils to look to PPPs as a way of bringing on projects that they may be having trouble getting up?

Mr WOODWARD: Not by the department. Our role is to remain neutral. We have acknowledged that PPPs are a valid way of local government procuring infrastructure. A lot of councils are asset rich but financially quite poor, so they have an opportunity in situations where they have some well-placed land to potentially enter into a PPP arrangement. We do not actively encourage it. We do not see it as our role to encourage it or to discourage it.

Mr MATT BROWN: Thank you for appearing before the committee. Can I ask about the inter-relationship between the Department of Local Government and Treasury? You mentioned earlier the Working With Government guidelines that Treasury has set forth, and Treasury's vast experience with PPPs. How does the Department of Local Government work with Treasury?

Mr WOODWARD: We work very closely with Treasury. Treasury is part of the project review committee and we worked with Treasury on preparing our guidelines to make sure they were consistent, although we modified them for local government. They are not just a direct copy. We also rely on Treasury for financial advice and Treasury has a list of consultants that we can call on for additional advice fairly quickly. One of our issues is that we do not want this process to unnecessarily add layers of bureaucracy and hold up projects. We are able to call in at short notice Treasury-approved consultants to review some of the processes if necessary. So far we have not had to do that. Treasury has been able to provide the advice we need.

Mr MATT BROWN: With the expertise of your department and the relationship with Treasury, would you be confident that the process will be managed well in the future?

Mr WOODWARD: Yes, I am very confident of that.

Mr MATT BROWN: You mentioned earlier that you have had only six examples since the legislation was introduced. How involved was the department in helping councils work with PPPs before the legislation came in?

Mr WOODWARD: Not very involved at all. There was no direct involvement. Councils from time to time would have asked advice, mainly around the impact on their finances. There was not a heavy involvement. I think the issue of Liverpool raised that. It was before I joined the department but my understanding is Liverpool Council was cautioned by the department against some of the activities it undertook, but chose to ignore it. That was one of the issues that caught the council out, I guess.

Mr MATT BROWN: I am also interested in the establishment of the guidelines. Can you explain briefly to the committee how they came into being—maybe some of the differences between the Treasury's guidelines and your own—and were councils asked for input in the establishment of those guidelines?

Mr WOODWARD: The process for the guidelines was that we looked at what had been done internationally, we talked with Treasury and the Department of Commerce about the preparation of the guidelines and I discussed at length with some of the authors of those guidelines what had changed since they were produced and what was of relevance to local government. We took that as a basis and put together a significant number of drafts, which we then discussed with the sector itself and with councils—not broadly, it was more a selective consultation process.

We involved the Local Government and Shires Associations and some select councils who had some involvement, or some potential involvement, with PPPs. We talked with Local Government Managers Australia, and also had some workshops with some of the general managers who had some experience in this process. In preparing it, I also discussed it with the private sector, to find out what were some of the obstacles that they saw. The legislation was passed and then a couple of small amendments were made. That was a result of the consultation in preparing the guidelines, to make sure that the whole system worked quite well.

The guidelines were selectively consulted and had the support of councils, the whole sector, and the private sector as well. The private sector were quite pleased to see that there were at least some rules in place which helped them as well. One of issues that have in working with the council is that they are not really sure whether the council does have the capacity to deliver what it says it will deliver. So we included in the guidelines the council capacity. A lot of amendments were made along the way to make sure the whole system worked for all parties.

Mr MATT BROWN: I understand that there are a number of thresholds as to whether the committee gets involved. Could you speak about that? I think it is \$50 million or 25 per cent. How does that work?

Mr WOODWARD: If the total project value is \$50 million, it automatically goes to the committee. For smaller projects in smaller councils—it could be quite risky for that council—it is 25 per cent of their annual revenue. In terms of the council itself it might be a large project, but in dollar terms it may not be as high. So it is to pick up that situation, for high-risk projects.

"High risk" is not defined in the legislation, but in the guidelines we give some clues about what that means. What we are talking about there is that the director general may be of the view that, even though it might not meet the threshold, it should be run through the committee because we have some doubts about it in any case in terms of community support, the finances, whether they have carried out appropriate probity, or whether it has been an unsolicited proposal, which was raised earlier, to make sure that the committee really casts its eye over it. So what goes to the committee is fairly flexible in terms of risk.

Mr MATT BROWN: I suppose that is one example of the difference between the guidelines and the Treasury working with Government?

Mr WOODWARD: Yes. We deliberately included those thresholds.

CHAIR: You say that the committee is mutual in its approach. Do you think there should be a veto power, even taking into account all the factors, that this project should not go ahead? Do you have that power, or should that power be there? Who should have that power?

Mr WOODWARD: That power is there, in that it is a circular process. When it comes to the committee, if it has met all the criteria, by deduction, it is a sound project. If it has not met any of the criteria, we refer it back to the council. We simply say to the council, "You cannot proceed until you have met the guidelines' requirements." They can come back numerous times, until they have met those requirements, but they cannot proceed. So it is not an approval process because they have that

ability to go away and amend it at any time, but they still cannot proceed if it has not met the requirements of the committee.

The committee may be of the view that it is not a good project because of its risk or other reasons. But we would not say that it is not a good project simply because we did not like the colour of it or its vision. We are completely focused on the viability of the project, and if it does not meet the requirements they can go away and have another look at it. At the end of the day, it means that they cannot proceed until the committee is satisfied that it has met the requirements of the guidelines. In other words, it acts as a veto for projects that do not stack up.

Mr MATT BROWN: Have you had any feedback from councils that since the guidelines have been implemented councils feel more comfortable in seeking out some private sector investment in their area? Could you speak about the interest that councils have in contacting the department to find out more information? Are councils well aware of the change in the law?

Mr WOODWARD: The councils are well aware. We issued a circular to councils when the legislation commenced, and we issued the guidelines. We also held workshops statewide for councils. We have had a lot of requests from councils for information about the detail of how it works. But it is still fairly early days, because many councils have been waiting to see how the system works before they come forward. We have had a lot of inquiries, but we have not had a lot of firm proposals coming to us yet.

But councils are generally well aware of the requirements. We have spoken at conferences, we have had statewide workshops, we have had the support of the Local Government and Shires Associations, and I have spoken about the guidelines at their conference. So there has been widespread dissemination of information.

Mr MATT BROWN: Compared with other jurisdictions, whether in Australia or overseas, where do these guidelines fit in?

Mr WOODWARD: I would like to think that our guidelines are as good as, if not better than, most other examples. We did consult widely. We looked at overseas examples. In terms of guidelines, there were not a lot of good examples elsewhere that we could rely on. But some of the private sector partners we talked to have had overseas experience, and they were able to point out some of the potential pitfalls with the guidelines, so we were able to build in improvements and lessons learnt elsewhere. As I said, the private sector was very supportive because they saw it as a further protection to them when dealing with councils with variable skills.

The Hon. GREG PEARCE: What are the six projects that you have been talking about?

Mr WOODWARD: Currently we are looking at the Parramatta Civic Place proposal, which is in the committee process at the moment. We have looked at Woollahra Council concerning the redevelopment process of the Cosmopolitan Centre. Following the Liverpool experience, there was an area known as the Tapps Land, which was part of the finalisation of the Liverpool process, concerning some redevelopment of that land. Those two projects have been through the committee.

I should say as well, the legislation has a transitional arrangement whereby projects that are already in the pipeline do not have to go back to square one; they fit into the committee at whatever stage they were at when the legislation commenced. Those projects were already commenced, and we just looked at them in terms of where they sat at the time.

The three projects we looked at that did not need to go to the committee were as follows. Leeton Shire Council had a commercial compost facility, Ryde City Council had a project concerning improving traffic flows at Top Ryde shopping centre, and Young Shire Council has a proposal to redevelop its civic administration building.

Mr ANDREW CONSTANCE: Is there reluctance on the part of councils in regional areas to take up the options of public-private partnerships? Do you sense a degree of nervousness from regional councils at all?

Mr WOODWARD: We do not detect that. I think there is a tendency to wait to see whether the guidelines are going to work for them. But it has not changed anything. If a council was going to enter into one before, this does not add anything to their process—or it certainly should not. We have made it very clear right throughout the process that if you are entering into one arrangement like this, you should be doing all the things we are specifying in any case; there is nothing new in any of this. We also say, "Don't go to any additional effort to present it to the committee, other than perhaps packaging it up to make it easier for us to look at. We do not want you to do any extra work; you should have already done it. Just tell us where it is and send it into us."

We do not want this to be an additional administrative burden on councils. It does not cost them any money to lodge applications, so there is no additional cost to councils; we absorb that in our review process. So there is no additional cost to the private sector or to the council. In answer to your question, we have not picked up any additional nervousness around it. However, I think councils, like everybody else, are now more aware of the potential pitfalls of PPPs, so they do talk more regularly with us. We are still in the early discussion stages about what are the rules of the game so they know what they are getting into, and that is a positive thing.

Mr ANDREW CONSTANCE: In light of perceptions about public-private partnerships as a result of the cross-city tunnel, is there any nervousness from local government about public-private partnerships?

Mr WOODWARD: We have not picked up any additional nervousness. Councils have always been fairly cautious about the way in which they enter into arrangements. So, no, I have not picked up any additional nervousness as a result of that. I think perhaps the heightened publicity has made them more conscious of the need to address the risk issues.

CHAIR: Are there any grey areas as to when a public-private partnership exists? In other words, if a council is providing land at a special concession for a major resort, would that be seen as a public-private partnership? Technically, what makes it become a public-private partnership—when some councils are co-operating in various ways with a development?

Mr WOODWARD: The definition in the legislation sets out when it becomes a public-private partnership but, in broad terms, it is when there is an ongoing relationship between the council and the private sector to provide infrastructure, or to provide a service. If a council is selling land then it does not become a public-private partnership. But if council is entering into some negotiation where, for a reduced rate, for instance, the private sector might provide some community facility into the long term, that would become a public-private partnership. So it is the long-term arrangement between the two parties. If there is an ongoing deal around providing infrastructure or a service that is what defines the PPP.

CHAIR: Who makes that decision? Does your department make that decision?

Mr WOODWARD: If it is unclear then, yes, it comes to us and we make a determination about whether it is a PPP. We do get some requests from councils asking that exact question because there are some obvious grey areas around that.

CHAIR: You mentioned some of the projects that you were aware of. I understand there is a very large project in south Nowra involving a Buddhist temple, a hotel-motel, infrastructure and so on. Is that regarded as a public-private partnership, or has it not developed far enough for you to know?

Mr WOODWARD: It has not developed far enough for us to know what will be the structure of the arrangement. There has been no formal request for advice from Shoalhaven council to this point.

Mr ANDREW CONSTANCE: Is that on government land?

Mr MATT BROWN: It is on council land.

CHAIR: Thank you for appearing as our first witness today.

(The witness withdrew)

(Short adjournment)

BRETT SKINNER, Director, Finance, NSW Roads and Traffic Authority,

MIKE HANNON, Acting Chief Executive, NSW Roads and Traffic Authority, and

LES WIELINGA, Director, Motorways, NSW Roads and Traffic Authority, on former oath:

CHAIR: We thank you for appearing before the Committee again. We appreciate all the information and help we get from the Roads and Traffic Authority [RTA] in spite of all your heavy responsibilities in other areas. We appreciate the time you give to these inquiries. As you know, we are looking particularly at the whole issue of public-private partnerships [PPPs]. Do you have an opening statement you wish to make?

Mr HANNON: We have no opening statement, no.

CHAIR: As a general question, do you have any views on the value and effectiveness of those public-private partnerships?

Mr HANNON: In terms of PPPs, there is clearly a place for them in terms of having the private sector fund infrastructure which might not otherwise be funded through the budgetary process. So the practice in the recent past in the roads area has been to select those projects where there is likely to be a response from the public in terms of usage, and obviously where there is likely to be a response from the public in terms of need. The three projects that are currently being considered—the cross-city tunnel, which was recently finished, the Western Sydney Orbital, the M7, as it is known, that has also just been completed, and the Lane Cove tunnel are three projects where a significant injection of funds was required if those projects were to proceed, and using the private sector to fund those was a decision that was made by government to deliver them.

In the case of the M7, there was a need for the Government—and that was the Federal Government because of the national highway project—to put some funds in to make it a viable proposition. As we have indicated in our previous presentations to the Committee, these projects were delivered on a no cost to government basis. So that in terms of the budgetary process, there was no demand on the State budget to have them delivered. In summary, if major infrastructure is needed and the funds are not available within the budgetary process, then using the private sector to fund those projects and do all aspects of it—the funding, construction and maintenance—has been the way to go forward.

CHAIR: Mr Hannon, is it possible for you to update the Committee in regard to amendments to the surface road changes associated with the cross-city tunnel since the Committee's first report?

Mr HANNON: I can get Mr Wielinga to give you an update on that.

Mr WIELINGA: You will all realise, of course, that there was a recent announcement when CrossCity Motorway decided to halve the toll for at least a three-month period. At that time there was a discussion about C and D road changes, and the details of that were in the media release that was put out by Government at the time. You are probably aware that the C changes were road changes that were just temporary things put in during the construction period and they were always intended to be put back at the completion of the construction period. All of those, bar one, have been put back now. The only one that has not been put back is a turning bay for emergency vehicles in Shakespeare Place; it was decided that it would be useful to leave it there as it does not interfere with traffic flow and it was just common sense that it should stay.

The other one is in Sussex Street, slip lanes in Park Street and so forth. During construction of William Street there was taking and occupying of some lanes. They have been, or will be, put back to the way they were originally. As to some of the D changes, there was an agreement with CCM that they do not need to go forward. They were generally isolated bus lane areas within the city. We discussed Bourke Street with them. Bourke Street was part of the condition 288 process. There is public consultation involved in that and the ultimate outcomes at Bourke Street will be determined by that consultation process under condition 288.

The other D changes are not going ahead at this stage. That does not mean, as the Minister for Roads said, that they are permanently off the agenda. They may be considered in the future. But for city traffic reasons at this stage they will not go ahead in the short term. It was also said in that media release that there would be continuing discussions about the changes, and that is the current position.

CHAIR: So there are no other changes that you are aware of.

Mr WIELINGA: Nothing has been decided at this stage.

CHAIR: I know that the RTA has reviewed some previous road changes with a view to deciding whether it is best to reopen road barriers, such as Bourke Street, while you are conducting the review. Which comes first? Do you think a more efficient process would have been to open the roads and allow free movement of traffic while the review was conducted?

Mr WIELINGA: Possibly. I guess the initial comment in response to that is that the construction work is substantially advanced already. It is only a matter of weeks to go and it will be completed. I guess, looking at things in hindsight, it may have been able to do it differently, but we have got what we have got. The construction is substantially advanced. We are looking at those B changes in consultation with CCM at the moment, as has been said. That requires a consideration of the potential traffic impacts. People need to look at the project planning approval and what the project objectives were. You do not lose sight of those objectives. The project had some very good objectives and you need to keep those in mind. There is public transport stuff associated with it. The amenity improvements and the traffic benefits all need to be looked at in a logical and sensible way. Obviously it has a financial dimension potentially as well. It is a matter of bringing those things together at the same time.

CHAIR: Mr Hannon, what lessons has the RTA learnt from the cross-city tunnel experience and how will it affect future PPP arrangements?

Mr HANNON: The RTA worked closely with the Premier's Department, which engaged Professor Richmond to look at lessons that we could learn from the cross-city tunnel and probably for all motorways. We worked closely with them, alerting them to all the issues that we had confronted on all our motorway projects. As you are aware, in December last year the Richmond report was released. The recommendations of the Richmond report have been endorsed by government and, going forward, the Richmond report recommendations will be the way that the Government delivers future motorway projects. In short, the recommendations are basically the lessons that we have learnt from the experience of the cross-city tunnel project.

CHAIR: So you had fairly important input in Professor Richmond's report.

Mr HANNON: We were consulted by Professor Richmond during the preparation of the report. We made him aware of all the things we had done in the past and the reasons we had done them. The recommendations that are now in the report, which pick up on the lessons of the past, are, we think, appropriate recommendations to go forward with. That has been the Government's decision in this case. For example, there are recommendations that talk about the need for a close interface between government agencies and the provider of the infrastructure immediately prior to the opening of these projects. That is clearly a recommendation that talks about how these projects are being marketed. Lessons can be learnt in terms of the cross-city tunnel project as to the marketing strategy that is put in place and making the marketing requirements part of the contract so that there is a known relationship that will exist between government and the consortia in the opening of projects. They have also looked at other issues such as the tolling levels. The recommendations are that the tolling levels not be set but tendered and taken into account in going forward. They are recommendations that will be in future projects. Concession periods will also not be fixed. These are other ways of delivering the project and, going forward, these are the things that we will be looking at.

CHAIR: Are there any other recommendations that you thought were important that Professor Richmond did not take up?

Mr HANNON: All the recommendations have been endorsed so, clearly, going forward—

CHAIR: Are there any others that the RTA thought were important that are not part of Professor Richmond's report? Are you saying that he has embodied all your requests?

Mr HANNON: He has embodied all our commentary on the way we should deliver these projects, yes.

Mr ANDREW CONSTANCE: I have a question for Mr Wielinga. Do believe health warning signs should exist at the entrances of the M5 and cross-city tunnels?

The Hon. AMANDA FAZIO: Point of order: My point of order is relevance. I do not see how that question fits into any part of the terms of reference of the inquiry, especially not the part that addresses the more philosophical side of public-private partnerships that we are supposed to be dealing with at this stage.

The Hon. GREG PEARCE: This matter arises from the prior part of the inquiry and it goes to the requirements of future PPPs, particularly roadways. I think we should let the witness answer and see what he has to say.

Mr PAUL McLEAY: But we have already tabled the first part of the inquiry.

Mr ANDREW CONSTANCE: To the point of order: We are talking generically about public-private partnerships. I have asked about two public-private partnerships and the health of the community. I think that clearly sits within the terms of reference. I would like Mr Wielinga to answer the question.

The Hon. AMANDA FAZIO: Further to the point of order: I suggest that that is the sort of question that might be better asked by Mr Constance during question time in the Legislative Assembly.

Mr ANDREW CONSTANCE: I am asking the Director of Motorways at the Roads and Traffic Authority whether he believes health warning signs should exist at the entrances of the cross-city and M5 tunnels.

Mr PAUL McLEAY: That is right, and it has nothing to do with PPPs.

The Hon. GREG PEARCE: With respect, Mr Chair, if you go back to the outline of the next report, which you tabled at the last meeting, the first section of that is the follow-on reporting on the cross-city tunnel as a result of the first report. In fact, the questions you asked are very similar. They are questions that follow on from what was indicated previously.

Mr MATT BROWN: These witnesses have come today in good faith to talk about PPPs.

Mr PAUL McLEAY: And you are talking about health warnings.

CHAIR: You could reword the question is ask whether the witness thinks that PPPs should include matters that relate to the health of motorists, such as warning signs.

Mr ANDREW CONSTANCE: In light of the public-private partnerships that exist for the cross-city tunnel and the M5, do you believe health warning signs should exist at the entrances of both these public-private partnership projects?

Mr MATT BROWN: Point of order: Mr Constance has not followed your suggestion, Mr Chair.

Ms LEE RHIANNON: He has followed it to the letter.

CHAIR: He has endeavoured to. Does the witness wish to answer the question?

Mr ANDREW CONSTANCE: Can we see what the witness has to say?

The Hon. GREG PEARCE: The Chair has already ruled that he should answer.

CHAIR: I am seeking clarification from the witness as to whether he sees that as an area that he wishes to answer questions about or whether he regards it as a government policy matter.

Mr ANDREW CONSTANCE: The question was directed to Mr Wielinga. I am not interested in what is going on between Mr Hannon or anyone else. I would like Mr Wielinga to answer the question about health warning signs outside these two tunnels. This is a very serious issue in relation to two public-private partnerships, which exist in Sydney at this time.

CHAIR: Does the witness wish to answer this question?

Mr WIELINGA: I am waiting for advice.

Mr ANDREW CONSTANCE: Yes or no will suffice.

Mr WIELINGA: There are a couple of things I should say from what I know. We have a set of compliance conditions for the cross-city tunnel, the M5 East and the other tunnels. The M5 East is not a privately financed project. It is a design, construct and maintain contract. The cross-city tunnel is a BOOT project, privately financed. We have a set of conditions. We comply with those conditions of approval. They come from World Health Organisation guidelines. In addition, the RTA put out a brochure, our communications area, about safety in tunnels, and included in this brochure is a paragraph about advising people to put up their windows if they have got asthma or other things.

Mr ANDREW CONSTANCE: So why are there not warning signs outside the entrance to the tunnel if you issued a brochure?

Mr MATT BROWN: Mr Chairman, the witness should be allowed to answer the question.

CHAIR: Let the witness continue to complete the answer.

Mr WIELINGA: All I can say is it is a combination of engineering and communication type-things, what is the most effective and appropriate way to get the message out. In order to answer your question I would like an opportunity to think about it a bit more.

The Hon. GREG PEARCE: Where are the brochures made available?

Mr WIELINGA: They are available on the RTA's web site and motor registries. A little slip went out with the renewal of motor vehicle registrations. Maybe I even have one in my bag, I am not sure. I will just have a look in a moment.

CHAIR: You can take that question on notice if you wish to provide further information.

Mr ANDREW CONSTANCE: Have you established a pollution hotline in relation to the tunnels?

Mr WIELINGA: I am sorry, that is not in my area.

Mr ANDREW CONSTANCE: Mr Hannon?

Mr HANNON: I think we should take that on notice. Obviously, the RTA has telephone numbers that people can ring up if they have got concerns about maintenance of the road network, of graffiti. I will take on notice—

Mr ANDREW CONSTANCE: Could you provide further advice to the Committee in terms of the number of calls and also table those calls to the Committee.

Mr PAUL McLEAY: Point of order: Mr Chair—

The Hon. GREG PEARCE: You are very nervous about this, aren't you?

CHAIR: Will you take the question on notice to provide that information?

Mr HANNON: I have a brochure here. I will see if it indicates any telephone numbers. There is a 24-hour telephone number to report traffic conditions and there is one to report traffic incidents as well. I am prepared to table the document.

Document tabled.

The Hon. GREG PEARCE: Have you considered having some RTA employees hand out those brochures at the entrance to the M5 East tunnel when it is clogged up and the traffic is stopped?

Mr PAUL McLEAY: Point of order: Can I remind the Committee that the role of government agencies in entering into a major public-private partnership agreement includes public consultation processes and terms and conditions, including such agreements. Just because Mr Constance does not get a call in question time does not mean that he can talk about the M5 East, which is not a PPP anyway. Going down this path has nothing to do with the inquiry.

Mr ANDREW CONSTANCE: We are talking about the protection of public health through public-private partnerships. We have an instance here where the RTA is clearly not of the view—

The Hon. AMANDA FAZIO: To the point of order: I am sure that Mr Constance is not aware that, as members of the upper House Mr Pearce and Ms Lee Rhiannon would be well aware, we have had numerous upper House inquiries into tunnel ventilation. That is not the subject of this inquiry and I ask you to rule out this line of questioning because it is not an appropriate use of time, given our terms of reference. Mr Constance might not be aware of that fact so I would appreciate it if you would draw it to his attention. We are here to look at public-private partnerships and government involvement. We are not here to revisit ventilation.

Mr ANDREW CONSTANCE: I was specifically talking about government involvement around health warnings on the cross-city tunnel and the M5 tunnel.

The Hon. AMANDA FAZIO: You are not. You are asking about the M5 East. It is a pathetic attempt.

CHAIR: I remind Committee members that the M5 tunnel is not part of our terms of reference.

The Hon. GREG PEARCE: To the point of order: The RTA has told us that they are sufficiently concerned about the health risk to issue a pamphlet, which is available on their web site. That is the extent of their action. That is outrageous.

The Hon. AMANDA FAZIO: What a cheap stunt.

Mr ANDREW CONSTANCE: That is right. It is a cheap stunt from the RTA.

CHAIR: We will now return to questions on public-private partnerships.

The Hon. GREG PEARCE: Were you involved in the negotiations to cut the toll on the cross-city tunnel?

Mr HANNON: Yes, I attended one of the meetings.

The Hon. GREG PEARCE: What was the basis for the 50 per cent cut?

Mr HANNON: As you know, the RTA in the deed had set a maximum toll. The reduction in the toll was a matter for the consortia. The consortia offered up a 50 per cent reduction in toll.

The Hon. GREG PEARCE: What did the Government seek?

Mr HANNON: We did not seek anything. The Government sought a reduction.

The Hon. GREG PEARCE: But no specific figure?

Mr HANNON: As you have no doubt seen in the media, but the decision was wholly the company's decision to reduce it by that much.

The Hon. GREG PEARCE: The reduction in the toll for the three months described as a trial, what has been trialled?

Mr HANNON: The reduction in the toll.

The Hon. GREG PEARCE: When you say a trial, what are the outcomes, who is monitoring it, who will decide whether it was good or bad?

Mr HANNON: The consortia are going to make the call on the toll levels at all times. The Government has set the maximum toll. It is up to the consortia to decide whether they charge the maximum toll or a reduced toll. They have decided for three months at least to have the toll set at half the maximum toll. At one stage, as you know, they had the toll set at zero. My assessment is that they are obviously trying to entice people into the tunnel and encourage them to use it, experience the tunnel and obviously grow the numbers of people who use the tunnel.

The Hon. GREG PEARCE: So at the end of the trial period the Government will have no role in what is done about the toll, except you have set the maximum figure, is that what you are saying?

Mr HANNON: It is a decision that the consortia will make, yes.

The Hon. GREG PEARCE: And you have no role in monitoring that or suggesting what an appropriate toll should be?

Mr HANNON: The level of toll that is set is a matter for the consortia.

The Hon. GREG PEARCE: Except that the government set the maximum?

Mr HANNON: As I said.

The Hon. GREG PEARCE: Are you getting daily patronage figures from the cross-city tunnel consortia?

Mr HANNON: Yes, we are getting some patronage figures from the consortia.

The Hon. GREG PEARCE: What are the most recent patronage figures that you have been getting?

Mr WIELINGA: Last Friday.

Mr HANNON: We have been given some information by the consortia as to what were the patronage levels three weeks before the toll was reduced and three weeks after the toll was reduced, so we have those for just a 21-day period.

The Hon. GREG PEARCE: Can we have those figures, please?

Mr HANNON: And, for the record, in the three weeks prior, it was 592,000 vehicles approximately.

The Hon. GREG PEARCE: That was for a three-week period, was it?

Mr HANNON: Three weeks after it was 697,000, so during that period there was a volume increase of 105,000 vehicles, which is approximately 17.8 per cent.

Mr ANDREW CONSTANCE: Did you receive legal advice from Clayton Utz to the effect that 49 A category roads could be reopened without liability?

Mr HANNON: What category roads?

Mr ANDREW CONSTANCE: Category A.

Mr HANNON: No, the category A roads cannot be opened with no financial liability.

Mr ANDREW CONSTANCE: So did you receive any legal advice in relation to B, C and D roads?

Mr WIELINGA: Yes, there was some summary advice that has been tabled with the documents. Basically, that said that for the category A roads there was a direct link to the MAE event. For the category B roads, and Cs and Ds, there was a potential issue but each of those should be considered on their merits as you looked at them.

Mr ANDREW CONSTANCE: Why has the RTA not accepted the recommendation of the inquiry to publish daily patronage figures on your web site?

Mr WIELINGA: When we dealt with this question last time at the inquiry we said that it was a matter for CCM to release the figures. They regard those figures as commercial in confidence, and I think the previous chief executive of CCM said that from time to time they would put figures out when asked.

Mr ANDREW CONSTANCE: Coming back to the roads that were reopened, how were they selected?

Mr WIELINGA: Basically, they were all the C and D categories.

Mr ANDREW CONSTANCE: All C and D?

Mr WIELINGA: Except the two Bourke Street ones, yes, and that is mentioned in the media release.

Mr ANDREW CONSTANCE: Are you in further negotiations with CCM in relation to further road changes? If so, which roads?

Mr HANNON: As was indicated in the Minister's press release, we are talking to the consortium. At this stage the consortium is looking at the B roads, and we are expecting the consortium to come back to us shortly with suggestions as to how we can go forward.

Mr ANDREW CONSTANCE: What is the legal advice in relation to the category B roads?

Mr HANNON: The legal advice is that there is potential exposure on the B roads, so we need to find out exactly what roads they will suggest and then we will take advice.

Mr ANDREW CONSTANCE: Is the reopening of the roads simply a trial or will they be permanent?

Mr HANNON: The negotiations have not taken place. At this stage they have not even come to us with the suggested changes.

Mr ANDREW CONSTANCE: Are the C and D changes now permanent?

Mr WIELINGA: Yes, the C changes were temporary construction methods and they were always going to be reversed except for the one in Shakespeare Place, I imagine, so that process is

complete. The D changes, what happened was that CCM agreed for those to be changed and that is the position at the moment. That does not rule out putting them out in the future or not putting them out in the future. The options are open.

Mr ANDREW CONSTANCE: Do you have a list of priorities in terms of those roads?

Mr WIELINGA: No, they are not prioritised.

Ms LEE RHIANNON: I want to talk about the early works agreement dated 23 October 2002, and I want to explore your attitude to community consultation, considering that the early works agreement sets out about the works starting early, as the name suggests. Eight weeks after the early works agreement was signed the project deed was signed on 18 December 2002. So we have a situation from this early works agreement that the work is commenced, and this is the one that sets out how \$21.7 million would be reimbursed to the tunnel operators if the deal did not go ahead, but we obviously know that it goes ahead. How can you say that you are serious about community consultation when, after you have commenced work, about 1,000 submissions come in from the general public expressing concern about the new long tunnel, but the work was already under way?

I will just run through the dates. The early works agreement is 23 October 2002, the RTA's supplementary EIS is 4 November 2002, and seven weeks after the early works agreement was signed planning Minister Refshauge granted planning approval for the tunnel on 12 December 2002. It is of enormous concern that you are so advanced with the project but in the meantime you are taking submissions from members of the public who believed they would be accepted in goodwill and will be taken into consideration in terms of the project. Can you explain how all that works, and how can you say that you take community consultation seriously?

Mr WIELINGA: I guess the first point to make about the early works agreement is that it is not for any physical works on the site; it is for investigation work like geotechnical holes and doing detailed design work, preparing plans for how the project will be managed, how occupational health and safety will be looked after and all those sorts of things. The intention was to try to maintain a construction program for the project. The mere fact that this agreement exists recognised that we may not get the planning approval for the project and these were the rules for defining what would happen in the event that that planning approval did not take place. The actual planning approval process and the early works agreement are independent processes.

Ms LEE RHIANNON: I want to ask you about attachment A to the early works agreement. This sets out the costs for many aspects of the project. We start at the top with project management, and it gives a percentage of what I am assuming would be the final cost. The fit out for the project office is \$500,000 and to move the project team to the office is \$500,000. So there is \$1 million just for the office. You may need to take this on notice. It seems an extraordinary amount to move the project team. Do you want to take the question on notice, or can you give us some details now?

Mr HANNON: For a project of this size there is a significant cost involved in getting the project under way. We needed a lot of the information that was provided by the contractor to know exactly what the project was in terms of the geotechnical investigation that Mr Wielinga spoke about in terms of the design, the environmental issues and the like. Obviously they had a large work force engaged in providing that information to us, and to that end obviously there was a need to set up an office. To come back to where Mr Wielinga finished, there was a significant cost involved. They came up with an alternative proposal. The alternative proposal was attractive, and that was being further explored. There were costs involved in developing that alternative proposal, and in the event that it did not proceed the consortium was being put to a significant expense.

What this effectively did was put a boundary around the costs which the Government would incur if the project did proceed. So this was avoiding an argument downstream. In this regard the agency had not made Government aware of the fact that costs were being incurred, and the Minister had communications that confirmed that the Government was aware that these costs were being incurred. This is not unusual in these sorts of projects.

Ms LEE RHIANNON: Against item 1.3 you show percentage completed at 9 per cent and that comes in at \$950,000. If 9 per cent equals \$950,000 the final sum would be \$10.5 million for

ongoing office costs. Considering you have already spent \$1 million setting it up, that would seem to be an extraordinary amount. Would you agree?

Mr HANNON: If I can cut to the quick, at the end of the day the project did proceed and those costs were incurred by the contractor, not by the Government. This was actually part of the bid that they submitted and the bid that was accepted by the Government. At the end of the day these were costs that would have been the subject of a negotiation downstream, but the job did proceed and so the payment of these costs as such did not arise. In fact, government paid nothing for this project. That is what we have said from day one. This was at no cost to government.

Ms LEE RHIANNON: Can we move on to item 2.4, Traffic Modelling and Studies? The figure for traffic modelling and studies is \$400,000, and at item 4.19 a payment of \$1 million to Maunsell. Considering they got the traffic figures so wrong, would there be a case for getting the money back or not paying them? How does that work when the modelling is so wrong? Do you have a clause in respect of which you make a judgment on the quality of the work?

Mr WIELINGA: You need to distinguish the type of traffic modelling that that refers to. What we are talking about is construction and design work activity. This is not about revenue projections for the project. One of the things that was very important to happen with this project was that the traffic be able to be maintained while construction was in progress. Part of the obligations on the contractor were to develop a traffic model for managing the city during construction; to set up a little control centre; to make predictions about travel times, monitor what they were; and then keep the traffic flowing during construction activity. This work was associated with that and you would have to say that the contractor in building the project did a fairly good job of keeping traffic moving in the city while it was being built.

Ms LEE RHIANNON: Thank you for that explanation. Are you saying that item 2.4 was to keep the traffic moving while the project was under construction, whereas item 4.19 relates to projections on traffic usage for the tunnel?

Mr WIELINGA: Where is the 2.4 figure you are referring to? I can see the \$400,000.

Ms LEE RHIANNON: Item 2.4 relates to traffic modelling and studies.

Mr WIELINGA: That was about work to plan further construction.

Ms LEE RHIANNON: Okay. Is the item further on, item 4.19, Maunsell traffic modelling, does that relate to making projections of vehicle usage for the tunnel?

The Hon. GREG PEARCE: Maunsell was the engineer.

Mr WIELINGA: Yes. They were doing a different work.

Mr HANNON: What makes you think that relates to traffic modelling?

Ms LEE RHIANNON: On my copy it has " traffic modelling" beside it.

Mr HANNON: Item 4.19 on our copy just has "Maunsell".

Ms LEE RHIANNON: Item 4.19 Maunsell, yes. I thought it related to traffic modelling. I had that in my notes.

Mr WIELINGA: All of Item 4 is basically covering design activity. Maunsell is a design engineering firm.

Ms LEE RHIANNON: You are saying it was for more than just traffic modelling—because they were involved in traffic modelling, were they not?

Mr WIELINGA: Maunsell's were the tunnel designers. The traffic modelling for the consortium for revenue projection was done by Hyder Consulting and Sims Varley, from memory.

Ms LEE RHIANNON: I am sorry to interrupt. Perhaps I am mistaken. Maunsell had no involvement in traffic modelling?

Mr WIELINGA: They may have done some work with the construction traffic. I would need to confirm that, but they were not involved in traffic projection.

Mr HANNON: Item 4 just relates to design—under the general heading of design.

Ms LEE RHIANNON: If you can confirm Maunsell's involvement in traffic modelling, I would appreciate it. Item 6.1 relates to the establishment of community liaison groups and that comes in at \$200,000. Are you suggesting that that is just money paid for coming up with a plan of how to do it? It is not actually about carrying out the work?

Mr HANNON: Can I repeat, we did not pay anything, but \$100,000 is shown there for the community liaison groups. The other \$100,000 was for the setting up of a web site. I am not into web sites but I understand they are fairly expensive.

Ms LEE RHIANNON: The item states "Establish Community Liaison Groups" and shown against that item is "50%" and "\$100,000". If you end up paying 100 per cent of that it becomes \$200,000. It was my understanding that the amount shown under the column, "Status % Complete"—it does get complicated. Are you saying that that is the full amount and that the 50 per cent was paid?

Mr HANNON: An assessment was made of the costs that would have been incurred at a certain point in time. That is why that percentage is shown. If the work was going to be complete it would have been 100 per cent. If it was 50 per cent complete then it is 50 per cent. The percentages vary depending on where they were going to be at that point in time.

CHAIR: You are saying that these were estimates.

Mr HANNON: These were estimates.

Reverend the Hon. FRED NILE: They were not paid by the Roads and Traffic Authority [RTA].

Mr HANNON: They were not paid because the project proceeded.

Reverend the Hon. FRED NILE: The Consortium may not have spent that amount of money. That would only be known by the consortium.

Mr HANNON: At the end of the day we do not know what their final costs were because none of the costs were paid by the Government.

Ms LEE RHIANNON: I could not hear some of your answer because people were talking over each other. Could I just clarify one matter? You have the percentage and you are saying the dollar figures on the right-hand side represent the total amount that could be spent. They are not a proportion of the amount?

Mr WIELINGA: That is the maximum that that would have been paid under the arrangement—subject to them completing the work, of course.

Mr MATT BROWN: One has to do with money and one has to do with activity.

Ms LEE RHIANNON: Yes. I can see that. The third figure down shows 9 per cent and \$950,000. The \$950,000 would have been the total amount that could have been paid. It is not 9 per cent?

The Hon. GREG PEARCE: That is 100 per cent.

Ms LEE RHIANNON: Thank you. Coming back to the agreement announced on 3 March, about the change in the toll. On that date, when the CrossCity Motorway [CCM] consortium discussed its plan to lower the cross-city tunnel toll for three months, did it also request that that dedicated city bus lanes be cancelled?

Mr WIELINGA: It came out of a discussion on the Saturday between the two parties.

Ms LEE RHIANNON: On Saturday 4 March. Were you present at those discussions?

Mr WIELINGA: I was there. Yes.

Ms LEE RHIANNON: Who made the suggestion about cancelling the bus lanes?

Mr HANNON: The Committee actually recommended in the first report that we should reverse, I think, the Bs Cs and Ds. So, we were looking at the Committee report, discussed the Ds with them, and then decide what could be closed and what could not be closed.

Ms LEE RHIANNON: Who at that committee meeting suggested that the bus lanes be closed? Was it a suggestion from the consortium or an offer from the Government as part of the deal?

Mr WIELINGA: The discussion at the meeting was about the impact of the C and D items and whether or not they could be reversed. The CrossCity Motorway consortium agreed at that meeting to do it. It was always part of the discussion process going forward to discuss those road changes following the recommendation.

Ms LEE RHIANNON: I am sorry to interrupt, but why only the bus lanes? As you are undoubtedly aware, there were many recommendations from the Committee. Why were only the bus lanes extracted from it?

Mr WIELINGA: All of the Cs and Ds were done at that meeting. All of them were looked at.

Ms LEE RHIANNON: Perhaps I am mistaken.

Mr HANNON: Just to clarify that, as per the recommendation of this Committee; not our committee.

Ms LEE RHIANNON: Yes. I am trying to understand why the bus lanes. That is certainly the one that is highlighted in Mr Iemma's media release.

Mr WIELINGA: We said earlier that we went through all of the C and D discussions; that the Cross City Motorway consortium had agreed that it would have no issue with the C and D changes to be reversed; and, for the two Bourke street ones, it was recognised that they would be sorted out as part of the community consultation process on condition 288. The C changes are obviously neither here nor there, because they were part of the construction process. The D changes are something that can be looked at in the future, if necessary, but, for maintaining flow in the city at the moment, the D items were the ones that either were not implemented or reversed at this stage.

Ms LEE RHIANNON: Has any assessment or study being made of the impact of the cancellation of the dedicated bus lanes will have on city public transport flows?

Mr WIELINGA: I would have to check and come back on that one.

Ms LEE RHIANNON: Will you take that question on notice?

Mr WIELINGA: We will.

Ms LEE RHIANNON: If the assessment has been made, is it available to the public? Would you take that question on notice as well?

CHAIR: Would you make the question clear?

Ms LEE RHIANNON: If the assessment has been made, can it be made available to the public?

Mr HANNON: I will check. We understand there has been no assessment made at this stage.

Ms LEE RHIANNON: Are there any plans to make such an assessment? It is about traffic management in the city.

Mr HANNON: The position we took after the report came out was to look at the As, the Bs, the Cs and the Ds to see what could be done effectively at no cost to government. What we did at that meeting with the consortium was to come back with a position that said the Cs and the Ds could be reversed, with the exceptions that Mr Wielinga spoke about, at no cost to government. That is what has happened. At this point in time we are in negotiations with the consortium looking at what can be done with the Bs. We are awaiting their submission. We will then sit around the table and negotiate. Obviously we will have to look at the potential impact of any B reversals, having regard to our legal advice and the planning considerations that we must also take on board.

Ms LEE RHIANNON: There is talk about halving the toll and the bus lanes. Are there contractual obligations not to reintroduce these dedicated bus lanes?

Mr WIELINGA: No, there is not. I said a while ago a couple of times that it is open to put those in place in the future, it is open to leave them out. What we have from CrossCity Motorway is that they have no objection to those being left out at this stage. That is simply the basis of the agreement.

Ms LEE RHIANNON: When Mr Carr and other witnesses appeared before the Committee, we heard about the great vision of the cross-city tunnel was to get traffic out of the city. I was interested to read in your responses to our questions, which was stamped received 14 February, that—

Mr HANNON: What date is that letter? We sent numerous responses back.

Ms LEE RHIANNON: The letter from you is dated 13 February and received 14 February. The response states:

The cross city tunnel provides a number of options to help traffic access the CBD.

Then you list the way people can use the tunnel to get into the central business district [CBD]. Does that not completely contradict the whole basis of the cross-city tunnel that it was a way to get traffic out of the CBD?

Mr HANNON: Would you let us know which page you are on?

Ms LEE RHIANNON: I am on page two. In your answer to question 2, second paragraph, you acknowledge:

While the primary aim of the cross city tunnel was to cater for traffic which did not have the CBD as its destination, the CCT provides a number of options to help this traffic access the CBD.

Does that not undermine the whole basis that the cross-city tunnel was promoted for and that Mr Carr and Mr Iemma boasted about?

Mr HANNON: The objective of the project was to remove, as much as it could, congestion from the city. In the context of what we are talking about here, that was William Street, Park Street and Druitt Street. There are exits from the tunnel at the western end of the city down towards Harbour Street and there are exits at Sir John Young Crescent. Clearly, the achievement has been to get traffic off William Street. The original concept and the objective of the project was—

Ms LEE RHIANNON: It was never just William Street. It was boasted that the tunnel would get traffic out of the CBD. Here you talk about how the cross-city tunnel allows people to come in from the northern, western, central and southern parts of the CBD using the cross-city tunnel.

Mr HANNON: It is out of the centre of the city, that is right.

Mr WIELINGA: You need to put the question in context. The cross-city tunnel has a number of objectives. One of the primary objectives is to take traffic off the streets that are going through the city. This question asked specifically: How does the tunnel help people get into and out of the CBD? It does that as well. The question did not go on to expand the other broader benefit of taking traffic off city streets for people going through the city. It just answered the question that was asked.

Ms LEE RHIANNON: I appreciate you have answered the question honestly. I wanted to ask you about your comments on the contradiction you revealed.

CHAIR: We will move on to the Government members.

Mr PAUL McLEAY: The Hon. Nick Greiner said, to paraphrase, "The RTA is the most competent State government instrumentality in the private infrastructure area." How has the Roads and Traffic Authority [RTA] built up this expertise?

Mr HANNON: The RTA has had a major program of works for many, many years. Fortunately, it has been one of those organisations that has been able to attract and retrain quality staff. If we talk specifically about PPPs [public-private partnerships], certainly the RTA would be recognised not just by Nick Greiner but by numerous commentators as a leading organisation in the delivery of PPPs, particularly in the roads and tunnelling area. That goes back to the original motorways that were constructed in Sydney—the M2, the M5, the M4—and it has carried on since then. In delivering the projects, the RTA has obviously been able to put together an effective team. I think the success the RTA has had in delivering these projects has been in the teams it has been able to put together, led by RTA personnel but certainly drawing on significant expertise in the private sector. That is in the technical, legal, financial and other areas. It has been able to put together effective teams and to call upon extremely good resources.

The Hon. GREG PEARCE: Traffic forecasting.

Mr HANNON: It has been able to bring in the appropriate expertise. There are many other consultancies that one should talk about. The environmental issues associated with these projects are somewhat significant. Of course, engaging and managing the consultancy that takes on that exercise is quite a difficult task as well. I suppose the other thing that the RTA has been able to do is to work effectively with the many government agencies that assist the delivery of these projects. To mention a few we work very closely with, we work with Treasury particularly in the financial areas. They have significant expertise in PPP delivery and, of course, they do it not just with roads but with a lot of other infrastructure as well.

We have a close relationship with Treasury and also we have close relationships with the planning organisations. We have to deal with the other transport organisations because the roads obviously impact on the network generally. So we need to work closely with bus, rail and ports and all those organisations where we might have an interface. Obviously we then work closely with the regulatory type agencies as well. In short, the RTA has been doing this now for a long time. It has been able to recruit and retain expertise, put good teams together and deliver significant projects.

Mr PAUL McLEAY: You talk about some of the benefits that bringing together various people can give to the outcome. What are some of the particular benefits of private sector involvement in government infrastructure projects?

Mr HANNON: Getting the private sector involved means that we get their expertise involved. Of course, the private sector do not just work in New South Wales, they work throughout the country. Some of the private sector we use work overseas. By using the private sector to do a lot of our work, they can bring to the projects expertise with international experience. The consultancies that they use are all linked to international experts. In using the private sector we get access to the

construction expertise, particularly tunnelling expertise in the case of a project like the cross-city tunnel. We get access to the biggest consultancies, who have connections around the world. They also work closely with the various financial institutions that support these privately funded pieces of infrastructure as well. By working closely with the private sector, particularly on these large projects, they are able to bring together significant expertise, which ensures that we get a quality product.

Mr MATT BROWN: Thank you for appearing again before the Committee. One of the RTA's most recently opened projects is the M7. Will you explain to the Committee the PPP process for the M7?

The Hon. GREG PEARCE: It is a Federal project.

Mr MATT BROWN: It is managed by the RTA. What has been the reaction of motorists using that road?

Mr HANNON: The Federal Government provided some funds and the project was managed by the RTA on behalf of the Federal Government. That meant the RTA had all the planning documents prepared and obtained the approvals. The RTA was then given responsibility for managing the delivery of the project. That obviously involved the comprehensive documentation process, the tendering process and the awarding process. Following that, the RTA did the surveillance of the project to completion and chaired the senior project control groups, which had membership from the contracting side and the ownership side of the consortia.

Mr WIELINGA: In RTA's first submission to the inquiry it included detailed flow charts of the actions that run parallel with the planning approval process when delivering these sorts of projects, a tendering process and a community consultation process. The first comment to make is that the process followed on Westlink M7 was essentially the same as that used on other projects. Honourable members will appreciate that the Westlink M7 project was very large—it is about 40 kilometres long. It provides a significant connection between three motorways in Western Sydney. It has some good synergies with business development in that area and has been very well received.

The process of deciding on a preferred tenderer is similar to what we have described to the Committee before at previous hearings. A value-for-money assessment is undertaken and bids are lodged. There are financial elements associated with that and engineering, technical and methodologies that these large companies use to deliver projects. All these things are taken into account for the RTA to make recommendations on a value-for-money outcome. The community consultation exercises were similar to those followed on other projects, but, of course, tailored for local areas and so forth. Consistent with requirements for that project, the tollway company was very effective in the way it did its marketing and the way it interacted with its customers. Because of that it is getting good results on that project. It appears to be fitting in very well with Western Sydney.

Mr MATT BROWN: Have you had any feedback from motoring organisations, users, or other stakeholders that use that road?

Mr HANNON: The commentary in the newspapers and the media generally after it was opened has been almost totally positive.

Mr MATT BROWN: What is the major difference in your preparations for roads construction, if there are any, between a tunnel and a larger surface road?

Mr WIELINGA: To be totally simplistic, the essential difference is in the sort of skills required to deliver tunnel projects, particularly engineering skills. Tunnel projects are not constructed every year, but surface roads are. There are several large firms around the world that specialise in tunnel construction, and they are generally used in Australia. If the honourable member is asking me to point to a simple significant difference, it is in the technical resources and the companies we use to build them. The large companies—the Bilfinger Berger, Theiss and so on—that get involved in this sort of construction do it all around the world.

Mr MATT BROWN: But was the general process used for the M7 the same as that used for the cross-city tunnel?

Mr WIELINGA: Yes.

Mr PAUL McLEAY: Can you give a general explanation about the financing arrangements work? Has the department changed the procedures or guidelines following the Richmond review of motorways?

Mr SKINNER: The financing of these projects is, as we have said before, very complex. Once the Government decides that a project will be built we look at a public sector comparator model within Government to determine whether that is an efficient model to deliver it. That is the government-type model or the potential SOC (State Owned Corporation) model. Within those models we then start to look at debt requirements—that is, whether the Government would borrow at competitive neutrality rates. We then look at the risk associated with the project. Once the decision is made to go to tender, we then have a number of tenderers put their projects forward with a range of different financing models. That can have everything to do with complex trust and partnership structures. It can also be mezzanine debt, which is also a very complex form of funding. That funding carries many risks that the private sector takes on board. They are not necessarily the sorts of risks a Government would take on board if it were to fund the project through a debt structure. However, they are certainly something that the private sector would look at given the tax advantages and others.

Using the public sector comparators we try to find the most efficient model through which government will provide it. That generally tends to be a fairly simplistic debt-type structure with government equity and contribution. The private sector has the ability to do a number of different financial transactions that we do not necessarily consider within a government structure per se. Those models are moving all the time. We have different trusts and funds put together that can earn different sorts of rates of return. However, with that come significant risks for those putting the models together. That is continually moving and changing. Honourable members would have seen that the Macquarie Infrastructure Group is considering off-selling its investments in some private sector arrangements. It is doing that largely because of a change in the philosophy of how it raises returns for its shareholders. Those sorts of products are continually evolving.

Mr PAUL McLEAY: Was there anything significant in the Richmond review, or was it just the organic approach to raising capital?

Mr SKINNER: I am not sure that the Richmond review touches on the complexities of the financial involvements between the scenes. The review certainly looks at delivering them from a private sector comparison, but I do not think it looks at the complexities that the private sector is involved in to raise funds for these projects. That is really an expertise that the private sector is able to offer in an outsourced PPP scheme. That is largely what they bring to the table in terms of their risk transfers.

Mr HANNON: In working our way through that process we work closely with Treasury, which is again presenting to the inquiry. We pull in some of the best financial expertise that is available in the market to fully explore these projects.

Mr MATT BROWN: Once a privately funded infrastructure project is built, what is the ongoing role of the RTA?

Mr WIELINGA: Obviously, when these contracts go into operation and maintenance mode, there are long concession periods of about 30 years and the contractor has fundamental responsibility to maintain them fit for their intended purpose, and they have a responsibility at the end of that to hand it over in an appropriate condition.

In our contracts there are obligations on them to provide certain information along the way, and we have project managers and other people who assist us in making sure they provide appropriate information to the RTA along the way. We also have interaction in the administration of these contracts when issues might arise—for example, when there is a change of owners—refinancing those sorts of things. So we put resources in place to assist that interaction with the tollway companies.

The companies that have these concessions have that fundamental responsibility to keep them operating and to maintain them appropriately, and there are some very detailed obligations in the contracts that provide how they are to go about that, without actually telling them how to do it. We have small RTA teams that continue to administer those contracts. Other parts of the RTA's organisation also look at how they fit in with the rest of the network and make sure those interfaces are as smooth as they can be.

Mr ANDREW CONSTANCE: In light of the answer you have just given with regard to the RTA's involvement with public-private partnerships, whose responsibility is it to refund motorists who have been overcharged on tollways?

Mr WIELINGA: Obviously, the way the tollway companies are handling it now, they deal with that on a case-by-case basis. The evidence to us is that in those situations they are resolved fairly promptly.

Mr ANDREW CONSTANCE: Is not overcharging an abuse of the public's faith that they will be tolled correctly?

Mr WIELINGA: I guess the important thing is that these problems are being fixed up promptly. That is my understanding of the situation.

Mr ANDREW CONSTANCE: The RTA has no involvement in that?

Mr WIELINGA: If community members raise issues about that, we take it up with the tollway companies, yes.

Mr ANDREW CONSTANCE: But there is no active monitoring or process on the part of the RTA with regard to overcharging?

Mr WIELINGA: Our understanding is that these events are occurring with regard to a very, very small percentage of the number of users on the tollways. As I said, as soon as something comes to our attention we deal with it.

The Hon. GREG PEARCE: Mr Hannon, in relation to the business consideration fee, at earlier hearings I asked you to provide to the Committee a line-by-line explanation of the expenditure of that fee, which you undertook to do. However, what you gave us was simply a summary with headings. Would you now give us the line-by-line details of that expenditure? I do not want to have to do this again at estimates hearings. You have undertaken to do it. I want to see exactly what the expenditures were.

Mr HANNON: Obviously, with the expenditure you have numerous items that you charge to the project. If you are not satisfied that the breakdown was comprehensive enough, we will look at giving you a more comprehensive breakdown.

The Hon. GREG PEARCE: I am not satisfied that the breakdown is comprehensive enough.

Mr HANNON: Then we will give you a more comprehensive one.

The Hon. GREG PEARCE: You spoke about the category B closures. Have you had done for you, or have you done yourselves, an estimate of the compensation likely to be payable for each of those reversals?

Mr HANNON: We are collecting some information, but we do not have that information available at this stage.

The Hon. GREG PEARCE: But you are getting that information together?

Mr HANNON: We will have to have that information available for us to carry on the negotiations, yes.

The Hon. GREG PEARCE: When are you likely to have that information?

Mr HANNON: As I indicated earlier, at this stage we are waiting on the consortia to provide us with what they think is an appropriate schedule of projects. Once they give us the schedule of projects, we will then be in a position to analyse them. Obviously, there are numerous category B changes, and obviously they impact on each other as you do your analysis. So we need to know which particular ones we are talking about, and then we do our analysis.

The Hon. GREG PEARCE: Have you drawn up a list of priorities amongst the category B closures, or are you assuming that you will get them all reversed?

Mr HANNON: We are waiting on their submission at this stage.

The Hon. GREG PEARCE: Do you expect that submission to arrive, and negotiation to take place, within the three-months that has been allocated for the trial?

Mr HANNON: We are talking to the consortia and awaiting the submission at this stage.

The Hon. GREG PEARCE: Have you looked at the implications of extending the concession period, for example, if the consortia ask for a refund of the upfront payment?

Mr HANNON: Not at this stage, no.

The Hon. GREG PEARCE: Have you considered repaying the upfront payment?

Mr HANNON: We are awaiting their submission at this stage. So we have not given consideration to those options at this stage, no.

The Hon. GREG PEARCE: At this stage they have not asked you to refund the upfront payment, but it may be—?

Mr HANNON: We are still awaiting their submission.

The Hon. GREG PEARCE: Has the RTA again engaged Mr Forward as a consultant or contractor since he left as chief executive officer?

Mr HANNON: Mr Paul Forward?

The Hon. GREG PEARCE: Yes.

Mr HANNON: No.

The Hon. GREG PEARCE: In relation to future toll projects or future motorways, there are about three on the drawing board, including the F3-M2 connection. What is your current thinking in relation to how that will proceed, given the experience with the cross-city tunnel?

Mr HANNON: If it proceeds, it will be considered consistent with the Richmond report recommendations. That is the first point to make. The F3 to Sydney orbital was a project announced by the Federal Government at the time they put out the EIS for the M7, with a view to taking the load off Pennant Hills Road. At this point in time a report has been prepared which suggests an option that connects the F3 at Wahroonga with the M2 at West Pennant Hills. I understand that that proposal, while it had been announced, is a preferred proposal, known as the purple option. There are now further studies being undertaken to look at alternative options to connect the F3 to the M2. They are being undertaken at the request of the Federal Government.

The Hon. GREG PEARCE: By the RTA?

Mr HANNON: By the RTA and its consultants. At this stage I think those studies are ongoing.

The Hon. GREG PEARCE: What about the M4 extension and the Port Botany link?

Mr HANNON: The Metropolitan Strategy indicated that an extension of the M4 would need to be considered in the context of the strategy. At this stage the Metropolitan Strategy has only just been released and we will now be considering an extension of the M4.

The Hon. GREG PEARCE: And in fact, the Richmond report recommendations will be applied?

Mr HANNON: Going forward, the Richmond report recommendations will be followed, yes.

The Hon. GREG PEARCE: Mr Wielinga, you said earlier that the slip lanes in Park Street had been, or will be, put back. Do you mean the slip lanes at College Street and Park Street?

Mr WIELINGA: No. A temporary slip lane was utilised in Park Street a couple of blocks down, to facilitate some construction movement. I was simply talking about that, not part of the College Street area.

Mr ANDREW CONSTANCE: On what date do you expect the Lane Cove tunnel to be open?

Mr WIELINGA: We are awaiting advice from the contractor on that at the moment. There has been some discussion in the media, but they have not advised us when they will be ready. When they do, that is when we will know the date.

The Hon. GREG PEARCE: The other issue that has been raised by Mr Richmond, among others, is the network effect of the toll roads and the question of equity amongst toll road users. Obviously, some people are using roads for free and others are paying through the nose. Have you done any work to address that issue of equity over the network, and if so what sort of work have you done?

Mr WIELINGA: We would need to take that on notice. But I am not aware of anyone—

The Hon. GREG PEARCE: You have not done anything to look at that issue?

Mr WIELINGA: I am not aware of it. We would have to check for you.

The Hon. GREG PEARCE: It has just developed like Topsy—toll roads here and free roads there—with the RTA not doing any work to ensure any sort of equity about that?

Mr HANNON: As we have indicated before, the way these toll roads have been delivered in the past, it is a no cost to government approach. So, pretty much, the toll that you have reflects in most respects the cost of building them. The orbital will be complete when the Lane Cove tunnel is finished, so we are now in a different situation to what we were some time ago.

The Hon. GREG PEARCE: I am concerned that you are looking at other projects when you have not given any consideration to the overall network impacts and the equity issues. Are you going to?

Mr HANNON: Clearly we will. When we talked about those last two projects in terms of when they would be delivered, if you look at a normal planning period and a construction period, you would be looking at those projects coming online in probably six years from now. So there is enough time to get on top of that issue.

The Hon. GREG PEARCE: So do you think they would be open in six years, roughly?

Mr HANNON: I am not saying that they will be, I am just saying that if they were to start today—and there is no suggestion they would start today—the planning process takes some

considerable period, and, consistent with Richmond, there is a need for comprehensive consultation in the planning process. Then construction of a major project generally takes, depending on the size of the project, the best part of three years. So in terms of a timetable for getting processes in place to be ready for the next motorway, on that basis we have got some time.

The Hon. GREG PEARCE: In terms of using the private sector, the RTA does not have its own road building staff and resources to actually build these roads, does it? You are not road builders in the sense that you build it?

Mr HANNON: The RTA does a lot of the maintenance work throughout the State. It has a large group in what we call our roads services unit that probably expends \$400 million to \$500 million each year on the maintenance of the roads. It has a crew, for example, that maintains the Sydney Harbour Bridge; there is a large group of people involved in repainting the bridge at the moment. So there is a large group that is generally directly involved in the maintenance of the network—it does some construction but not major construction; those days have gone. Some years ago they decided that should be contracted out and the significant projects now are done by the majors. So we have contracts which range from probably \$5 million to \$30 million, \$40 million done by a range of contractors and the contracts that are larger than that are done by what we call the majors: the majors are the contractors like the ones that have done this tunnel, such as Leightons and the Abigroup.

The Hon. GREG PEARCE: Did I hear you say you do the projects up to about \$30 million?

Mr HANNON: We do maintenance work, which has got a value which might get to, in broad numbers, maybe \$2 million to \$5 million in certain locations. But for major projects, significant projects, the RTA does not do that, no.

Mr ANDREW CONSTANCE: Do you see any scope, moving forward, for public-private partnerships with regional highways, State highways?

Mr HANNON: I think all options would be looked at in delivery of a program.

The Hon. GREG PEARCE: Just on the issue I was asking you about, I take it that, for example, if I am zooming down the Hume Highway and suddenly slow down to 40 kilometres an hour for roadworks, that would normally be a contractor doing that sort of road surfacing?

Mr HANNON: It could be the RTA with its road services unit or it could be a contractor—or it could be a subcontractor to either.

The Hon. GREG PEARCE: But certainly in all the big projects you effectively do not have the capacity to do them yourself so you must engage the private sector to do it?

Mr HANNON: Contract it out, yes.

The Hon. GREG PEARCE: Can I just go back to the B changes again? The slipways that I mentioned at College Street, are they B changes?

Mr WIELINGA: I think they are, but can I confirm that for you?

The Hon. GREG PEARCE: That's fine. Has anyone from the RTA had a look to see whether the bicycle lane, for example, that runs down Park Street is actually used? I quite often walk along it but I have never seen the bicycle on it.

Mr WIELINGA: I will take the question on notice. I am not aware that anyone has gone out to count them in recent times, and the line marking has only gone in in the last month or so.

The Hon. GREG PEARCE: I can understand why bicycles do not use it because to use the bicycle lane if you actually followed it would be suicidal because you have to chop in front of—

Mr PAUL McLEAY: You walk on it, do you?

The Hon. GREG PEARCE: No, I walk on the footpath. But it would be suicidal because you have to cross in front of buses and traffic turning and so on. Who has actually thought about the viability of something like that bicycle lane?

Mr WIELINGA: It came out of the project planning approval process. What is also true is that bicycles use shoulders on normal roadways, high-speed roadways. It is part of providing some infrastructure for them.

The Hon. GREG PEARCE: This bicycle way in some parts, just as you come up to Elizabeth Street, for example, has a left-hand turn lane, then the bicycle way, then a straight ahead lane and a right turn lane and lanes turning from the other side; then you have to scoot across Elizabeth Street and jump across the lane of traffic. It is just a nonsensical bicycle way.

Mr PAUL McLEAY: You do not think we should have bicycle lanes?

The Hon. GREG PEARCE: No-one from the RTA is looking at the viability of those?

Mr WIELINGA: It was designed as part of the planning approval process. We note the comments you have just made and we will go away and look at it.

The Hon. GREG PEARCE: Similarly, the bus lane that runs from College Street to the middle of Hyde Park—I suppose it is about 40 or 50 metres—requires the buses to go across two lanes, to jump into the bus lane to go 40 metres and then out of the bus lane, and traffic coming from the lights at College Street has to bounce itself into one lane so that it is not in the bus lane. Is anybody from the RTA monitoring how effective that bus lane is?

Mr WIELINGA: I believe so.

The Hon. GREG PEARCE: You believe so? Can we hear about that?

Mr HANNON: The advice I have is that we are monitoring it constantly with the STA.

The Hon. GREG PEARCE: What is the result of that monitoring?

Mr HANNON: Presumably, should it become a problem we will do something about it.

Ms LEE RHIANNON: Considering a number of the peak organisations of the companies that are keen on getting involved in public-private partnerships, such as Infrastructure Partnerships Australia and the Australia Council for Infrastructure Development, are on the public record as saying that they believe the contract for PPPs should be made public, do you agree that it would be more beneficial for these contracts to be made public?

Mr HANNON: Mr Wielinga is reminding me that is one of the recommendations of the Richmond report. So as I indicated earlier, we will be implementing the recommendations of the Richmond report.

Ms LEE RHIANNON: Has the RTA made an evaluation of a congestion tax for Sydney? Do you have views on that?

Mr HANNON: I am not aware of us undertaking an analysis of a congestion tax.

Ms LEE RHIANNON: Do you have any plans to do so?

Mr HANNON: Not at this stage, no.

Ms LEE RHIANNON: Considering these public-private partnerships, in the main, go for 30 years, has there been an assessment as to whether that period is too long because it does not give the flexibility to deal with the high number of variables that clearly come into these projects? Has there been any assessment made of how long PPPs last?

Mr HANNON: What variables are you talking about?

Ms LEE RHIANNON: The variables of life: of traffic flows, of the price of petrol, all those things. We do not know; the next 30 years is the unknown. Considering the problems that you are running into, has an assessment been made that maybe PPPs should not last for so long?

Mr HANNON: I might get Mr Wielinga to make some comments on this, but some of the PPPs elsewhere around the world are actually for 100 years, so they have longer periods than we have. The periods that we have on our current contracts in Sydney I think range from about 30 years to 45 years, and many of those are dictated by the return required to fund the initial construction of the motorways. In terms of these variables, the way the contracts are set up at the moment is, most of the risk of those variables resides with the consortia. So the patronage risk, which you are talking about, in terms of, say, fuel prices, which will potentially affect patronage risk, resides with the consortia.

Ms LEE RHIANNON: Just coming back to the cross-city tunnel, considering the controversy that there has been around this tunnel, and it is now building around the Lane Cove tunnel, is this impacting on any of your plans for public-private partnerships with motorways? I am particularly thinking of the Pacific Highway. Are you finding any of the companies are becoming nervous and want to hold off before they launch into PPPs? Is it putting any of the plans on hold?

Mr HANNON: Nothing has been brought to my attention, no.

CHAIR: Are there any tollways that the RTA is actually managing?

Mr HANNON: Yes, the Sydney Harbour Bridge is managed by the RTA.

CHAIR: If there was a change in the ownership of the cross-city tunnel where the Government had the opportunity to take over the tunnel—and a separate question would be how it would happen—would there be any problems with the RTA administering the city tunnel tollway that became part of your responsibility?

Mr HANNON: That is rather hypothetical. I am not aware of any suggestion that the RTA will take over the tunnel.

CHAIR: But you would have the facility to do so if you had to. You manage the Sydney Harbour Bridge.

Mr HANNON: We certainly have the skills and we would be able to contract the skills, but that is certainly not the intention.

The Hon. GREG PEARCE: What preparations have you made for the return of the M4 at the end of its concession?

Mr MATT BROWN: Excuse me, Mr Chair.

CHAIR: Do you have more questions?

Mr MATT BROWN: Yes. Earlier Mr Pearce asked a number of questions about who builds the roads. You gave evidence that you normally contract out major projects and sometimes there would be a PPP. What role does the RTA play if you contract out a large piece of work? Is there a site office? Are RTA officers there monitoring the work of contractors?

Mr HANNON: The RTA is heavily involved in the delivery of a major maintenance program and a major development program throughout the State. I will give a couple of examples. The RTA is project managing the delivery of the Windsor Road improvement works. It is also project managing the Pacific Highway projects. The sorts of contract that we put in place can be either a traditional contract—which is where we arrange for the design to be done and for the construction to be done by way of a contract where the contractor simply prices the design and constructs the work—or by way of what we call a "design, construct and maintain project", where we conceptualise a project and the contractors then submit a design, price it, build it and maintain it.

The RTA's role is one of organising the planning approvals in the first place if they are needed. We have a significant design team so we design some projects with our designers or we contract in consultants to design works for us. Documentation is prepared under our management. Then we set up a site office, where we have a project management team which comprises contract administrators, surveillance officers and the like to ensure that the projects are delivered in accordance with the contract.

Mr MATT BROWN: So even though you would contract out a project such as Windsor Road you would still have a heavy hands-on presence at the site.

Mr HANNON: We would. In recent times we have entered into alliance contracts on two significant projects. The Lawrence Hargrave Drive project, which was opened recently, was an alliance between the RTA, a contractor and the consultant. The RTA people were part of the construction team that delivered the project. On one of the major projects on the Windsor Road where we have significant issues associated mainly with utilities—water, electricity, gas and the like—and where the documentation of the project would have been extremely difficult, we have an alliance with the major contractor. So it is an RTA/contractor alliance and we are heavily involved in the delivery of the project. So while I said that we do not construct major projects with our own—we do not have a large fleet of bulldozers and scrapers to construct major projects—we have a large fleet that looks after the maintenance of a series of smaller projects. For the major projects we do what most agencies have done throughout the country—that is, because of workload changes and the like, engage major contractors and major consultants to do the work.

Mr MATT BROWN: If a public-private partnership operative wanted to sell their interest in the business what role would the RTA have in that process?

Mr HANNON: I might get Mr Skinner to address that question because there are significant issues for us.

Mr SKINNER: Each of the PPPs that the RTA has been involved in is quite different. Each of the project deeds has different conditions within it. The RTA has a responsibility, representing government, to ensure that any financial interests that may be affected by it are looked after. For example, we regularly have refinancing arrangements, where existing motorways go to refinance their debt facilities. In most project deeds they are required to come to the RTA and discuss the terms and conditions with us. That is about ensuring that the Government is not worse off as a result of the concessions such that they do not load it with more debt than they should, and those sorts of things.

In terms of a consortium looking to offload its interests in a project, it is likely that the consortium would look to maximise its interests or the sale of its interests. It would do that through a number of means, whether it is through public arrangements or through other sorts of products put to the market. The RTA's role in that would be to ensure, depending on each of the project deeds, that its controlling interests or its financial interests are not any worse off such that the Government is not exposed to further debt or risks associated with the project at the time. Again, each project is very different in the way it is structured. But the RTA would have some overseeing role to ensure that we are not worse off than in the original deal.

Mr PAUL McLEAY: Mr Hannon, I want to clarify a point made in earlier evidence. I do not mean to take your comment out of context, but there seems to some criticism—I do not want to use the wrong word—of the RTA for closing a bus lane. Can we be clear about that? Is that the one that was recommended to you by this Committee, which Ms Lee Rhiannon voted on? The reverse bus lane decision that you made was the one recommended by this Committee. Is that correct?

Mr HANNON: They are all B, C and D and the Committee's recommendation was to reverse those.

Mr PAUL McLEAY: That is why you reversed that bus lane decision—because it was recommended by this Committee.

Mr HANNON: We spoke to the consortia and there was, as I think we indicated, no cost to government in those decisions.

Mr MATT BROWN: That is an interesting point.

CHAIR: Thank you for your attendance and the information you have provided. We are pleased that our recommendations get such a rapid response from various agencies. That is very encouraging.

(The witnesses withdrew)

GRAHAM DAVID MULLIGAN, Chief Executive Officer, CrossCity Motorway Pty Ltd, 131 Cathedral Street, Woollloomooloo, sworn and examined:

CHAIR: Welcome, Mr Mulligan. We thank you for accepting our invitation to give evidence before the Committee. In what capacity are you appearing before the Committee? Are you appearing as an individual or as a representative of an organisation?

Mr MULLIGAN: I appear as the Chief Executive Officer of CrossCity Motorway Pty Ltd.

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

Mr MULLIGAN: I am.

CHAIR: If you should at any stage consider that certain evidence you want to give or documents you may wish to tender should be heard or seen only by the Committee—we would go in camera—please indicate that fact and the Committee will consider your request. Would you like to make a brief opening statement?

Mr MULLIGAN: Yes. I have an opening statement. I welcome this opportunity to appear before the Committee as Chief Executive Officer for CrossCity Motorway. Since the Committee handed down its first report on 28 February there have been significant developments with the cross-city tunnel. I want to take this opportunity to update the Committee on those significant developments. Following the Cabinet reshuffle on 16 February I had the opportunity to meet with the new Roads Minister twice in February to introduce myself and discuss the general issues surrounding the cross-city tunnel. While these were cordial discussions, there were no initiatives or proposals to come out of the meetings from either the CrossCity Motorway or the Government.

On Friday 3 March at 4.00 p.m. I again met with the Minister and told him that the company had decided to reduce the toll by 50 per cent to \$1.78 east-west and 84¢ along the Sir John Young Crescent exit for at least three months. This initiative was determined solely by CrossCity Motorway [CCM] to encourage motorists to see the substantial benefits of using the cross-city tunnel. Following my announcement to the Roads Minister on 3 March of CrossCity Motorway's decision to reduce the toll, we discussed whether there was an opportunity to reverse some of the road changes.

I met with RTA officials the next day, Saturday 4 March, to examine whether the category C and D road changes could be reversed, as recommended by this Committee in its first report. CCM agreed on 12 road changes in these categories and indicated we would continue to examine the category B road changes. We also discussed improving signage and the completion table for the William Street upgrade.

I would like to point out that category B road changes contained in the project deed relate to the planning conditions of approval and are therefore a legal requirement and may result in a material adverse effect. This is a highly technical and legal area and CrossCity Motorway will need to give full consideration to them. As I indicated in regard to category B road changes, CrossCity Motorway would obviously enter into negotiations in good faith as required under the contract. If those negotiations did not reach a suitable outcome, CrossCity Motorway would pursue its rights under the contract and seek compensation.

The Premier made the announcement about CrossCity Motorway's 50 per cent reduction to the toll for at least three months and the reversal of 12 road changes on Sunday following our meeting with the RTA, on 5 March.

Since CrossCity Motorway reduced the toll, traffic patronage has increased by 18.6 per cent. The total traffic since the toll was reduced from 6 March until midnight last night, 30 March, is 838,440 vehicles. The total traffic for the corresponding 25-day period prior to the toll reduction was 706,877. This represents an increase of 131,563 vehicles or 18.6 per cent. While encouraging, CrossCity Motorway is and has always taken a long-term view of this project. This is a 33-year project. Like all toll roads around the world and like the Eastern Distributor in Sydney, the cross-city

tunnel is going through at a ramp-up phase. CrossCity Motorway believes this will take about two to three years.

Mr Chair, I have noted the Committee's recommendation about CrossCity Motorway placing daily and monthly traffic figures on its web site. CrossCity Motorway is a private company and traffic figures are a matter for us. We will not be changing our policy. However, when we do have requests, we may release them from time to time. We have noted commentary in the Committee's first report and have begun advertising the toll price on our variable measured system at the entrances to the tunnel.

I would like to take this opportunity to update the Committee on the works along William Street. The William Street works are scheduled to be completed by 28 April, weather permitting. The contractors for William Street have had to deal with a range of licensing conditions and requirements from State government agencies and the city councils. They have had to work with telecommunications, electricity, gas and water organisations, as well as noise limit requirements from the Department of Environment and Conservation. While I acknowledge the William Street upgrade seems to have taken a long time, and it has been frustrating for the community, it is on schedule and under the terms of the contract it is required to be completed eight months after the opening of the tunnel, that is, the end of April. But I do acknowledge the community's frustration and that is why CrossCity Motorway has been working closely with the government agencies to streamline the licensing requirements and co-ordination of utilities.

In conclusion, CrossCity Motorway believes the tunnel is an important piece of infrastructure for the city for both motorists and pedestrians. It allows motorists to avoid up to 18 sets of traffic lights. It means they can cross the city in about two minutes, saving up to 20 minutes in time on surface roads. It means less wear and tear on vehicles and also savings in petrol. For pedestrians and office workers in the city, there have been substantial improvement in urban amenity and public transport movements.

According to the New South Wales Government's metropolitan strategy, over 70 per cent of workers in Sydney's CBD use public transport to and from work every day. There have been 6,261,252—until midnight last night—vehicle movements through the cross-city tunnel since it opened on 29 August last year, so for the 70 per cent of workers in the CBD who use public transport to get to and from work every day, that is more than 6.2 million less car and truck movements that they have to compete with on the city streets. In addition to less traffic, pedestrians will benefit from wider footpaths and better bus travel.

In terms of employment, about 1,600 direct jobs and more than 3,600 indirect jobs were created during construction of the tunnel. CrossCity Motorway will continue to work co-operatively with the Government and the community to ensure this project delivers for the people of Sydney.

CHAIR: You mentioned the timetable for the William Street improvements. You made it clear that you actually requested those changes to William Street. Why would you request changes to William Street when you are building a tunnel?

Mr MULLIGAN: Mr Chair, I do not understand your question. What changes to William Street did we ask for?

CHAIR: You implied that you were involved with the decision to make the changes and you just said then that the contract date indicates that it would be completed by 28 April. Were those changes requested by CrossCity Motorway?

Mr MULLIGAN: The changes to surface streets are part of the original project. What I did say is that the contract to complete the surface works is on schedule to be completed within eight months of the opening of the tunnel, and that is 28 April.

CHAIR: But you did not request those changes to William Street as a condition of the contract?

Mr MULLIGAN: We did not request it. They were part of the original project that was put to bid by the Government.

CHAIR: Are the recent changes to the toll level likely to help the CCM reach its targeted traffic volumes? You qualified your statement about reducing the toll for at least three months. Does that mean there is the possibility of an extension of three months?

Mr MULLIGAN: The long-term level of toll is a commercial decision for the company and we have made no decision on going forward at this point in time.

CHAIR: At this stage it is fixed at three months?

Mr MULLIGAN: At least three months, that is what has been stated, yes.

CHAIR: Will the toll levels return to their previous levels after the three months or will you permanently reduce them?

Mr MULLIGAN: I thought I had just answered that question. The long-term level of toll is a commercial decision for the company. We have made no decision on that.

CHAIR: What other plans does CCM have to improve patronage? Do you have any other proposals?

Mr MULLIGAN: These are commercial decisions for the company, and we consider these all the time.

CHAIR: You have obviously increased radio advertising?

Mr MULLIGAN: Yes, we have radio advertisements going at this present point in time and also some outdoor advertisements.

CHAIR: Are they having a positive impact?

Mr MULLIGAN: The figures are showing a steady increase over the toll-discount period which is quite encouraging.

Mr ANDREW CONSTANCE: Are you aware of a clause in the cross-city tunnel contract that states that the trustee and the company may make statements about the project to the media only with the RTA's prior written consent which may not be unreasonably withheld or delayed?

Mr MULLIGAN: I am aware of the project deed.

Mr ANDREW CONSTANCE: Has that clause precluded you from speaking on any issues, including certain road changes and the toll?

Mr MULLIGAN: It has not precluded us whatsoever.

Mr ANDREW CONSTANCE: Have you asked the RTA to make any statements and did it allow you to?

Mr MULLIGAN: We have not asked the RTA regarding statements, no we have not.

Mr ANDREW CONSTANCE: Who advises you on media affairs?

Mr MULLIGAN: We are a commercial organisation and we take advice from a number of parties, as well as our own management experience.

Mr ANDREW CONSTANCE: Do they act as an intermediary between you and the Government?

Mr MULLIGAN: Who?

Mr ANDREW CONSTANCE: The people who are providing you with media advice.

Mr MULLIGAN: We have no advisors acting between us and the Government. As I said at the outset, I met with the RTA and the Minister for Roads.

Mr ANDREW CONSTANCE: How often do you deal with the RTA's media hack, Paul Willoughby? Do you deal with him much?

Mr MULLIGAN: I have only met Paul once briefly.

Mr ANDREW CONSTANCE: Do you collect confidential information on individuals?

Mr MULLIGAN: We have a database of users that register for our tags, yes.

Mr ANDREW CONSTANCE: What details are collected through that process?

Mr MULLIGAN: Their name, address and credit card details.

Mr ANDREW CONSTANCE: Do you provide that information to strategic partners?

Mr MULLIGAN: We provide that information to no external parties to our company. If you are questioning me about privacy—

Mr ANDREW CONSTANCE: I am questioning you about privacy, but I will ask the questions. Are you aware that your web site is contrary to the CCT contract?

Mr MULLIGAN: In what respect?

Mr ANDREW CONSTANCE: In relation to privacy and the information that is collected.

Mr MULLIGAN: If you have got a specific complaint I am happy to take that on notice and address it.

Mr ANDREW CONSTANCE: How is privacy handled within the organisation to ensure that information is kept confidential in line with privacy laws?

Mr MULLIGAN: Our company complies with all legislation to the highest of corporate standards, and we comply with the privacy law.

Mr ANDREW CONSTANCE: Are you aware of any breaches? Can you explain them at all?

Mr MULLIGAN: I am not aware of any breaches to the privacy legislation or any other legislation within which the company operates.

Mr ANDREW CONSTANCE: Who made the decision to offer a toll reduction and on what grounds?

Mr MULLIGAN: I stated in my opening statement that it was a commercial decision of the company.

Mr ANDREW CONSTANCE: It has been described as a trial. What are you trialling?

Mr MULLIGAN: Where was it described as a trial? I have not made the statement that it was a trial.

Mr ANDREW CONSTANCE: I just asked you how the trial was progressing and you made reference—

Mr PAUL McLEAY: You described it as a trial and you quoted yourself—

Mr ANDREW CONSTANCE: No.

Mr MULLIGAN: I thought I had answered this very clearly, on the outcome since 6 March. I have provided you with the figures.

Mr ANDREW CONSTANCE: Have you sought any independent legal advice as to whether the Government would be liable if it reopened all category B, C and D roads?

Mr MULLIGAN: Could you repeat the question? I cannot hear it because of the bikes outside.

Ms LEE RHIANNON: They cannot get into the tunnel.

Mr ANDREW CONSTANCE: Have you sought independent legal advice as to whether the Government would be liable if it reopened all category B, C and D roads?

Mr MULLIGAN: I stated in my opening statement, and I will refer to it again if you wish, in regard to category B road changes CrossCity Motorway would obviously enter into negotiations in good faith as required under the contract. If those negotiations did not reach a suitable outcome, CrossCity Motorway would pursue its rights under the contract and seek compensation.

Mr ANDREW CONSTANCE: I did not ask you that, I asked about independent legal advice. Have you sought independent legal advice on the matter?

Mr MULLIGAN: This is a highly technical and legal issue. I have also stated in my opening statement that we are working through those issues.

The Hon. GREG PEARCE: Obviously category B road closures is a big issue for the community. Ten minutes ago the RTA indicated that it was waiting for a proposal from your consortium in relation to the reversal of the B closures. When will it get such a proposal?

Mr MULLIGAN: When we have finished our review of the highly legal and technical matters surrounding category B.

The Hon. GREG PEARCE: What sort of a timeframe will that be?

Mr MULLIGAN: I cannot give you a timeframe at this stage. We are working through it. It is a complex issue.

The Hon. GREG PEARCE: The RTA indicated that in relation to that proposal it was doing some work on the possible compensation payments to you. Have you done similar work at this stage?

Mr MULLIGAN: We have received no proposal from government, nor have we tabled a proposal at this point in time.

The Hon. GREG PEARCE: Are you working on potential amounts of compensation that you will be asking?

Mr MULLIGAN: That is a hypothetical question, which I cannot answer.

The Hon. GREG PEARCE: Does the consortium want the up-front payment repaid?

Mr MULLIGAN: I did not hear that.

The Hon. GREG PEARCE: Those bikes cannot find their way into the tunnel. Is the consortium likely to seek repayment of the up-front payment, the business consideration fee?

Mr MULLIGAN: We have got no proposal with government, nor have we received a proposal. Again that is a hypothetical question, which I cannot answer.

The Hon. GREG PEARCE: What is the crunch date with the banks? When do you go into default?

Mr MULLIGAN: Mr Chair, that is a highly hypothetical and preposterous statement, which I cannot answer.

The Hon. GREG PEARCE: What level of patronage is required to cover your interest and operating costs?

Mr MULLIGAN: Those are matters for our shareholders.

The Hon. GREG PEARCE: When you took your oath you said you would tell the whole truth. Do you not know what patronage level is required—it is a simple calculation, I am sure—to meet your interest and operating costs?

Mr MULLIGAN: These are matters for our shareholders. These are commercial matters for the company.

The Hon. GREG PEARCE: Do you tell me you do not know the sum of money by way of toll collections that is required to pay your interest and operating costs?

Mr MULLIGAN: I am telling you that these are matters for the shareholders and for the company, and they are commercial matters.

The Hon. GREG PEARCE: I might come back to that. In relation to a reduction of the toll by half, why did you not simply accept the suggestion of a \$2.90 reduction which initially came from, I think, the RTA's traffic expert who said that was the sort of figure that it could be reduced to?

Mr MULLIGAN: The company made a commercial decision at its sole discretion to reduce the toll by 50 per cent.

The Hon. GREG PEARCE: Can you indicate why you chose 50 per cent?

Mr MULLIGAN: That was a commercial decision that we considered appropriate at the time. We thought that was a number which would enable the motorists of Sydney to see and experience the benefits of the tunnel, as I have said in my opening statement.

Mr ANDREW CONSTANCE: Do you have a good working relationship with the Government?

Mr MULLIGAN: I have an excellent working relationship with the Government.

Mr ANDREW CONSTANCE: Did the Premier contact you after he insulted you?

Mr MULLIGAN: The debate about this tunnel has been pretty robust and vigorous. We have moved on.

Mr ANDREW CONSTANCE: Did the Premier contact you after—

Mr MULLIGAN: I have taken no offence, nor did I expect the Premier to give me a ring.

Mr ANDREW CONSTANCE: So the Premier has not contacted you. Do you think the Premier's comments about you have damaged the reputation of your company in any way?

Mr MULLIGAN: As I said, the debate has been quite vigorous. I took no offence. We have moved on. We are looking to the future.

The Hon. GREG PEARCE: You mentioned that the increase in patronage was about 18.6 per cent so far.

Mr MULLIGAN: The figure is 18.6 per cent as of midnight last night.

The Hon. GREG PEARCE: What sort of increase do you require to satisfy that sufficient numbers of residents and car owners in Sydney are using the tunnel?

Mr MULLIGAN: We are in a ramp-up phase, as I mentioned earlier. We are looking at a ramp-up phase over the next two to three years and we are in the very early stages of a 33-year project.

The Hon. GREG PEARCE: And you have not yet made any decision as to the level of the toll at the end of the three-month initial period.

Mr MULLIGAN: That is what I said before.

The Hon. GREG PEARCE: Do you have any information on the economic impact of the category B road changes?

Mr MULLIGAN: I have also said before that we are working through the category B road changes. They are a highly complex legal and technical set of issues which we are working steadily through.

Ms LEE RHIANNON: Thank you for giving the figures. I have done the 18 per cent for a daily estimation. I am keen to get that. Can you give us daily figures, or is it correct that it would be about 35,000 a day?

Mr MULLIGAN: The average since 6 March is 33,500.

Ms LEE RHIANNON: You said in your opening remarks or in answer to a question about vehicle numbers that you take a long-term view of this. I do not have a date for this but I have a note here that when you first came into the job you said you would expect it would take three years for the traffic numbers to increase to 90,000 vehicles per day and your predecessor made a similar comment. Are you now receding from that and now expecting that it will take much longer to get to those projected figures?

Mr MULLIGAN: I have said we are looking at a ramp-up phase of two to three years. So it is consistent with what was stated before and consistent with exactly what you have just stated.

Ms LEE RHIANNON: So it is still 90,000 in two or three years.

Mr MULLIGAN: We are looking at a ramp-up phase over the next two to three years. This is a 33-year project.

Ms LEE RHIANNON: Has CCM restructured its finances, considering the revenue is not up to what was expected?

Mr MULLIGAN: These were matters for the shareholders. I keep reiterating that the tunnel has been open for seven months in a 33-year project.

Ms LEE RHIANNON: But it is a 33-year project that you were expecting we would be having 90,000 very quickly, and your own base case financial model is based on average vehicles per day of 79,143. Do you not want to comment about this because if you were restructuring your finances it would show that you are in danger of breaching the covenants to the financiers and that may be grounds for the Government to terminate the contract? Is that why you are refusing to comment?

Mr MULLIGAN: We are not in breach of our covenants. Can I dispel one urban myth that keeps being created here? On day one of a toll road there are not 90,000 cars queued up at the

entrances to the tunnel with their engines revving waiting for the key to open the door and they all rush through—

Ms LEE RHIANNON: But Mr Mulligan—

Mr MULLIGAN: Excuse me, I thought I was answering. Mr Chairman, am I given the right to answer the question?

CHAIR: Let the witness finish his statement.

Mr MULLIGAN: —all ready to rush through the tunnel on day one. Every toll road in the world has a ramp-up period, and we are in a two-year to three-year ramp-up period of a 33-year project.

Ms LEE RHIANNON: But this is still not dealing with the debt issue. Has CCM asked the bankers or have the bankers forgiven any of the interest or debt or converted it to equity?

Mr MULLIGAN: These are matters for the shareholders.

Ms LEE RHIANNON: Obviously the financial viability of the project is an issue for the people of Sydney. I have just been reminded that this is a public-private partnership. The public comes first and it is the public that is bearing much of the burden with the inconvenience in the city. Obviously some of the financial arrangements can be worked out. Considering that the traffic numbers were 25,000 to 30,000 prior to the halving of the toll, if you take that through with the numbers, considering you were expecting to have 80,000 vehicles per day using the tunnel and your income was forecast to be about \$8 million a month with those 80,000 vehicles per day, with traffic numbers averaging between 25,000 and 30,000 per day your income will be reduced to less than \$3 million a month. Do you agree with that? The maths are there; it is quite simple.

Mr MULLIGAN: There is no risk to the taxpayer in this project. The funding and capital arrangements, its profitability and its revenues are matters for the shareholders.

Ms LEE RHIANNON: Would you agree that there is obviously a risk for the people of Sydney with the mismanagement of the project which could be much greater than we realise if there are these serious financial problems?

Mr MULLIGAN: You are making allegations with which I completely disagree.

Ms LEE RHIANNON: Can you comment about the base case financial model specifically, considering it was developed at that much higher figure? Has it been redesigned, redrafted?

Mr MULLIGAN: These were matters which there has been a lot of evidence provided to this Committee previously. These are matters which occurred prior to my commencing this job six weeks ago.

The Hon. AMANDA FAZIO: I want to clarify the patronage figures since the toll change. Earlier the RTA gave us figures based on a 21-day period. In your opening statement I think you talked about a 25-day period. Can you confirm that for us?

Mr MULLIGAN: I can confirm the figures I gave before, yes. The figures the RTA gave earlier are consistent with ours. We have just taken a 25-day period and they have taken a 21-day period. That is all.

The Hon. AMANDA FAZIO: What has your response been to the increased patronage figures since you have had the temporary toll reduction?

Mr MULLIGAN: I am quite encouraged by the steady increase, bearing in mind that the project is not yet fully completed. We still have William Street surface works to complete. We still have signage to get up. So I am quite pleased. Also bear in mind that this requires sufficient tag penetration to use the discount period. It is all showing a steady increase so I am very pleased with it.

The Hon. AMANDA FAZIO: Has there been any change in recent times with the number of people using the tunnel who have not had tags, or is that going down? What is the tag percentage?

Mr MULLIGAN: The percentage of tag users has been steadily increasing, yes.

The Hon. AMANDA FAZIO: Do you have any way of knowing whether a person is using one of your tags or one from another company? Is usage for the cross-city tunnel issued tags going up?

Mr MULLIGAN: Yes, that is steadily increasing. There are interoperability agreements among the tag users so we are taking a number of other tags, but our own tag sales have been increasing.

The Hon. AMANDA FAZIO: In the earlier part of the inquiry it was claimed that the tag that people could get from your consortium was a better deal than some of the others. I note that in the most recent issue of *Open Road* there was a comparison of the e-tags that were available. Did you see that comparison? Do you think it was an accurate reflection of your position?

Mr MULLIGAN: Yes, I did see that. I cannot recall the full detail on it though, but as I recall it was a reasonable representation of the position. We are happy for people to buy our tags, and we are happy for them to buy others as well.

Mr PAUL McLEAY: Mr Mulligan, did you say that there is further signage to come?

Mr MULLIGAN: Yes.

Mr PAUL McLEAY: One morning the Committee had evidence from one person that we were being funnelled into the tunnel, and another group were saying that they could not find the tunnel. Have you made any reference to that?

Mr MULLIGAN: As I said, there is a need for improved signage. There are still a lot of signs to go up. We are working with the RTA on that, and that has been part of the process; we have been working closely with them over the past several weeks. We have also had further studies to ensure that the signs are helping people not only to find their way into the tunnel but to actually use the tunnel to get from A to B, and that is not complete at this point in time.

Mr MATT BROWN: I would like to ask you a question about the tags that motorists have been purchasing. I had some guests from Kiama come to visit me, and they were a little confused as to whether, if you buy one consortium's tag, that works with the other consortiums. I informed them that it does. But it is so important for these private roads to work properly, and for people to know, if they do take the opportunity to put tags in their cars, that their tags can be read by all of the different operators. How does that process work? Is there a clearing house at the end of the day, or the week, where this happens? Could you explain that to the Committee?

Mr MULLIGAN: There is a clearing house of each toll operator; and if we are collecting money on their behalf, that is paid the very next day, and, vice versa, we receive the money from theirs. So it is cleared on a daily basis.

Mr MATT BROWN: You gave some evidence, in answer to a question asked earlier by Ms Fazio, that more people going through the tunnel are using tags, and that this was the first road in Australia on which the tolls collected were completely cashless. How has the administration worked regarding those people who have to ring up before or after and want to use your tunnel?

Mr MULLIGAN: The administration has worked very well. I am not aware of any issues of concern.

Mr PAUL McLEAY: Mr Mulligan, there has been a bit of misunderstanding of the nature of the project and the associated financial risks for taxpayers. Could you please outline the project model, and say why there is no financial risk to taxpayers?

Mr MULLIGAN: This has been discussed by the Committee prior to my commencement in this job. I commenced here on 13 February. The report contains evidence of the model. Evidence on the base financial model and so on was taken previously, and I have nothing further to add to the evidence that was given before.

Mr PAUL McLEAY: I am not talking about the base financial model.

The Hon. AMANDA FAZIO: Some of the questions put to you today would indicate a lack of comprehension of the concept of public-private partnerships and that the private sector is taking the risks with these sorts of projects. Do you think your consortium has any role to play in trying to address that lack of comprehension, or do you think those people are hopeless cases and will never get their heads around the financial arrangements?

Mr MULLIGAN: The financial arrangements are on the Treasury web site. They have been gone through in previous evidence before this Committee. I cannot help Committee members understand them any more, other than by suggesting that they go back and read the evidence and listen to what was said and look at the documents.

CHAIR: In summary, the financial risk is borne by CCM?

Mr MULLIGAN: That is correct.

Mr ANDREW CONSTANCE: Mr Mulligan, do you believe that health warning signs should exist at the entrance to the cross-city tunnel?

Mr MULLIGAN: There was a lot of evidence given by my predecessor, Peter Sansom, prior. But let me talk about the air quality issues in detail. The cross-city tunnel takes air quality issues very seriously. There are 33 conditions of approval relating to air quality, compared with 16 conditions of approval for the M5 East and 6 conditions of approval for the Eastern Distributor. The ventilation system incorporates an extra tunnel, called the bypass event tunnel, which has been specifically designed to meet the more stringent carbon monoxide goals. This is an innovation in terms of Sydney tunnels.

The ventilation system has been sized to meet all conditions—normal traffic flows, congested and incident traffic flows, smoke control, and motorists involved in an accident. The ventilation system has been designed to avoid, to the greatest extent practical, tunnel emissions from the portals. The ventilation stack itself is the highest of its kind for current Sydney tunnels in operation. The stack is 65 metres high, in comparison with 25 metres high on the M5 East. The ventilation stack has been designed to be retrofitted for filtration if the government determines that would be appropriate.

Real-time air quality data is presented on the CCT web site. In-tunnel operating conditions are monitored on a constant, 24-hour 7-day cycle. Operation personnel are monitoring constantly. Air quality incident management plans and traffic control plans have been developed, so that systems operate together to ensure the primary objective of satisfying the in-tunnel carbon monoxide air quality concentration limits is achieved.

Mr ANDREW CONSTANCE: So, is the answer to my question yes or no? Do you believe that health warning signs should be erected at the entrance to the tunnel?

Mr MULLIGAN: We have a very high quality air management system.

Mr ANDREW CONSTANCE: So the answer is no?

Mr MULLIGAN: We have a very high standard of air quality control in our tunnel.

Mr ANDREW CONSTANCE: But answer my question. Do you believe that signs should be erected at the entrance to the tunnel?

Mr MULLIGAN: I have answered the question a few times now.

Mr ANDREW CONSTANCE: I don't think so. I have not heard a yes or no. I have just heard some waffle. I want to know yes or no whether signs should be erected.

Mr MULLIGAN: Mr Chairman, I defer to you in this case. I have answered the question. I have stated the very extensive air quality management control systems we have. This was also explored extensively in previous evidence to this Committee. I have nothing further to add.

Mr ANDREW CONSTANCE: My question was about signage, Mr Mulligan. Yes or no, do you believe that signs should be erected or not?

Mr MULLIGAN: We are working through, with the RTA, road signage regarding how to access the tunnel and use the tunnel.

Mr ANDREW CONSTANCE: Thank you.

The Hon. GREG PEARCE: Could I ask you to clarify something for me? You have indicated that you and your consultants are working through the implications and requirements for reversal of the category B road closures. What is your objective in working through that exercise?

Mr MULLIGAN: To see if we can reach some understanding with the Government on the acceptability of the recommendations of this Committee.

The Hon. GREG PEARCE: So, to give the public some sort of confidence that you are doing the right thing, the object is to see if you can reverse those B road closures, and on what conditions, and what the implications are?

Mr MULLIGAN: The Committee has made a series of recommendations. We have already agreed with Government on a number of those recommendations regarding the category B road changes, which are highly technical and legal issues. We are working through those.

The Hon. GREG PEARCE: I think there are 18 banks involved in the consortium, according to evidence previously given to the Committee. Is that so?

Mr MULLIGAN: There are 18 banks involved in our consortia.

The Hon. GREG PEARCE: Is Westpac the lead banker?

Mr MULLIGAN: Westpac is the lead banker.

The Hon. GREG PEARCE: Do you need to get the banks' approval for anything you might do in terms of reversing the B road closures?

Mr MULLIGAN: These are matters for our shareholders and are commercial considerations for the company. And, as I have said, they are highly complex legal and technical issues, which we are working through.

The Hon. GREG PEARCE: Do you need to get the banks' approval or not?

Mr MULLIGAN: They are highly technical and legal issues, which we need to work through.

Ms LEE RHIANNON: Does that mean you do not know, or are you refusing to answer?

Mr MULLIGAN: I have answered the question many times over.

The Hon. GREG PEARCE: Well, you have not.

CHAIR: The witness is answering that it is commercial in confidence.

The Hon. GREG PEARCE: Well, he does not have any right to commercial in confidence considerations here.

Mr MULLIGAN: I am not claiming commercial in-confidence. I am saying that they are commercial matters for our company.

The Hon. GREG PEARCE: Some fines were issued in the early days of operation of the tunnel to people who had not paid the toll and did not have a tag. Have you taken steps to ensure that that does not happen again? What have you done about the fines that were issued?

Mr MULLIGAN: If there are any issues surrounding tags, I suggest you ask the people you have particular evidence of to call our number, 90333999 and we will be happy to look at each case on its merits.

Ms LEE RHIANNON: You would be aware that many papers have been released to Parliament and are available to the public. I want to check with you some figures in those papers, in light of the reduced patronage in the tunnel. The Cross City Motorway consortium has \$2 million per month in operating expenses, \$4 million per month in depreciation, and an interest bill of another \$2 million per month on total borrowings of \$750 million—on which, I understand, you are paying 3.5 per cent interest? Have those figures changed in light of reduced income resulting from reduced patronage?

Mr MULLIGAN: Have you some doubt about the evidence that was given previously to this Committee? I cannot comment on that. I am not an expert on all the evidence that was given before, or on all of the papers. I would point out again that I have been in this position since 13 February and I can neither defend nor uphold what was said before.

Ms LEE RHIANNON: No. This is information from documents detailing CCM costs. Why is saying that you are not aware of those costs or that you need to take this question on notice so that you can confirm that this information is accurate in light of the reduced patronage in the tunnel?

Mr MULLIGAN: I do not know how many times I have to say this, but the operational cash flows and profitability, and capital engineering of this project are matters for its shareholders.

CHAIR: We thank you very much for appearing before the Committee and for assisting us in our inquiry. We wish you all the best and hope you get the increased patronage you require.

Mr MULLIGAN: Thank you.

(The witness withdrew)

(Luncheon Adjournment)

JOHN PATRICK FITZGERALD, Acting Deputy Secretary, Department of Treasury and Finance, 1 Treasury Place, Melbourne, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee, as an individual or a representative of an organisation?

Mr FITZGERALD: As a representative of an organisation.

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

Mr FITZGERALD: Yes, I am.

CHAIR: If at any stage if you should wish to give evidence or documents in camera to be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. Do you wish to make an opening statement?

Mr FITZGERALD: Not particularly. I would be happy to take questions, unless it were helpful to give a bit more background on my experience in this area, which I would be happy to do.

CHAIR: Please do that. I know that you have to leave right on 3.30 and I will keep to the commitment.

Mr FITZGERALD: I joined the Department of Treasury and Finance five years ago with the primary responsibility, at that time, for the development of our PPP or Partnerships Victoria Policy, as it is known in Victoria. I have worked predominantly in that area over the past five years, but more recently I have taken on some broader responsibilities as well. During that period we have developed the guidelines, and we have signed contracts on 15 new projects.

CHAIR: In your view, what are the main differences between the Victorian model for overseeing the delivery of PPPs and the New South Wales model?

Mr FITZGERALD: I will answer that in a couple of ways. I think the first is the guidance material. Our Partnerships Victoria guidance material is more detailed. If we take an example, New South Wales really has developed one document. The document is quite closely related, but it is less than a 100-page type guidance material. In Victoria we have produced five pieces of guidance material, a couple of policy documents and also a number of smaller technical notes and process notes that help in the process of developing these projects. It would be fair to say that we have put considerably more work into the policy and process guidance material than New South Wales has at this point in time. In practice, New South Wales has taken into consideration the Victorian material when they have prepared their guidance material. Much of the Victorian material has been adopted, but there are some differences. The notable ones are that New South Wales tends to take perhaps a somewhat different approach to so-called economic infrastructure versus social infrastructure.

As an example of that, they have a different approach to discount rates used for the various sectors. In principle, the discount rates and the process of developing a discount rate in theory is not different. But in practice we probably use a simplified version to the one that is adopted in New South Wales. The extent of risk allocation probably varies to some extent between the two jurisdictions. In practice they are fairly similar, but probably there are three or four or a half-dozen areas of difference. Quite often this goes to things like the clauses around termination provisions, for example abatement provisions, et cetera, some of those fairly technical areas of risk allocation and the consequences of a party not meeting their obligations. Transfer of staff in hospital projects is another area of difference. If the private sector takes over the provision of facilities, staff continues to be employed by the State, whereas in the New South Wales they would transfer to be employees of the consortium that was providing the services. There are some differences there.

On some New South Wales projects there appears to be quite significant prescription in design compared to Victoria. In Victoria we very much try to develop a sound output specification that is focused on the facilities management and services that are to be provided by the private sector, whereas New South Wales tends to focus a lot more than we do on the design and functionality of the facility itself or the infrastructure. As to disclosure of contracts, there is a separate policy in Victoria

that all contracts over \$100,000 be disclosed fully. There are some exceptions, but typically all contracts and the all contents of those contracts that exceed \$100,000 are disclosed and are published on a web site. The only exception from time to time is where a private sector party can demonstrate very clearly that there is an element of commercial in confidence material in those contracts. If they can convince the Government that is the case, then perhaps a clause, sentence or number might be excluded or blocked out of the contract. But that is typically not the case. Usually disclosure is quite full and transparent.

I will start by saying that as part of our process we very much focus on the public interest. There is a formal public interest test that a project has to pass if it is a PPP project. I am unaware whether New South Wales has such a stringent process in terms of public interest. That is an area you might want to consider further. As to the role of Treasury in Victoria, I think we have a greater role in project developments and the project procurement contracting process than probably New South Wales does. I base that comment on the fact that we have a larger team in Victoria that specialises in this area than New South Wales has in their Treasury. I guess I also make that judgement on what I hear about New South Wales involvement, how they involve themselves with an agency or a department versus what we do in Victoria. It is hard to provide the substantiating evidence, but that is the perception I have.

Probity is the final area where there are some differences. In Victoria, whilst we have very strict probity guidelines, there is scope for considerable interaction between Government and the private sector during the bidding process. New South Wales seems to be driven a lot more by quite strong, diligent probity laws which, arguably, have some benefits but, unfortunately, probably prohibits the full understanding of both parties when you are dealing with complex contracts like this. We have a lighter-handed approach, might be the best way to express it, in respect to probity.

CHAIR: We understand you have discount rates for PPP arrangements in Victoria. Would you explain the significance of that?

Mr FITZGERALD: We do. It is an extremely important element of the evaluation process, that is, how you judge the payment stream that has been bid by the private sector. There has been a lot of work done in this area not only by Victoria but together with other jurisdictions through their heads of Treasury. As I said before, in principle or in theory we both take the same position on discount rates and how they are established for various projects. The consequences of discount rates on a smaller project are not necessarily that significant. So we have smaller projects, where you would have to go through a lot of very expensive technical work to apply the theory. We tend to step back from that a little bit and apply a little bit more judgement to the discount rates than New South Wales does. Together with New South Wales and I guess at a national level through heads of Treasury, we have had a great deal of expert advice and opinions on this matter. I think generally the position taken in Australia on discount rates is very much in accord with the rest of the world who participate in these sorts of transactions.

The Hon. GREG PEARCE: You have touched on a few issues I wanted to ask you about. I want to get the process in Victoria clear. You said you have 15 new projects that you have signed off on.

Mr FITZGERALD: Yes, we have signed contracts.

The Hon. GREG PEARCE: Would you explain what your unit in Treasury does? Does it run the tender for the projects? Are they initiated in Treasury or in the line agencies? Would you tell us more about how it works?

Mr FITZGERALD: The projects are initiated by the line agencies. It is clearly their responsibility to come to Government for the budget approval of the project. They are responsible for the entire process. So responsibility and accountability does always rest with the line agencies or the department. They are also responsible for the consideration of whether the project should be procured as a PPP versus a more traditional approach. They do that analysis. My group in Treasury gets fairly involved in all business cases that come forward to government and in assessing the robustness of the business case. If it appears as though a project might be well suited in terms of a value-for-money outcome as a PPP, then our involvement would increase at that point in time, so we get quite involved

with the department, almost as a member of their team, from that initial decision point right through to financial close, and in fact beyond that. We look at the sort of contract management arrangements that exist post-completion of the project.

Our support for the project usually exists at certainly two, if not three, levels. So somebody like myself, or one of my assistant directors, would probably sit on the steering committee. One of my officers would certainly be in the project team throughout the project, spending, sort of, 80 per cent of their time in that team being very much involved in the commercial-financial issues and the financial evaluation process. Quite often a middle manager might be hovering around there as, you know, sort of a representative on the work group as well. The process for the Treasury—there is a point early in the process where a committee of Cabinet has to sign off on the documents that are going to go to the market, the expression of interest and the request for tender documents, and following that there would be consultation by the responsible Minister back through the Treasurer as he approaches the contract signing.

The Hon. GREG PEARCE: And what is the role of the infrastructure Minister?

Mr FITZGERALD: The Minister for Infrastructure is primarily responsible for economic infrastructure, such as roads, ports, public transport, et cetera, so they would be the only projects that the Minister for Infrastructure has an interest in. If it was a health-hospital project, it will be the Minister for Health or the Minister for Justice, whatever the case might be. There is a Minister in Victoria who is the Minister for Major Projects. He would also have been involved, but only when his agency, being Major Projects Victoria, had some sort of project management or lead facilitation role.

The Hon. GREG PEARCE: A public works sort of role?

Mr FITZGERALD: Sort of, yes.

The Hon. GREG PEARCE: I was in Melbourne last weekend for a bit of the Games. I was very impressed by all the signs—well, all the cranes, for a start—but I noticed, I think, at the Spencer Street station there were some signs that said it was funded by the Minister for Infrastructure.

Mr FITZGERALD: If it said that, it probably should not. I have not seen it myself, I am sorry.

Mr PAUL McLEAY: Not a bad idea though. We might, too.

Mr FITZGERALD: Perhaps, "sponsored", you could say.

The Hon. GREG PEARCE: It might have been sponsored. Yes, it might have been sponsored. You were talking about risk allocation and you mentioned that you thought Victoria's provisions, particularly in relation to termination abatement, were different. What is the sort of difference? Is New South Wales more prescriptive? Is that the difference?

Mr FITZGERALD: Probably New South Wales is a little more prescriptive and probably another difference again is—I mean, this is, sort of, again more of a perception difference. But I think New South Wales has much more, in their guidance material, et cetera, much more of a "this is a financing transaction" approach, and that bears out in the name. We took a great of time to think about what we called PPPs in Victoria, and in New South Wales they call them the PFPs, private finance projects. So I guess that demonstrates the financing approach. So our focus endeavours to be very much on the service delivery and outcomes in the public interest in those service deliveries, and financing is a component of that—a very important component.

CHAIR: What do you call it in Victoria?

Mr FITZGERALD: Partnerships Victoria.

CHAIR: Just Partnerships Victoria?

Mr FITZGERALD: Yes. And that leads to a different approach in terms of some of these risk allocation issues. So we will, to the extent possible, use commercial leverage, et cetera, to ensure that services are being provided and will continue to be provided under circumstances of stress within the organisation or the project, whereas New South Wales, I believe, has a bit more of a hard-nosed sort of project financing approach to some of those, if that helps.

The Hon. GREG PEARCE: Yes, that makes sense. Can you give us a quick rundown of the 15 contracts? I do not need you to specify the details, but are they roads, hospitals?

Mr FITZGERALD: They are a mixture. I mean, there is Spencer Street station. There are two hospitals now. We have closed one road which we have signed a contract on, which is the EastLink project. Of course, there is the City Link project but that would probably—

Mr PAUL McLEAY: When you said you closed the road, did you mean closed the deal?

Mr FITZGERALD: No, closed the contract, I am sorry, in respect of the construction of the road.

Ms LEE RHIANNON: That is quite explosive up here.

Mr FITZGERALD: I am sorry for that faux pas. I did not appreciate the sensitivity.

Mr MATT BROWN: It is very sensitive.

Mr FITZGERALD: Yes. That is why we are here, I assume.

The Hon. GREG PEARCE: Rail?

Mr FITZGERALD: Rail—we have not done anything in rail.

The Hon. GREG PEARCE: Schools?

Mr FITZGERALD: No, we have not done anything in schools, either. We have done some ICT-type projects, which have proven to be quite successful, and two prisons.

CHAIR: Any tollways? You have had some tollways, have you not?

Mr FITZGERALD: EastLink is a toll road. I mean, that is only about nine or 12 months into construction, but is certainly being constructed ahead of budget and ahead of the time frame at the moment, so that is going very successfully. City Link, of course, was a toll road which was developed under the previous government. That procurement process sort of started 15 years ago, so there are considerable differences between how we have approached the EastLink project compared to the City Link project, which is what has probably caused some of your problems here.

The Hon. GREG PEARCE: Planning. One of the problems I think we had up here, particularly with the Cross-city Tunnel was with the process. The process was that the Roads and Traffic Authority [RTA] went out to tender and selected a proposal which then was approved by the budget committee of Cabinet, and then it went through the planning process. How does it work with your projects—the same sort of way?

CHAIR: Can you move closer to the lectern? We can hardly hear you.

The Hon. GREG PEARCE: Yes, I am sorry.

Mr FITZGERALD: No. We would, typically you would do your feasibility study in respect of the project and perhaps some early budgetary or financial work around costs, et cetera, as part of that feasibility study. As a result, at that point in time you would start to develop the EIS processes and the environmental planning processes. They would need to be very well advanced, if not complete at the time the business case came to government for approval. It probably varies a little bit, some projects compared to the other. I am probably thinking of EastLink here where that work was pretty

much all done at the time government took the decision. With other projects where the planning issues are not as significant, such as a site for a hospital, et cetera, the planning approvals might take place after—in fact after you have even signed the contract.

The Hon. GREG PEARCE: Where it is a sort of stand alone sort of support?

Mr FITZGERALD: Yes.

The Hon. GREG PEARCE: How do you handle unsolicited proposals?

Mr FITZGERALD: That is an interesting question. There is a lot of discussion generally around unsolicited proposals. At the time we were developing our guidelines, there was a great deal of private sector interest in unsolicited proposals. In the five years I have been in the position I am in, I have only ever seen one unsolicited proposal come to government. There are lots of good ideas, but very few of them have any real intellectual property or rights associated with them, and the one that I did see was something that was already—not under consideration, but government was very aware of the particular project and how it might be constructed. But it was well off the Government's priority list and agenda.

So even that was quite easy to deal with. In terms of new projects, greenfield projects that are unsolicited and come from the private sector, it is a very rare occurrence. The Government is considering one. It is a difficult issue, because on one hand we need to respect the rights of the intellectual property associated with the proposal. However, we must still find a way of tendering the project while at the same time not disclosing the intellectual property and the advantage that someone might have through that property in that process. One can do that successfully.

The Hon. GREG PEARCE: With an outcomes-based tender?

Mr FITZGERALD: Yes. It is a good test. I do not believe that the Victorian Government would agree to an opportunity for a proponent of an unsolicited proposal without going through a competitive tendering process. It is how one runs that process that retains the value of someone's intellectual property that is important. Interestingly, often when one provides that feedback to proponents they decide there is not a lot of intellectual property associated with their project; it is simply another project.

CHAIR: You said there was one tollway and the current one, and that you learnt some lessons and made certain changes to avoid the problems we experienced with the cross-city tunnel. Can you briefly summarise the changes that you made?

Mr FITZGERALD: We had similar experiences to the cross-city tunnel project in that, for example, there were some road closures that caused some community concerns and opposition at the time. That is one significant difference with EastLink in that no roads or lanes are being closed. That was a condition of the bid. Providing one sets out these conditions appropriately and fully in the request for tender, the private sector will meet them. In fact, we have probably seen the reverse, in that the winning private sector bidder has added lanes to some of the arterial roads on the basis if it makes it simpler for people to get onto the freeway they will use it. We have almost seen a reverse outcome. One could not do it with the first one, but with EastLink we did not set the toll.

The Government had a view about what sort of financial contribution it would need to make towards the EastLink project to get the outcomes that we achieved at a toll level that was approximately similar to the toll level on the CityLink if it were measured by kilometre or some other form of measure. We were very pleased with that outcome because the tolls bid on the EastLink are significantly cheaper than on CityLink measured on a kilometre basis. That driver worked well for us in terms of tolls.

Ms LEE RHIANNON: Could you share with the Committee your thoughts about PPPs? Can they apply to all areas of government work, or are there some aspects of government work they should be quarantined from?

Mr FITZGERALD: They certainly cannot be applied to all areas of government work. Even with the 15 contracts we have closed in Victoria, depending on how you measure it, it amounts to only about 10 per cent to 12 per cent of Victoria's total capital expenditure. We will probably see that increase a little, but staying at around 15 per cent. A judgment has to be made at the beginning of the process about whether a particular project is likely to provide a value-for-money outcome. That tends to mean that it must be a discrete project. For example, a lot of capital expenditure within a jurisdiction is replacing a bridge, building new bypasses or a piece of highway, or adding a new wing to a hospital. PPPs must be standalone, discrete projects.

There must also be some opportunity for some innovation. The more innovation that can be brought to a project in terms of how the services are delivered or what might be delivered with the core infrastructure requirement the more likely one is to get a value-for-money outcome. That has to be a judgment call. In Victoria it is made after a fair amount of work, but it is not a science at that point in time. If the Government believes it will see value for money from the PPP process then it will proceed. The real test comes when the bids come in and one measures them against the public sector comparator, objectives and the public sector interest test. If that value-for-money outcome was not evident in the public interest then the Victorian Government would not proceed on a PPP basis.

Ms LEE RHIANNON: Your explanation about how contracts above \$100,000 are disclosed was interesting. Do you put the full contract on the web site given they are often so big?

Mr FITZGERALD: Yes, we do. We are considering developing simplified versions or explanations of some contracts.

Mr MATT BROWN: Like a summary?

Mr FITZGERALD: Yes. At the moment we do not publish them. That is something the Government is considering. Full contracts are on the site, along with ancillary documents and requests for tenders, so the two can be married. It is a pretty heavy read, which might be the criticism.

Ms LEE RHIANNON: You also mentioned that sometimes you might exclude some information if there is a request. How often do you get such requests? Is it very often?

Mr FITZGERALD: It is another interesting area. We seldom get that request. Talking about PPPs, in the early days there was some opposition from the private sector to disclosure of all of the information in the contracts. But when we worked our way through that with them they agreed. We pushed back and held the line fairly hard on that. There is a change in attitude in the private sector. Some of those that opposed such transparency of information are now supporting it. They are saying that for good debate and outcomes that information must be there. They have probably realised that historically they have been too sensitive about what they think is commercial-in-confidence. There are some exemptions in terms of timing. If a consortium is still in the process of finalising the financing arrangements or bond issue, for example, then we would not disclose until those matters had been completed.

Ms LEE RHIANNON: Can you comment on the whole concept of commercial-in-confidence? Your situation is very different from the situation in many other areas where there is a willingness to put the whole contract out there. Has public attitude changed about commercial-in-confidence, has the attitude of the corporate world changed, or was it just a bit of an excuse?

Mr FITZGERALD: I will deal with the history of publication of contracts in Victoria. When Premier Bracks came to Government he said he wanted to be more transparent about the contracts that the Government entered into. As I said, all contracts over \$100,000 are disclosed. That is all contracts, such as a contract with a consultant who might be providing advice to Treasury on budget matters and so on. It is everything. The Bracks Government felt there was community demand for more disclosure of contracts and it undertook that process. Concern was expressed by private sector parties who bid for these PPP or for a contract to build something for the Government. There has been a change in their attitude given that they were quite opposed some five years ago. I think that partly we forced that view a little bit by being fairly strong in terms of the Government's policy. Clearly there has been a change in attitude from the private sector.

Ms LEE RHIANNON: Obviously the world has not fallen in and business has coped and it has not made much difference. Is that how you would summarise it?

Mr FITZGERALD: I think it has probably helped both the private sector and us. To give you an example about commercial in confidence, it is very seldom used but you might find—and this is a theoretical example—if you are bidding a number of hospitals and bids come in on the first one and you sign a contract, both the private sector and the State might elect to withhold a very minimal amount of information in respect of that contract if that private sector party and the State agreed that to do so would undermine their competitive advantage in bidding for the next one. That actually works against government too because you want the competition to remain. So it works for government as well as the private sector party. That is probably an example but, frankly, other than the Casey hospital transaction, I cannot remember another PPP where information of any significance has not been disclosed.

Ms LEE RHIANNON: You think the openness and transparency might help the corporate world and government in terms of their being more competitive, and therefore having better business outcomes and better outcomes for government?

Mr FITZGERALD: I think so, better outcomes. I think the private sector can look back over contracts and see why and how somebody won a contract. Just as important is the request for tender that is published because they can see how someone else married a contract with the service we were asking for. I think it can be used as an educational source of information, which creates competition and better understanding—I think this is very important—of what the State is looking for in terms of contracted service delivery. If it creates better understanding of government's needs and does not adversely affect competitive tension, I believe that is a good outcome for government as well.

Mr PAUL McLEAY: We had a recent example where we did not publish our contract summaries by the due reporting date because there was another tender, for the Lane Cove tunnel, about to be finalised. The Government chose to balance that transparency—

Ms LEE RHIANNON: Broke the rules!

Mr PAUL McLEAY: —with getting a better deal for the taxpayers. What is your view on that?

Mr FITZGERALD: I am not sure I can or should express a view.

Ms LEE RHIANNON: Has this opened up a war between Victoria and New South Wales?

Mr PAUL McLEAY: There is no doubt that Mr Fitzgerald is passionate about his State.

Ms LEE RHIANNON: Are you trying to look for justification for your way of working?

Mr MATT BROWN: Can we just ask the question, please?

The Hon. GREG PEARCE: We are just trying to help because you are obviously struggling to find a question.

CHAIR: Let the witness answer the question.

Mr PAUL McLEAY: We let you ask your "What does one plus one equal?" questions.

CHAIR: Does the witness not wish to go down that path at the moment?

Mr FITZGERALD: No, I would rather not. I would only say that there are often complex issues that need to be considered in these matters and I can only expect that the New South Wales Government appropriately considered them.

Mr PAUL McLEAY: You said that PPPs have developed over time, sometimes organically and sometimes by mistakes. You mentioned the example of the City East and combined road projects.

There was also the example of your women's jail, a contracted-out jail which has now been bought back by the State. Do you find that the lessons you learn are repaired by experience or are they organic, or do you have to find a regulation to build on new experiences?

Mr FITZGERALD: I do not think you necessarily need to find regulation. I guess a contract is a form of regulation in its own right. I think it is predominantly through experience. You need to learn lessons and improve. I mentioned the extent of the guidance material that we have developed in Victoria; I have been accused sometimes of just writing guidance material. You write it because you learn lessons and you want to capture them and have them available, particularly for the public service to assist it in the next tender process. A great deal is learnt through lessons. We have learnt lessons and I believe and hope we have improved the processes, even over the last five years, but it is a continuing experience.

CHAIR: You have not sent copies of your method to all the other State Governments?

Mr FITZGERALD: They are all on our web site. We have a dedicated web site for Partnerships Victoria, so they are all available for everyone.

Mr PAUL McLEAY: Do you find that more detail or more guidelines can lead to less innovation by the private sector and less flexibility to respond to them?

Mr FITZGERALD: Yes, I think—in reading your first report I note that one of the recommendations is that the New South Wales guidelines be varied, strengthened or amended.

[Interruption]

Mr PAUL McLEAY: We were talking about whether additional guidelines lead to innovation and balancing that with a natural public suspicion of private sector partnerships (PSPs).

Mr FITZGERALD: Something you have to be careful in developing guidelines is that they do not become too prescriptive because that certainly diminishes the opportunity for innovation and innovative outcomes in service delivery. We have written some further guidelines on how to determine an inflation rate; how to run an interactive tendering process, where you are in discussion with business during the process so they understand the services government is looking for; and disclosure and management of conflicts of interest. We have written these guidelines because we have had some difficulty with them in an earlier project and you want to capture that lesson and make it available for future reference.

My view is be careful that guidelines do not become too prescriptive and become a rule book rather than a guideline. When a number of agencies and departments are involved in delivering projects like these, the challenge is not the guidelines themselves but their interpretation, and I think a natural human ambition is to have your own view about what works best and what does not. Managing the raft of advisers who have different views from you on these things is a big challenge. That is what you need to manage.

Mr PAUL McLEAY: A question was asked about this before and you started to touch on it. Is there an effort to develop standard commercial principles for PSPs across all jurisdictions?

Mr FITZGERALD: Yes, there is. I guess we are a little further ahead in the development. We have actually published some standardised commercial principles. In developing that paper we have worked very closely with other jurisdictions, particularly New South Wales. We had a discussion about that this morning, in fact. I think New South Wales is quite consistent—90 per cent consistent.

Probably there is little difference in the principles themselves. New South Wales' contract style is a little different to Victoria's, so some of these commercial principles find their way through the contract a little differently. So there are some differences for that reason, but substantially they are very similar now.

CHAIR: You mentioned that you assist the tenderers by giving them information to help them prepare their tender. Have you seen any danger in that? For example, perhaps if you give more information to one tenderer it gives them an advantage over another tenderer.

Mr FITZGERALD: There are risks associated with that approach, so this interactive process has to be very carefully managed and controlled. We have probably actively tried to increase that interaction now on two projects, and we have found that the outcome has been significantly and notably better than we have seen in earlier projects.

CHAIR: You have to make sure you treat each tenderer exactly the same?

Mr FITZGERALD: That is right. Fairness to all bidders is the absolute key, and we would typically have our Probity Auditor sitting with us in those sessions. But we have found, at least on one occasion, that after a number of these sessions the Probity Auditor has said, "I am happy with how you are operating these sessions. You are being very careful, they are well managed, and I have no concerns with the approach you are taking." It could be an area of risk and danger if not properly managed, but it is a pity if you do not do it because communication and understanding of each other's needs gets you a better outcome.

Mr PAUL McLEAY: Does your Auditor-General also sign off on your PPPs?

Mr FITZGERALD: He reviews, I think it is safe to say, all our PPPs.

Mr PAUL McLEAY: Earlier you said that all your contracts are published in full detail without a summary. You mentioned also that you produce a public sector comparator. Do you publish the public sector comparator?

Mr FITZGERALD: No, we do not.

Mr PAUL McLEAY: Why is that?

Mr FITZGERALD: The public sector comparator is the Government's own build-up of costs. At the end of the day, the headline number is published in the budget papers. But that probably does not provide a great deal of understanding of how that number is developed.

Mr PAUL McLEAY: Do you think there would be an advantage in marrying the two?

Mr FITZGERALD: I think that is a matter for the Victorian Government to consider amongst Ministers. There has been some discussion and debate about this matter, but there is no conclusion yet. Then there is the issue of the timing, which is part of that debate as well. I very much believe that publishing details of the public sector comparator, which includes an element for risk et cetera, any time during construction of a project or probably for a short period post construction—which is where a lot of the risk is in the project—could potentially give the private sector party an advantage in terms of negotiations if there is a problem. That is the issue that we have some concern about.

Mr PAUL McLEAY: You also said that you thought your test for public interest was more rigorous than ours. Would you explain what you mean by that?

Mr FITZGERALD: I am saying that because I think our test is quite rigorous. The interesting thing with the public interest test is that for most traditionally procured projects, and certainly historically, there was not a formal consideration of the various areas of public interest. The Government was concerned to protect public interest. So, in developing the Partnerships Victoria Guidelines, we formalised that process, and the template and the work that needs to be done to consider about eight different public interest issues. It is part of our process, so it has to be fully developed. It is something that Treasury looks at fairly carefully. Before you sign a contract with the private sector party, it is a requirement under our guidelines that those public interest matters be scrutinised in terms of the contract you are about to sign, to make sure you can tick them all off.

CHAIR: You referred to eight public interest issues. Could you give us an example?

Mr FITZGERALD: It is things like equity for disadvantage, and looking at the environment issues and local community issues. Another issue is whether there is any imbalance in the financial impact of a project on part of the community versus another part. The public interest test is available in our guidance material on the web site, or I could make it available to you if you wish.

Mr PAUL McLEAY: Are they on the contract? You decide that before you—?

Mr FITZGERALD: You decide that before you enter into the contract.

Mr PAUL McLEAY: Do you publish it?

Mr FITZGERALD: No, we do not publish the final document. But the Auditor-General certainly looks at it pretty closely. He focuses not on the financial aspect but on the service delivery and the public interest issued just as strongly, and will comment.

CHAIR: Have you had any involvement with the British model?

Mr FITZGERALD: We have had a lot of involvement with it. We have certainly used significant amounts of their experience and guidelines, et cetera, in developing our own. They have had a public sector comparator over the years, but there has been a lot of debate about how robust that measurement has been. I believe we have gone a lot further in terms of technically how the public sector comparator is built up, and have a very clear policy position that if the bid does not better the public sector comparator the project does not go ahead with that bidding party. There are two cases in which that has occurred and we have not proceeded with the project. Whereas, in the United Kingdom it seems as though it was always a little more transient.

Mr PAUL McLEAY: What do you mean when you say you did not go ahead with the project? Do you mean you did not go ahead with it as a PPP and you used a traditional funding model?

Mr FITZGERALD: One project did not proceed at all because we made it clear in the request for tender that unless we received bids that only required X amount of dollars in funding from the State, we would not proceed with the project. We did not see a bid that met that benchmark, so we did not proceed. There was another project that did not better the public sector comparator and we reverted to a traditional approach for that project. So it is still being delivered, but under a design and construction contract.

The other predominant difference is our introduction of the public interest test, which does not exist in the United Kingdom, or certainly did not at that time. I think they are moving more towards that sort of outcome now.

The Hon. GREG PEARCE: I am very sceptical about the public sector comparator, I must say. I was reminded in a debate yesterday that one of the few contributions that Paul Keating made was to talk about voodoo economics. It seems to me that the whole concept is capable of manipulation in terms of your assumptions. It takes an enormous amount of time. In relation to those two projects, you said that one of them did not meet the public sector comparator by also that you did not get a bid that limited the amount of money that the Government would have to put in. In my view, that is the right test: for the Government to make a decision as to what it wants to put in.

Mr FITZGERALD: Yes, it is. This is another difference with the UK. The funding for a PPP project is approved and allocated in the budget before you go to the market, and that funding is predominantly built on the public sector comparator. It might not be final at that stage, but it predominantly has the risk analysis, et cetera, in it.

The Hon. GREG PEARCE: So you have a government decision to fund it?

Mr FITZGERALD: Yes.

The Hon. GREG PEARCE: And the test is whether you go ahead with the government funding or whether you use something else?

Mr FITZGERALD: Yes. An example of a PPP is the Royal Children's Hospital. You will see in the budget papers this year an allocation of traditional capital funding over a three-year period in the budget line, so it is accounted for as a financial expense.

CHAIR: Is that roughly 50 per cent or 20 per cent?

Mr FITZGERALD: The full cost; the full risk-adjusted cost. So the funding is there. If the bid does not better that funding you have the funding there just to proceed with the project. I think that covers the point that you made.

The Hon. GREG PEARCE: So if you do go ahead with the private sector is that funding just converted into State liabilities?

Mr FITZGERALD: It is converted into a recurrent budget, which represents the payment stream that you would need to make to the private sector. People say, "Well, that is good because that gives us more capital expenditure", but it does not because it has disappeared; you have spent it but just in a different way.

Mr PAUL McLEAY: That does not work with roads, though. Do you use tollways to bring projects forward on which you would not normally spend up front?

Mr FITZGERALD: The toll is a mechanism for financing that project.

Mr PAUL McLEAY: You would not have allocated the up-front payment for the whole road?

Mr FITZGERALD: We do. Tolling is one decision; who tolls is another decision. So the original project that was funded by the Government was a capital contribution of X plus, "This is our view of what the tolls will be over the next 25 years." So private sector; give us the toll; and make sure of the contribution by government. We want the toll to be equal to or lower, and we want the capital contribution to be equal or lower.

Mr PAUL McLEAY: You can still use tolling to bring projects forward?

Mr FITZGERALD: Yes. The Government has clearly stated that if a project of that size was budget funded you would not be able to do it for another five or 10 years.

CHAIR: We appreciate very much the information that you have provided to us today. It has been valuable in assisting the work of the Committee.

Mr FITZGERALD: Thank you. I hope it is helpful.

(The witness withdrew)

GRAEME ARTHUR HODGE, Professor, Monash University, Wellington Road, Melbourne, Australia, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee—as an individual or as representing an organisation?

Professor HODGE: As a professor of the university who, for about a decade, has looked at questions of contracting with governments and public-private partnerships.

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

Professor HODGE: Yes, I am.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, indicate that fact and the Committee will consider your request. Do you wish to commence with a brief opening statement?

Professor HODGE: Yes, I do. Firstly, thank you for this opportunity to present to the panel. I want to make some introductory remarks and talk a little about the partnership phenomena around the world. I will then come back to how that information relates to your current inquiry. I have been thinking about matters of contracting with governments and public-private partnerships for about a decade now. I have put out a couple of books on the topic that have summarised some of the evidence. The latest one I have here, which is entitled *The Challenge of Public-Private Partnerships*, looks at evidence from Europe, the United Kingdom, the United States of America, Canada and Australia.

What are public-private partnerships? They are probably five families of different things, one of which is what New South Wales and Victoria call private finance projects. There are many other versions of partnerships ranging from jointly owned companies, through to policy networks, through to development of downtown areas, and so on. But this private finance partnership idea that Victoria and New South Wales have gained from the United Kingdom, is one of a much larger range of government business relationships. In evaluating the private finance partnership arrangement, I think there is a whole realm of different evidence that you could bring to bear, leaving aside the kinds of rhetorical comments that some people make, for example, PPPs are a "problem, problem, problem", or, "PPPs are a marriage made in heaven."

Leaving aside those kinds of rhetorical labels, there are many studies that attempt to answer the question, "Are they or are they not a good thing for citizens?" If you go back to the original reasons for private finance initiative [PFI] projects, I guess it has been a moving objective. Initially, it was somehow to provide public infrastructure but not to have to be subject to a public sector borrowing ratio. It then changed to the promise that it would reduce pressure on government budgets. It then changed to 'value for money'. It then changed to a promise of delivering projects on time and on budget, I guess with an additional promise of better accountability as well. So if you were to do a serious evaluation you would go through all those different objectives.

I will not go through all that evidence. If you are interested, it is in this book. I say, however, that there is a large volume of evidence, ranging at one extreme from some of the United Kingdom evidence that states, "Public-private partnership deals give the best deal possible in eight out of 10 cases"—which is Michael Pollitt's work in the United Kingdom—right through to the other end where Professor Carsten Greve in Denmark suggests that, as a result of taking on some of these deals, they have resulted in the biggest scandals in public administration history in their country. Indeed, people have ended up in prison and taxes have been raised in order to pay for the multi-decade deals that governments have signed up to.

So you have a huge range of evidence. In the middle of that evidence you have a report that was done in Victoria a couple of years ago by Peter Fitzgerald, a former McKinsey person. He looked at eight projects in Victoria and came to the conclusion that the financial benefits achieved through these arrangements were highly dependent on the discount rate that you used in getting your public sector comparator figures. If you used a lower discount rate you would come out with a 9 per cent

saving on the traditional public sector alternative. If you used a higher discount rate you came out with these deals that were probably 6 per cent more expensive. That is an interesting finding: that the worth of these deals in financial terms depends on the individual financial figures you put in for discount rates.

Having said that, obviously the traditional way of delivering public infrastructure is hardly a shining example of model behaviour. Hundreds of studies in the United Kingdom of the London Underground suggest that their way of delivering public infrastructure probably resulted in projects being way too late and 20 per cent too expensive. Some National Audit Office research in the United Kingdom suggests that these PFI projects are more often delivered on time and on budget. So there is wide variation in all this evidence.

What is critical, however, in the current inquiry, is to try and separate out issues of planning from issues of contracting out government services—and there has been a battle for a couple of hundred years about ‘public versus private’—separate those away from matters of these new private finance initiative deals. So a question I always have is, what is new? Governments spending a large amount of money is not new; we have done that for centuries. Governments doing deals with business is not new. What is new, in my opinion, with these deals is, number one, there is a preference for private finance; number two, they are highly complex and they are ‘bundled arrangements’. I think this morning the RTA was saying that the private sector has often delivered infrastructure services for the State, but with these new arrangements—

Mr PAUL McLEAY: Are you saying critically this is a problem that they are complex?

Professor HODGE: No, I am making an observation. The observation is that the private finance preference is new; the tendency for the deals to be hugely complex and to bundle a whole lot of things together is new; and new accountability and governance assumptions, I think, are new. So all of those three things I think are new and are worthwhile talking about. So how does that relate to your current inquiry? I read that you had some difficulties with the degree to which the public interest test was not particularly clear, and I fully agree with the inquiry's previous report on that. I probably disagree with my Victorian colleague who just spoke to you in that I do not think that ticking a bunch of boxes necessarily guarantees the public interest one bit.

I think the public interest is, in fact, the core business of government in the same way as it is the core business of a private company to give good returns to its shareholders. I think meeting the public interest, however that is defined through parliaments, is the core business of government. So reducing it down to a checklist I think is a nonsense. I think, as you said in your initial report, certainly this arrangement allowed the cross-city tunnel to deliver infrastructure early, but I have always called these deals government on a mega credit card. It is always possible for governments to deliver projects early, the question is at what cost? And I guess the global evidence on this suggests that governments are probably paying too much money.

Your observations about some failures in the planning processes with the tunnel I think are consistent with some of our earlier experience in Victoria with our City Link project, and your observations about community consultation not being strong enough despite the impressive feat of engineering excellence is, I think, consistent with our experience as well. Your observations of the public sector comparator, to which I think you referred before, and the degree to which that is unclear are consistent with international, perhaps academic, observations of the public sector comparator. There is a lot of material around suggesting that the PSC is certainly unclear but it is also highly manipulatable and it is quite easy to come up with predetermined answers as to what is required through a PSC.

Some of the most influential parameters and characteristics in the PSC, like the discount rate that is used in determining the time value of money, I think need far closer scrutiny than they typically get. Indeed, I believe, based on Peter Fitzgerald's evaluations of the eight Victorian projects, our government is probably using a discount rate that is too high and tips the balance in favour of a consortium private finance deal. It may be as high as 3 per cent too high and any citizen out there that goes through the process of organising a house mortgage would never accept a finance deal that was 3 per cent higher than the one down the street. So I fail to see why any government should do the same.

Your observations as well on accountability—I notice that the State Premier and relevant ministers were not able to attend the inquiry's hearing.

The Hon. GREG PEARCE: Not willing to attend.

Professor HODGE: I did notice that you said it was not possible therefore to address the issue of ministerial accountability. My observation as an academic would be that the empirical evidence in that case suggests that there has been a failure of ministerial accountability. I simply make the observation that that is also consistent around the world in the sense that when the previous government signed a deal that binds the next dozen or so governments, almost by definition, Ministers will duck and weave, and, in the eyes of the public at least, avoid that ministerial accountability.

That leads me to the point that one of the assumptions we continue to make is that parliaments govern, and in this area of private finance partnerships we are in the process of finding out the contract governs rather than the Parliament. It is technically possible for a government to rescind a contract. It can exert its sovereign right to do that, but it is very rare that that is done, obviously because the contract is the kind of fundamental building block of a western Liberal market, and you would not want to lose a market confidence by trying that out.

I also observed in your report that there was a recommendation that governments not charge a right-to-operate fee. I make the comment that irrespective of whether governments decide to charge a monopoly fee or not, I think it is absolutely crucial that governments make transparent the value of any monopoly right that is granted and the price that was paid for that monopoly right, whether it is to put a road facility in or whether it is to operate on broadcast airwaves or whatever else. Transparency is the issue here, in my mind.

With your last few recommendations on changing traffic management measures and encouraging operators to lower tolls, I would say go for it, good luck. It is an interesting road that governments are now going down. If the Government were a private sector organisation and it looked to European research on long-term IT contracting deals, what it would learn is that four out of five of those deals change within 12 months of being signed. Government not being solely a commercial concern leaves it in the very tricky position of wanting to behave in a bit more businesslike fashion, but probably being constrained—and rightly being constrained—by citizens' requirements for public accountability. So in theory you can renegotiate contracts, you can change contracts, but in practice it is a lot more difficult. And you are obviously negotiating that at the moment.

Overall what I am saying is that there are a number of rhetorical issues. Public-private partnerships are a global label for a range of things and many people would say that they are not really partnerships at all because it is really a two-way government-business deal, a traditional contract, just involving more money. Secondly, there are range of cost issues, I think, at stake, and the question is, at the end of these deals—I have a wallet full of credit cards myself—I think government ought to have a kind of mega credit card capacity, but we have to be disciplined and careful to be able to pay for these deals in the end, and my single question would be, what exactly is the interest rate that my children will be paying and my children's children will be paying for these deals?

A lot of the UK literature talks about the danger of the 'private finance partnership deal wagging the planning dog' so that government works committees, for example, end up taking the recommendations of various merchant bankers which walk in the door and propose all sorts of infrastructure projects which can capture the revenues most appropriately for private investors rather than provide those projects that meet the highest public interest needs.

There is that danger. I guess it requires government to be an intelligent purchaser or a smart buyer. I fear, I guess from my looking at the international evidence, that too often governments as a whole are actually not intelligent purchasers but dumb purchasers. The reason I say that is not because I read in your report that the RTA efforts in the cross-city tunnel were beyond probity and extremely professional; I am not referring to a particular organisation. I think the confluence of interests between governments and agencies leaves government as a whole exposed to this charge of being a dumb purchaser—at least in the eyes of citizens.

I think one of the reasons that governments end up in this position is because in areas in which we had a traditional role for public stewardship—for example, a central Treasury area—they used to have the role of public steward. You would take out your accounting pencil and take care of the dull and boring matters of public stewardship. Once treasuries go down the road of advocating and having a preference for private finance deals they cross the fence and become, all at once, a policy advocate, a contract developer, an implementer, a governor, a planner and a parliamentary adviser as well as the public steward. I am not sure that you can play all those roles at once. It probably means that we need to rethink our lines of accountability to ensure that whatever evaluations are done have a much stronger veracity than perhaps they had in the past. So PPPs in many ways are a confluence of interests and I have some concerns that accountability is below the radar.

Overall, I guess my conclusion is that PPPs, whilst they do appear to produce public infrastructure quicker for governments currently in power, they are insufficiently well governed and exposed to too little independent scrutiny, given the nature of these multi-generation, multi billion-dollar deals. Governments have a mega credit card and, while that is not necessarily a bad thing in itself, the two-way business-government deals resulting, in my opinion, need far more careful scrutiny and assessment than they usually get around the world. Government political incentives and business commercial incentives both appear to motivate against this.

CHAIR: Thank you. In your book *The Challenge of Public-Private Partnerships* there seems to be conflicting evidence about the value of PPPs. Why do you think there is such a difference of opinion among academic observers?

Professor HODGE: That is a very good question. In all areas of the privatisation literature, the contracting-out government services literature and now the public-private partnerships literature you will find a similar continuum of evidence from the very much for and the very much against. I think partly it is ideologically driven. Some people when they do research know the answer before they look at the empirical evidence.

CHAIR: So it reflects more the background of the researchers.

Professor HODGE: I think sometimes it does. I also think there is another kind of nuance to this. I suspect that there are very strong interests at play with private finance deals. You are comparing two quite tricky areas. As I said before, the traditional way of delivering major infrastructure is no paragon of virtue but it is not the old-fashioned public works department—because most States, and in fact many countries, have not had them for a decade. We seem to regard PPPs or PFPs as a kind of one or zero: you either go back to some bygone era, which we will tell you all about through a public sector comparator, or you will go down this new track put forward by the merchant bankers. I think that is quite a false dichotomy to be put in. Most governments are as creative as they wish to be. When it comes to governments having the capacity to raise public bonds or take out public debt or take private finance, for example, I think there are probably a number of ways in which governments can more intelligently handle the need to provide infrastructure at minimum cost. I do not really think you need to go to a high-priced loans agent to get that infrastructure delivered.

Certainly you will get a different view politically in most countries that you go to. If you go to Denmark they will look you in the eye and say, "We're not going to go down that track, thank you very much. Our experience has been quite poor". If you go to the United Kingdom there are hundreds of assessments done by their National Audit Office, most of which do not question the policy of PFI, but there is a lot of learning in that area. So I think there is as a range of answers as to why there is that continuum of different opinions.

CHAIR: You said that governments' main role is the public interest issue. How do you recommend that governments ensure that they observe or enforce the public interest requirement in dealing with these PPPs and PFPs?

Professor HODGE: I think there are a few components to that answer. One of the ways of ensuring the public interest is exactly what this Committee is doing—that is, putting the facts on the table. In fact, in terms of your inquiry into the cross-city tunnel, the financial look of this project in some ways is a little different from many other PFI projects in that there are some real financial risks

apparently currently being borne by the private contractor and in a financial way, maybe the Government has got a good deal in this case. I would regard that as unusual.

But back to the public interest, you are already getting contract summaries and deal summaries out on the table. I think there is a need for central Treasury departments to be a lot clearer and a lot more accessible in what these deals really do mean. I was told several years ago that you could not have summaries of these contracts because they were too hugely complex: to which my response was, "Well, how on earth did Cabinet make a decision if they were too complex to get a summary of"?

The Hon. GREG PEARCE: It was a one-page summary.

Professor HODGE: I would be happy with even a six-page summary. The contractual documents to some of these things stretch three, four or five metres to the roof, with appendices, attachments and so on. They are hugely complex. I think one of the accountability mechanisms that we have not worked on enough is to try to get a sensible, rigorous summary maybe that is actually ticked off by the Audit-General. There are some things that I think we also ought to know as taxpayers. For example, when Jean Shaoul from the University of Manchester in the United Kingdom—she is one of the PFI pessimists—talks about private investors getting up to an 86 per cent return on capital and I read other reports in Melbourne suggesting that public funds invested get in the order of 2 per cent to 10 per cent return on capital I do worry that government is acting like a dumb purchaser here. They seem to be getting lots of infrastructure to show citizens that they are doing a great job, but we seem to be paying a lot of money for that.

So simple requests for the calculation of the return on public funds invested would go a long way towards maintaining accountability. I do not mean the fact that everyone likes road infrastructure. There is a certain benefit cost calculation that goes with that. What I mean is the move to go from a traditionally procured project, using the private sector as contractors, to going to a merchant bank and saying, "Deliver us this new deal where you organise everything and you finance it as well". I think it is up to us to work out what return the public are getting on their funds because obviously it is either the users pay through their own private credit cards or we, as government, end up paying through public funds.

I do think there is a role for public works committees. I am not sure about this State; I think you still have a public works committee, but we do not have one in Victoria and I am worried that our public works infrastructure priorities are in no man's land and we can end up seeing literally the private finance partnership [PFP] bankers setting the agenda for what ought to be done, and where. That is an example of where government has actually outsourced its own brains, because I think it is up to government, as I said before, to define, to debate and to articulate those public interest priorities.

The Hon. GREG PEARCE: I think you heard, before you started giving evidence, that I am very sceptical about the public sector comparator. I would like you to go through in a little bit more detail the material you were talking about before, where you were talking about discount rates and research by Dr Fitzgerald, the 9 per cent and the 6 per cent variations?

Professor HODGE: I cannot say that I am an expert here but my strong suggestion in my debate in Victoria over the last few years is that this has to be an area that Auditors-General—plural—throughout Australia ought to be looking at, ought to have made rulings on and ought to have bought into. For some reason or other most have not yet. There is a strong technical argument around the size of discount rates that ought to be applied to calculate the time value of money. If you pay \$500,000 for a house, we all know that is quite different to the amount of money that you will pay back to a bank with a mortgage, which will probably be three times that. Exactly the same thing happens with infrastructure. But the critical question is: What is the appropriate number for a discount rate that ought to be used to make these calculations?

In Victoria it varies at the small end down to about 5.6 per cent up to the high end of about 8.6 per cent. We ought to make adjustments for risk and we ought to make adjustments for various things about social time preferences and so on. Peter Fitzgerald suggested in his review that when you go back and have a look at the Capital Assets Pricing Model—go back to first principles—it suggests that you would use a lower discount rate in preference to a higher discount rate. To get to the bottom

of that, to get to the technical requirements behind that, you would probably have to go to talk to a professor of accounting rather than a public policy person such as myself.

However, I am highlighting the fact that if you do not talk about the discount rates that are used in the public sector comparator, you are missing the blood stream of that animal and you are missing one of the main parameters that actually make this whole comparison manipulatable. Peter's results suggested that if you used the lower end of that range, it suggested that the PFIs that we done in Victoria were about 6 per cent dearer than the traditional equivalent, but if you used the upper end, which is the Treasury-recommended end, these deals appeared to be 9 per cent cheaper than the traditional.

I make the point that it matters dearly which figures Treasury is using. The public sector comparator has been designed by advisers, large accounting companies and Treasuries in the United Kingdom and is being exported around the world. My understanding of the United Kingdom practice is that they have actually reduced their discount rate down to about the 5.5 per cent level. We have not followed suit.

The Hon. GREG PEARCE: The whole process, though, has an artificiality about it. If you are a builder and you cost what you think it will cost to do some extensions to your house. That is all well and good but then you go into the real world and you have to buy the services. It is a guide, but to actually be making a decision to proceed or not to proceed based on it, to me seems to be floppy.

Professor HODGE: I agree. I would like to add a couple of things. Firstly, I think in fairness to the Victorian policies, that they would probably suggest it is also a guide there. But I would make the observation that there have been a couple of dozen PFI jobs done in Victoria and apparently there have only been two cases in which, after going through the PSC, we have turned to the traditional approach. As a kind of statistician of old, I would have thought that if it really were a fair comparison you would find many more cases in which there were doubts being placed on the board. So my strong suspicion is that the scales are tilted in favour of government policy, which is to keep markets happy and to do the right thing by the big end of town.

The Hon. GREG PEARCE: You made a couple of comments about the planning process. You talked about separating planning and you effectively said that you thought that some of the PFPs effectively hijacked the planning process. Can you expand on that and tell me if I have your views right or wrong?

Professor HODGE: That is well put. That is exactly what I was trying to say. The great thing about PFPs for governments is that they do promise big projects quicker. If you are a citizen, that may not necessarily be seen as a great thing for local area people and it may not necessarily be seen as a good thing for people with environmental persuasions and so on. Some of the traditional planning processes and checks and balances that we go through in government, after decades of learning, I think governments, particularly in Victoria's history, have learned that they can take short cuts through these processes, and probably I would refer again to City Link in Melbourne. On the one hand, you are able to get a government that is able to deliver infrastructure in Melbourne that perhaps the previous three decades of governments were not able to deliver, but, on the other hand, they were highly criticised for not doing sufficient assessments, not taking care of due process and so on.

CHAIR: You mentioned earlier that Victoria's public works committee has been disbanded. Did you mean the Public Works Department?

Professor HODGE: No, I think I mean both. We do not have a public works department. These days we have a Department of Infrastructure, which perhaps took over that role but there is no parliamentary committee that actively looks after—

The Hon. GREG PEARCE: An oversight committee.

Professor HODGE: An oversight committee. If this was the Victorian Parliament and I asked the rhetorical question: Who at this table can give me a summary of the last PFP deal? My strong suspicion is that there would not be a person at the table who could do that. That actually concerns me. It does not concern me if I know that some committee, some department, some perhaps

regulator-general or perhaps some auditor-general somewhere does have some kind of oversight role, I am not convinced in my own mind that we do have that oversight role.

One of the strong arguments that I have been making in the last couple of years about this matter is that we seem to have cared very dearly when we have privatised electricity assets in both States, when we have privatised telecommunications assets and so on; we seem to care very dearly about installing an independent, strong regulator with teeth to look after the viability of the industry as well as ensuring a great deal for consumers. But in this area, we have chosen to be governed by contract, which is completely dependent on deals that are done at the table at some particular point in history, which then binds the next dozen governments. I see an inconsistency in that approach. I am now suggesting that these are the sorts of deals that I would have thought we should be putting through one area of our Office of the Regulator General or our Essential Services Commission these days.

CHAIR: The point I was making is that these days you are losing the expertise. You do not have the public works department or the oversight committee. Is this perhaps government's attempt to reduce the whole public service and replace it with private companies? Is that a temptation to see another reason to promote this approach?

Professor HODGE: I think there is a big risk that indeed Government's lose the capacity that they ought to have. The reason I say that is because much of the earlier work that I did looking at governments contracting out services dealt with this question of capacity of governments to take private companies up to the table and to do a terrific negotiation. I would make the rhetorical observation, I guess, that in the area of merchant banking and private finance provision you are dealing with the smartest boys in the room. I am not sure that the way governments have downsized in the past few years, perhaps the past decade that we have actually kept the smartest people in the room. We have certainly got good contract administrators. We have certainly got perhaps compliant public servants who act on the policy directions of current governments but I am a bit more concerned about the equal capacity of governments to do deals in the long-term public interest.

Mr PAUL McLEAY: Should we pay our public servants who do successful PPPs considerable performance bonuses?

Professor HODGE: I will leave that one to those elected in power to make those decisions.

Mr PAUL McLEAY: What is your view, good or bad?

Professor HODGE: There is a long history of having debates about performance-based pay and whilst it might be a great idea, for example, to pay taxation officers on the basis of performance if they can bring in more taxation, rarely have those measures been passed by Parliaments. I suspect the same thing would happen in the case of PPPs. There is always a question of conflict of interest at the end of the day. One of the biggest conflicts of interest we have here is not necessarily any issues of corruption, because I personally have not noticed any in either State. It is a sequential conflict of interest, not a parallel conflict of interest. A sequential conflict of interest is where you have Max Moore-Wilton one day head public servant, next day banker; Alan Stockdale one day parliamentarian, next day banker.

Mr PAUL McLEAY: If it is the reverse are there the same problems?

Professor HODGE: There may be. I have not seen so many reverse moves.

The Hon. AMANDA FAZIO: Malcolm Turnbull—one day banker, next day Parliamentary Secretary?

Mr PAUL McLEAY: Our head of PPS in New South Wales, Kerry Schott, was a very serious merchant banker before coming back to Treasury.

Professor HODGE: I would say it is a worthwhile area about which to have a debate because it is exactly the sort of area that involves the public interest. It forces citizens, as well as parliamentarians, to ask questions of exactly whose interests are being served in this deal.

Mr PAUL McLEAY: You referred to a suggestion of spending on PPPs as a mega-credit card mentality of government. When you explained it in answer to the Hon. Greg Pearce you used an analogy of a home loan to put it in perspective. I would have thought that when one is talking about building a road which will have an intergenerational benefit, or a hospital that will actually improve services for not just the current thin slice of population right now but for the life of the term, that a home loan would be a better analogy than a credit card. The credit card analogy suggests sporadic opportunistic purposes with a higher rate. Why did you use the term "mega-credit card mentality of government" as opposed to using an analogy of a home loan?

Professor HODGE: Good observation!

The Hon. GREG PEARCE: You could intersect it with a car loan.

Professor HODGE: You are correct that it may well be a colourful use of language to make the point that governments have a capacity to use private finance in a range of ways, varying from the kind of interest rates you would see on credit cards down to a range of interest rates you would see on longer term, more serious lower interest home loans, that is true, I agree with you.

Mr PAUL McLEAY: Is there a public suspicion of PPPs? If so, what measures can government put in place to allay those fears?

Professor HODGE: I have strong suspicions that there are concerns from the public about the use of private finance in public infrastructure for a whole lot of reasons that the committee has already looked at. The sorts of measures that I would be suggesting are those measures that I gave to the Chair in my response to his question relating to the clarity of deals that are being done; the fact that we ought to know as a matter of right the comparisons that are done using traditional management methods compared to new consortia methods.

Mr PAUL McLEAY: Should you be able to publish the public sector comparator? Is that one way to do it?

Professor HODGE: I would have assumed so, yes. We ought to be able to get a good feel for what the public is paying for in terms of what they are getting for their dollar, the rate of return on their tax dollar in the same way as a private investor in one of these deals finds out and has a predictive kind of feel in the documentation.

Mr PAUL McLEAY: What do you mean by that? They already get that when we publish the contract summary. We say it is an \$84 million project and it is going to cost so much. We know how much it is. Every PPP or PFP ended up saying that you were getting a hospital and the price was listed. Sometimes it is put in terms of you will get a stretch of road for \$2.40 or \$5.00 or whatever and it will increase with the consumer price index. In relation to every PPP do they not know what the contract says it will cost?

Professor HODGE: But it is a little bit like publishing the house price and saying "Are you happy with that?" Most people, when they look at their mortgage, the first question they ask after you tell them the price of the house is "How much am I paying for this? How much interest am I paying?" What I have observed in Victoria is that we have had things like the Victorian County Court which initially had a net present value of \$195 million. The latest budget papers for the actual physical payments that are being made on that project are closer to \$1.9 billion. So there is a huge difference between the kind of published up-front prices and the contractual payments that will be made by generations of citizens. I think citizens have got a right to say, "When you went away from these traditional contracting methods and you went down this kind of consortia road, we presumably paid more money, did we, or perhaps we paid less money? What were we getting for our extra tax dollars by going down that road?"

Mr PAUL McLEAY: You said "extra tax dollars". Do you presume it will always be extra?

Professor HODGE: I do not know whether it is extra because I do not have the information by which they do the public sector comparator. But if we have paid perhaps \$300 or \$400 million too

much, which was one of Peter Fitzgerald's calculations with Victoria, I want to know why that was done. One of the areas that is often talked about, but about which there is very little accurate information around, is risk transfer: we take on these deals because the private company takes the risks. I am never quite too sure if government really knows what the valuation is of those risks. I know the way that the risk valuations are done—people sit around a room and sort of make up the probability of a risk occurring and if something did occur, what the cost of that would be, and they multiply the two together.

If we did our road safety risks on the same basis we would be the laughing stock of the world. We have chosen to get together very strong data-driven organisations for ourselves that look at road safety risks very professionally. It is a pity we do not do that for private finance partnerships. We are still at the rhetorical stage of saying "But the private sector bears the risks". Maybe they do but I am quite sure that we would not have these parliamentary committees, nor those in Victoria or in the United Kingdom, if it was really as simple as the private sector bearing the risks. The private sector certainly does bear some commercial risks, that is true, but it does not bear the governance risks because Parliament bears the governance risks; it does not bear the political risks because, like it or love it, citizens expect governments to provide essential services, and many of these things that are subject to private finance partnerships are deemed by citizens to be essential services. I think governments have to work a lot harder on more strongly understanding exactly the risks that are being taken in both a governance sense as well as a financial sense.

Mr PAUL McLEAY: When it comes to governance you said you would feel more comfortable if there was a higher level of oversight. Mr Fitzgerald said that your Victorian Auditor General does a performance audit, not just a financial audit, on every one of your PPPs. Do you have confidence in your Auditor General to do this?

Professor HODGE: Can I divide that question into two? Number one, part of that question I would like to take on notice. My understanding is that in fact the Auditor General in Victoria does not do a performance audit on the PF projects in Victoria. I suspect that he looks at the deals as they are going through, as distinct from doing a performance audit—once the deal is done, it is out there, it is built and then going back and evaluating or auditing that project. So I think these days he does look at the deal as it is going through. I am not too sure what formal oversight capacity that amounts to. In fact, part of me is somewhat concerned that—

Mr PAUL McLEAY: You cannot direct the Auditor General anyway so maybe it is a policy decision.

Professor HODGE: It may be and that is why I am taking that question on notice. Part of me says that it is an interesting question when a government department for example does a deal with a private financier. Whose responsibility is it at the end of the day to get the deal right? I do not think it is the Auditor General's responsibility. It is government's responsibility.

Mr PAUL McLEAY: But he or she can then come in and say, "Here's the evidence to say they didn't get it right". It is always a reflective view.

CHAIR: The Auditor General would just be making sure that they had followed all the correct procedures. He does not make a subjective judgement.

Mr PAUL McLEAY: Yes they do. In the performance audits they do.

CHAIR: Was it a good financial deal?

Professor HODGE: The area is cloudy because I think we are confusing accountability and responsibility. You cannot have an Auditor General who somehow is accountable for some deal that has been done out there by a private financier and a government department.

Mr PAUL McLEAY: But he can then turn the microscope around and say, "Here is an example and here is evidence of a bad decision". He does not talk about policy but he talks about the construction.

Professor HODGE: If it is done after the event, that is true. If he does it as a true performance audit after the event, that is true, but then it is too late. So who is responsible for that deal? It was whoever signed the contract; it was not the Auditor General's responsibility.

Mr PAUL McLEAY: John Fitzgerald from Victoria Treasury made virtue of the fact that full contracts are published, whereas in New South Wales we only publish a comprehensive contract summary. I have heard evidence—it may not be from here; it may be from the PAC—that some people think it is suspicious that they put the whole contract, pages and pages, on because then you cannot find it, and that the contract summary is a more appropriate way of going ahead than actually hiding everything in the full contract. Do you have a view on that?

Professor HODGE: I am not sure that there is a magic answer other than by saying that getting the perfect summary or getting the perfect contract is not the most important thing. The most important thing is transparency, probably across both. If you rely on only a full contract, I can tell you that in the case of the Russell Review of government contracts a few years ago they had to hire a gaggle of lawyers to interpret various deals that were done in Victoria. It took them months just to get these deals down to a couple of pages that most people could understand and could be made accessible. People should expect to know what deals are being done in their name.

If you rely on contract summaries, I suggest that it is subject to some kind of tick off, and it may be by a regulator or an independent auditor, which guarantees the veracity of that summary. As I started off this presentation by saying, this whole area of partnerships is subject to such huge spin and language games that it is possible to claim anything in these days of media driven governance. I think if you are going to go down the summary road it needs to be subject to some kind of veracity check.

Ms LEE RHIANNON: Are you in a position to nominate those areas that you think are suited for PPPs and those areas that are not suited for PPPs?

Professor HODGE: There are suggestions from overseas that some of the traditional areas like road construction and buildings and so on are more suited than other areas like perhaps information technology [IT] or hospitals. Personally, I am less convinced by those arguments because I think that thieconfluence of interests that exists between the business providers on one side and current governments that want to stay in power on the other is still present across most areas of public provision. All I can say is that I think areas such as IT, both outsourcing and PFPs, have performed rather badly, and I think that is probably an area that governments should keep right out of and just stick with their traditional contracting practices. But past that, I could not make a sensible judgement.

Ms LEE RHIANNON: I am wondering about Spencer Street station. I thought there was some controversy about it. Can you outline what that was and what lessons were learnt from it?

The Hon. GREG PEARCE: Massive cost overruns.

Professor HODGE: Yes, there is controversy around that. There is controversy around most public-private partnerships, and that is part of the deal that we all take on with these projects.

Ms LEE RHIANNON: Was that one particularly controversial?

Professor HODGE: Yes, and as you point out it was about cost overruns and about a private company going into political battle to say, "Yes, we sold this deal but we have had to put up this station while trains have still been running and we have not had the co-operation that was expected and so on." In the end it is just another example where the private sector is bearing a lot of commercial risk, but my strong suspicion is that that project and others will be subject to ongoing negotiations. There is an ongoing tension between governments sticking to the deal that has been signed, and sometimes looking politically bad, and the desire of governments, particularly those facing elections, to look better but quietly renegotiate their way out of the turmoil.

The Hon. GREG PEARCE: That is the problem with the cross-city tunnel. They cannot quietly get out of it. In answer to a question from Ms Lee Rhiannon you said that IT was one area that governments should steer clear of for long-term contracts. Earlier in your presentation you mentioned

the European experience of ICT contracts. I think you said four out of five changed after the first year. Can you expand a little on what the research is into such contracts?

Professor HODGE: I would not say that I am an expert on IT outsourcing. I simply make the observation that a few years ago I was doing some reading around this area and I noticed that a very small proportion of private businesses fully outsourced their IT services and a small proportion—something around 13 per cent to 17 per cent—fully insource their IT services. The vast bulk of private businesses seem to judge some of the services they will outsource and some of the services they will insource. In other words, they make a sensible business decision about what suits them best, what their core business is, what suits their strategy and so on. That sounds like a sensible business way of making decisions. Sometimes governments get in, including our national Government, and decide that they will fully outsource all IT, for example. People such as myself have suggested that there probably are not any real savings in that, which has subsequently been found by our national Auditor General.

One has to ask the question: Why do governments keep suggesting that their departments behave in a more business-like fashion, when they do not have set for them policies that enable them to do that? I think the simple answer was given to me by a Minister who said, when I asked why we were fully outsourcing, "It does not belong in government." So there is an ideological overlay to all outsourcing, and it sometimes goes against sensible business practice. If it goes against sensible business practice, it probably ends up costing governments, and hence citizens, a bit more. In the case of IT, if we had a policy that suggested for example that we ought always go down the road of a private finance initiative, or privately financed IT partnership deals, my suspicion is that they would probably cost more than they ought to.

CHAIR: We appreciate the evidence that you have given today. You have shown us the value of having some objective people outside government areas looking at projects like PPPs and PPFs, so that we are perhaps dealing more with the reality rather than concepts that people have in their minds. Thank you for your publications as well.

(The witness withdrew.)

SAM HADDAD, Director General, Department of Planning, 23-33 Bridge Street, Sydney, on former oath, and

GAIL CONNOLLY, Executive Director, Metropolitan Strategy, Department of Planning, 23-33 Bridge Street, Sydney, affirmed and examined:

CHAIR: Mr Haddad, you are on your former oath. Ms Connolly, what is your occupation?

Ms CONNOLLY: Town planner.

CHAIR: In what capacity are you appearing before the Committee—as an individual or representing an organisation?

Ms CONNOLLY: Representing the Department of Planning.

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

Ms CONNOLLY: I am.

CHAIR: If either of you should consider at any stage that certain evidence you will give or documents you may tender should be heard or seen only by the Committee, the Committee will be pleased to consider your request that that evidence be in camera. Do either of you wish to make an opening statement?

Mr HADDAD: Briefly, Mr Chairman. I understand that the main interest of the Committee on this occasion is to clarify the role of the Department of Planning when the government enters into major public-private partnership agreements. The Committee will be aware that the Department of Planning is the principal government authority vested with the statutory and administrative responsibility for strategic land use planning, and environmental impact assessment and development approvals. The department has no direct role in negotiating or in implementing PPP projects. The department assesses projects on their merit and deals with proponents of those projects, whether public or private sector proponents. In the case of the cross-city tunnel, as is the case for other major road projects, the proponent is the RTA and the statutory and other obligations are on the RTA as proponents, including obligations to comply with the conditions of any approval granted. The department has two further roles that indirectly impact on PPP projects: a strategic role, and a regulatory role of impact assessment and advice to governments on the approvals.

In relation to its strategic role the Committee will be aware that the Government's Metropolitan Strategy, released in December 2005, sets the strategic framework and the planning blueprint to facilitate and manage growth and investment in Sydney for the next 25 to 30 years. The strategy makes provision for transport planning, it particularly informs infrastructure planning. We will be pleased to expand on this during questions. The second role is that of a statutory approver responsibility. The department's position has always been to settle the decision and associated conditions of approval prior to finalising the awarding of contracts. Experience indicates that if this is not the case there is undue pressure on the assessment process, and possibly interference in its outcome.

The Committee is aware that in the case of the cross-city tunnel the decision was made prior to the awarding of the contract. However, an added environmental impact assessment process had to be undertaken to accommodate changes to the contract that was awarded. The introduction of Part 3A of the Environmental Planning and Assessment Act provides a good opportunity to inject a more strategic approach to the assessment of such projects. As it is there is now legislative capability to consider concept plans, which can put more emphasis on consideration of alternatives and, in particular, it can expose at an early stage of projects all considerations and critical aspects of those projects to achieve the required objectives.

The review undertaken by Professor David Richmond for the Government highlights these points, and the Department is supportive of that review's recommendation for major projects such as the cross-city tunnel—particularly those that relate to those projects to be subject to concept approval

considerations at an early stage and prior to undertaking detailed project assessment. We will also be pleased to expand on these aspects during questions. Thank you.

CHAIR: Thank you for that introduction. Now that the Metropolitan Strategy has been completed, what role will the Department of Planning play in implementing that strategy?

Mr HADDAD: We have a major role in co-ordinating its implementation. We have started, through a CEO committee, various actions, particularly in relation to subregional planning, and to try to link various aspects of the implementation with the detailed infrastructure planning process. If you do not mind I will ask Gail to make a few comments on that.

Ms CONNOLLY: The day after the strategy was launched we began one of the most important aspects of implementing the strategy, which is the subregional planning strategies with local councils, and more recently with State agencies. In particular, these strategies are the finer-grain detail for implementation of the plan. The Department of Planning's role is to co-ordinate and manage the development and the preparation of those strategies with local government, industry groups, stakeholders and State agencies.

CHAIR: Do you assist in setting priorities for the strategy?

Ms CONNOLLY: The priorities in these strategies are developed in consultation with other State agencies and, when they are presented to government for exhibition, I suppose you could say they are given a signoff, or those priorities are endorsed by government. The Department of Planning plays more of a co-ordination role in helping to identify those priorities that other agencies may give us and then, I suppose, trying to obtain a consensus on the priorities and important infrastructure that should happen throughout the 25 to 30 year life of each of those strategies.

CHAIR: Do you have any role in recommending to the Government which of those projects could or should not be a public-private partnership [PPP]?

Ms CONNOLLY: We do not really have an advocacy role. No. Our role is to assist Treasury to make those decisions, but we do not really make any recommendations in that regard.

CHAIR: Are there any pressing infrastructure projects that Sydney requires under the Metropolitan Strategy, in your opinion?

Ms CONNOLLY: There are quite a few transport infrastructure projects that are listed in the strategy and many have particular timeframes and funding amounts specified against them. I would draw your attention to the transport strategy in the Metropolitan Strategy—which I am happy to table today—which contains a series of infrastructure projects under railways, roads, buses and more general transport infrastructure. There is a list of those priorities, dates for delivery and funding. In addition to those specific things, and I can take you through some of those examples, there are future infrastructure projects that are identified for further investigation by the Government. So, whilst there is not necessarily a date for delivery or funding identified next to those projects, they are identified as being strategically important and further work has to be done.

Some of the examples of things that are identified in the Metropolitan Strategy include the \$8 billion North West-CBD-South West railway link, and the components of the railway line are identified for construction by 2012 and 2017. The Epping to Chatswood rail link is also identified for construction by 2008. Completion of the \$1 billion rail clearways program by 2010 is identified as "a must". The duplication of 35 kilometres of rail freight line in the southern Sydney rail freight line is another example of a railway project that is identified in the strategy.

In terms of roads and transitways, the strategy identifies that over the life of the growth centres in the north-west and south-west of the city, regional road infrastructure will be provided to a value of over \$3.6 billion over the next 25 to 30 years. It also identifies the half a billion dollar north-west transitway for completion by 2007, completion of the Parramatta transport interchange this year, construction of the Chatswood transport interchange in 2008, completion of the Lane Cove tunnel and the completion of the upgrade of Windsor Road by 2007. They are some of the major projects that are listed in the strategy. In terms of bus infrastructure, the recommendations of the 2004 Unsworth report

are picked up and expanded on. In particular, the strategy identifies 43 corridors that the bus network should be expanded along. Those particular corridors that are funded and programmed for completion in the next five years include the Hurstville to Miranda corridor, which has now been completed; the Bankstown to Liverpool bus priority corridor, which is due for completion in the middle of 2007; and the city to Parramatta corridor along Victoria Road, which also is identified for completion in the next three years. Against each of those particular corridors other funding is specified and a date for delivery is specified.

More generally, the strategy also identifies future road projects that should be investigated, some corridors that have had challenging planning and transport infrastructure issues associated with them over the years. While the strategy does not commit to a particular course of action it does say that future investigation work needs to be done in a strategic planning manner. Examples of that include the eastern extension of the M4, which I am sure you are aware is a contentious issue; providing a possible link between the M2 and the F3; investigating widening of the M4 and M5; and investigating the provision of a link between the F3 and the M7, and investigating the F6 corridor reservation. Although there are no particular dates or dollars next to those types of projects, they are identified as being strategically important for transport and planning infrastructure. More work is identified in terms of having to be done in that regard by various transport agencies.

CHAIR: You indicated that the north-west rail is \$8 billion?

Ms CONNOLLY: The north-west, the CBD and the south-west and the three components of that project are valued at \$8 billion. It includes an extension of railway line in the north-west and south-west, and the augmentation to increase capacity through the CBD between Redfern and Chatswood and a total of those projects is valued at about \$8 billion.

CHAIR: But that money is not in a budget anywhere, it simply is an estimate of what it would cost?

Ms CONNOLLY: That is correct.

CHAIR: It is forward planning?

Ms CONNOLLY: Forward planning, however some of that money is budgeted for, most particularly, acquisition and identification of rail corridors. An example would be the south-west rail corridor in the growth centre where the Government has identified a series of regional infrastructure levies. A component of that levy goes towards the acquisition of the rail corridor in the south-west.

CHAIR: Those corridors are not reserved in any way. They are built on at the moment?

Ms CONNOLLY: Some of them are identified and zoned as transport corridors. The Edmondson Park rezoning, for example, is within the south-west growth centre and that has some corridors identified and zoned within it. Parts of the north-west corridor also are zoned and reserved.

CHAIR: Earlier you said that you not make a recommendation as to whether they should be taken up as public-private partnerships. That would be a policy decision by the Government at some point if they wish to do that?

Ms CONNOLLY: Correct.

Mr HADDAD: That is correct. We do not really go into whether it should be a privately or a publicly funded project, nor for that matter who should be the proponent for those projects. The planning for some of those corridors are relatively more advanced than others. For example, we have already issued what we call the director general's specifications for the preparation of environmental impact statements for the north-west and the south-west corridors. Work is now being undertaken in terms of the alignments. Once this work is completed the relevant environmental documentation will go on public exhibition and then the process of assessment. We also are looking at locking in those alignments and the relevant statutory planning instruments so that they are predicated for the purposes of those transport corridors. After that our role will be to assess and to make recommendations to the Government in terms of the approval process.

The Hon. GREG PEARCE: Who made the decision on the date that you have included for those various projects that have dates and funding estimates?

Ms CONNOLLY: As far as I am aware those dates were decided by government.

The Hon. GREG PEARCE: They are not part of your strategic planning role? Basically you identified that these are elements of the plan and then it is a matter for Government to put dates and dollars behind them?

Ms CONNOLLY: Essentially. There is some component. The planning department's role is to forecast future population growth in particular areas and then, having regard to where the population will be and how much infrastructure will be required, the various transport agencies then make projections as to when, for example, the railway line will need to go in or the road will need to be built. Ultimately the decision on timing rests with the Government.

Mr HADDAD: If I may expand, there is more often an appreciation now of the need to make sure that we are realistic about sequencing, the need for infrastructure relative to the provisions of the growth activities. In that context the emphasis of the strategy is to inform the provisions of infrastructure, including the questioning of the sequencing and the timing of the provision of that infrastructure and, indeed, some aspects of the funding by others and then a decision made by governments to make sure that the relevant infrastructure is available when and if the particular housing or employment land, or other activities are available. This is a more appropriate mechanism rather than embarking on promising certain infrastructure or otherwise in a bit of a vacuum. There is a bit more of an appreciation of how to link and how to ensure the proper sequencing of those facilities, but, as Ms Connolly was saying, ultimately the final date is decided by government as a whole.

The Hon. GREG PEARCE: There is a lot of chicken and egg in this, is there not?

Mr HADDAD: There is a bit, yes.

The Hon. GREG PEARCE: I return to the tunnel. In your opening statement you said that the planning for a project should be settled before the contract is awarded.

Mr HADDAD: Yes, the approval in particular.

The Hon. GREG PEARCE: One of the big controversies over the tunnel is the road closures, as we like to call them, provocatively, which seem to have arisen in the planning process. The CrossCity Tunnel Motorway consortium is very determined to avoid any responsibility other than for one or two things, but in the planning process that took place after the project was selected most of the traffic measures arose.

The Hon. AMANDA FAZIO: That is not true.

The Hon. GREG PEARCE: I am asking whether that is true.

CHAIR: It is better to frame it as a question.

The Hon. GREG PEARCE: The question is whether most of the traffic measures arose in the planning process?

Mr HADDAD: Certainly there were some traffic measures that arose during the assessment or as an integral part of the project that was submitted both initially and then modified subsequently as a result of the second proposal or of the modified proposal, if I can put it that way. In that context, the traffic measures overall arose as a result of proposals rather than the assessment itself. I know your interest specifically is with the cross-city tunnel, The point that I was trying to make was of a more general nature in the sense that from experience, for instance, the Eastern Distributor, that was a case where contracts were awarded before the assessment was made. It went through a separate audit report and the lesson was that it is more appropriate to await the outcome of the environmental impact assessment and the rest of it and then bring in the private sector or whoever to contribute to it. The

fact that things can happen otherwise may introduce confusion. That is the point I was making. In the context of being more strategic, I was trying to say it is obviously much better and credible to expose all those issues strategically earlier on through some form and make sure that governments and others understand the implications of all this. That is the point I am saying, so that there is a clear understanding, including by the community and others, at a much broader conceptual strategic level before embarking on a proper project.

The Hon. GREG PEARCE: Some issues flowed out of the sequencing and the fact that the planning approval came after the deal was basically done. This Committee made recommendations that road closures and measures be reversed, other than those called category A. Are you aware of that in general terms?

Mr HADDAD: Very broadly.

The Hon. GREG PEARCE: The problem we now have is that they have effectively agreed to deal with the temporary ones and the ones that were not part of the planning process.

Mr HADDAD: Yes.

The Hon. GREG PEARCE: The difficulty now is dealing with those measures that are there as a result of conditions of the planning approval. They are roughly called category B. The consortium is setting up the excuse that they cannot deal with them because they are planning conditions.

Mr HADDAD: Yes.

The Hon. GREG PEARCE: How do they go about reversing those measures that are there as a direct result of the planning conditions?

Mr HADDAD: They can readily do that through seeking modifications to those conditions. There are administrative and legislative mechanisms to be able to do that, depending on how significant those changes will be. It could range from a simple modification to those conditions by way of just an administrative process. As Director-General I am bound by certain criteria to make decisions whether to go on public exhibition or not, depending on the significance of the impact of those. Another clause is if it is more significant, they will submit the request to modify and there are very clear mechanisms: public exhibition, submissions and assessments and a recommendation to the consent authority, in this case the Minister. There is this scheme under the legislation and an administrative scheme where those modifications can be implemented. They have to be assessed on their merit and their impact on communities, if they are judged to be significant enough in the context of the project.

Ms LEE RHIANNON: Is Planning the regulator of the tunnels? Could it be summed up in that way?

Mr HADDAD: Planning is the regulator of the tunnels in the context of administering the conditions of approval, that is correct.

Ms LEE RHIANNON: How do you regulate if tunnel operators and the RTA abide by the conditions of approval or have the conditions of approval proved to be unenforceable?

Mr HADDAD: As I said, the obligations of complying with the conditions of approval rests with the RTA. The RTA has the statutory responsibility and obligation to make sure that the conditions are being complied with. What happened between the RTA and the contractors is a matter for them to decide. If there is a non-compliance issue, it is for the RTA.

Ms LEE RHIANNON: Planning has no responsibility to ensure that planning conditions, such as the monitoring of pollutants, are enforced?

Mr HADDAD: We do. We try our best to verify and we request reports from the RTA essentially to be able to ensure that they are being complied with.

Ms LEE RHIANNON: I thought you said at the start of your answer it was the RTA's responsibility.

Mr HADDAD: Yes.

Ms LEE RHIANNON: Then you said there is a role for Planning. Can you differentiate when it is your responsibility? I would like examples when you have enforced the conditions.

Mr HADDAD: There is a set of conditions that has been imposed on the approval itself. The proponent is the RTA. They have to comply with those conditions. There are obligations on them to give us auditing reports independently conducted or for us to conduct certain auditing.

Ms LEE RHIANNON: Do you ever conduct them yourself?

Mr HADDAD: I will have to double check. We have a specialised unit in the department. As an example, I know people may not accept entirely the outcome, but we have conducted auditing on the M5 East, as an example.

Ms LEE RHIANNON: You said you would have to check. Will you take that on notice?

Mr HADDAD: Yes, I am happy to take on notice exactly what has been done on the cross-city tunnel because they have done a number of verifications and the rest of it. I am happy to come back to the Committee with those details.

CHAIR: When you say "they", do you mean the RTA?

Mr HADDAD: No, our department, as well as the RTA, which is under obligation to comply with the conditions of consent and reporting mechanisms to the department. I am more than happy to take that on notice.

Ms LEE RHIANNON: When we look at all the documents that have come to Parliament, we see many examples where Planning does not monitor but relies on the RTA to confess and report. They are the examples we are seeing. Do you have any examples where you have done it yourself?

Mr HADDAD: Yes.

Ms LEE RHIANNON: I am also interested in the legal advice. The documents before Parliament also show that Planning accepts the RTA's legal advice. Is that the case when it comes to assessing any breaches of the conditions? Do you rely on the RTA's advice? Would you be able to give us examples where you have your own independent legal advice?

Mr HADDAD: We do have our independent legal advice. The immediate example that comes to mind is what we have done on the M5 East where we have questioned the legal advice that was provided by the RTA and have different legal advice. That is one example. In the context of the cross-city tunnel, I am more than happy to verify whether the situation has arisen and I will come back to the Committee.

Ms LEE RHIANNON: You mention the M5 East. I saw that there was legal argument between Planning and the RTA. The tunnel was designed for 70,000 cars a day but it is operating at about 100,000 cars a day. Clearly it is operating under different conditions, which would seem to question the legality of the operation. Could you comment on how that has played out?

Mr HADDAD: We have not, to the best to my knowledge, commented on the legality of a tunnel accommodating 100,000 cars relative to 75,000. What we have questioned is the outcome of the tunnel doing that, the outcome in terms of air quality. There was legal interpretation by the RTA that we can do something as a result of ventilation systems and other legal advice by Planning saying no, we have a different interpretation. The discussion was around the outcome of the use of the tunnel rather than whether a tunnel that has been approved for 75,000 vehicles can accommodate a higher or lower estimate legally. That is a much more difficult issue that I am not able to comment on. This is

different to, say, a factory or otherwise. Is that clear? That is my view. So I am not going there in terms of the use of the system itself.

The Hon. GREG PEARCE: But as a regulatory body, are you not supposed to do that?

Mr HADDAD: Well, certainly, in terms of questioning the outcome, yes, in terms of the outcome of this use. I am saying, yes, if by using this, I need more ventilation because I am causing more impacts, then I have to question that because certainly the conditions and the assessment were undertaken on the basis of a certain outcome, given that I am dealing with a linear system and I am dealing also with a system which is part of a much broader network. So the system is dependent on a number of other factors. All that I am trying to say is that it is not as simple as that. It is different to when I am approving a coalmine or a factory with a particular input and that input as a system is almost an enclosed system. I am saying the legal discussion is a bit difficult and certainly beyond me to comment as to whether a road, when approved to do something, has to do only this in terms of its working. But certainly it has to perform in terms of its environmental and other implications. That is my interpretation.

Ms LEE RHIANNON: Mr Haddad, it is true that the Department of Planning has the power to prosecute, is it not?

Mr HADDAD: Yes.

Ms LEE RHIANNON: But I cannot find examples where there has been punitive action taken. Can you give us any?

Mr HADDAD: No, we have not, against the RTA, to the best of my knowledge, but it does not mean that we do not, or that we are not prepared to take the necessary action, if the impact is demonstrated to be significant. Then our philosophy generally, whether that is right or wrong I do not know, is to first of all try to remedy the action and to convince them, and then after the convincing, if there is a serious breach, a very significant breach, well, our duty is to advise the Government, and then of course, to cease the breach.

Ms LEE RHIANNON: If there is a serious breach, would the Department of Planning prosecute—because we cannot find any examples of it?

Mr HADDAD: Yes, we will recommend that but, as I am saying, I am not aware of any conditions whereby it was necessary for us to take that action.

Ms LEE RHIANNON: But I am just wondering why you would use the word recommend because I do not understand you need to recommend. I just understand you can do it.

Mr HADDAD: Yes, we will do it in terms of imposing the conditions and I am implementing those conditions.

Ms LEE RHIANNON: Mr Haddad, it is interesting you just spoke about your relationship with the RTA because you must have been in many meetings with the RTA senior staff. Looking at the documents released to the Legislative Council over recent years, one sees many examples where planning representative are overruled by the RTA, or comply with their requirements to change regulations, or to massage regulations to comply with changed circumstances. I am just interested in your comments about your relationship with the RTA because it seems that they are senior in determining the outcomes of these complicated projects.

Mr HADDAD: I am more than happy to look into the specific circumstances, but I can assure you that the relationship with the RTA is one of a regulator subjecting proponents to the merit assessment that is appropriate to the case. That is all I can say. If there are some cases where we did not do that or an officer did not do that, I am more than happy to look into it.

CHAIR: Do you have any specific cases?

Ms LEE RHIANNON: Yes, I have. I will get them together and get them to him. I will put them on notice.

CHAIR: So you will send those as questions?

Ms LEE RHIANNON: Yes.

CHAIR: A member will put those into writing and send them to you following the hearing today.

Mr HADDAD: Yes, sure.

CHAIR: Just one general question, Mr Haddad. How does the Department of Planning ensure that infrastructure projects are commenced are chosen on the basis of strategic planning decisions and not because they are amenable to delivery through, for example, the PPP arrangement?

Mr HADDAD: Just to clarify it, I suppose: The relationship between the strategic planning, or what the strategic planning tries to do between the setting of the infrastructure needs, requirements, and all that, is done, as I said. Gail sort of explained how, sort of, the framework, the strategic framework, is set. Then there is a State Infrastructure Plan which is being derived, and then there is an alignment between this and that, including the timing of the delivery and the details. That can, sort of, put the particular infrastructure in the context of the strategic planning. That is at the very high, big picture level. At the project level, I suppose we are trying to improve on past practices by bringing in, sort of, the proposed piece of infrastructure to a more strategic type of examination through a concept approval process. They are the two things. I mean, that is the direction that is being proposed and being implemented.

Mr PAUL McLEAY: But if government came to you—

CHAIR: The whole issue of a PPP does not enter your mind at all?

Mr HADDAD: The issue of PPP does not enter the planning, not even at that strategic level, directly, as I said. It does enter, in a sense, in setting the strategic context, and the relationship is one, as I was trying to explain, where we, you know, we try to set either the parameters for the project to occur. We may not have done that very well in the past at a project level because it comes a bit too late. What I am saying is that there is a move now to do it much better earlier on so that PPP proponents, when they come, or any other proponents, are much clearer. The Government and the community hopefully will be much more clear in terms of exposing the relevant issues associated, including traffic, and others, road closures or otherwise at that level. Now PPPs can enter that sort of bidding, or whatever, in an orderly manner, if at all, but it would be the Government or others. But really it is not in our charter to say, "This job should go to PPP", "This one is not", in general.

CHAIR: Are there any questions from the Government representatives?

The Hon. AMANDA FAZIO: No.

The Hon. GREG PEARCE: Could I just ask one more, please?

CHAIR: That brings us to the end. We have a problem with the Government members will be leaving so we will not have a quorum.

The Hon. GREG PEARCE: This will only take two seconds.

CHAIR: They are not asking questions.

The Hon. GREG PEARCE: It will only take a minute. The Committee is due to sit until 5.30 p.m. If I could just ask him, it would be much faster.

CHAIR: No. We will not have a quorum.

The Hon. GREG PEARCE: I will put the question anyway and that is: Is there a conflict of interest between you in doing the strategic planning and being the approval body later on when the actual projects come up, given that you have drawn them in the strategic plan itself?

CHAIR: You can take that question on notice.

The Hon. GREG PEARCE: Take it on notice.

Mr HADDAD: I can take it on notice, if you like.

CHAIR: We cannot continue without a quorum.

Mr HADDAD: It is an important issue, but I am happy to come back.

The Hon. GREG PEARCE: I think we have a quorum. We have four members, so we have a quorum.

The Hon. AMANDA FAZIO: No. It is a joint committee and we need a member of the Legislative Assembly.

The Hon. GREG PEARCE: I see.

CHAIR: That is the advice I have. Thank you very much for your co-operation in attending as witnesses. There may be some questions forwarded to you after the hearing.

Mr HADDAD: Sure, with pleasure.

CHAIR: You will have seven days from the time that the transcript is received.

Mr HADDAD: You will send us the transcript?

CHAIR: Yes. You will have approximately seven days after that, so about 10 days in all. Thank you again. That brings the hearing to a close. We have had our deliberative meeting, so the Committee is adjourned.

(The witnesses withdrew)

(The Committee adjourned at 5.28 p.m.)
