

**REPORT OF PROCEEDINGS BEFORE**

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

**INQUIRY INTO THE CROSS CITY TUNNEL**

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**At Sydney on Thursday 2 February 2006**

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**The Committee met at 9.00 a.m.**

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**PRESENT**

Reverend the Hon. Fred Nile (Chair)

**Legislative Council**

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

**Legislative Assembly**

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

## **CORRECTED TRANSCRIPT**

**CHAIR:** Welcome to the fifth public hearing of the Joint Select Committee on the Cross City Tunnel inquiry. Before yesterday's hearing I made a detailed statement in relation to commercial in confidence issues and sub judice convention. I do not propose to repeat those words at today's hearing. Copies of those comments are available on the table near the entrance to this room if you wish to be reminded. The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of guidelines governing the broadcast of the proceedings are available from the table at the door.

In accordance with the Legislative Council guidelines for the broadcast of proceedings, a member of the Committee and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee, the media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee. Witnesses, members and their staff are advised that any messages should be delivered through the attendant on duty or the Committee clerks. I advise that under the standing orders of the Legislative Council, any documents presented to the Committee that have not yet been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by any member of such Committee or by any other person.

The Committee prefers to conduct its hearings in public. However, the Committee may decide to hear certain evidence in private if there is a need to do so. If such a case arises, I will ask the public and the media to leave the room for a short period. We are aware that people hold strong and diverging views concerning the cross-city tunnel. I wish to emphasise that although this is a public hearing, it is not an open forum for comment from the floor. Only questions from the Committee and the evidence of the witnesses are recorded in the transcript; uninvited interruptions are not recorded and may make it more difficult for witnesses to fully express their views. Finally, could everyone please turn off their mobile phones for the duration of the hearing.

**DEBORAH JANE ANDERSON**, Adult Educator and Vice President, East Sydney Neighbourhood Association [ESNA and

**SUZANNE LAUREL PYNENBURG**, Business Manager, SCEGGS Darlignhurst, sworn and examined:

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

**Ms ANDERSON:** Yes.

**Ms PYNENBURG:** I am.

**CHAIR:** If either of you wish to give evidence in camera the Committee will consider your request. Do either of you wish to make a short statement?

**Ms ANDERSON:** Yes, I would like to make an opening statement. This panel of me on behalf of ESNA and Sue on behalf SCEGGS, would like it noted that although we are from different organisations, one a residents group and the other a school, we are both located in East Sydney and for many years we have worked together closely with the common goal of improving our local amenity. I would like to show my respect and acknowledge the traditional custodians of the land, of elders past and present on which this meeting takes place. I would like to thank the Committee for inviting us to be here and I would like to describe ESNA, some of our activities, cross-city consultation, features of the cross-city tunnel and summarise stated desired outcomes.

I will briefly describe the area of East Sydney. From the map you can see that East Sydney is bound by Oxford, College, William and Forbes streets and, as at the last census, is home to around 3,500 people. East Sydney is a residential designated heritage conservation area and East Sydney Neighbourhood Association is the body representing residents, which has been active for over 30 years and incorporated since 1996. We hold monthly meetings and have links with many local businesses and community organisations.

## CORRECTED TRANSCRIPT

We have a vision and plan for our community articulated through our community developed strategic plan on our web site, <http://esnaweb.tripod.com/>. ESNA's strategic plan provides vehicle access within two streets of a through road to all areas and priority to our bus route. It endorses the principle of local traffic for local streets and through traffic for arterial roads. This plan was developed as a result of wide consultation, which is listed in the copy I am attaching. This consultation included a leaflet drop to every household in East Sydney inviting comments, email distribution, advertising in a local paper, posting a copy on our web site, and hard copies in the two nearest libraries and also available in three residents' homes.

In developing this plan ESNA was always mindful of our neighbours and our initiatives are aimed to have ongoing benefits for many other communities, including other areas of Darlinghurst, Woolloomooloo, Paddington and Woollahra. If you look at the map you can clearly see that limiting through surface traffic and placing it on arterial roads, including the cross-city tunnel and the Eastern Distributor, benefits thousands and thousands of people. East Sydney has had much experience in the proposals, construction and implementation of new roads—the Harbour Tunnel, the Eastern Distributor and now the cross-city tunnel. East Sydney is in the lee of the Eastern Distributor and the cross-city tunnel, as you can see from the map. We always emphasised that although we understood there would be some pain, our community looked forward to an ultimate benefit in terms of improved amenity.

I suppose one key aspect you would like to hear about is the influence community consultation had on the project. My community was involved in consultation with both the Eastern Distributor and cross-city tunnel. We learnt from the Eastern Distributor and I believe our input had some positive outcomes. My community's involvement began, I think, in 1999. Both Sue Pynenburg, SCEGGS, together with ESNA members, attended meetings from that time. I can remember in the early days of the consultation people asking whether the cross-city tunnel will provide the opportunity to reunite both sections of Hyde Park. I also asked why public transport was not planned to use the tunnel and was told that research showed people did not like being in buses in tunnels.

Many of the bike people were angry that their needs were not being considered. People who have come to the area more recently often do not grasp the multilayered organic and interactive nature of life in our area. Before I describe some outcomes of the cross-city consultation I must address one or two of the more extraordinary errors in some of the transcript and submissions—not all of them or we would be here for a very long time.

On page one of Jo Holder's submission No. 53 she describes DRAG as having been active in representing residents' rights for over 30 years. This is completely false. DRAG morphed out of action relating to SOS—Save Our St Johns in 2003. I had the unfortunate experience of being turned away from one of their supposedly public meetings. On Sunday 13 March I arrived for a 4.00 p.m. DRAG AGM at approximately 3.45 p.m. but when unable to raise anyone, waited outside the apartment block for others to arrive. At 4.05 Norman Thompson, who is one of Lee Rhiannon's advisers, arrived and asked me what I was doing there. I said I had come to join the meeting. He then rang Jo Holder on his mobile, who said I was not allowed to attend the meeting. Norman went into the building and I waited to see who else turned up. One woman came from the Cross direction who may have been part of the group. A little later Julia Perry arrived. I waited outside the block for well over half an hour and those were the only people I saw who looked as though they were going to the meeting—seemingly a total of between three or four people, with perhaps the addition of Jo Holder's partner, Philip Boulten, QC. So much for suggesting that ESNA is unwilling to engage with its neighbours!

Turning to Julia Perry's submission on page three, submission 46, she describes recent closures as including Forbes and Burton streets at Taylor Square. This should perhaps more accurately read Bourke Street closure at Taylor Square, right on the doorstep of Julia Perry's home, where she enjoys all the benefits of a traffic-free environment. If she put her money where her mouth was, this would surely be the first closure she would be campaigning to reopen. I would also suggest that consultation should include a study on which businesses and residents of Bourke Street at Taylor Square would like to see the closure reversed—certainly none of the ones we know would as they are enjoying the benefits, for both businesses and residents.

**CHAIR:** I need to remind you that if you make any adverse remarks about other persons, we will have to involve those other persons in refuting what you say?

## CORRECTED TRANSCRIPT

**Ms ANDERSON:** Yes, that is fine. I would be happy for that.

**CHAIR:** Do you have more of this material that you are now referring to? Is there more in your submission that you are referring to regarding other people?

**Ms ANDERSON:** I am quite happy for anybody to clarify anything that I am saying.

**CHAIR:** I am just asking, though, is the rest of your presentation involving correcting what other people have said?

**Ms ANDERSON:** This is only a small part of it.

**CHAIR:** Have you nearly finished that particular section?

**Ms ANDERSON:** I have nearly finished. I am always totally amazed at the reaction of any eatery or bar business which does not look at road closures and say, "Great. Another X tables on the footpath. Somewhere else to cater for patrons who smoke and a more pleasant environment for all." You only have to go to the other end of Bourke Street to see the improved environment created compared to how it was with through traffic, that is, if you knew what it was like before.

Julia was also quick off the mark to object to an ESNA draft suggested principles for traffic in residential streets and replied cc'ing rather than blind copying and inadvertently displaying the few members of a group dedicated to destroying any benefits to neighbourhoods as a result of effective traffic management. I have attached the email to the submission and also a table matching their names to submissions. You can see that, like the meetings, the submissions have striking similarities and are stacked to the hilt with an unhealthy obsession for trying to reopen the closure at Bourke Street. Most East Sydney residents refused to waste their time with the DRAG pseudo community meetings, but reports we had included the careful stage management and the advanced preparation of motions—so much for asking people what they wanted—and they have the nerve to criticise the cross-city tunnel consultation.

We also heard Stacy Miers giving evidence yesterday claiming that Residents of Woolloomooloo started in 1974 and denigrating a group of residents who truly have worked in their communities by dismissing their work as little more than reporting broken windows to the Department of Housing.

We have worked with people in Woolloomooloo for many years. Similarly, ESNA has had contact with other resident activists in Ultimo, Surry Hills, Glebe, Paddington, Newtown and probably plenty of other places too. I can say that I remember a number of residents, particularly Woolloomooloo and Ultimo, but never saw DRAG and cohort at any of the cross-city tunnel consultation meetings.

I think there is always a dilemma in engaging with a process which is far from perfect but when that is all you have to work within, then sometimes it is better to have a few positive outcomes rather than none. Also, residents cannot then be accused of not wanting to contribute and can keep up to speed with at least some of the information. For example, I note that it appears that Trish Muller, who is speaking tomorrow, has attended a total of three CLG meetings, the last one being in 2003. Perhaps that could be clarified tomorrow. I suspect this means that although she is from Woolloomooloo, she has not understood the implications of a review of the Bourke Street closure and any change would be likely to result in the dreaded G loop for Woolloomooloo.

Surely she could not be supporting the revival of the G loop for her community. ESNA's feedback to the RTA requests that Woolloomooloo residents be made aware of this threat and be included in the review consultation. It is totally untrue to say that ESNA seeks to push any of its problems into other areas. For example, when a council committee came up with the proposed sites for illegal street prostitution and other residential areas ESNA immediately alerted them since we do not see its displacement into other residential areas as a sustainable solution. If you are interested please refer to our web site for more information.

## CORRECTED TRANSCRIPT

Let me return to something positive. Consultation did improve some aspects over the Eastern Distributor consultation, including: the closure of through traffic at Bourke Street on the north side of William Street has protected the communities of Woolloomooloo from the G loop, with heavy traffic on residential streets in East Sydney from rat runs. The removal of spoil was not on surface roads at night. There was an increased awareness of damage to people's homes. It was not until Clover Moore fought for compensation for homes damaged through the construction of the Eastern Distributor that the issue was really taken seriously. Sound protection was put in place to protect residents from noise at the Eastern Distributor ramp. The Bourke Street construction site was shielded by a shed designed to contain noise and dust.

I also believe the years the community liaison groups and air quality community consultative committee spent together forged and built trusting relationships and helped build a degree of social capital in the neighbourhood. For example, on the central CLG East Sydney residents worked closely with Woolloomooloo residents to find a solution to remove the infamous formerly planned G loop, which would have taken traffic past many more homes in Woolloomooloo had not the measures at Bourke Street been implemented. These are some of the outcomes that were positive. However, although there may have been many opportunities for voicing opinions whether those opinions were acted upon is another issue, and I will return to that question.

We have heard in this inquiry that benefit to date includes 30,000 vehicles a day no longer on the surface of city streets and improved bus travel times. We have heard the potential for 90,000-plus vehicles to be removed from our surface roads. An intensely disappointing element of that outcome is that the Government has consistently refused to filter the pollution from those vehicles. Instead we have stacks and portals dotted around the city, pouring traffic fumes into areas where people live, work and play. I want to acknowledge and thank Clover Moore and the Greens—in particular Lee Rhiannon—for the work they have done to try to introduce tunnel filtration to improve the air quality for those close to the impact of the stacks and portals. Lee has stated “evidence from overseas clearly demonstrates the benefits of tunnel filtration. Yet this Government stubbornly refuses to filter any of its existing or new tunnels”.

It is therefore extraordinary to see that the Greens have waged a campaign against measures to mitigate traffic rat-running through East Sydney and Woolloomooloo residential streets. They have opposed local residents' wishes by mounting a campaign to promote traffic in local residential streets, including press releases urging that local residential streets be reopened to traffic, based on the most incredible nonsense imaginable. For example, in relation to the Bourke Street closure of William Street, on page 69 of this inquiry on Tuesday, 6 December Lee said:

Are you aware that businesses in that vicinity have gone bankrupt? For example, Joybellies café has closed, as well as a backpackers hostel. Are you aware of this?

Here are the facts on those two issues. Backpackers are hardly known for their reliance on cars. The 389 bus passes within easy reach of all points in East Sydney and has improved journey times, thanks to the measures in place. East Sydney enjoys probably some of the best transport options, being within a five-minute walk of trains and Oxford and William Street buses and excellent arterial roads. To claim that Joybellies café has gone bankrupt is totally outrageous. This property was sold in July 2005 and the person occupying at that time was keen to leave to go overseas. Since the cross-city tunnel did not open until August 2005—weeks later—it is simply impossible that Joybellies café ceased trading as a result of the closure of Bourke Street at William Street. It closed months before.

Unfortunately, these are not isolated examples of lies being spread by those who should know better. Similarly, there are some rubbery tales surrounding Carroll's Hardware. This business has been in its current location for two years, having moved from the other side of the road. Once William Street is completed there will be whole banks of pull-off-the-road car parking spaces for all the businesses—something there has never been before on William Street. You can see them today on the almost completed northern side. It is also surprising to hear that Carroll's Hardware is almost bankrupt when the building contractors have told us they are spending thousands of dollars weekly at the store. I woke up early this morning and decided to go for a walk around to Bourke Street. I also walked down the rear access of Carroll's Hardware. Why a hardware business would choose a premises where there is no provision for deliveries is beyond me. Please, if you have the time, go and look for yourselves.

## CORRECTED TRANSCRIPT

You can see from the facts that Lee Rhiannon has brought into question the integrity of the Greens in this inquiry. Whether wittingly or otherwise, Lee Rhiannon has lied to a parliamentary inquiry. Who would have thought that the Greens would be promoting traffic and pollution over pedestrians, cyclists and green spaces? So, rather than support communities in reclaiming streets for people, the Greens are promoting private vehicle movements in an area which abounds in public transport, alternative routes on arterial roads and has one of the highest pedestrians movements in Australia. The Greens have revealed their vision for East Sydney. The Greens' vision is that, firstly, through traffic should continue to pollute and dominate residents, pedestrians and cyclists; and, secondly, illegal street prostitution and its related impacts should be encouraged and sanctioned. We will make sure that everyone knows of your plans for our neighbourhood and of your alliance with Labor left.

I have asked Lee to meet my community several times without any response and now I can only beg her to recommit to the fundamental aims of the Greens party. Please support East Sydney in its quest to be an even better place to live, work and play. I have attached copies of the Greens press release and a copy of a letter written to our local paper, the *City News*, by Chris Harris, the out-of-towner Green candidate for the upcoming State election. By contrast, Councillor Shayne Mallard, who has actually lived and worked in East Sydney over many years understands the political games and has rightly exposed this manipulation and unethical behaviour. I want to thank Clover Moore for her support for many communities during the Eastern Distributor and the cross-city tunnel and her endeavours to achieve the best outcomes in decreasing surface traffic, promoting consultation with communities, gaining compensation for people whose buildings were affected by the Eastern Distributor, and for campaigning for tunnel filtration to improve our air quality. You probably already know that East Sydney is one of the areas that has traditionally supported independent representation at local and State levels of government.

Let me draw to a close. Since this inquiry seems to have focused so much on Bourke Street, let me briefly recap concerns raised.

**CHAIR:** We are running out of time. How much more do you have to read?

**Ms ANDERSON:** Only a little. I am concluding.

**CHAIR:** Thank you.

**Ms ANDERSON:** I am not sure why people said yesterday that illegal street prostitution has increased at the closure. That is not the experience I have heard from people who live there. It would seem the number of illegal kerb callers and voyeurs in their cars has fallen. Far from hindering emergency vehicle movements, once the closure is completed it will provide a clear spine connecting William Street to Oxford Street for ambulances, the police and fire engines. It will have the added advantage of similarly providing a virtually dedicated bike through fare. Again, look at the current measures in place on Bourke Street at Taylor Square to see provision for emergency vehicles and bikes. I was interested to hear Julia dismiss the idea of children playing on billycarts when if she walks five minutes down the street she can see our neighbours' children playing soccer in the traffic-free street.

We also heard from witnesses yesterday that the police did not know the closure was happening. I do not know which police officer was spoken to but I can assure the Committee that the police were informed. In fact, Kings Cross police have sent a letter confirming their support for the present approved measure to remain in place. We are talking about using an alternative road one block away—Crown Street—which has never been clearer of traffic in the 18 years I have lived in East Sydney. I guess many people do not like change and, as so many of the previous speakers have said, we heard just the same things being said about the Eastern Distributor when it first opened. By the way, the photos we were shown yesterday were taken shortly after the cross-city tunnel opening and are now months old. I often wonder how differently we would think of the cross-city tunnel and the Eastern Distributor if they were surface roads. Would there be the same criticism of reducing traffic if new parallel roads were built where we could actually see them or is it a case of out of sight, out of mind?

## CORRECTED TRANSCRIPT

I would like to finish by returning to the stated outcomes for the cross-city tunnel. These include: improving the environmental quality of public spaces, improving air quality, reducing car dependency, getting more people on public transport, making space for cyclists and walkers, reducing congestion, moving towards public transport, bikes and pedestrian movements, and generally improving amenity. While some small steps have been made, I believe we could be doing very much more, including filtering stacks, and I would like to ask all those who have had any influence to use their power to make these aims become a reality to help make Sydney a people-centred and even better and more liveable city. Mr Chair and members of the Committee, thank you very, very much for listening to me. I would like to provide this statement to the Committee, along with the map that you have, a copy of our community strategic plan, an email, a table of submissions, Greens' press release and an article that was in the city paper.

**CHAIR:** Thank you for your statement, the media release and the other material to which you referred.

### **Documents tabled and ordered to be published.**

**CHAIR:** Ms Pynenburg, do you have an opening statement?

**Ms PYNENBURG:** Yes. Mine will be quite a bit briefer. Mr Chair and members of the Committee, thank you very much for allowing SCEGGS to be a witness at this inquiry. SCEGGS regards the school as an important part of the East Sydney community and we want to work with local residents, businesses and government authorities to ensure that the area is a safe, healthy and vibrant place to live and work. In September 1999 SCEGGS received a letter from PPK Environment and Infrastructure Pty Ltd inviting the submission of issues for consideration in the environmental assessment of the revised cross-city tunnel proposal announced by the Premier of New South Wales on 8 September 1999 and advising of upcoming information sessions.

During 1999 and 2000 SCEGGS representatives attended a number of public meetings conducted by PPK designed to provide a forum to allow discussion on the cross-city tunnel EIS. A great deal of information in relation to the cross-city tunnel was also received by the school, by post and through email. We believe that we have been given ample opportunity to raise issues of concern to us. The school was also involved in meetings dealing with the following: air quality. SCEGGS was invited to have a representative participate in the cross-city tunnel environmental impact statement air quality liaison group, which conducted a number of meetings in late 1999 and early 2000.

SCEGGS had indicated that it had particular concerns in relation to any impact that the cross-city tunnel would have on air quality in the immediate vicinity of the school. By way of background, until 2002 the RTA organised monitoring of air quality on the SCEGGS site. Monitoring was conducted prior to the opening of the Eastern Distributor and it was tested again following its completion to assess the resulting changes. Results of the tests carried out in 1996 showed relatively high levels of pollutants due to the heavy traffic on Bourke Street. The EIS prepared for the Eastern Distributor in 1996 concluded that air quality around the SCEGGS site and its immediate surrounds would not deteriorate following the opening of the distributor. The reason given was that although there would be emissions from the ventilation stack constructed at the corner of Palmer and Stanley streets these emissions would be more than offset by diverting the existing extremely heavy traffic on Bourke Street through the Eastern Distributor. The school is comfortable with this report and subsequent testing following the completion of the distributor.

When asked to comment on the cross-city tunnel project the school raised two issues in relation to air quality. With regard to the proposed ventilation stack, SCEGGS was concerned about a proposal to construct a ventilation stack in William Street in very close proximity to the existing Palmer Street stack and the impact the additional stack would have on the air quality in the vicinity of the school. Concerns about the stacks being in close proximity were also expressed by a number of residents. At the air quality liaison group meetings many other concerns were raised in relation to both this ventilation stack and the one proposed at Darling Harbour. A number of experts on air quality were invited to address the meetings. It was later announced at one of these meetings by PPK that a decision had been made not to construct the Williams Street ventilation stack. Page 23 of the EIS summary for the cross-city tunnel indicated that there would be an increase in traffic volume in Bourke Street following the opening of the cross-city tunnel. SCEGGS raised concerns regarding the

## **CORRECTED TRANSCRIPT**

potential serious impact on air quality in the local area if Bourke Street had both heavy traffic and the Eastern Distributor's ventilation stack.

During 2004 and 2005 a number of issues were raised by SCEGGS either by letter to various organisations involved with the cross-city tunnel or at public meetings. In relations to Bourke Street these included safety and increased traffic. Of necessity, SCEGGS generates traffic as parents drop off and pick up their daughters. The school also has many students who are pedestrians or who travel on public transport. We are therefore very concerned about traffic management in all the streets of East Sydney. Planning for the construction of a replacement SCEGGS primary school commenced during 1999 and the building was completed in 2003. The primary school was designed prior to the school's knowledge of any impact of the cross-city tunnel and took advantage of low traffic flows on Bourke Street created by the opening of the Eastern Distributor. South Sydney Council was keen to alleviate the traffic build-up in the streets around the school created by having only one student drop-off point in Forbes Street. The traffic management plan completed by our traffic consultants in October 1999 and approved by South Sydney Council included a second drop-off and pick-up point in Bourke Street. This is mainly used for students between the ages of five and 12. Utilising the second drop-off point has dramatically improved traffic flow during morning peak-hour traffic and in the afternoons in Liverpool, Forbes and Bourke streets. Children also cross Bourke Street to gain entry to the school through the Bourke Street gates.

The school raised concerns about safety issues when it appeared that traffic volumes would increase along Bourke Street following the opening of the cross-city tunnel. SCEGGS was aware that condition 288 imposed by the New South Wales Minister for Infrastructure and Planning required the New South Wales Roads and Traffic Authority [RTA] to identify ways of limiting rat runs using Bourke Street. To this end, SCEGGS strongly supported the recommendation that Bourke Street be closed south of Williams Street. The school has recently advised the RTA that it is concerned about the possibly of re-opening Bourke Street. The drop-off and pick-up point in Bourke Street has not been tested in conjunction with the upgraded Williams Street and its reduced number of carriageways. There are concerns that parents turning left from Williams Street into Bourke Street to drop off and pick up their primary aged children during peak hours could create a grid lock situation in Williams Street and also cause disruption to emergency vehicles and buses. The RTA has advised that it will discuss this matter further with the school.

The school has raised concerns about the increase in prostitution in Bourke Street. It was noted in the cross-city tunnel technical paper No. 20, at page 43 of the appendices, that the RTA should liaise with South Sydney Council on the design of Williams Street having regard to surveillance and safety and the potential displacement of prostitution and other activities from Williams Street to the sounding streets. SCEGGS noted that the Minister's condition of approval No. 238 dealt with this issue and the school requested that it be included in the working group that was being formed comprising representatives from the New South Wales Police Service, the City of Sydney Council, the RTA and the two community representatives. Although the school did not form part of this group, we believe that we have been give ample opportunity through other avenues to voice concerns in relation to this matter.

Generally, prior to and during discussion about the cross-city tunnel the school was contacted by a number of consultants in relation to dilapidation reports on our buildings, minimising disruption from construction noise to the school during exam times, minimising disruption to bus routes used by the students and other issues that were of concern to the school. School representative attended meetings during December 1999 designed to allow for an exchange of ideas on the elements that influenced the final design of Williams Street. In conclusion, we believe that we have been given the opportunity to raise issues that were of concern to us in relation to the cross-city tunnel. Thank you.

**CHAIR:** We might get you to supply us with a copy of that submission as well.

**Document tabled.**

**CHAIR:** You have both referred to the Bourke Street changes. The RTA has advised that it is monitoring community opinion in relation to those changes. Have both of your organisations been officially involved?

## CORRECTED TRANSCRIPT

**Ms ANDERSON:** Yes.

**Ms PYNENBURG:** Yes.

**CHAIR:** Are you happy with that arrangement?

**Ms ANDERSON:** Yes.

**Ms PYNENBURG:** Yes.

**The Hon. GREG PEARCE:** How many members of your organisation are there?

**Ms ANDERSON:** East Sydney has about 3,500 residents. For ESNA's first 20 years it was not incorporated. About 10 years ago one of the presidents Buzz Sanderson did that formal incorporation. Following that, a number of residents formally joined. Probably 200 or 300 people are part of the formal group, but the association is bigger than that. It includes anyone who resides within East Sydney and who recognises —

**The Hon. GREG PEARCE:** So it has a committee of some description?

**Ms ANDERSON:** Yes.

**The Hon. GREG PEARCE:** Has the committee approved your submission today?

**Ms ANDERSON:** The committee has had input to my submission, and a lot of what I have said has drawn from various elements, not only the committee.

**The Hon. GREG PEARCE:** It is basically your submission.

**Ms ANDERSON:** It has had input from a wider range of residents than the committee.

**The Hon. GREG PEARCE:** Thank you very much.

**Mr ANDREW CONSTANCE:** Ms Pynenburg, my question follows yesterday's public hearing. I am under the impression that SCEGGS wanted Bourke Street open.

**Ms PYNENBURG:** No.

**Mr ANDREW CONSTANCE:** I want to clarify that for the committee.

**Ms PYNENBURG:** No. As I said, a number of issues have been raised, including air quality and safety. Some of the parents are new and are not aware of what the school used to be like prior to the opening of the Eastern Distributor. I speak on behalf of SCEGGS and its management and people who have worked there for a very long time.

**Mr ANDREW CONSTANCE:** I just wanted to clarify that because we got the impression yesterday that you wanted it open.

**Ms PYNENBURG:** Some of the parents have indicated that it might take them a few extra minutes to reach their destination after they have dropped off children. However, we believe that the safety of the children, air quality and the possibility of creating a gridlock situation in Williams Street are far more important issues than perhaps some people taking a little extra time to reach destinations.

**Mr ANDREW CONSTANCE:** In terms of some of the streets that have been closed off and other traffic mitigation measures, does ESNA have any position in respect of traffic arrangements or any changes it would like to see?

**Ms ANDERSON:** That is very comprehensively set out in our strategic plan. As I said, everyone living in East Sydney had an opportunity to have input. The plan manages traffic by

## CORRECTED TRANSCRIPT

supporting the principle of traffic for local roads and through traffic for arterial roads, priority for the 389 bus and all points within East Sydney accessible within two streets of a through road.

**Mr ANDREW CONSTANCE:** Are there any major changes as part of the strategic plan that you would like to see, such as major road closures or reopenings?

**Ms ANDERSON:** An ongoing plan dates back more than 20 years to look at Whitlam Square and a traffic management scheme for the square.

**The Hon. AMANDA FAZIO:** A Jane Anderson stood at the last city council election.

**Ms ANDERSON:** Yes, that was me.

**The Hon. AMANDA FAZIO:** You are the same person?

**Ms ANDERSON:** Yes.

**The Hon. AMANDA FAZIO:** You have made many comments about issues raised with the committee yesterday. Ms Pynenburg has mentioned this already, but when did your members first tell you that they received information about the cross-city tunnel? Yesterday we heard that people did not receive brochures and were not generally aware of it. What is the experience of members of ESNA?

**Ms ANDERSON:** I have been trying to remember, and I would have to go through some of the hidden boxes under the bed in my house to examine the papers. I think I still have them somewhere. I think it was 1999. We all live in terraced houses and we are close to each other and see each other. It is like a grapevine; the word goes out. We also letterbox drop almost every month to all households in East Sydney. I have an example of a couple, a flash version and a scruffy one. I do not know whether the committee wants copies of those. We have our own mechanisms, including email, to let people know. I think it was about 1999. We have been through the Eastern Distributor —

**Mr PAUL McLEAY:** The point is whether you received much information. We had evidence yesterday that residents had never received a single pamphlet about the cross-city tunnel. Would your neighbours have received at least one or perhaps more pamphlets?

**Ms ANDERSON:** I know I got some. I am also aware that there were problems with the distribution. We often get that. Someone mentioned yesterday the people who live in high-rise security buildings. Sometimes those people do not get them because they try to discourage that sort of paper being delivered. We live in terraced houses and we have a very strong network throughout our area. Because of that it is something that comes up in discussions. Because we have been working on the Eastern Distributor I think we were perhaps a little more alert. We needed to get on with this and we wanted to engage and try —

**Mr MATT BROWN:** Besides the RTA pamphlets are you saying that your organisation also put out pamphlets to encourage community input on this?

**Ms ANDERSON:** What we do is when we leaflet—this one is probably something of an example in that it says, "Dates for your Diary", reminding of the East Sydney Neighbourhood Association [ESNA] monthly meetings. It has also has reminders of the police community meetings that are held in our neighbourhood.

**The Hon. AMANDA FAZIO:** So that when there were to be community meetings about the cross-city tunnel you would have advertised them in the newsletter that you put out?

**Ms ANDERSON:** I cannot say "Yes" because I really cannot remember. I cannot put my hand on my heart and say, "Yes, I am sure". What I am saying is that typically we might say, "There is a council meeting. There is this issue. There is that issue."

**The Hon. AMANDA FAZIO:** I would ask each of you to comment on another issue that was raised with the Committee yesterday. You have both addressed the issue of claims that there was an increase in street prostitution after Bourke Street was closed. The Committee also heard from

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witnesses yesterday that it was suggestion about an increase in the number of muggings and general street crime in the area, and loss of safety, as a result of the closure of Bourke Street. Is that the experience that you have been told about, or do you find that that is not the fact?

**Ms PYNENBURG:** From our point of view, we have new staff who arrived at school typically two days ago and, for the first time in a number of years, we could say to them, "It has now been quite some time since we have had somebody wander into the school and steal a laptop or walk off with any equipment." I must say that I think it is actually a little bit better for us. I cannot comment on what it is like at night. Because we no longer have a boarding house we do not have people on site at night, but generally through the day, from our point of view, things are a lot better.

**CHAIR:** I would ask you to table as a sample the newsletter you referred to that goes out to letterboxes every month. How many copies do you send out?

**Ms ANDERSON:** Not every month. We have a meeting 11 months a year.

**CHAIR:** How many copies to distribute?

**Ms ANDERSON:** We distribute to every home in East Sydney.

**CHAIR:** Would you say 500 or 200?

**Ms ANDERSON:** Between 1,000 and 1,500 we aim for. I cannot say it goes out every month; it goes out regularly. It goes out regularly, but not every month. I mean, most of our members are involved in that four-letter word, "w-o-r-k".

**CHAIR:** Would it be four in a year, or six?

**Ms ANDERSON:** I would say it is probably about eight.

**Document tabled.**

**Ms ANDERSON:** Was I asked the question about safety and Bourke Street?

**The Hon. AMANDA FAZIO:** If you are able to answer quickly, because I think Ms Lee Rhiannon has a question.

**Ms ANDERSON:** People who actually live there have said that they feel much safer in that part of Bourke Street; that they have children and teenagers that they feel much safer about moving around the area. The people who live in that part of Bourke Street have reported greatly increased feelings and experiences of safety.

**Ms LEE RHIANNON:** Ms Anderson, could you explain how you would have worked with Clover Moore to close streets in East Sydney in the context of the ESNA strategic plan and the cross-city tunnel above-ground road changes?

**Ms ANDERSON:** For many years East Sydney residents have looked to Clover Moore for advice and communicated their vision for our neighbourhood. I am sort of losing track of the question.

**Ms LEE RHIANNON:** Could you explain how you have worked—how **you** have worked with Clover Moore to close streets in East Sydney in the context of the ESNA strategic plan and the cross-city tunnel above-ground road changes?

**Ms ANDERSON:** I guess Clover Moore knows a lot about our area and I guess we have kept her and her office informed of every step along the way. She has had a copy of our strategic plan, as have many other people.

**Ms LEE RHIANNON:** I might emphasise the word "with"—how you have worked with Clover Moore; what you have done together. What promises you have had and what has changed.

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**Ms ANDERSON:** I do not really understand where you are going. There have not been any promises. The strategic plan was developed by the community of East Sydney. During its development I do not recall Clover Moore having any input and I do not think she would have been asked.

**Ms LEE RHIANNON:** Are you aware, because you were on the team ticket for that last election, that other members of the team say that promises have been made by Ms Moore with regard to the issue of street closures?

**Ms ANDERSON:** Well, I do not know why. This has come up before and I really do not know why.

**Ms LEE RHIANNON:** In response to a question from the Hon. Greg Pearce you seemed to be suggesting that there are two levels of membership in ESNA. You spoke of a formal group. What is the other level of membership, and do they have less say than the formal group? Could you explain how the organisation works?

**Mr MATT BROWN:** Like the Greens!

**Ms ANDERSON:** No, not like the Greens at all. I suppose fundamentally the 3,500 residents who live in East Sydney, who identify as being residents of East Sydney and who are identified by the community of East Sydney, are members.

**Ms LEE RHIANNON:** Are you saying that you have 3,500 in ESNA?

**Ms ANDERSON:** ESNA is open to 3,500 members.

**Ms LEE RHIANNON:** "Open to 3,500 members". That can be interpreted in two ways: that you are open to people to join or that you have 3,500 members. Can you answer the question? Does ESNA have 3,500 members?

**Ms ANDERSON:** It is open to 3,500 residents. I tried earlier to explain that for the first 20 years it was not incorporated.

**Ms LEE RHIANNON:** We have that on the transcript from your earlier evidence. Can you explain these two levels of membership? It is important to understand who ESNA represents. Would you outline that please?

**Ms ANDERSON:** Well, ESNA will represent any resident or residents within East Sydney.

**Ms LEE RHIANNON:** But, who is ESNA?

**Ms ANDERSON:** There is a formal committee that comes under the incorporated—we incorporated so that we would have the ability to bring court actions. That was the purpose of it; it was not to actually change the feel of an organisation that had been in existence already for 20 years. It was done for a purpose.

**Ms LEE RHIANNON:** Are you saying you have a few hundred members rather than a few thousand members?

**Ms ANDERSON:** It is not about two levels of residents.

**CHAIR:** The witness explained this in her opening statement.

**Mr MATT BROWN:** I think it is clear.

**Ms LEE RHIANNON:** Clear?

**The Hon. GREG PEARCE:** It is a standard resident group.

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**Ms ANDERSON:** Any resident, whether or not a formal resident or who does not happen to have joined us officially, our group will support them if they have issues relating to residential amenity. I do not know how to explain it better

**CHAIR:** The witness explained that in her opening submission.

**Ms LEE RHIANNON:** I have one question for Ms Pynenburg. Considering that SCEGGS operating hours are approximately 39 weeks of the year, mainly off-peak hours and basically five days per week—

**Mr MA TT BROWN:** School hours.

**Ms LEE RHIANNON:** Yes, of course—does the school board feel that it is justified in calling for the closure of a road that serves businesses as well as residents in the area when the school's operations are only for a small part of the total year?

**Ms PYNENBURG:** I think the issues we have raised do not just relate to the times that the children are there." Air quality is an issue that impacts on all of including the residents and businesses. As I said, the gridlocking of William Street would be of concern, not just to the SCEGGS, but to the broader community of Sydney, people trying to reach the city at the same time in the morning as children are being dropped off at school. The other issue, the safety issue, is of course a huge issue for us, even for the 39 weeks a year that the children are at school—the safety issue and disruption of emergency services and the bus route. For 39 weeks a year, even for one day a year, safety issues are of crucial concern to the school.

**The Hon. AMANDA FAZIO:** Ms Anderson, in your opening statement referred to Tony Harris as being "the out-of-town candidate for the Greens". Where do you think he lives?

**Ms ANDERSON:** Chris Harris.

**The Hon. AMANDA FAZIO:** Chris Harris, sorry.

**Ms ANDERSON:** He told me he lived at Haberfield.

**Mr JOHN TURNER:** Ms Anderson, is Clover Moore a member of ESNA?

**Ms ANDERSON:** No, she does not live in East Sydney.

**(The witnesses withdrew)**

**CORRECTED TRANSCRIPT**

**LALITA LAKSHMI**, Community Development Worker, Harris Community Centre,

**MARK CURRAN**, Retired, and

**NARELLE MAY THIRKETTLE**, Credit Administrator, sworn and examined:

**RAYMOND KEARNEY**, Academic, Department of Infectious Diseases and Immunology, University of Sydney, and

**PETER CHARLES MANINS**, Research Manager, CSIRO, CSIRO Marine and Atmospheric Research, Aspendale, Victoria, affirmed and examined:

**CHAIR:** In what capacity does each of you appear before the Committee?

**Ms LAKSHMI:** As the Community Development Worker at Harris Community Centre and member of Groups Against Stack Pollution.

**Dr KEARNEY:** I am appearing here in my capacity as Chairman of the Lane Cove Tunnel Action Group, and as a member of Groups Against Stack Pollution.

**Mr CURRAN:** As a member of the Residents Against Polluting Stacks and Groups Against Stack Pollution.

**Ms THIRKETTLE:** As a member of Groups Against Stack Pollution. I also sit on the Cross City Tunnel Air Quality Community Consultative Committee as a committee representative.

**Dr MANINS:** As a CSIRO scientist and as the independent technical adviser to the Cross City Tunnel Air Quality Community Consultative Committee.

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

**Ms LAKSHMI:** Yes.

**Dr KEARNEY:** I am

**Mr CURRAN:** I am.

**Ms THIRKETTLE:** Yes.

**Dr MANINS:** I am.

**CHAIR:** Do any of the witnesses wish to make a very brief opening statement?

**Ms THIRKETTLE:** We do have three brief ones, starting with Peter Manins.

**Dr MANINS:** I believe my statement has been circulated and I propose not to read it all. I propose just to indicate the three areas I would like to draw the Committee's attention to. First off, the poor environmental designs of the Sydney tunnels.

**CHAIR:** Does everybody have a copy of this? It has at the very beginning, "I am Dr Peter ..."

**Dr MANINS:** That introduction indicates my background including my background since 1999, employed by DUAP to review the potential performance of the M5 tunnel and its stack, my technical adviser role on the cross-city tunnel and as a reviewer of air quality modelling and impact assessments for the Lane Cove tunnel funded by the RTA, DUAP and Thiess John Holland on different occasions.

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I would like to say a few things about the poor environmental designs of the Sydney tunnels. The M5 environmental design is very poor. The cross-city tunnel is somewhat better but is still a poor design with the enormous expense in a ventilation shaft running the full length of the tunnel so that all the emissions are ventilated into a poor dispersing region, the Darling Harbour region. This means both increased air pollution in a very poor dispersing region, particularly to the people around Ultimo and Darling Harbour, and increased cost in the operation of the tunnel.

The next point I would like to raise is the continuing community evidence that has been given on the veracity of filtration. If filtration were included in the cross-city tunnel, the ventilation design could have been changed and the impact on people would be significantly lower, both in the tunnel and, if it was in-tunnel filtration, for the residents.

The third point is the mixed support for community consultation mechanisms that are in place. I have had great difficulty in obtaining information, despite my role, on technical matters in the cross-city tunnel, with commercial confidentiality being one of the factors thrown up. I understand the single most important concern of the community, namely portal emissions and the provision of information to the community in a timely manner, is not being acted upon despite DIPNR requesting that that happens. I have been extremely disappointed in the way the community has been informed and has been able to participate in assessing the environmental performance of the cross-city tunnel as it was being built, very distinct from how the original EISs were done. The current tunnel bears little relationship to the original environmental impact assessments. They are the three points.

**Ms THIRKETTLE:** We would like to give one example of how the community has been let down by the Department of Planning, the regulation process itself and sadly even the parliamentary process in relation to the cross-city tunnel. Despite the hundreds of supposedly stringent conditions of approval that we are all told about regularly, so often referred to and sold as a reassurance to us all, and I am sure to you as well, this is just one of many examples, but we would like to focus on just one example of one condition. I do not intend going through the whole thing but I would just like to touch on key issues. In this one example we can demonstrate that DIPNR and its advisers at the DEC and the Department of Health have failed us in framing the conditions of approval because there is no penalty for portal emissions should they occur or a requirement for the public to know they have occurred or are occurring. There is no requirement for portal monitoring equipment at each portal. There is no requirement for audit of portal emissions or in-stack monitoring data. There is no requirement to publish these results on the web site, let alone realtime, so people can make real-life decisions such as, if you know there are portal emissions, I suggest you probably would not go to bed and leave your windows open.

The Department of Planning and the DEC are still failing us by being prepared to accept only unaudited portal pressure readings after the fact as the sole health protection. The regulation process is flawed in that DIPNR has no power to instigate and enforce any changes required if they were not thought of at the time of framing the original conditions of approval. So we have this situation ahead of us for 30 years. The parliamentary process accepted misleading information unfortunately provided by the chief executive officer of the RTA which was accepted without challenge. We can understand this. Members of Parliament cannot be expected to be across all of the detail, and if there was ever a truer statement that the devil is in the detail, it is when you start to unravel these 292 conditions.

Just as a quick example, on 10 December 2005 Paul Forward, CEO of the RTA, informed General Purpose Standing Committee No. 4, when asked if monitoring results of portal emissions would be made publicly available:

We have put a number of monitoring stations that we believe will pick up any impact on ambient air levels.

Note the twists and turns. The question was about portals. The answer you were given was ambient. I can understand that it sounded fine at the time, but the devil is in the detail. He went on to say:

The results of those monitoring stations will be made public.

He later added:

The reading sites are very close to the portal anyway.

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So, I am sure the MPs would have slept very well that night and thought we were all a lot of whingers, which I am sure we get sold to you as, but I can tell you this is not what we designed our lives to do. The truth of the detail in that statement of Mr Forward needs some unravelling. The four stations he is referring to are ambient monitoring stations, which he said, but of course did not point out to you that they are not placed in a position to have the ability to pick up pollution at the portals. They are placed in relation to conditions 263 and 264, which quite rightly stated that they must be associated with the ventilation stack, because they are there to attempt to monitor what impact may or may not be coming from the stack.

I point out to you there are at least six portals of the cross-city tunnel located in the eastern suburbs of Sydney four kilometres from those four ambient monitoring stations in Darling Harbour and which would never be picked up at the monitoring station at Darling Harbour if you have a portal emission at Bourke Street or Rushcutters Bay. Of course, when you were told it sounded simple. I can even go on to prove—and again I have provided the documents and I can hand them out to your clerk. I have done the eight copies, like the letter said. They are not fancy but they are all there.

**CHAIR:** Is that statement you are now quoting from in there as well?

**Ms THIRKETTLE:** Yes. I am not going through the whole thing.

**CHAIR:** Can you just highlight what other matters you want to refer to?

**Ms THIRKETTLE:** The privileged legal document—of which I have a copy in there—that came out of the privileged papers eventually permitted by Justice Street dated 11 May 2005 from Holmes Air Sciences supported a paper Dr Manins had written which reached the conclusion that I just mentioned to you, that at least the six portals in the eastern end would not be detected from the Darling Harbour monitoring station.

At that same February appearance at that standing committee Paul Forward further went on to explain to the committee:

We are not a regulator—

that is the RTA—

we are a road provider. DIPNR is the regulator. It takes advice from the Department of Health and the Department of Environment and Conservation. If the regulator asked us to do something, we will do it.

That is what I now want to come to. Again in the folders you will find a series of correspondence between Sam Haddad at DIPNR and us as community representatives, between DIPNR and the city of Sydney council and between Sam Haddad and the RTA. Initially you will notice in those papers that around May, June 2005, after our meeting with them, DIPNR's view was that it approach the RTA to try to get us some assistance and sought realtime publication of portal pressure readings. It never expected monitoring to go in place to monitor pollution but it wanted at least to monitor the pressure at the portals so it can tell if air was coming out and it thought that it was reasonable that it should go on the web site because people had access to that. It asked for monthly reporting of in-stack data and the inclusion of portal and in-stack data under the auditing process because we had pointed out that the conditions did not require it.

You will notice that after the RTA had spoken, sometime around July, the DIPNR rhetoric changed and our later correspondence from DIPNR about September toed the RTA line. This is what concerns us because we thought DIPNR was the regulator, but after the RTA responded to its request to improve the situation the RTA responded to them that it was not required to by the conditions so it would not. The DIPNR rhetoric then changed to informing the AQCCC. It went away from its earlier suggestions of realtime publishing on the web site and chose to overlook the RTA's decision to partly ignore this correspondence on the issue of the in-stack data not being the subject of audit nor the portal pressures and the in-stack that does not go up on the web site. So, it lacked a little bit of backbone in dealing with the RTA on this issue. This is not the only example we could give you but it is the one we are limiting ourselves to today.

**CHAIR:** We will have to move on. We will run out of time for the other witnesses.

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**Ms THIRKETTLE:** Despite all the assurances we have had from day one about the fact that we would not be subject to portal emissions and the fact that we have seen the draft DIPNR audit from the parliamentary papers, where we are horrified to see the level of breakdown and maintenance problems in that monitoring equipment in the M5 East, which is operated by the same operator that we are going to be looking at, we are now horrified to see newspaper reports on 24 January suggesting that Minister Sartor is considering allowing portal emissions as a normal part of operating Sydney's road tunnels.

So, instead of the supposedly stringent conditions protecting residents and workers, as we are always told, we have no way of knowing that the monitoring is happening. We have no way of finding out what the realtime impacts are so we can protect ourselves. We have no knowledge of or penalties for breaches. Refusal of the RTA and the operator to address the issues despite requests by the community and the council and directives by DIPNR, as politely as they can be put, DIPNR is seemingly powerless to enforce compliance. Despite the assurances by the director general of DEC in the committee here just before Christmas that it will do public reporting on air quality, the CEO of the RTA doing what the regulator, DIPNR, asked, we have deathly silence from New South Wales Health. We have evidence of the system regularly breaking down in the M5 East.

We now have the concerns that the proposal we may be looking at operating Sydney tunnels via portal emissions is a norm, not an exception. In this situation, this is just one approval condition. Multiply that by the 292 conditions and you start to see the extent of the problem we are facing for the next 30 years. It is effectively self-regulation that would not be allowed in any other enterprise, factory or mine, and that leaves the local community anxious, unprotected, angry and wondering who is protecting whom.

**Mr CURRAN:** I represent the group Residents Against Polluting Stacks, which was formed mainly around the M5 but we have been in contact with all the other groups and basically joined together. We welcome this inquiry as a way of improving how things are done in the future with tunnels. Our submission, which is quite detailed and I believe you have the RAPS submission, looks at items d, e and f of your terms of reference and some of the systematic failures in the environmental assessment, consultation and regulation process.

Our experience with the M5 East and subsequent tunnel projects has led us to believe that these failures are costing the community greatly in financial, health and environmental impacts as well as causing a significant erosion of public confidence in the process of government. Three earlier inquiries dealing with the M5 East warned that problems would be compounded in tunnels then in the planning stages. In our view, this prediction will prove all too true for the Lane Cove and cross-city tunnels.

Instead of learning from the mistakes, we believe the RTA, DIPNR, DEC and NSW Health have in fact learned how to close the loopholes and watered down the safeguards even further. We believe the problems with these projects relate to five main points, and we go into those in our written submission. They are, first, that community consultation and expert assessments are controlled by the RTA for the RTA to get a project approved, regardless of the real, long-term cost of such a project to the public; secondly, the role of watchdog agencies is severely compromised; thirdly, inappropriate benchmarks are used in assessing impacts to facilitate approval; fourthly, there is no independent scrutiny of changes made following the EIS process, and contracts are negotiated in secret, with changes being self-approved; and, fifthly, the conditions of approval appear to be set in stone, yet they are unenforceable and unenforced, but if the RTA wants to change them they can be changed.

I am not going to discuss these points in detail. Rather, I thought it might be useful to the Committee to relate some of my personal experience of community consultation with the RTA. I first joined the M5 Community Liaison Group in 1999, so I have been through all of the processes of building a tunnel—before construction, during construction, the actualisation, and the continuing process. I cannot recall missing a single meeting. None of the reports I have presented to the group—

**The Hon. AMANDA FAZIO:** Point of order: Much of the information given to us in written submissions from the witnesses now before the Committee relates to other projects rather than the cross-city tunnel. However, I submit that their spoken submissions to the Committee should remain

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relevant to the Committee's terms of reference. Going into a great deal of detail about what happened in relation to other tunnel projects is not appropriate. I would ask the Chair to instruct the witnesses accordingly.

**Mr ANDREW CONSTANCE:** To the point of order: The points being made by Mr Curran are quite relevant. They relate to the same government agency that is required to undertake portal emission testing. From the evidence, it seems that what happened at the inquiry is being repeated in relation to the cross-city tunnel. Therefore I submit this evidence is perfectly within the Committee's terms of reference.

**Mr CURRAN:** Could I assure you that I do not intend to go into the fine detail. Rather, I am endeavouring to examine the systemic problems.

**CHAIR:** Can you now relate those remarks to the cross-city tunnel issue?

**Mr CURRAN:** I believe I will, and that the Committee will see the relevance of what I am saying to the cross-city tunnel and to the remaining tunnels to be opened. Shall I go on?

**CHAIR:** Yes.

**Mr CURRAN:** I was saying that I had basically not missed a meeting. This is the important bit: None of the reports—and I have made a number of significant, detailed reports—have ever been seriously challenged as to their accuracy. They have just been ignored. My experience is that, instead of getting meaningful information from these meetings with the RTA, we get selective bits of misinformation and constant denial of obvious problems. The only results I have observed have been negative ones, both for us and for the new tunnels that are coming about. When we exposed flaws and breaches and tried to enforce compliance with conditions of approval, such as with the carbon monoxide levels in the M5 tunnel, the system responded by watering down those conditions, for this and for later projects, rather than fixing the problems. In spite of vehement community protests about the impacts of bad air quality both inside and outside the M5 tunnel, the conditions of the approval relating to the Lane Cove tunnel actually permit higher concentrations of this pollutant than have ever been recorded in the M5 tunnel. That justifies what is happening with the M5 tunnel. Cross-city tunnel air conditions are slightly less bad. In effect, community efforts have been used to the detriment of the community. So why do we keep trying? It is mainly because we must make things better. At the moment, we have a toxic, congested M5 tunnel that uses 52 million kilowatt hours of electricity every year, but they cannot keep it clean.

**Mr MATT BROWN:** Mr Chairman—

**Mr CURRAN:** Sorry. We have an expensive white elephant called the cross-city tunnel, and we have another on the way. None of them present value for money or world's best practice. The effectiveness of regulation and consultation must be judged by the results produced. More than 50 per cent of community responses to the EIS process identify air quality as the major concern. Filtration and gas cleaning technologies are identified as the preferred solution to vehicle emissions within the tunnel, and especially for residents and workers close to tunnel stacks. Overseas experience tells us that this makes both economic and environmental sense. But what is the result? We get continuous, unsupported claims by the RTA that these technologies are not necessary, while \$140 million spent on three tunnels is wasted on expensive alternative ventilation designs that do nothing to protect the public. Suppliers of filtration equipment have told us that their approaches to the RTA are repeatedly rebuffed.

How can it be claimed that community consultation is carried out, or that it is effective, if the main issue raised by the community is not seriously investigated and addressed? How can it be claimed that environmental standards are met, when clearly and demonstrably they are not? Our group has made contact with people all round the world with similar interests, mainly through our web site. From this we have built up a picture of how the community interacts with government in other parts of the world. Only a few countries appear to be actively involved in large-scale tunnel construction in urban areas. Those include Japan, Norway, France, Spain, Italy and the United States. All of those countries, with the exception of the United States, either use filtration or are actively developing

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technologies for its use. I believe the story this story from Madrid will be of interest to the inquiry, both for what is being done and for how it has come about.

Like Sydney, Madrid has a population of about 3 million people. The Madrid City Council recently embarked on a major road construction project, the Calle 30. That is very similar to what is happening in Sydney. It involves a total of 100 kilometres of new ring route, with 55 kilometres in tunnels. While the Madrid City Council initially tried to extol the virtues of the environmental benefits of the project, the community pointed out that the amount of traffic using it will increase—just as it has on the M5—and therefore pollution problems could become worse, not better. The sequence of the following dates is important.

On 3 April RAPS was contacted by a resident of Madrid who asked about tunnel ventilation and filtration. She thought that Sydney had actually made some progress and had some expertise in tunnel filtration. We had to disappoint her, but she did make use of the information that we had. This resident, who is an aeronautical engineer, was worried about air quality because a stack was going to be built 80 metres from her flat. A week later she got back to us and said that she had been told filtration was going to be installed. The original design of the ventilation system did not include this, but the design was changed because of concerns held by the mayor of Madrid about health impacts on the community. On 8 July the Madrid City Council issued a detailed requirement to interested manufacturers of filtration equipment, for both particles and nitrogen dioxide—the full works. It called for the filtration of all four stacks of the first tunnel currently under construction. Submissions closed on 26 July, and installation was to be completed by December 2006. The total filtration volume is more than double that for the M5.

So far as the deliberations of this inquiry are concerned, I would like to draw two points from that overseas experience. Firstly, the Madrid city authorities clearly consulted with, listened to and responded appropriately to the concerns of their residents. That decision also has helped them to meet the requirements of the European Parliament to improve air quality for the city. It took the city authorities three to four months to investigate the value of those systems, and to decide on world's best practice. In contrast, more than 18 months ago then Minister for Roads Mr Scully announced that the RTA would carry out a small trial of filtration in a city tunnel. As of last September, Mr Tripodi could announce nothing more concrete had happened other than the mysterious expenditure of half a million dollars—but with no result.

We all seriously lose by allowing a government department such as the RTA to play this cynically deceptive game. It is outrageous for a government instrumentality to impose a project on a locality and then to act as if it were selling a pyramid scheme to gullible strangers, distorting the truth, concealing adverse findings, and always attempting to present the public with the arguments in favour of the project. From our experience, the whole consultative process seems more an expensive confidence trick, promising to those involved the possibility of influencing the planning process and the way in which projects are actualised, but delivering nothing other than cynical and tokenistic compliance and a systematic abuse of the community's goodwill.

**CHAIR:** Dr Kearney?

**Dr KEARNEY:** Mr Chairman and honourable members of the Committee, what has emerged in the M5 East, the cross-city tunnel and the Lane Cove tunnel projects is, I believe, a scandalous dereliction of duty. Personal experience, coupled with information released in privileged and public documents, confirm highly anomalous conduct that is widespread in the respective bureaucracies of the New South Wales RTA, DIPNR, DEC and Health. The RTA, the only authority in New South Wales to regulate and manage roads, has formed alliances with the corporate stakeholders to augment wealth and profit by externalising costs to the community and environmental wellbeing. In some cases the Government seems to have handed over its regulatory powers to the lobbyists and ex-politicians representing the corporations supposedly being regulated.

The real question is: Who does the New South Wales Government serve? We need a government committed to serving the people and big enough and strong enough to do the job. Evidence confirms that the executive of the RTA's media/propaganda unit has hoodwinked the community into believing the RTA was serious about tunnel filtration by undertaking a so-called

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filtration trial. But the RTA was only kidding, to appease an irate community, for political and corporate expediency

The focus of current community anger, however, at what the cross-city tunnel really means to the community is the coercion written into the tunnel deal. The contract is clear: The Government must keep a long list of alternative routes closed on narrow and provide dedicated lanes feeding the tunnel—very little of which the community was kept fully informed about. Has the RTA infringed the laws and misused the powers entrusted to it? Only a royal commission of inquiry is competent to investigate these and other such matters.

It was the New South Wales Government that signed a flawed deal. We believe it is government which is responsible for the ensuing mess—be it exorbitant tolls, gross impacts on local traffic community, potential toxic portal emissions, no in-tunnel filtration, disgraced, wishy-washy go-along-to-get-along "community consultative meetings", coupled with a litany of bureaucratic incompetence—at immense expense to the taxpayer. I believe government should also concern itself with morality in the board room. Morality has a great deal to do with money and power. Mr Chairman, it is to do with how we treat one another.

Finally, I am appalled to hear planning Minister Frank Sartor's answer to cancer is to blow it in the wind by proposing to expunge a condition of approval for the M5 East, and set a precedent for the cross-city tunnel and Lane Cove tunnel projects, to now allow toxic cancer-causing fumes to be discharged from tunnel portals, at ground level, into the lungs of taxpayers. Mr Chairman, such conduct, I believe, is immoral and unconscionable. It is immoral for the big money tunnel interests to force government to serve their greed instead of serving the people's need.

**CHAIR:** Ms Lakshmi, do you wish to make a statement?

**Ms LAKSHMI:** No, Mr Chairman.

**Mr ANDREW CONSTANCE:** Ms Thirkettle, in your opening statement you made reference to the fact that the monitoring stations were four kilometres away from the six portals of the cross-city tunnel. Where are those monitoring stations?

**Ms THIRKETTLE:** There are two ground level stations. One is in Tumbalong Park in Darling Harbour; that is what is termed the community-based monitoring station. There is one in Mary Ann Park at Ultimo. They are the two ground level. There are two elevated stations. They are atop buildings at Darling Harbour the western side of the city. One is the Millennium Towers Building on the corner of Druiitt, Day and Bathurst streets and the other is a commercial building at 51 Druiitt Street.

**Mr ANDREW CONSTANCE:** How far are they from the actual stack?

**Ms THIRKETTLE:** The stack is right near the Imax Theatre in Cockle Bay.

**Mr ANDREW CONSTANCE:** Do you have a distance?

**Ms THIRKETTLE:** I am sorry, I am not good at the technical things.

**Dr MANINS:** From a couple of hundred metres for one or two of the elevated stacks to three kilometres, I think, to the Ultimo one.

**Mr ANDREW CONSTANCE:** I find this remarkable. You are telling me that the monitoring stations are up to three kilometres away from the actual stacks?

**Dr MANINS:** They are designed both to measure what the community experiences overall and to provide information on the performance of the stack itself. Nothing to do with the portals.

**Mr ANDREW CONSTANCE:** How much interference with the air quality within that three kilometres distance?

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**Dr MANINS:** The Ultimo station is dominated by local pollution, not the stack, according to our expectations.

**The Hon. GREG PEARCE:** Dr Kearney, I was interested in a lot of what you had to say. I have thumbed through your submission. On page one you refer to a structure of harm. Would you elaborate on that?

**Dr KEARNEY:** Mr Chairman, we now know that the bureaucracies, in particular the RTA has formed an alliance with the corporate stakeholder, not only with the cross-city tunnel but others. What we see is that in that alliance the objective appears to augment wealth and profitably by shifting costs to the community. The structure of harm here is demonstrated by the fact that, one, we do not have in-tunnel filtration systems in any of these tunnels, despite the fact that a report by Noel Child of Child Associates confirmed that it is now proven and mature technology, efficient and effective. So what happens, Mr Chairman, is the toxicity is impacting adversely on the residents in the precincts and the cost of that is not borne by the operator or for that matter the RTA but is borne by the taxpayer. So this structure of harm is one where instead of the operator, the owner, paying for this cost, it is then passed on to the resident, the motorist, the taxpayer. That is just one example of how this structure of harm is now operating.

Referring back to the M5 East, we know that certain individuals have fainted in that tunnel. Pillion riders on the back of motor bikes have fainted in that tunnel. Why? Because the levels of pollution are so high that the ventilation systems currently in place cannot cope. Again another example of a structure of harm that ought to have been borne by the operator, the builder, the constructor, of course, under the direction of the RTA, who clearly in the case of the M5 East have underestimated the levels of traffic volumes and the ventilation systems now cannot cope with it.

**The Hon. GREG PEARCE:** In your statement you were very critical of the filtration trial. In your submission you refer to it as a hoax. Would you tell us more of your experience of the filtration trial?

**Dr KEARNEY:** To really appreciate this, Mr Chairman through you, the background begins with a condition, I think it is no. 79 actually, in the Conditions of Approval for the M5 East that requires a report to be produced annually.

**The Hon. AMANDA FAZIO:** Point of order: My point of order is the same as last time.

**Mr ANDREW CONSTANCE:** It was not a point of order last time.

**The Hon. AMANDA FAZIO:** It was actually, because you spoke to it in reply.

**Mr ANDREW CONSTANCE:** It was not a point of order last time, so it will not be a point of order this time.

**The Hon. AMANDA FAZIO:** You should mind your manners. My point of order is that the questions that are being asked and the issues that are being discussed by the witness are outside the terms of reference of this inquiry. This is an inquiry into the cross-city tunnel. It is not an inquiry into the M5 East. The Parliament has already held a number of inquiries into the M5 East. I suggest if these witnesses cannot say anything relevant to the terms of reference of our inquiry that we discharge them. I ask that you uphold my point of order.

**Ms LEE RHIANNON:** To the point of order: Mr Chair, I draw your attention to the final part of our terms of reference, which states, "to any other related matters". It clearly is highly relevant and the point of order is an unfortunate time-wasting exercise.

**CHAIR:** It would help if the witness would relate his remarks to the cross-city tunnel because there was to be some monitoring.

**Dr KEARNEY:** With respect to item (g), I am conforming with the terms of reference, with respect, Mr Chairman, and with due respect to the honourable member. The fact of the matter is that the matter of in-tunnel filtration began with the M5 East and the rise and fall of the so-called filtration

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trial began as a result of a report that was suppressed by the RTA in 2003. The report by Noel Child confirmed tunnel filtration was proven technology. The RTA suppressed that information. Coincidentally, at the end of 2003 an RTA delegation went to Japan and they came back with a report that I can only describe as a fudged report where the information was not consistent with the handwritten notes of one of the delegates. Those handwritten notes were tabled under parliamentary order. When we compared the RTA report with the handwritten notes, they were not consistent. The fact is that Noel Child's report was suppressed and, indeed, when his final report was accessed under parliamentary order it was edited heavily to be consistent with the fudged report, to be consistent with the then former Roads Minister Scully's comment that filtration was a high-tech placebo. That was false.

**Mr CURRAN:** I could help the Committee.

**Dr KEARNEY:** May I finish off with one comment here? Indeed, the report that Noel Child had produced formed the basis of his paper to be presented at a conference on tunnelling. The RTA imposed a legal embargo on him to suppress the truth. Subsequently, the then former Minister of Roads Carl Scully announced a filtration trial. The process was undertaken, tenderers were called, three successful bidders were named. Meanwhile, each of the tunnels was suffering or under construction. The cross-city tunnel had got to the stage where in-tunnel filtration was beyond installation and, besides, the financial cut-off was on 18 December 2002. The documents show that the Government was not going to install filtration in the cross-city tunnel. I am concerned, Mr Chairman, that the Government having made all the publicity about a filtration trial, it is now dead. The two tunnels—the cross-city tunnel and the Lane Cove tunnel—have now proceeded in their construction beyond the point where in-tunnel filtration can now be installed only retrospectively.

**Ms LEE RHIANNON:** Thank very much for your contributions. The RTA has claimed to us time and time again that their tunnels meet all the regulations. It sounds as though you do not agree. Would you comment on the RTA claim and particularly how you would like to see the process improved?

**Mr CURRAN:** I think I would like to field that one. The claim sounds really good but in reality there are no regulations that actually apply worldwide to tunnels. There just are not any. The only regulation that applies uniformly to New South Wales tunnels is one for regulation of carbon monoxide.

**Mr MATT BROWN:** What about the World Road Association?

**Mr CURRAN:** I am just going to address that. The World Road Association does not make regulations, it makes suggestions for minimum standards. It is not a regulation in any sense. I have got the book there, I can show it to you. It is trying to help countries who are inexperienced in building tunnels to sort of get it not markedly wrong. There is no actual regulation in the PIARC book. PIARC actually identify the problem that there is no regulation. They identify the problem that the traditional dependence on carbon monoxide levels now no longer works. It used to work 25 years ago; it no longer works because of the relative changes in the proportions of the mix. The only other suggestion that they note is that some countries attempt to regulate tunnels on the basis of nitric dioxide. France is one that does, but there is no worldwide regulation on that. The only other suggestion that they make about in-tunnel conditions is a visibility one which is basically so that people do not run into each other.

Visibility, of course, the problem is caused by particulate matter. This is what has come out in the last 10 to 15 years as the real problem in tunnels and yet PIARC do not address that as a health problem. Interestingly enough, when they got the M5 East going and then they were designing the cross-city tunnel—because the cross-city tunnel design is very similar to the M5 East; it is the M5 East effectively cut in half—what they found was that they could not bring together the visibility measurements according to PIARC that they made inside the tunnel with what they were measuring coming out of the stack. There appeared to be twice as much particulate matter in the stack as they would predict inside the tunnel from the PIARC measurements. A formal analysis was actually done for the cross-city tunnel on that and it showed that the PIARC rule of thumb did not apply in Australia and that when the PIARC rule of thumb was applied in our tunnels it gave a PM(10) level inside the tunnel double what it would have done in Europe. It is all in the cross-city tunnel EIS data. When you

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say, "We comply with the regulations", yes but there are really no regulations that are worldwide, that are health-based and that look at the in-tunnel situation, which is not made up of a single component but a whole mixture of components interacting together.

**Mr PAUL McLEAY:** Given that there are no guidelines that they are in breach of and we can only look at what is best practice, would you agree that the World Road Association standards, which they define as standards, are at an acceptable level?

**Mr CURRAN:** No, I would not, because when you look at what they do in Norway and what they do in France, which are the two that I know of, they adopt standards which are quite markedly different.

**Mr PAUL McLEAY:** I might ask Dr Manins, because he is an expert in air quality. Would you agree that the World Road Association has acceptable standards and, if so, is the cross-city tunnel designed and operated in excess of those standards?

**Dr MANINS:** The cross-city tunnel is designed to meet carbon monoxide World Health Organisation suggested guidelines. The word "standards" is not applicable for neither the World Health Organisation nor the World Road Association. The standards are Australian standards and the World Health Organisation guidelines are consistent with those standards. The carbon monoxide level for design is an acceptable level.

**Mr CURRAN:** I would agree.

**Dr MANINS:** The problem is that, as we have just said, the PIARC designs are for visibility and visibility is graded by particles. The World Health Organisation and the international air pollution community recognise that particle pollution is actually the most important regional environmental problem in terms of air quality that we currently face. Carbon monoxide is reduced because of vehicle technology yet the PIARC procedure is for visibility. The in-tunnel concentrations for Australian vehicles, which are considerably filthier than European vehicles—are twice as high—

**Mr PAUL McLEAY:** Is it better that the tunnel stack is dispersing emission higher into the atmosphere than a busy street full of vehicles emitting pollutants at ground levels?

**Dr MANINS:** Yes, at ground level you are at the same level as the emissions; it stands to reason.

**Mr PAUL McLEAY:** So how comprehensive and effective, in your opinion, is the ambient air quality and monitoring around the cross-city tunnel in association with that stack?

**Dr MANINS:** Given that there is one stack—and that is a contentious point from my point of view in terms of meeting best practice—the monitoring stations are adequately located to monitor the performance of the stack and the community's exposure to that stack.

**CHAIR:** Are you suggesting that there should have been more than one stack?

**Dr MANINS:** I am suggesting that in terms of best environmental practice it should certainly have been much more strongly considered, a second stack at the other end, especially when the carbon monoxide standards—carbon monoxide guidelines or goals were revised downwards to make them more stringent and the third ventilation tube was then added.

**Mr PAUL McLEAY:** How has the air quality in the area of the cross-city tunnel, according to the monitoring stations, changed since the tunnel opened?

**Dr MANINS:** I do not know quantitatively. I would not expect to be able to tell at this stage. The traffic is still quite low and it will take time to build up. It will take at least a year before even a first approximation to that answer can be given.

**CHAIR:** We will have to bring this session to a close. Thank you very much for the amount of work you have put into preparing your submission and the time you have spent at the hearing. We

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will certainly take note of what you have presented to the Committee. Earlier a witness made certain statements that may be considered adverse about certain individuals. I would caution members of the media and the gallery regarding publication of those statements or repeating them outside the formal hearing. While comments within the hearing are protected by parliamentary privilege, I advise members of the media and the public that they should be mindful of reproducing or repeating those statements in the public domain, as they may not be protected. If you have any further questions in relation to that matter please contact the Committee staff.

**(Short adjournment)**

**CORRECTED TRANSCRIPT**

**LESLIE ROBERT WIELINGA**, Director, Motorways, Roads and Traffic Authority,

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

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

**CHRIS FORD**, Director, Traffic and Transport, Roads and Traffic Authority, on former oath:

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

**Mr WIELINGA:** I am.

**CHAIR:** Yesterday the Committee heard evidence that referred to an expansion factor that is used to determine the ceiling capacity of the tunnel. What expansion factor was used by the Roads and Traffic Authority [RTA] consultants in determining the cross-city tunnel's capacity?

**Mr HANNON:** We may have to take that on notice.

**CHAIR:** That evidence the Committee heard suggested that traffic estimates from both the RTA's consultants and the CCT's consultants were greater than the tunnel's ceiling capacity. How do you respond to that suggestion?

**Mr FORD:** In the evidence that was tendered yesterday, an expansion factor derived from the Sydney Harbour Bridge was applied to the lane capacities to return the ceiling capacity for the cross-city tunnel. An assumption in determination of the expansion factor was that, in fact, there were nine traffic lanes on the Sydney Harbour Bridge; in fact, there were only eight traffic lanes at the time the analysis was undertaken. The expansion factor, using the same analysis, was increased from 10 to 11.25 and, using the same calculations, would generate a ceiling capacity of 90,000 rather than the 80,000 quoted yesterday. At the very least I have some issues with the calculations.

**CHAIR:** What percentage of traffic coming from the east from beyond Rushcutters Bay has the CBD as its destination and how does the tunnel help them to get there?

**Mr WIELINGA:** We will have to take the question on notice but normally people coming from the east end of the cross-city tunnel would take the ramp up into Sir John Young Crescent and enter up via Shakespeare Place.

**CHAIR:** So they would not use the cross-city tunnel?

**Mr WIELINGA:** Cross-city tunnel, yes.

**Mr FORD:** Would you mind repeating the question, Mr Chairman?

**CHAIR:** The question is: What percentage of traffic coming from the east from beyond Rushcutters Bay has the CBD as its destination and how is the tunnel helping them to get there?

**Mr FORD:** Just picking up on Mr Wielinga's comment, that traffic would largely be on the surface however, depending on where in the CBD the destination was, would depend on how much of that traffic would divert to the cross-city tunnel. Again, we would have to have a close look at that for you.

**CHAIR:** So people who want to get to the CBD would not use the cross-city tunnel?

**Mr FORD:** Some traffic would, but it is that percentage I will have to come back to you.

**CHAIR:** Are the journey times for people coming from the east of the CBD now longer than they were before the changes to the surface roads were made? Have you done any calculations?

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**Mr WIELINGA:** No. Under the conditions of approval for the project, the RTA was required to do a number of background works before the tunnel opened to monitor traffic and to find out traffic times on screen lines. The conditions of approval require us to come along at regular intervals after the tunnel is opened—from memory, I think it is 12 months and three years. They are the dates that are mentioned in the conditions of approval. It is probably appropriate that the most useful information will come after the ramp-up period occurs on the cross-city tunnel. We have spoken before about that ramp-up period being 18 months or a couple of years. But after that ramp-up period occurs, useful information about changes in traffic movements and traffic times will become available out of that study.

**CHAIR:** Moving in a different direction, the RTA decided to undertake a supplementary EIS following project approval by the budget committee of Cabinet in February 2002. On whose advice was that decision made? Did the Government through the budget committee of Cabinet or by any other means have the opportunity to review the proposal once significant changes presented in the second EIS had been made?

**Mr WIELINGA:** As part of our recommendations for the preferred option for the cross-city tunnel, the physical new project was described. As you will probably be aware, under the planning Act when we want to make a modification to the project we go through a new environmental assessment process. That would normally involve initially a review of environmental factors. You would consider the impacts and you would decide whether a supplementary EIS would be required. In this particular case we felt that a supplementary EIS was the more appropriate and conservative approach. We took planning advice from Clayton Utz and Brian Preston, Senior Counsel. A number of factors are taken into account in looking at this. We were keen to do a comprehensive job in describing the modified project. That was the prime purpose of the supplementary environmental impact process: to detail out the physical project and to obtain comments from the community.

We got detailed requirements from Planning NSW and the EPA about how they wanted us to go about that study work, and they were consistent with what we would normally get with an EIS process. We decided that we would display it for 30 days instead of 14 days as an REF, which was consistent with an EIS process. We felt it was important to provide a comprehensive representations report, addressing community submissions. We received more than 1,000 community submissions on the project. So the prime purpose of the supplementary EIS process was to define and obtain comment on the project that is currently being built.

**CHAIR:** Was the budget committee of Cabinet informed of, and did it provide any approvals for, the first amendment deed?

**Mr HANNON:** The first amendment deed was approved by our Minister. We spoke to the Treasury and the Treasurer approved the first amendment deed. I am not aware of it being referred to Cabinet.

**CHAIR:** You indicate in your earlier submission that the RTA had regular face-to-face meetings with the Minister for Roads as the cross-city tunnel project progressed. What other means of interaction are there between the RTA and the Minister's office? Did the RTA have regular contact with anyone else in the Minister's office and did that personnel change with the change in Minister?

**Mr HANNON:** The RTA has regular interface with the Minister and the Minister's staff. That interaction takes the form of meetings in the Minister's office, where a program of projects is usually discussed. Sometimes there are site inspections with Ministers. There are telephone conversations. So there is the normal interface between an agency and a Minister and the Minister's staff.

**CHAIR:** When the Ministers change there would be a change in the staff situation.

**Mr HANNON:** There is usually a total change in the staff but the interface is still the same. Meetings are held, inspections of sites are held and there are telephone conversations and the like. When we go down and talk to Ministers we usually talk about a series of projects.

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**CHAIR:** Did you seek any advice from the Minister or his office regarding the publication of the first amendment deed or its impact?

**Mr HANNON:** I am not aware of us seeking advice from the Minister.

**CHAIR:** What are the RTA's contingency plans if the tunnel patronage levels are not reached and the East Sydney area continues to be heavily congested?

**Mr HANNON:** Like any new project, we will keep the cross-city tunnel project and the impacts of the cross-city tunnel project under regular monitoring. At this point in time there is a lot of work still happening on the surface streets and until such time as we finish those works, which will be finished in the next few months, we are not in a position to say exactly what the final outcome will be. But, as we indicated in our first presentation to this Committee, the ramp-up period for these sorts of projects varies. In this case our expectation is that it will take a year or two and obviously during that period of time we will monitor what happens in the tunnel and we will monitor what happens on the local streets. And we will take appropriate action.

**CHAIR:** Thank you. I acknowledge that there are present, at the request of this Committee, members of the RTA who will act as advisors. We thank them for their attendance to assist the panel. I have a question for Mr Wielinga. In an update on the negotiations and options concerning the business consideration fee to be received on the cross-city tunnel, dated 2 September 2002, you indicated with reference to proposed toll escalation regimes that, "Proposals from all proponents have been checked to assess the impact of 3 per cent and 4 per cent toll escalation regimes. These do change the order of proposals as detailed in the recommendation report". Can you explain that comment?

**Mr WIELINGA:** I believe there is a typographical error in there: there is a word missing. We did do an assessment of the 3 and 4 per cents. It had no impact on the order of proposals that we received and that comment is intended to express that view. It is a typographical error in what I think is a draft briefing note.

**CHAIR:** We will show you the document where that comment from you appears.

**Mr WIELINGA:** Thank you.

**CHAIR:** Can you explain the meaning of your comment?

**Mr WIELINGA:** Are you referring to the last dot point?

**CHAIR:** Yes. The quote commences with the words, "Proposals from all proponents".

**Mr WIELINGA:** Yes, this is a draft briefing note. It was circulated within the RTA. It is not the final version of the document. It was just used as a framework to discuss where we were at with RTA senior management. There is a word missing there. It is self-evident that it should read, "Proposals from all proponents have been checked to assess the impact of 3 per cent and 4 per cent toll escalation regimes. These do not change the order of proposals as detailed in the recommendation report". If that were not the case we would have put some more detail of how it affected that.

**CHAIR:** So the word "not" is missing.

**Mr WIELINGA:** Yes, it is.

**CHAIR:** We will insert that.

**Mr WIELINGA:** Thank you.

**The Hon. GREG PEARCE:** To follow up on that point, you may not have been given the final version. Yes, that was a draft but I have in my hand the final version, which you signed on 3 September 2002. It has your signature on it. It has a number of amendments, including additional paragraphs from the earlier draft. You are saying that you missed that amendment.

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**Mr WIELINGA:** What I am telling it is what I believe to be correct. That statement is incorrect: the word "not" should be in there. I need to have a look at that document. The outcome of all of this culminated in our pre-signing and finalisation report, which this Committee has seen. What I am telling you is correct.

**CHAIR:** I have one further general question. What process will be followed to determine whether Bourke Street will remain closed or be reopened? Is it simply down to majority community opinion or are there other factors that will be taken into account? If so, what are those factors? As you know, the Bourke Street closure seems to be one of the controversial matters. We are hearing evidence for and against that closure.

**Mr WIELINGA:** Yes, that is correct. This Committee is probably aware that on the RTA web site there is a report in response to condition No. 288, which dealt with the study that the RTA was required to carry out associated with Bourke Street. That report details the objectives, the performance indicators and the measures that were going to be used to make that decision. You would probably be aware that we are required by the Department of Planning to undertake a review at six months and 12 months. Recently the RTA project team that is working on this sent a community consultation process out for community comment. It may have already been mentioned here in the last couple of days. The RTA is seeking comment on that. In that document—which we are happy to provide you with a copy of—it details how the RTA proposes to go about it, what it is going to take into account and those sorts of things. We have asked the community members for comment on it.

It is important to emphasise that issues like this are difficult to deal with. We do get a range of views from the community about what the right outcome should be. It is very important to us that we fully understand the issues. We get to understand those issues by discussion with community people. We try, as a matter of course, to agree a process with them up front. We try to get a maximum amount of participation. We try to develop a logical process for making the decision and involve them in it. But very, very often at the end of the day the RTA makes a call because of the range of views and we explain why we made that call in the report, such as the condition 288 report that goes on the web site.

**CHAIR:** Can you table the document that you just referred to? Do you have a copy with you?

**Mr WIELINGA:** I might have one with me.

**CHAIR:** Apparently we have it already. It is available publicly.

**Mr WIELINGA:** That is the draft that has gone out. We also have a copy of the 288 report on the web site if you would like that as well.

**CHAIR:** Does the closure or opening of Bourke Street have any effect on the contract with the Cross City Tunnel Consortium?

**Mr WIELINGA:** The rules around Bourke Street associated us with satisfying the requirements of condition 288. It is important that I get appropriate legal advice before I finalise the advice on it, but I believe, whatever the process under 288—

**Mr JOHN TURNER:** You should know by now, surely.

**Mr WIELINGA:** I am telling you now that I believe that whatever comes out of condition 288 will be the final decision. It will be the outcome of the community consultation associated with Bourke Street. The condition states that we ought to assess this subject to the Department of Planning's agreement to the outcome. That would be the final outcome on Bourke Street.

**CHAIR:** Are you saying that it does not have an effect on the contract?

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**Mr WIELINGA:** No. All I am saying is that I would like an opportunity to take that question on notice to ensure that what I am saying is correct.

**CHAIR:** You will take that on notice?

**Mr WIELINGA:** Yes.

**CHAIR:** Thank you. Can we table that draft copy?

**Document tabled.**

**Mr ANDREW CONSTANCE:** Have there been any traffic phasing changes as a result of the cross-city tunnel?

**Mr FORD:** The short answer is, yes. There has been a significant number of changes to traffic signals both in the city and on the approaches the city as a result of the introduction of the cross-city tunnel. Those changes primarily relate to the phasing of the traffic signals and the allocation of time to different roads during different peak periods. The signals are controlled by traffic signal co-ordination software called the Sydney Coordinated Adaptive Traffic System or SCATS. It allocates green time and cycle times on the basis of the prevailing traffic densities at the time within the framework of traffic co-ordination plans. It is those plans to which I am referring, together with the individual phasing arrangements at different intersections where the changes have been made. The changes involved are widespread, affecting the phasing of intersections and the operation of intersections, as well as the operation, co-ordination and planning of intersections on the approaches to the city, from the east and the west particularly, and within the city itself. It is a major task to go through each one in detail, but we could attempt to make it available.

**Mr ANDREW CONSTANCE:** Please provide the committee with the list of traffic intersections that have had light phasing changes as a result of the cross-city tunnel.

**Mr FORD:** I could make a available a list of all the intersections where physical changes have been made.

**Mr ANDREW CONSTANCE:** That was not my question; my question related to traffic light phasing. Please provide the committee with a list of those intersections where traffic light phasing has been changed as a result of the cross-city tunnel.

**Mr FORD:** That would total approximately 400 intersections. Every intersection in the city would have undergone changes to cycle time and green time depending on traffic densities.

**Mr ANDREW CONSTANCE:** Please provide that list.

**The Hon. GREG PEARCE:** Presumably there would be a range of changes. In other words, each of the 400 lights would not have a different change; there would be a pattern, and changes would then apply to a number of lights. Is that how it works?

**Mr FORD:** No, it does not work that way.

**The Hon. GREG PEARCE:** How does it work?

**Mr FORD:** Within the city area we have approximately six regional computer networks. Under SCATS each of those networks controls the operation of signals in that part of the city. For example, the CBD can effectively be broken into two or three networks. The eastern suburbs area is a network in its own right. The approaches from the western part of Sydney to the CBD operate under two or three caverns or networks. Each operates independently during the off-peak periods and they come together very strongly during the peak periods, for example, on a common cycle time. We call that system "marriage" under SCATS. Any changes that occur are largely driven by traffic density changes on the roads. Those changes are measured through loop detectors embedded in the pavement. They generate a call between different sub-networks to marry on a common cycle time or to what we

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call "divorce"; that is, to split, to run isolated or to generate what we call a "green band" along a section of road; for example, New South Head Road.

The best example I can think of is part of the cross-city tunnel. During the ramp-up period we installed a number of what we called "queue detectors" on New South Head Road. These detectors measure traffic densities progressively, and particularly during the p.m. peak. They generate a link from Rushcutters Bay all the way to Double Bay, depending on what densities are prevailing at the time, or a subsequent link from Rushcutters Bay to Ocean Street at Edgecliff if the densities drop. Those detectors drive a maximum site time of, I believe, about 160 seconds. They can be linked all the way to Double Bay. The variation in that area alone on a hour-by-hour basis would be very significant, and that is only one corridor.

We recently responded to a freedom of information request by pulling out all the changes that occurred in Paddington, Ultimo, Glebe, Darlinghurst, Bellevue Hill, Double Bay, Edgecliff, Rushcutters Bay, Woollahra, East Sydney, Woolloomooloo, Haymarket and the Sydney CBD. It ran into millions of discrete changes at different times of the day —

**The Hon. GREG PEARCE:** You have pulled that out?

**Mr FORD:** Yes.

**The Hon. GREG PEARCE:** Then you can provide it to the committee.

**Mr ANDREW CONSTANCE:** Why can you not provide it to the committee?

**The Hon. GREG PEARCE:** You have extracted that information.

**Mr FORD:** Yes, it is in code form.

**The Hon. GREG PEARCE:** It is in coded form, is it?

**Mr FORD:** Yes.

**The Hon. GREG PEARCE:** So, some lurking computer underground is the only one that knows what is going on. No-one in your organisation —

**Mr MATT BROWN:** How ridiculous! That is very rude.

**Mr ANDREW CONSTANCE:** We are into rudeness.

**The Hon. GREG PEARCE:** Is there a person who approves the changes?

**Mr FORD:** Yes.

**The Hon. GREG PEARCE:** We would like to see what that person approved.

**Mr FORD:** As I said, I can make available details of the changes to each intersection involved. I am simply pointing out that a series of changes occur automatically as a result of changes in traffic densities in different parts of the network. Our signal co-ordination software automatically makes those adjustments through the SCATS system to the sites.

**Mr PAUL McLEAY:** Do you regularly change the phasings in the CBD?

**Mr FORD:** The timing of the signals in the CBD would change in every cycle.

**Mr ANDREW CONSTANCE:** Was there any consultation between the cross-city consortium in relation to traffic light phasing in the city?

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**Mr FORD:** Within the city itself most of the changes to the traffic light phasing arose from the changes to the operation of the road network, which in turn were generated directly as conditions from the director of planning.

**Mr ANDREW CONSTANCE:** I repeat my question: Was there any input from the cross-city motorway consortium to the RTA about traffic light phasing?

**Mr FORD:** Yes, there was.

**Mr ANDREW CONSTANCE:** Who was involved?

**Mr FORD:** I was personally involved in a number of those discussions. Other members of the RTA were involved in other discussions.

**Mr ANDREW CONSTANCE:** Did the cross-city motorway provide you with any written documents in relation in the traffic light phasing?

**Mr FORD:** Not that I am aware of.

**Mr ANDREW CONSTANCE:** Are there minutes or notes of those meetings?

**Mr FORD:** I am sure there would be minutes of the meetings, but perhaps Mr Wielinga can comment on that.

**Mr WIELINGA:** I am not aware of any minutes or notes. I was not directly involved in any of those meetings.

**Mr ANDREW CONSTANCE:** Mr Ford was. Can we please have access to those minutes and notes?

**Mr FORD:** Yes.

**The Hon. GREG PEARCE:** There was a suggestion yesterday that the termination of this contract might not be precisely on the date that the concession ends and that it could be extended to enable the operator to reach its equity return. Can you clarify that?

**Mr HANNON:** That is certainly not the case, but I will get Mr Skinner to provide more detail.

**Mr SKINNER:** I am aware of the comment made yesterday and I am unclear how that conclusion came about. It is clear through the competitive process of requests for proposals that each proponent put forward its bid and each bid had different assumptions. The discussion yesterday seemed to focus on a 16 per cent guaranteed internal rate of return on equity. That was the CCM proposal; the other proposals had different assumptions. Many of those assumptions are in a forecast stage for the proponents. One of the big requirements in their assumptions is traffic risk and patronage, which largely drives their revenue base, and that is what drives the internal rate of return on their equity.

**The Hon. GREG PEARCE:** I want clarification that the contract ends on the termination date.

**Mr SKINNER:** I direct your attention to clause 2.2 of the project deed. It is pretty clear that we are not taking any revenue risk and, therefore, any internal rate of return risk. Therefore, there is no extension of the contract.

**The Hon. GREG PEARCE:** Not just "pretty clear"; it is a question of certainty that the contract ends.

**Mr SKINNER:** It is in the contract.

## CORRECTED TRANSCRIPT

**CHAIR:** That is the 30-year period; it is when the ownership of the tunnel returns to the State. When will that be?

**Mr SKINNER:** It is stated in the contract, but I am not sure of the exact date.

**Mr WIELINGA:** It is 30 years and two months.

**CHAIR:** Exactly 30 years?

**Mr WIELINGA:** No. It is 30 years plus two months. It is stated in the contract.

**Mr SKINNER:** It is a fixed period and it is spelt out in the contract.

**CHAIR:** There is no vague wording.

**Mr WIELINGA:** No, it is very clear and it is approximately 30 years; it is spelt out in the contract.

**The Hon. GREG PEARCE:** Perhaps you can give us the dates.

**Mr WIELINGA:** We will.

**The Hon. GREG PEARCE:** I would like to clarify a couple of issues in relation to the business consideration fee. In response to various questions, and most recently questions on notice, the RTA's budget for the business consideration fee was \$98 million approximately; is that correct?

**Mr WIELINGA:** At the time of financial close, that is correct.

**The Hon. GREG PEARCE:** What was it at the time of acceptance of the preferred tender?

**Mr WIELINGA:** It was very close to that, but —

**The Hon. GREG PEARCE:** It was what?

**Mr WIELINGA:** It was close to that, but a slightly smaller figure.

**The Hon. GREG PEARCE:** In the mid-90s?

**Mr WIELINGA:** Yes, but I would need to confirm that number.

**The Hon. GREG PEARCE:** Please confirm the figure as at the February date. In the emails dated from June onwards is up to \$98 million. At the time that the non-conforming bid was confirmed, the successful tenderer proposed a payment of \$100.1 million as a business consideration fee; is that correct? That is from your chart in the finalisation report.

**Mr WIELINGA:** If you are reading from that, it would be correct.

**The Hon. GREG PEARCE:** The two bids from the other tenderer you were still dealing with had minus \$28.1 million or minus \$42 million. So the other bidder was not prepared to pay anything to the Government; in fact, it wanted to be paid \$28 million or \$42 million.

**Mr WIELINGA:** If you are reading from the document, I accept that.

**The Hon. GREG PEARCE:** Can you explain how the Cross City Tunnel Consortium came to lodge a non-conforming bid that required a new EIS that precisely, or almost precisely, gave you the business consideration fee that you were looking for?

**Mr WIELINGA:** The bids were received from all proponents on the closing date for the proposal. Their options were included in the proposals received at the time. Other proponents provided other options as well. Those bids were received with the probity auditor present. RTA had a

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very strong probity process around this project that extended from the time the tender period commenced. Our probity auditor, Peter Gifford, an ex-ICAC director, was on board from day one and attended all of our meetings and the assessments. RTA put into play normal precautions for need-to-know on information associated with these projects. It is normal in these projects that people are shown information on a need-to-know basis.

**The Hon. GREG PEARCE:** Can you assure the Committee that no one from the RTA or its legal advisers gave any indication to the cross-city tunnel consortium or their advisers as to the business consideration fee you were looking for?

**Mr WIELINGA:** I am not aware of any of that. What I can say to you is that everybody that was involved in the project assessment was required to sign a confidentiality deed; they did so. They were required to sign a conflict of interest statement; they did so. As I said we put in place the normal good management processes for running this tendering process. Our probity auditor spoke to all of the evaluation team members. They were constantly invited to address any issues with the probity auditor if they arose. The probity auditor also engaged with the proponents on the bid and confirmed with them that they had no probity issues associated with the project. We followed appropriate process. I am not aware that that could have occurred.

**The Hon. GREG PEARCE:** So, you are suggesting that, just by good fortune, they came up with a payment to the RTA, which is what you were looking for, whereas the other two tenderers were not prepared to pay you anything.

**Mr WIELINGA:** I am telling you that that was the outcome of the tender submission process, yes.

**Mr SKINNER:** Could I just add to that?

**CHAIR:** Yes.

**Mr SKINNER:** I think in this debate it is probably worth clarifying how the fee is calculated, because it is quite complex and involved. It all revolves around the financial base case model. Each proponent provides us with one of those as part of the bid. You are correct in saying that a number of the proponents had differing outcomes of their proposals, some of which wanted us to pay money to them to take—

**The Hon. GREG PEARCE:** Well, all of them, other than the successful bid.

**Mr SKINNER:** No. I do not presume that. In fact, I think the previous motorways—this is probably the first that we have actually had any payment made to us in this approach. But, in the financial base case models, I think this might be the first project in respect of which we have actually had access to the detailed financial calculations on these proponents. We were able to see how they calculated that process. It all comes back to how they put together their design and the construction, what they factor into the operating costs and what their assumptions are on interest rate movements. It is fair to say that even when the preferred proponent was put forward, from that day to financial close in December, that number was never certain until financial close date, because—

**The Hon. GREG PEARCE:** As at the date that the preferred tenderer was selected somehow, based on the tender that you had to put out there, no one was prepared to give you the business consideration fee that you were budgeting for, except that this tenderer came up with a non-conforming bid, a very different project, which required a new environmental impact statement study. Magically, by telepathy or something, they came up with the right figure to meet your requirements. Then you went into the negotiating process and I note that on the MND finalisation report you suggested the various components, the sums that gave you that, should not materially have changed. But, during the negotiation period there were some material changes, were there not?

**Mr JOHN TURNER:** We did not get an answer to that. I think the witness nodded.

**Mr SKINNER:** I am not sure what the changes were.

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**The Hon. GREG PEARCE:** Well, the things that I am talking about are the changes. The insurance changes, the Cowper Wharf road reduction in traffic and other costs, the air quality of the ventilation shaft, the impact of the Eastern Distributor, the differential tolling with the issue on cars and heavy transport, the Kings Cross tunnel eastern end grid, all of those things in the negotiating led to significant changes to the amount that the RTA could expect to receive, did they not?

**Mr WIELINGA:** That is correct.

**The Hon. GREG PEARCE:** I will read you just some of the emails. You know about them already; we have already talked about some of them. At various times there are suggestions that the amount payable to the RTA would have reduced by \$54 million or \$75 million and various other figures. That is correct?

**Mr WIELINGA:** Yes, there are details in the finalisation report of what all of those changes were and the financial impact of them.

**The Hon. GREG PEARCE:** Yes. Amazingly again, during the negotiating process the proponent was able to come up with a proposal that the tolls be increased—sorry, that the increases in the tolls be increased from the consumer price index [CPI], various increases, both in the quantum of the toll and also in the annual increases. That is correct, too, is it not?

**Mr WIELINGA:** Yes, they did put some proposals to us and there were negotiations about the tolling regime.

**The Hon. GREG PEARCE:** And, at the end of the day you accepted their proposals, did you not? They included the 4 per cent minimum increase and the 3 per cent minimum increase and those changes?

**Mr WIELINGA:** They put a proposal to us and it was subsequently changed in negotiations to be a gradative regime from 4 per cent down to 3 per cent back to CPI.

**The Hon. GREG PEARCE:** At the end of the day you ended up accepting their proposals, having checked them yourself, and that led to the result that you managed to get a business consideration fee of just on \$97 million when your budget was \$98 million. Again, can you assure me that no one in the RTA, or your advisers, gave any indication to the cross-city tunnel consortium or their advisers as to the amount that you were looking for in the business consideration fee?

**Mr HANNON:** Mr Wielinga has already given you that assurance, and as far as I am aware—

**The Hon. GREG PEARCE:** He gave me that assurance in relation to the initial tender, when the tenderer came up with a totally different project, which magically gave you the figure. You then went through all these other changes and—surprise! surprise!—much to the exact figure and again. How did that happen?

**Mr WIELINGA:** At no time did we discuss with them what the RTA wanted for this project. What happened was that all of those changes were figures that we negotiated with the proponent. They knew that we were dealing with just the size of those particular changes. That is what we were doing.

**The Hon. GREG PEARCE:** The reality is that your negotiating process was sham, was it not?

**Mr WIELINGA:** No.

**The Hon. GREG PEARCE:** Because all you did was spend your time working out what all the changes cost and then work out a way with the proponent to fund those changes to make sure that the RTA got the amount of money you wanted to receive.

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**Mr WIELINGA:** The whole process was monitored by the probity auditor. What we did was an appropriate negotiation—

**The Hon. GREG PEARCE:** Well, it was dishonest, was it not? I mean, it verges on corrupt. You worked your way through—we could go through chapter and verse if we had time—all of these changes and you came up with a way, in your so-called negotiating period, to fund them so that you, the RTA, still got your budgeted business consideration fee.

**Mr WIELINGA:** RTA did have an objective—

**The Hon. GREG PEARCE:** It did not matter what you had to do, whether you changed the scope of the project or increased the tolls. It did not matter what you did. You were quite happy to just gets there, reach the figure.

**Mr HANNON:** May I say that what you have to appreciate is that the actual amount of money that came to the RTA was very much subject to the date on which we were going to close the deal and interest rates that were around at that point in time. It was not as though a number was fixed and we were working towards a number. It was the amount of money that we were going to get, when you applied the analysis to the model—

**The Hon. GREG PEARCE:** With respect, Mr Hannon, if you take yourself through the emails and the calculations, certainly from June, the figure does not vary. Whilst I accept what you are saying that there was an interest rate calculation at the end, the figure does not vary.

**Mr HANNON:** I will get Mr Skinner to expand upon that.

**Mr SKINNER:** Yes. The interest rate did vary and I think the number we are talking about swung wildly with interest rate movements alone. I think the issue you are talking about there is particular changes that were required by the scope and others, and the number came back with those proposals to around the \$100 million mark. However, leading right up front the point of us putting forward proponent through to financial close in December, with interest rates moving, we were losing out of that BCF somewhere in the order of \$20 million to \$30 million to \$40 million, depending on interest rate movements alone. So it was certainly not guaranteed at any point in time to get that number.

**The Hon. GREG PEARCE:** No, but you manage to come up with a scheme by increasing the tolls to make sure that you did get to the number.

**Mr SKINNER:** I think you are talking about one instance, though. If you look—

**The Hon. GREG PEARCE:** Well, you managed to twist and turn through the negotiations to make sure that at the end of the day you got to your number, and somehow the cross-city tunnel consortium knew to come into the proposals that helped you to get to that number again. And you did not go out to tender again. You had a different project, you had different toll levels, but you did not go out to tender. You had this sham negotiating process—

**The Hon. Amanda Fazio:** Point of order—

**The Hon. GREG PEARCE:** —during which you maintained this payment to the RTA. That is the impression

**The Hon. Amanda Fazio:** Point of order: My point of order is that the Hon. Greg Pearce is asking questions of the witnesses and interrupting their answers. He is not asking questions; he is just making unsubstantiated allegations and putting them on the public record. The purpose of today's hearing is to ask questions of the witnesses and to get their answers. It is not for Committee members to make statements. If the Hon. Greg Pearce has any concrete information to back up the spurious allegations he is making, he should put it on the table. I ask you to call him to order and to allow the witnesses to answer the questions asked of them.

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**CHAIR:** With regard to the point of order, would the honourable member refrain from adding descriptive words such as, "sham".

**The Hon. GREG PEARCE:** That is my opinion.

**CHAIR:** It need not be part of the question.

**Mr HANNON:** May I say what we said at the last two hearings, that is, that the process that was put in place was a process overseen by a review committee. The review committee comprised the Chairman of the State Contracts Control Board, a senior manager from Treasury and senior executives from the RTA. As Mr Wielinga indicated, we had a probity auditor who took part in every significant negotiation throughout the whole process and signed off on the process at the end of the day before it was submitted to Cabinet. With an overview of the negotiation process, and the fact that there were very limited people within the RTA and elsewhere that were aware of the negotiation process and the dollars that were being discussed, we are satisfied that the process that was followed was as good a process as you would get anywhere.

**The Hon. GREG PEARCE:** Do you agree with the Dr Richmond's conclusions in his review of motorways that this approach of seeking an upfront business consideration fee is not appropriate?

**Mr HANNON:** We complied with government policy at the time, as we indicated during the last Committee hearing. Mr Richmond has undertaken a review. The RTA was very much a part of that review. The Government has adopted the recommendations of the Richmond review, and, going forward, that is the way things will be done. But we operated under the Working with Government guidelines and those guidelines were quite different.

**Mr JOHN TURNER:** Will you confirm the name of the probity auditor, please?

**Mr HANNON:** Peter Gifford, who was formerly the Director of Corruption Prevention and Education at the Independent Commission against Corruption.

**The Hon. GREG PEARCE:** Have you done any further work on the amount of compensation that would be payable if the Government bought out the tunnel operation and reversed the rate changes?

**Mr HANNON:** We have got some traffic numbers that have been forecast, but at this point in time, as I indicated earlier, we are looking at a significant ramp-up period and we need to sit back and review what happens before we do any of those sorts of numbers.

**The Hon. GREG PEARCE:** You are doing the work?

**Mr HANNON:** Some traffic numbers have been produced.

**Mr ANDREW CONSTANCE:** Have you given any consideration to shadow tolling?

**Mr HANNON:** Shadow tolling?

**Mr ANDREW CONSTANCE:** Yes.

**Mr HANNON:** Mr Skinner can certainly address shadow tolling if you would like him to do so.

**Mr SKINNER:** The question was have we done any work on shadow tolling. I think the answer is no. We are aware of it and aware of the tax implications, but in regard to this particular project that has been no work on shadow tolling, no.

**Mr MATT BROWN:** Is the 16 per cent return guaranteed to CCT consortium, as claimed in evidence yesterday?

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**Mr SKINNER:** I think I have already addressed that somewhat in answer to a question from Mr Pearce. It comes back to the point about individual proposals that are put forward by each proponent and how they put forward their own internal rates of return; and, as a consequence of those submissions they take on their own significant risks and do the assumptions in those proposals. The major risk there is the revenue generation, which is based on traffic projections. That risk is purely borne by the proponent in the situation. The contract, the project deed that we have signed with the consortium clearly outlines that risk as the consortium's risk and there is no option for extensions of contract or payments from the RTA to the consortium so that they can recoup.

**Mr MATT BROWN:** So there is no guarantee?

**Mr SKINNER:** There is no guarantee.

**Mr MATT BROWN:** The Committee heard this morning about tunnel air quality. Can you tell the Committee about the design and operation of the cross-city tunnel and the air quality standards that have been applied to the tunnel?

**Mr WIELINGA:** I guess the first thing to say is that the compliance standards for the air quality condition standards for the cross-city tunnel are defined in the conditions of approval for the project. There are some in-tunnel quality air standards associated with carbon monoxide—that is, 87 parts per million over 30 minutes; 50 parts per minute over 15 minutes. The way the carbon monoxide issue has been addressed in the ventilation design of the cross-city tunnel is with the ventilation shaft. I can talk a little more about that in a moment. What needs to be appreciated with air quality issues is that the standards the RTA needs to comply with are defined in those conditions of approval by the Department of Planning. They do so in consultation with the other agencies such as the Department of Health and the Department of Environment and Conservation. They set those standards for public health reasons. Once those standards are set the RTA and its design contractors need to come up with a ventilation standards system that meets those standards. That is the key issue. We need to design a system that meets the standards. It is not how it is done. It is the standard that is achieved that is important.

When you are looking at these sorts of issues in tunnel, you have to take into account the carbon monoxide and nitrogen oxides and particulate matter and other compounds as well that are associated with fuels. You need a system that addresses all of those, not just some of them. The ventilation system that is currently going into the cross-city tunnel will meet the required standards and it has been designed to do so.

**Mr MATT BROWN:** Why was there no requirement for tunnel filtration in the tender documents or the final CCT contract?

**Mr WIELINGA:** As I said, it was important that we meet the compliance standards for the project. The design we have does that. If filtration is required at some time in the future the conditions of approval provide for us to provide that. We can retrofit it later on by the ventilation stacks if that is required. But we are going to meet the compliance standards for air in the tunnel. We believe the design we have will do that. We have a competent contractor on the project and the conditions of approval and the contract make clear what their obligations are.

**Mr MATT BROWN:** I just want to address a question to Mike Hannon. Is the RTA currently considering buying out the tunnel operator? Is there work under way here for this purpose?

**Mr HANNON:** The Government is not considering buying out the tunnel operator, as I understand it.

**Mr MATT BROWN:** We also heard some evidence about the work done on the Anzac Bridge. How was that funded?

**Mr HANNON:** The work done on the Anzac Bridge was funded out of the RTA's normal operating programs. Some work was done on the Western Distributor adjacent to the cross-city tunnel which was funded by the cross-city tunnel. But the additional lanes on the Anzac Bridge were funded out of the RTA program.

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**Mr PAUL McLEAY:** What was the work that was funded by the toll increase?

**Mr WIELINGA:** They were physical scope changes to the project, mainly around the conditions of approval. Under the conditions of approval the RTA was required to make extensive consultation associated with the urban design for the project and changes in William Street. When you are dealing with a very complex environment like the central business area of Sydney where you are going underneath multistorey buildings and basements and tunnels and impact on those sorts of things, you sometimes get physical scope changes to projects that could not have been forecast by anyone. The RTA might want to direct some physical changes. If we direct those changes that are needed to make the project function properly, that is what those funds were utilised for.

**Mr PAUL McLEAY:** Just to clarify a few issues that have been raised over the past few days: has the contract impacted on the Government's ability to provide public transport now and in the future?

**Mr HANNON:** The short answer is no but the detail—

**Mr WIELINGA:** We have appropriate advice that that is not the case. If a new public transport system is developed in parallel with the tunnel, for example, or existing public transport routes increase patronage and so forth, there is no exposure to RTA or government on that.

**Mr PAUL McLEAY:** What sort of risk is transferred to the private sector in the cross-city tunnel contract and what are the advantages to transferring this risk?

**Mr HANNON:** The risks the consortia have taken on in this project are the ones which in the main are spelt out in the working with government document. They are responsible for financing. Obviously they are responsible for the design, the construction, the operation and maintenance of the tunnel for the 30-year-plus period they have the tunnel for, and all the associated things that go with that, all the industrial relations and safety risks and the like. They also take the revenue risk. So, the patronage the tunnel attracts is their risk, and of course they control that through the way they operate the tunnel, the tolling arrangements and the like. To the extent that that risk has all been contracted to them, any issues that arise out of the financing of the project, any construction issues that arise, any design problems they have and the ongoing operation and maintenance problems they have, are all to be borne by the consortia. There is no risk at all to government.

The only risk the Government took on and did not contract out would be the planning approval risk, and we got the planning approval before we closed out the contract, and the land acquisition risk, where we had to provide the available land so they could proceed with the project. Other than that—and probably changes in law—all of the risk associated with the project is fully borne by the consortia.

**Mr PAUL McLEAY:** The Committee heard yesterday that design changes are a major cause of cost blowouts. So, why is design changed?

**Mr WIELINGA:** I guess I should spend a couple of minutes talking quickly about the different forms of contract. Under the traditional type of contract where you get a client to design and a contractor to build, the client takes responsibility for the design. It is the traditional form of contract that is used mainly in the construction industry. In those circumstances, to give you a practical example, if a contractor goes in and starts building it to the client's design and they discover underground conditions that are inconsistent and make the design inappropriate and it needs to be modified—and that is common on civil engineering projects—the client takes responsibility for the design changes because they did the design, and they make the adjustment and work with the contractor to come up with an appropriate price.

There are various other forms of contract that progressively transfer some of the risks that Mike Hannon was speaking about. For example, with design, construct and maintain, that contractor gets an opportunity to do the design. They become responsible for the design and they become responsible for the sort of investigation work that leads into that design. All of the RTA's information is provided to them by way of the information documents. They are given enough time to develop a

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concept design. They become responsible for it and if anything is discovered on the site none of those design changes comes back to government.

With a big project it is taken a step further where they also finance it, and so forth, and there is a progressive transfer of risk with these different modes of contract. One of the principles with contracting and with dealing with contract risks is that the people who are putting the tender in need to have an ability to cost what they are facing. To give you a practical example on the cross-city tunnel, distinguishing between different design risks, that example I gave you earlier about a geotechnical risk, that design responsibility rested with the tollway consortium that had the contract with cross-city tunnel. But we had another situation where after the signing of the contract we had a condition of approval that required us to finalise the urban design on the project and the outcome of some of the service roads after the contract was executed. Because that could not be determined with reasonable accuracy upfront, it had to be dealt with in the process involving the cross-city tunnel. Because there were changes, that was applied exposure. That is how it was dealt with.

Again, it depends on the form of contract and it depends who is responsible for the particular risk. Mike spoke a little earlier about risks associated with projects. There was a brief discussion about this when we spoke about it in December and the importance of the Abrahamson principles when you are dealing with risk. You need to look at the nature of the contract, the work that is being asked to do, who can best control that risk, who gets the commercial advantage out of it if a risk is managed properly? They are important ingredients in deciding how risk is allocated under the contract.

**Mr PAUL McLEAY:** We heard yesterday from representatives of a community liaison group. When in the process are community liaison groups formed? What is their role, and how does the RTA support that role?

**Mr WIELINGA:** At the last hearing we had we spoke a lot about the consultation that happens. I think I talked about the project development phase and the project implementation phase where you do the actual design and construction. Community liaison groups for the cross-city tunnel played a prominent role during project implementation. But before I go into that a little it is probably worth my spending a few minutes about the RTA's approach to community consultation. It is a difficult area and we get a range of views from the community when we go out there and a lot of time is invested in dealing with those issues. But, as I said, it is very important to us that we understand the issues associated with projects and it is important to us that we try to find a way of dealing with them.

Each year the RTA delivers infrastructure works valued at more than \$2 billion. We have several or many communications officers, project managers or engineers on work sites. There are more than 200 projects at any one time where we are dealing with community members, at community halls and meetings. In 2004-05 we had 50 community liaison groups in progress. We had more than 400 community meetings or events in that year and more than 100 community newsletters went out to over one million people. That is more than one meeting every day of the week, Saturday night included.

We take a number of approaches in trying to get information out of people and we attempt to tailor this with the particular projects we deal with. We advertise displays in local newspapers. We write to directly affected property owners. We mailbox household newsletters, community surveys, and so forth. We provide web site information, media releases, telephone contact numbers and emails. We get a lot of help from local government because they know their areas very well and they can tell us the key stakeholders in the community that we can talk with, and we progressively build up a database as we go on. As I said, our real focus is on understanding issues and how we can deal with those.

As you go through the project phases you deal with a lot of issues in project development about what sort of project should be built and EISs and supplementary EISs and go out and deal with that. By the time you get to project implementation you tend to start dealing with different issues—the final design, the construction impacts particularly on the directly affected people—and your consultation tends to be a bit more focused on the direct area, the people who are putting up with the impacts during the construction. Everything we do with these projects is out in the public. They see what we are doing and what we are building, and they are the issues we try to focus on with our community liaison groups with the cross-city tunnel. As you are probably aware, we did set up four of

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those. They had a charter and procedures that were generally agreed in early meetings. I can provide a copy of the charter and procedures if the Committee is interested in looking at them.

### **Document tabled.**

In addition, during the construction process for the cross-city tunnel, there were a number of things we did and were required to do as part of the conditions of approval. We had to institute, publicise and list with the telephone company a 24-hour toll-free complaints contact telephone; record all complaints and had to respond verbally within two hours; provide a detailed written response within seven days prior to the commencement of construction and then, at three-monthly intervals, we had to advertise what was going to happen in the next three months of the construction, and advertisements appeared in newspapers, leaflets and community noticeboards and so forth. A project Internet site was established prior to the commencement of construction and that Internet site was maintained.

A project Internet site was established prior to commencement of construction, and that Internet site was maintained. We established the community liaison groups. There were four of those, plus an air quality consultative committee. A community involvement plan was prepared. The Director-General of Planning appointed an independent community liaison representative, and display centres as well were all a part of the project. You have already spoken to some of those community liaison groups. They were located at Darling Harbour, South Sydney, Sir John Young Crescent and Kings Cross, and an independent chairperson was appointed for each of those groups. I have given you a copy of those community liaison groups' charters. The minutes of all the meetings were prepared, and they are publicly available on the cross-city tunnel web site.

**Mr PAUL McLEAY:** How many submissions did the RTA receive in response to the release of the EIS and the supplementary EIS?

**Mr WIELINGA:** Originally, we received about 160, I think, and there were over a thousand for the supplementary EIS.

**Ms LEE RHIANNON:** I would like to give Mr Wielinga two pieces of paper that come from the documents released to Parliament in the last couple of weeks. There are two that I think are quite unrelated, but I think you will understand why I have given them to you together. The document on top is a handwritten note. It is headed "Discussion with Minister 19/11/03 re relocation of the stack". The document appears to be unsigned. It relates to a meeting with Mr Knowles. Is this note written by yourself? Were you the person who attended this late-night meeting with Mr Knowles?

**Mr WIELINGA:** I did not attend a meeting with Mr Knowles. I did write the note, but I did not attend a meeting.

**Ms LEE RHIANNON:** So you wrote this note up?

**Mr WIELINGA:** Yes.

**Ms LEE RHIANNON:** Could you explain how you came to write that note up, and who attended the meeting with Mr Knowles, please?

**Mr WIELINGA:** I will answer the second question first. I am not sure who attended the meeting. I cannot recall who that was. But at that particular time there were a number of discussions going on about relocating the ventilation stack for the cross-city tunnel into a building, and it was associated with that.

**Ms LEE RHIANNON:** Were these RTA people who attended the meeting?

**Mr WIELINGA:** As I said, I am not aware who attended the meeting.

**Ms LEE RHIANNON:** How were you able to write up the notes if you do not know who attended the meeting? How did you gain this information?

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**Mr WIELINGA:** I may have spoken to somebody from the Minister's office. I cannot recall. I would have to take it on notice and come back to you. Well, it may have been with the Minister too. I do not know. I just do not recall the meeting. I would need to think about it.

**Ms LEE RHIANNON:** I thought you said in fact you were not at the meeting, that you have just written up the notes.

**Mr WIELINGA:** No. You are talking about the meeting with Mr Knowles.

**Ms LEE RHIANNON:** Yes.

**Mr WIELINGA:** I did not have the meeting with Mr Knowles.

**Ms LEE RHIANNON:** Yes, I appreciate that. I am trying to understand how you came to write up the notes.

**Mr WIELINGA:** What I am saying to you is that I had a discussion with somebody.

**Ms LEE RHIANNON:** You had a discussion with somebody?

**Mr WIELINGA:** Yes.

**Ms LEE RHIANNON:** Would the names at the bottom of the piece of paper help to refresh your memory? I find it hard to read. It is your writing, so could you read out who these people are, please?

**Mr WIELINGA:** I can read out one of them. One of them is John Bastian. He is an officer with the Sydney Harbour Foreshores Authority.

**Ms LEE RHIANNON:** Right. And is that John Shirbin?

**Mr WIELINGA:** And that is John Shirbin, yes.

**Ms LEE RHIANNON:** So those are the people. Does that refresh your memory?

**Mr WIELINGA:** No, they were not—. That might have been a note that I put there. And, again, I cannot be sure of this, but that is somebody I should talk to about this issue.

**Ms LEE RHIANNON:** Were these meetings held regularly? Do you regularly write up notes from other people's meetings with the planning Minister?

**Mr WIELINGA:** No, not regularly, no.

**Ms LEE RHIANNON:** So does that mean what has happened here is quite irregular?

**Mr WIELINGA:** Well, there are a number of discussions that go on around major project issues. This note is just probably a reminder to me to go away and address the issue.

**Ms LEE RHIANNON:** Let us go through some of the issues. You have said at the top—and please correct me, because sometimes the handwriting is a little bit hard to read—"Planning will approve—" and I gather you mean the planning department—"Planning will approve even if slightly worse impacts." In what way would the impacts be worse? Are we talking about air quality and dispersion impacts?

**Mr WIELINGA:** I have no idea. What I must emphasise is that if we were in a situation where physical infrastructure has to be changed, we would do what was required of the Planning Act and we would go through an environmental assessment process. That is how it works. These things are put on public display, and the impacts are addressed. We always do that.

## CORRECTED TRANSCRIPT

**Ms LEE RHIANNON:** You are saying you will do what is required. But here you say "approve even if slightly worse impacts". You are just about the head of the show. You must know what was meant by that. These have not been written up by a receptionist or a stenographer; they have been written up by yourself.

**Mr WIELINGA:** Yes. Look, I cannot offer you any explanation other than what I have already given you.

**Ms LEE RHIANNON:** It does seem to imply that Planning would approve an inferior proposal in terms of air quality impacts. That is what jumps out of the page.

**Mr WIELINGA:** I can see that you are making that interpretation, but I cannot confirm that for you.

**CHAIR:** What was the date of that meeting?

**Ms LEE RHIANNON:** The date of the meeting is 19/11/03, and it is called "re relocation of the stack".

**CHAIR:** That is two years ago, or nearly three years ago.

**Ms LEE RHIANNON:** I appreciate that, Reverend Nile.

**CHAIR:** The point is that the witness may have trouble remembering all the details, so some of the specifics of the question may have to go on notice.

**Ms LEE RHIANNON:** Yes. There is another comment here, "Minister wants us to develop a proposal with minimalist involvement of RTA". Then it goes on, "Set out what the three parties should do. Maximum between CCM and SHFA". Again, can you detail what is meant by that? What were you referring to?

**Mr WIELINGA:** No. Look, I have to think about it. It is a long time ago. We will come back to you. I will take it on notice and see what I can do.

**Ms LEE RHIANNON:** Hopefully, we will have better luck with the final comments. You have got, under a heading "Telling Comments", "1. Our stack is big and ugly".

**Mr WIELINGA:** When I spoke about community consultation earlier to you I said that one of the key drivers for RTA is to understand the issue. If somebody has got a view about something, we tend to take that on board to see what we can do about it. If somebody had a view like that, we are not frightened of talking to people about it or dealing with it.

**Ms LEE RHIANNON:** So "Our stack is big and ugly", is that your comment in the notes that you have taken, or of the people who have relayed it to you, or of the Minister—"big and ugly"?

**Mr WIELINGA:** As I said, I need to refresh my memory of what happened at the time, and I will take it on notice.

**Ms LEE RHIANNON:** Considering you are saying to us that you do not remember who you talked to, how do you refresh your memory later if you cannot do that now?

**Mr WIELINGA:** Well, I will try and go away and look if there are other relevant documents, and try and get a context for it about what was going on at the time. That is the way these things have always happened.

**CHAIR:** Would you have a diary that you keep some record in?

**Mr WIELINGA:** No, I do not, Mr Chairman.

## CORRECTED TRANSCRIPT

**Ms LEE RHIANNON:** Under "Telling Comments" as well, "Maybe do some financial arrangement with SHFA". Do you have any memory on that one?

**Mr WIELINGA:** Well, all I can say is that there were discussions with SHFA about if things changed who should be responsible for the costs.

**Ms LEE RHIANNON:** What about this one, "Try and make it all CCM's problem"?

**Mr WIELINGA:** Look, again I will take it on notice, and I will do what I can to give you an explanation.

**Ms LEE RHIANNON:** Maybe to ask a little bit more there: Do you think that worked? Did it end up being CCM's problem? Were you successful there?

**Mr WIELINGA:** What needs to be appreciated is that this proposal never happened. The stack is where it is now. There was no relocation of the ventilation stack. Nothing changed from the original planning approval.

**Ms LEE RHIANNON:** This is obviously very crucial: there is an extraordinary amount of information there, if we can actually make the links. Would it have been the head of SHFA who met with the Minister for Planning on the evening of the 19/11/03?

**Mr WIELINGA:** I have already answered the question by saying I do not know. I will need to take it on notice and go away and think about it.

**Ms LEE RHIANNON:** On to another matter. We have heard in previous evidence that the toll has increased according to the CPI. I think you probably all remember those statements. Maybe this one is for Mr Skinner. Looking back at the contract, I note it allows the toll to be increased at the rate of 4 per cent per annum, with proportional increases applied quarterly. Do you agree that those statements you have made about the CPI are incorrect?

**Mr SKINNER:** Yes. The statements I made at the previous hearing reflected the potential value of the toll at \$3.56 at the moment. The tolling regime that is actually in place, which was stress tested against the other proponents, allowed for a floor of 1 per cent per quarter, which is the 4 per cent you are referring to, or the higher of the CPI. My comments about the value were more along the lines of what \$3.56 would be worth in today's affordability, I suppose. I suppose it is something that I was contemplating more along the lines of average weekly earnings, if you like, which actually increased significantly between 1999 to 2006. Really, what I was trying to indicate was that the \$3.56 at the moment, compared to the \$2.65 back in 1999, is better value than what it would be in regard to maybe a comparison with the average weekly earning, which has increased much higher than CPI.

**Ms LEE RHIANNON:** But the statement was made, time and time again, CPI. So was that something that was actually presented because you know in the public's mind it does not seem so bad; it actually seems fairly fair because costs are going up? Was it a piece of spin? I mean, it seems extraordinary that the CPI statement was made time and time again, and now you are correcting it.

**Mr SKINNER:** No. Look, the tolling regime was well thought through. A tolling level was put out as part of the EIS. There were a number of adjustments to it, and when the proponents came back with a recommended approach in terms of the regime itself, it was tested with the other proponents, and it still seemed fairly reasonable. So my comments at the last hearing were along the lines of CPI is one way of looking at the affordability, or the value for money, of a particular price. I am saying today that another way of looking at it would be the average weekly earnings have increased significantly between 1999 and 2006.

**Ms LEE RHIANNON:** You would probably be aware of Mr Sampson's submission, when he gave evidence, that the CCM would be entitled to catch up with increases not previously applied, because, as you know, there was that period when we did not get the 4 per cent applied. That means that there could be actually quite a jump in the toll, does it not?

## CORRECTED TRANSCRIPT

**Mr SKINNER:** Potentially. But it would all be part of the tolling regime that was submitted and tested through the appropriate processes of the deal.

**Ms LEE RHIANNON:** I want to move on to a question that might be for Mr Hannon. Last year, around December 5 or 6 I think it was, I understand that you got quite weighty legal advice from Mr Bret Walker. I would like to ask whether you will release the documents that you gave to Mr Walker that he required, or you believed he required, to give you advice on renegotiating the contract.

**Mr HANNON:** Yes, we can release those documents.

**Ms LEE RHIANNON:** Thank you very much. Also to Mr Wielinga: You said earlier, in response to a question, I think, from one of the Labor members of the inquiry, about public transport, that you had received advice. Can you provide the advice that the cross-city tunnel and related road changes will not impact on public transport?

**The Hon. AMANDA FAZIO:** That was not the question.

**Mr PAUL McLEAY:** That was not the question. I said "were related" and asked for his opinion.

**Ms LEE RHIANNON:** Yes. Mr Wielinga, I understand that you answered that question from Labor by saying that you had received advice that there would not be an impact.

**Mr WIELINGA:** I need to check whether that was a discussion or written advice. Can we take it on notice and come back to you, please?

**Ms LEE RHIANNON:** Okay. To add to it, just to speed things along: If it is written advice, could we get a copy of it?

**Mr WIELINGA:** I will take it on notice.

**The Hon. GREG PEARCE:** Could I ask you to do something for us? Given the document referred to earlier in which Mr Wielinga suggested there was a typographical error—

**CHAIR:** There was a typographical error. He did not suggest it. There was.

**The Hon. GREG PEARCE:** We will accept that there was. Would you mind taking on notice and providing to us your clear copies of the following documents, so that we do not have any other mistakes: the cross-finalisation report; the memo from the chief executive to the Minister for Roads of 17 December 2002, the financial close document, and of course all the annexures; the various memos from Ms Legaspie in relation to modelling—

**Mr PAUL McLEAY:** Through the Chair: Were these documents already released in the public disclosure?

**The Hon. GREG PEARCE:** We want them so that there is no—

**CHAIR:** He wants to clarify that there are no errors in any of these documents that were tabled in Parliament.

**Mr PAUL McLEAY:** So, what if there is a difference from the ones that were tabled in Parliament?

**The Hon. GREG PEARCE:** We will rely on the ones they give us.

**Mr PAUL McLEAY:** Then you may need to provide them. But, otherwise, these are all publicly available documents.

**The Hon. GREG PEARCE:** So 5 June, 14 August and 15 and 20 November.

## CORRECTED TRANSCRIPT

**Mr HANNON:** You will provide us with a list?

**The Hon. GREG PEARCE:** We will give you a list.

**Mr HANNON:** I understand the documents that have been tabled in the House are the draft documents and the final documents. So they are a complete set.

**The Hon. GREG PEARCE:** We want to ensure that in the report we refer to documents that have not been rifled through by 35 people and we do not want mistakes.

**The Hon. AMANDA FAZIO:** Do you think the Greens have been tampering with the documents?

**The Hon. GREG PEARCE:** Also, the original EIS from 2000 and in relation to Mr McLeay's question earlier perhaps you could give us the briefing notes on the variation payment for the \$35 million. I think they are the only ones. Given the time frame, would you supply the answers to questions on notice within seven days?

**CHAIR:** I will make a statement on that.

**Mr ANDREW CONSTANCE:** Would you outline the location of the monitoring stations and their distance from the stacks? Further, is the RTA aware of the view of Holmes Air Sciences that emissions from the eastern portal could not be detectable at either of the monitoring stations?

**Mr WIELINGA:** As far as the location of the monitoring stations, I can give you the approximate location. There are two on-ground monitoring stations—one at Tumbalong Park, Darling Harbour, very close to the ventilation stacks. The other one is at Mary Ann Park at Ultimo. There are two above-ground background monitoring stations. One is at 51 George Street. I am not sure where the other one is but we will take that on notice and provide you with the details. I am not sure of the exact distances. I will need to get them scaled and we will need to provide you with that advice. The second question we will have to take on notice and provide you with some advice.

**The Hon. AMANDA FAZIO:** I want to ask you a question about how you deal with conflicting views put to you during the community consultation process. Yesterday we heard from a group of community representatives and a different group this morning. For example, in relation to the Bourke Street closure on the southern side of William Street we heard from the Darlinghurst Residents Action Group and then ESNA this morning who had different views on whether that closure should remain in place. How do you weigh up the differing views? How do you deal with those diverging views that come from different sections of the local community?

**Mr HANNON:** Using the Bourke Street closure as an example, there is a comprehensive report on the net in response to condition no. 288. In one of the appendices to the report it talks about the numbers of meetings that were held with stakeholders to form a view or to get their views as to how we should go forward. Without taking up too much time, they looked at what stakeholders they should talk to. They talked to Airport Motorway Ltd on 12 March and 14 June; selected Bourke Street businesses between the 12 and 15 on the cross-city motorway; the Cross City Central CLG in March, July, August and December; the local member in March, September and December; emergency services twice in March; the East Sydney Neighbourhood Association in March; the Kings Cross CLG in April; the City of Sydney Council in March; SCEGGS in March. Then they talked to the State Transit Authority in March and August, Suttons Holden in October.

**CHAIR:** There is no need for you to list them. The question is how do you reconcile the conflicting views.

**Mr HANNON:** The point I was making was that we talked to all of those and what we scheduled in this report are the issues that they raised. There are pages and pages of issues and, as you would appreciate, you cannot get anybody to agree on anything in terms of all of them agreeing on a particular issue. What you are confronted with is taking on board all of their concerns, then putting that into a bigger equation and looking at what objectives are you trying to achieve in terms of the overall project. What we did in response to questions that were asked, we looked at what are we really

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trying to achieve. Are we trying to reduce the volume of through traffic in Bourke Street? Are we trying to improve access to the Eastern Distributor, minimise impact on other road users and the like? Effectively, you develop a matrix, a few measures and you do this within the groups that you have got and then you look at the source of your data and then you go forward from there. I suppose what I am saying is you talk to all of the people that are involved—that is, governments, councils, representatives and the groups themselves—try and determine exactly what the issues are and then sit around a table and try and reach a result, which at the end of the day is consistent with what we are trying to achieve in the first place in terms of the project.

**The Hon. AMANDA FAZIO:** One of the other main complaints we heard from the Kings Cross CLG yesterday and from some other community groups was the distribution of leaflets and materials by the RTA advising people about the cross-city tunnel project. Their particular complaint was that people who live in high-rise apartment buildings and security buildings were not receiving those leaflets. Do you use one of those letterbox stuffing organisations or Australia Post? How do you overcome those issues? I know, for example, in the Pyrmont peninsula, which I presume would have been advised about the cross-city tunnel project, that it is very difficult to get into a building or get information through to people. How do you make sure the target group is given the information?

**Mr WIELINGA:** I touched on this a little in the earlier answer I gave. The RTA does use various means to distribute those circulars. We do use contracts to send out newsletters, sometimes RTA staff go doorknocking, doing those sorts of things. I think the important point to make here is that these consultation strategies do not rely on just one means of getting information out to people. They start by creating a contact point or a contact list and they encourage people through advertisements in newspapers to contact us. I said that we went to local councils, we try to identify key stakeholders. If we are dealing with a particular area our staff that work on this may go and doorknock with people directly affected and they give further leads to people to talk to. There is information that goes out by way of advertisements in newspapers, newsletters, the web site and any other means that we can come up with that are tailored to the particular area to get information out.

We get a lot of help from community people in helping us distribute that information as well. They often facilitate their own meetings, particularly when they have issues that they want addressed. They tend to gather up people around to deal with the issues. As I said, for the RTA it is a real focus on the issue and we find ways to get them. Very, very often we can be caught in a crossfire of different views about an issue and it is a matter of trying to identify what the problem is, trying to work with them to come up with options to deal with it and doing what we can to be successful in trying to come up with outcomes that people can live with. Again, it is not an easy task.

**Ms LEE RHIANNON:** Mr Hannon, what involvement has the RTA had with the land tax paid by the Cross City Motorway [CCM]? Have any recommendations been made? Did the RTA have an involvement in drawing up the formula to assess land tax?

**Mr HANNON:** I am not aware of any involvement in how we determine land tax, no.

**Mr WIELINGA:** We sought advice from New South Wales Treasury about how to address the matter. They provided us with a letter. I think it was the Valuation Office valuation of what the land tax would have been for the project, and that is what happened.

**Ms LEE RHIANNON:** You did not change anything from the advice you obtained from Treasury?

**Mr WIELINGA:** No.

**Ms LEE RHIANNON:** You obtained that advice. Would you explain the involvement the RTA has on an annual basis with the land tax?

**Mr WIELINGA:** I am sorry, I am not aware of any.

**Ms LEE RHIANNON:** Why did you seek that advice? Why was the advice sought from Treasury? What did you do with that advice about the land tax?

## CORRECTED TRANSCRIPT

**Mr WIELINGA:** One of the things that the contractor was obligated to do under contract was to pay land tax, local government rates and so forth. The issue had to be addressed about what was their maximum exposure. It was dealt with in consultation with Treasury.

**Ms LEE RHIANNON:** I do not understand why you obtained the advice. Did you use the information that you received in negotiations when you were working on the contract? Would you explain why you sought the advice if you do not really have anything to do with the land tax?

**Mr WIELINGA:** Just to finalise the clause in the project contract.

**Ms LEE RHIANNON:** Nothing more?

**Mr WIELINGA:** Nothing more.

**Ms LEE RHIANNON:** If a material adverse effect [MAE] happens, how much will it cost? I presume you have quantified or have a formula as to how much would be paid if an MAE occurred.

**Mr HANNON:** In an MAE event the process would be that the consortium would claim that something that has happened has caused them to lose money. What they would do is make a claim on the Government under the material adverse effect regime within the contract. It would be up to them to argue their case that what has been done has had an impact.

**Ms LEE RHIANNON:** When you say a regime, do the documents set out a formula? Is there a cap on it? Is it just up to the CCM to come forward with whatever they think it has cost them?

**Mr HANNON:** They would make a claim. We would have to assess the claim that came in. We would make our own assessment.

**Ms LEE RHIANNON:** At present in the contract, or somewhere, there is nothing that sets out, "If we reverse this road closure" or "If we put light rail at Woolloomooloo, this is what we would have to pay"? There is no formula, no guideline?

**Mr WIELINGA:** I believe that is the case, but we will confirm that for you.

**Ms LEE RHIANNON:** You are happy to take that on notice?

**Mr WIELINGA:** Yes.

**The Hon. GREG PEARCE:** In the replies to questions you supplied to us on 31 January you gave us the breakdown of expenditure for the business consideration fee. Amongst the items under project development were RTA staff costs and other administrative costs of \$3,070,000. How did you calculate that amount?

**Mr WIELINGA:** You are talking about the table on page three?

**The Hon. GREG PEARCE:** Yes.

**Mr WIELINGA:** That is a recording of actual expenditure. It is just a line item of actual expenditure.

**The Hon. GREG PEARCE:** You get the RTA officers to record the time they spend on the project?

**Mr HANNON:** With their administrative support staff, their accommodation, it would be the costs associated with the project.

**The Hon. GREG PEARCE:** On the next page the Energy Australia utility adjustments at Darling Harbour were \$17,070,000. To what extent were they directly related to the cross-city tunnel?

## CORRECTED TRANSCRIPT

**Mr WIELINGA:** Those physical changes were directly related to the cross-city tunnel. I am not sure but I may have explained last time that at the time we were doing the environmental impact statement for the cross-city tunnel Energy Australia were working on a major upgrade of their electrical facilities in the CBD.

**The Hon. GREG PEARCE:** Yes, that is why I am confused.

**Mr WIELINGA:** Work was in progress at the time. To give you a practical example of that impact, they may have intended to put a whole bank of large electricity cables up the centre of say Druitt Street, for example. With the cross-city tunnel coming through they were required to shift them out of the way and do a more difficult construction through footpaths and other public utilities, more facilities and so forth. They were costs like that.

**The Hon. GREG PEARCE:** If they had done that upgrade after the construction of the cross-city tunnel—

**Mr WIELINGA:** Much more expensive.

**The Hon. GREG PEARCE:** It would have been more expensive?

**Mr WIELINGA:** All of the work that had been done would have been wasted. We tried to get there early to prevent that from occurring.

**The Hon. GREG PEARCE:** How did you calculate the difference in the cost? Surely if you got in there early enough it was simply a matter of replanning it; it was not a matter of putting it out again.

**Mr WIELINGA:** EnergyAustralia submitted cost estimates to the RTA and there were discussions between the RTA and EnergyAustralia to resolve these issues.

**The Hon. GREG PEARCE:** I assume that is the same sort of process that you have done with the railway utility costs, SHFA?

**Mr WIELINGA:** That is correct.

**The Hon. GREG PEARCE:** The airport motorway?

**Mr WIELINGA:** Correct.

**The Hon. GREG PEARCE:** There has been an allegation that the consortium had access to various documents in relation to the moving of the stack. Did any of those documents come from the RTA?

**Mr HANNON:** That is a matter currently being investigated by the ICAC.

**Mr ANDREW CONSTANCE:** Have you been interviewed by the ICAC?

**Mr HANNON:** No, but officers of the RTA have and the ICAC is carrying out further investigations and at this point in time it would be inappropriate for us to comment on that.

**CHAIR:** Thank you for appearing before the inquiry. The Committee has resolved to seek the return of answers seven days after receipt of the transcripts. Copies will be sent to the RTA on Monday so please return them by Monday 13 February.

**Mr HANNON:** We will do our best.

**CHAIR:** I thank the witnesses for appearing and their advisers for attending.

**(The witnesses withdrew)  
(Luncheon adjournment)**

## CORRECTED TRANSCRIPT

**ROBERT JOHN SENDT**, Auditor-General, New South Wales Audit Office, affirmed and examined:

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

**Mr SENDT:** I am.

**CHAIR:** If you wish to give any evidence in camera the Committee is willing to consider any request. Do you wish to make a short statement?

**Mr SENDT:** Very briefly. Thank you for the opportunity of appearing today. As the Committee would be aware, we have started a performance audit into certain aspects of the cross-city tunnel. That audit was announced last June but only started just before Christmas. We are in the early days but I am happy to discuss with the Committee and answer any questions about the scope of that audit and any process that we will follow. I am also happy to answer any other questions I can about other aspects of the infrastructure or the cross-city tunnel specifically if I can.

**CHAIR:** I know you have only just started doing the audit on the cross-city tunnel. Can you give us an update as to where you are at and what your timetable is?

**Mr SENDT:** We started the audit in November. The intention is, at this stage, to complete the audit by June at the latest; if possible, earlier. When I say earlier, probably one month or maybe six weeks is the maximum that we could advance the completion of the audit. The audit is very much at the moment at the information-gathering stage, requesting documentation from the RTA. My officers are going through information we have received to date. There would be more information they are about to receive as a result of requests made.

There are no conclusions or findings that have been drawn up at this stage, so it is still very much in the early stages. The scope of the audit, as I indicated in my November report to Parliament, is not a review of the total cross-city tunnel or the total contractual relationships. It is an audit of three particular aspects: firstly, the circumstances surrounding the up-front payment of some \$96 million plus GST and what exactly that payment consisted of or was designed to address; secondly, whether the RTA had in place a robust process for determining or evaluating road closures and road changes; and, thirdly, the circumstances surrounding the amendment to the deed resulting in additional costs of \$35 million, which were passed on through an increase in the toll.

**CHAIR:** Obviously, as Auditor-General, you will not be able to look at the consortium's side directly?

**Mr SENDT:** No, certainly not. We have all the contracts, of course, and all the associated documentation and, to date, we are having full co-operation from the RTA in providing any documentation or information that we request but, you are correct, we certainly do not have access to any documentation held by the consortium.

**CHAIR:** There has been some question about the contract summaries and their release or their non-release originally by the RTA. Did you give any advice to the RTA on that issue as it involved the public interest?

**Mr SENDT:** No, Mr Chair, the RTA did indicate in one of their, or perhaps more of their briefings to us that they were holding back the release of the contract summary after we had completed our audit. That was their decision. The guidelines requiring release were government guidelines so I took the view that it was a matter for the Government to determine. However, as the delay progressed I noted in one of my reports to Parliament the fact that the audit opinion, which is required prior to its tabling, had been completed by us some four months earlier at that stage but the document had still not been tabled in Parliament. So in perhaps a too subtle way I was drawing Parliament's attention to the fact that the contract summary had been reviewed by us and was available for tabling but had not been so.

**CHAIR:** You had previously made a range of recommendations in relation to the public release of contracts and contract summaries. Did you consider the RTA's argument that the release of

## CORRECTED TRANSCRIPT

certain information at a particular point may compromise negotiations on other contracts of other motorways?

**Mr SENDT:** That was certainly the point they put to us. If that is the case, I think the appropriate way of dealing with it would have been to take it up with the Premier's Department or the Premier and seek to have changes made to those guidelines to allow those circumstances to be taken into account; that if there was a genuine concern about confidentiality of information in one summary, that summary could be withheld. Having said that, looking back at the contract summary for the cross-city tunnel, I am not sure what there is in that summary that is of such commercial in-confidence nature that its release would have compromised in any way the negotiations of subsequent projects. There may be something in there; it may be an issue the Committee wants to take up with the RTA if they get an opportunity to talk to the witnesses again but on the face of it I could not see anything that obviously would have resulted in any deterioration in the RTA's negotiation position.

**CHAIR:** Do you believe that the content of contract summaries need to be changed and, if so, how?

**Mr SENDT:** Yes, we wrote to the former Premier, I think in about April last year, indicating some concern we had about the structure of the contract summaries. While the RTA had developed a fairly standardised approach, other organisations that did not deal with PPPs regularly were coming up with their own format and contents. So we suggested to the Premier that consideration should be given to a more standardised format.

We were also concerned that the documents were a mixture of material that we could review, it was capable of being reviewed, and other material that was background, historical information, that was not really part of our role to audit. So what we suggested was, as with an annual report for example where the financial statement part of an annual report is quite clearly delineated, we suggested that the contract summary part of what is called a contract summary, but the part that actually is a summary of the contract be identified in one part of the document so that it was easier for us to indicate what part of the overall document we had reviewed.

**CHAIR:** In regard to the public-private partnerships you just referred to, do you believe that there should be greater parliamentary scrutiny and, if so, how?

**Mr SENDT:** I certainly do not have a problem with greater parliamentary scrutiny. I guess I would have a concern if projects that are being delivered through one mechanism—a PFP—were given greater scrutiny at the expense of very many other government projects that might be equally deserving of scrutiny. I think all projects have some form of risk and if the parliamentary scrutiny is designed to uncover those risks and how a government has dealt with them, I think it could be argued that scrutiny of a whole range of projects would be advantageous.

**Mr PAUL McLEAY:** But you have no evidence of that happening, do you?

**Mr SENDT:** Of greater parliamentary scrutiny?

**Mr PAUL McLEAY:** No, there is plenty evidence of that, but of there being a preference over one type of financing structure because it avoids scrutiny?

**Mr SENDT:** No, certainly not.

**CHAIR:** Have you examined the Working with Government guidelines for the PPPs and do you consider they are adequate or do they need improvement or clarification?

**Mr SENDT:** We have examined them. Our review of each contract summary is done against those guidelines. As I indicated, we were concerned that they could be strengthened in terms of prescribing in some way the format and contents of the contract summary so that both parliamentarians would have some greater consistency in the documents that were placed before them but also from an audit perspective it was clearer what part of the document had been reviewed by us and what part had not.

## CORRECTED TRANSCRIPT

**CHAIR:** Do you have any accountability concerns regarding governments entering into public-private partnerships? Do you see that there are any problems in that area?

**Mr SENDT:** I think the only concern I would have is that I believe in more open government. There is quite often a tendency with contract documents because of the involvement of a party external to government to treat those documents as confidential. I am not sure that that degree of confidentiality is always necessary. I do not believe quite often it is the private sector that drives that confidentiality, so there is a concern there, yes.

**CHAIR:** The Audit Office has examined the environmental planning process prior to the changes introduced in 2005. Do you have any comment on the interrelationship between the planning process and the contract negotiation process for the cross-city tunnel or for public-private partnerships generally?

**Mr SENDT:** I certainly have not looked at that in any depth at this stage in the cross-city tunnel and I am not sure that we would be, given the scope that I indicated earlier. Equally, though, I do not think we have particularly looked at any aspects of the Government's planning role in relation to PPPs or PFPs specifically, so I am not sure that I can answer that question.

**CHAIR:** Are you aware of recent changes to the Environmental Planning and Assessment Act? Do you think that they will be an improvement? Have you had a chance to examine them and would they have helped deliver the cross-city tunnel perhaps in a less controversial way?

**Mr SENDT:** I have not examined them in any detail. We would examine them if an audit came up that involved considering the new planning requirements. I am not sure that they, in themselves, would decrease the extent of controversy surrounding the cross-city tunnel. I think there were some inherent features with that project that were probably always going to create a greater degree of controversy than perhaps a M7 project.

To expand on that, the M7 project by comparison was largely designed as a traffic measure—a transport measure—to improve road times and enable traffic through from the northern parts to the south-western parts of Sydney, in particular, to avoid congested roads. People are not forced to use the M7; they can continue to use the Cumberland Highway and the traffic congestion that is involved in that.

As to the background to the cross-city tunnel, it has always been talked of in terms of getting traffic off the surface streets of the CBD and inner-city suburbs. That obviously involved to some extent a mixture of carrot and stick approach. The carrot is the provision of the tunnel, which clearly substantially lessens the time it takes to get from one side of the CBD to the other. But—particularly given the complexity of the tunnel and the high cost, and hence the high toll—while there is a carrot in terms of better travelling times, there is also a penalty in terms of what is perceived by the public to be a fairly high toll for a fairly short road. So there needed to be road restrictions and road closures in order to achieve the Government's objective of getting traffic off the surface streets.

What we will be looking at as part of our audit is whether the RTA had proper processes in place for deciding what roads to close or what road restrictions to put in. Ideally, the process they should have in place would be one that takes account of those considerations—that is, reducing traffic in parts of the city and parts of the suburbs immediately to the east as opposed to traffic measures that were designed to improve the financial viability of the tunnel. I am not suggesting that that was the decision-making process followed by the RTA but our audit looks to see whether there were proper processes in place, proper guidelines and proper decision making, for example, to address that issue.

**CHAIR:** You mentioned your Audit Office performance review of the cross-city tunnel. Will you look at the question of the measures used to control the problems of pollution and the accuracy of the standards that have been used? There is some controversy as to whether the RTA is implementing and meeting the correct standards.

**Mr SENDT:** No, that is not an aspect we are looking at in the current audit. We did do some coverage of that in the previous report that we carried out on monitoring air pollution, particularly in relation to the M5 tunnel. But we are not looking at that in this review.

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**CHAIR:** To do it would you have to get a referral or could you self-refer?

**Mr SENDT:** I have complete flexibility in deciding what to review. I sensed that there was some degree of interest in this topic. That is why, even though I had announced it back in June, we moved it to earlier in our schedule. We are aiming to make the audit as quick as possible. If we added other dimensions to it it would significantly delay it. Alternatively, we could do it as a separate audit at some future time. But, again, we only have resources that enable us to do a dozen to 15 performance audits a year and, as many as you around the table will be aware, we get many suggestions from members of Parliament and others as to suitable topics—many very good suggestions.

**The Hon. GREG PEARCE:** The "Working With Government" guidelines require that the results of a public sector comparator be included in the contract summary. I did not see any note by you in relation to the failure to explain or refer to it other than in a footnote. Are you happy that a simple footnote that it exceeds it is in compliance with the requirement of those guidelines?

**Mr SENDT:** Certainly one of the areas of concern we had was that the "Working with Government" guidelines document was serving many purposes. It was designed to be used by the private sector. It was designed to be used by agencies in negotiating with the private sector. It was also designed to be used by agencies in completing the contract summaries. We thought in the area of contract summaries it did need strengthening. It needed boosting in terms of what areas needed to be set out for inclusion in there. That was certainly one issue that we had in mind.

**The Hon. GREG PEARCE:** But you did not explicitly refer to that.

**Mr SENDT:** No, we did not express a view that it was not adequate.

**The Hon. GREG PEARCE:** What is the status of the Premier's memoranda to Ministers and public servants? Are they stronger than those guidelines?

**Mr SENDT:** I am not sure whether those guidelines were initially released as an attachment to a Premier's memoranda. I would have to go back and look at that. Again, I raised in my report to Parliament in November that the status of the guidelines was unclear. While the language used in them implied that the Government expected them to be followed, they were called "guidelines"; they were not called "rules" or "requirements". We certainly believe that should be clarified. I understand that some agencies had said to us from time to time that they were only guidelines and they did not feel bound to follow them in every respect.

**The Hon. GREG PEARCE:** Did you concur with that?

**Mr SENDT:** We thought it was unclear and that is why we suggested that the status of them needed to be made clearer.

**The Hon. GREG PEARCE:** But you did not report that they were not being complied with.

**Mr SENDT:** No, it was not in relation to issues that our review was meant to cover.

**The Hon. GREG PEARCE:** I assume that you have read the transcript where you were verballed by the former Premier and the former head of the RTA.

**Mr SENDT:** Yes.

**The Hon. GREG PEARCE:** Can I take it that you did not give any positive indication that you agreed with the proposition that the guidelines not be followed?

**Mr SENDT:** No. I think I need to make it clear that if someone in an agency comes to me or my staff indicating some form of transgression the fact that they advise us of it does not mean it is absolved. We cannot absolve departures from standards or departures from government requirements. In the same way, obviously if an agency comes to my staff and indicate that they have not complied

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with accounting standards in completing their financial report, that does not absolve or excuse them from doing that and it does not prevent—and certainly would not prevent—me from commenting on it in my report to Parliament. As I indicated, that is the reason why, after there had been some delay in tabling the cross-city tunnel contract summary, we included a note in our report to Parliament at the time drawing attention to the fact that our audit sign-off had been done some four or five months earlier yet the contract summary had still not been tabled.

**The Hon. GREG PEARCE:** So you would not accept the RTA's comment in their written submission of 6 December, former Premier Carr's responses on 6 December and Mr Forward's responses on 6 December to questions as to why they did not comply with the guidelines that they had met with you and told you. That does not absolve them.

**Mr SENDT:** No. If they are in fact the words they used, it does not absolve them. Of course, if they are his guidelines, the Premier is not necessarily obliged to follow them anyway.

**The Hon. GREG PEARCE:** He was when he was Premier.

**Mr SENDT:** I am not sure if he was even then. That is an interesting philosophical question perhaps.

**The Hon. GREG PEARCE:** I turn for a moment to the upfront payment. What is your view on the situation where the tender accepted for the cross-city tunnel was non-conforming, required a new EIS and seemed to be selected only because it provided a business consideration fee equal to what the RTA was looking for?

**Mr SENDT:** There are a couple of aspects to your question. In terms of the non-complying submission, I believe the RTA—I am not 100 per cent certain—had indicated up front that non-complying submissions would be accepted and considered. The first part of our review, as I mentioned earlier, is looking at circumstances surrounding that upfront payment. That payment has been described in various terms. It has been described as compensation for expenditure made; it has been described as a business consideration and I think maybe other terms were used. What we are trying to do is get to the nub of what that was designed to represent. The RTA and the Government had indicated that the project was to be on a no-net-cost-to-government basis—and the Government is certainly entitled to take that view. If the RTA had incurred necessary costs associated with the tunnel obviously it would be obliged to recover those costs in some way. But, as I said, we are not in a position at this stage to say that it was purely cost recovery.

**The Hon. GREG PEARCE:** Have you looked yet at the various changes that then took place between February 2002 when the budget committee of Cabinet approved it and the December 2002 signing and the so-called negotiations which involved a whole series of extra costs and were eventually resolved by allowing the consortium to increase the tolls and, in my mind, very conveniently to come up with a solution that gave them their original budgeted business consideration fee?

**Mr SENDT:** I have not looked at that information. My staff may have collected some of that information from the RTA and are probably dealing with that at the moment. But I am not in a position to have formed any view at this stage.

**The Hon. GREG PEARCE:** As a general principle, do you think a negotiation period after selecting a non-conforming tender should be used to allow further non-conformances, in particular the increase in the toll, without going out to tender again or without otherwise testing it?

**Mr SENDT:** I think that would probably depend on the extent of further non-conformance.

**The Hon. GREG PEARCE:** The original tender was based on a particular toll figure, a non-conforming tender was selected and, in order to get to a final agreement, a toll increase was included.

**Mr SENDT:** There were changes in the escalation rate for the toll.

**The Hon. GREG PEARCE:** Yes.

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**Mr SENDT:** Yes. I have not looked at that aspect of detail in relation to this contract.

**The Hon. GREG PEARCE:** As a general principle?

**Mr SENDT:** As I said, it depends on the extent of variation from the required or complying terms.

**The Hon. GREG PEARCE:** Do you think it would encourage confidence in the private sector that they could tender for a project and know that they could, after submitting a non-conforming tender, negotiate around to get to something that satisfies the RTA?

**Mr SENDT:** You could equally restate that in terms of the government department being able to negotiate to get what it wanted.

**The Hon. GREG PEARCE:** It appears to be exactly what happened.

**Mr ANDREW CONSTANCE:** I refer to the terms of reference that you are now auditing. You mentioned road changes. Are you also going to be looking at traffic light phasing?

**Mr SENDT:** We will not be looking at it at the level of individual road changes or closures. We will be looking at whether the RTA had a proper process in place to say that a road closure was necessary to achieve the original objective of reducing surface street CBD traffic or reducing traffic flows in Surry Hills, Woolloomooloo or wherever. We will not be looking at individual roads, more that they had a proper process in place.

**Mr ANDREW CONSTANCE:** Do you have any concerns about the bureaucracy having the skill to manage and negotiate public-private partnerships?

**Mr SENDT:** I discussed this previously with the Public Accounts Committee at a hearing in November during the committee's inquiry into public-private partnerships. I have had a concern about that issue. It is widely recognised that the private sector can afford to pay salaries significantly greater than what is on offer in the public sector. They can get the best experts to sit around the table and government may often be at a disadvantage. Having said that, I think the Government has got much better at it over the years, and the RTA has built up a body of expertise that is generally delivering better outcomes. However, it does remain a concern, particularly for those organisations that may enter into PPP or PFP negotiations rarely.

**Mr ANDREW CONSTANCE:** Does the fact that the RTA, which is probably the most experienced agency in terms of public-private partnerships, got this so wrong particularly concern you?

**Mr SENDT:** I cannot say whether it has got it wrong. There has certainly been controversy about the cross-city tunnel, but there has not been anywhere near the same level of controversy about the M7. I certainly would not conclude that it indicates that it has got one wrong and one right.

**Mr PAUL McLEAY:** You said that you are concerned that some agencies rarely do PFPs. Have you come across any of these, or is there expertise in Treasury and big agencies like the RTA that stand alone? What other small agencies are you concerned about, if any?

**Mr SENDT:** A number of PPPs are listed on the Treasury web site and I also listed them in my report to Parliament. There is a police property portfolio, the social housing project at Bonnyrigg, Long Bay Prison, and projects such as the waste disposal facility. It is those where I think the Government is more exposed because there are not the experts within those organisations because they are not dealing in those sorts of projects often enough to build up expertise.

**Mr PAUL McLEAY:** The fact that Treasury is supervising them still —

**Mr SENDT:** I am not sure —

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**Mr PAUL McLEAY:** The comment may have been taken out of context. I am concerned that you are considering it or that you feel there is a lack of confidence.

**Mr SENDT:** I think Treasury is involved in these projects, but I doubt very much that it could be seen as supervising the negotiations at the detail level. Treasury generally would not be involved in sitting across the table from the various consortia tendering or with the final consortium and negotiating the details. Treasury's role is somewhat different, and it does not have a huge body of resources that would enable it to get involved in those detailed negotiations.

**Mr MATT BROWN:** You might be aware of the recommendations of the motorways review. Do you think those recommendations will improve the processes associated with road PPP projects?

**Mr SENDT:** There are some good recommendations in there. The report supported — although it did not go as far as recommending — the points I made in my report to Parliament last November in terms of improving the contract summaries. There are other recommendations that I think would represent a change in philosophy by the Government rather than necessarily a process. For example, whether the recommendation to abandon the concept of no net cost to government, or no cost to government, improves the process, I am not sure, but it would represent a change in government approach.

**Mr MATT BROWN:** When you were looking at ways of improving the contract summaries you mentioned standardising summaries. Are there other specific areas or general areas in which contract summaries could be improved?

**Mr SENDT:** I think the main concern we had was in standardising the format so they were easier to understand. We recognise — and I am sure the committee also recognises — that these contracts are very detailed and complex. There is not one single contract; there are numerous documents. It is therefore important to have a summary that gets the right balance between simplicity and comprehensibility on the one hand and being sufficiently comprehensive of the important aspects of the contract on the other hand. So, we thought a more standardised format was important in enabling people to understand the detailed contracts.

**CHAIR:** You probably know that the summaries were done by outside contractors, not by the RTA.

**Mr SENDT:** I was not aware of that, but my staff may have been.

**CHAIR:** It could allow for more problems having people outside the RTA doing it.

**Mr SENDT:** It could well do that.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Were you aware of the evidence presented yesterday by Tony Harris suggesting that the contract summaries were unsatisfactory for parliamentary accountability and in breach of the Premier's memorandum, which I think —

**Mr MATT BROWN:** I do not think he said that.

**The Hon. AMANDA FAZIO:** You are embellishing what he said.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I think that is exactly the spirit of what he said.

**CHAIR:** We will get to you in a moment when the Labor Party has finished.

**Mr MATT BROWN:** The Audit Office contracts out some of its audit work. I refer to the quality of those audit reports and the work that other experts to whom government departments might contract work such as contract summaries. Would the Audit Office have problems with any government department contracting out functions such as that?

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**Mr SENDT:** I do not have a problem per se. It would certainly help if the contract summaries were standardised to enable anyone preparing one, whether in-house or externally, to have a greater understanding of what is required. By analogy with financial report audits that I contract out, all auditors are obliged to comply with Australian auditing standards and they are auditing financial reports compiled according to those accounting standards. There is a rigid framework in terms of what the report should include and how the auditor should go about reviewing the report. So the analogy, although perhaps not a strong one, would be if the requirements for contract summaries were more clearly and fully described it would make completing them easier.

**Ms LEE RHIANNON:** Thank you appearing before the committee. I think you made a comment last year about the Premier's guidelines being honoured more in the breach than the observance. We are grappling time and again with the standards and how they should be applied. They appear to be rubbery. Considering this problem of adhering to standards when there is no legislation, do you think that if the public is to have any confidence in PPPs there needs to be a legislated set of standards?

**Mr SENDT:** I think the comment I made related to the inclusion of details of government contracts on agencies' web sites rather than PPPs specifically.

**Ms LEE RHIANNON:** I apologise.

**Mr SENDT:** I do not withdraw from the comment. Part of the message I was trying to get across in my November report to Parliament on contract summaries was that I thought they were of sufficient importance that perhaps some key elements of the requirements surrounding their preparation and tabling would benefit from legislative backing.

**Ms LEE RHIANNON:** I refer to the air quality audit that you brought down last year. You identified that no-one was responsible for air quality in New South Wales and recommended a review of conditions of approval for tunnels. Are you aware whether any of your recommendations have been implemented?

**Mr SENDT:** No, we have not done any follow-up work on that at this stage.

**Ms LEE RHIANNON:** Will the audit look at how the final ventilation design was arrived at? I understand there were significant additional costs due to an extra pollution tunnel, and we have had evidence that a fully filtered tunnel would have cost less and been more beneficial in terms of public health and safety.

**Mr SENDT:** No, we will not be looking at that detail. I am not sure whether that change to the ventilation process was part of what drove the \$35 million increase in costs and hence the increase in tolls. If it was, we will look at it in terms of the circumstances that led to it. But we would not be looking at detailed design considerations or alternative technologies, for example.

**Ms LEE RHIANNON:** So you would look at it only in the context of it being a cause of the blow-out?

**Mr SENDT:** Yes.

**Ms LEE RHIANNON:** Have you undertaken any work to assess the comment made by many government representatives that the cross-city tunnel was built at no cost to taxpayers?

**Mr SENDT:** No.

**Ms LEE RHIANNON:** We are continually told that; it is boast from the Government.

**The Hon. GREG PEARCE:** No, it is at no cost to government, not taxpayers.

**Ms LEE RHIANNON:** Thank you. For instance, yesterday the RTA told us how it has put sensors in the road to assess the traffic movement associated with the tunnel, and there is a range of

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other costs. In looking at the CCT or these projects, would you look wider than the immediate costs that the Government traditionally links with the PPPs?

**Mr SENDT:** We will be looking at what drove the upfront payment. On the face of it — and I cannot say anything stronger than that — there seems to be an argument that the upfront payment was designed to recoup costs incurred by the RTA, or to be incurred by the RTA. We will be looking at whether that was the case, whether the RTA compiled a list of costs and whether some indicative costing was provided to the consortia so that they knew what they were expected to contribute by way of recoupment of costs.

**Mr JOHN TURNER:** Will you be also looking at fee for service as against upfront payments?

**Mr SENDT:** I am sorry. I am not sure if I understand the question, Mr Turner. Fee for what service?

**Mr JOHN TURNER:** Whether it would have been better to have a fee for service arrangement rather than an upfront payment in the contract?

**Mr SENDT:** I am still not quite sure I understand the question. I am not sure what service RTA would be charging a fee for.

**Mr JOHN TURNER:** For the movement of the utilities, for the wages of the RTA personnel, et cetera, rather than an estimated upfront payment.

**Mr SENDT:** I think you are suggesting whether the consortium should have been billed ex post. That is something that would probably come within the scope of what we are looking at. I am not sure at the time that \$96 million was struck how much expenditure had been incurred and how firm the estimates were.

**Ms LEE RHIANNON:** If I understood you correctly, you will be looking at associated and ancillary costs that the RTA incurred associated with this project?

**Mr SENDT:** We will be looking to see what made up the \$96 million and whether it was for costs incurred or whether it was at the other extreme, effectively the price the consortium paid to win the job. Where the truth lies in that spectrum is something that we have yet to look at.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Can I ask about whether you support Tony Harris's comments from yesterday?

**Mr SENDT:** I have not seen his comments, except very briefly in the newspapers.

**CHAIR:** Do not quote him. Do not verbal him. Just ask the question.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I think the essence of his comment was that he thought the contract summary was not sufficiently revealed for the public interest and Parliament and did not comply with the disclosure of information of government contracts to the private sector as per the Premier's memorandum 2011. We had some trouble getting back summary and had to wait until—

**CHAIR:** Will you just frame your question.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Way you are happy with the quality of that contract summary?

**Mr SENDT:** We were happy that it met the requirements of the Working with Government guidelines, otherwise we would not have signed off on it. As I said, we had a further look at it and we made suggestions to the Premier as to ways that contract summaries could be improved. But in terms of what was included in the cross-city tunnel contract summary, the Lane Cove tunnel summary

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and the M7 contract summary, they sufficiently met the requirements specified for us to sign off on them

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Where you are happy with the quality of the financial model, or will you be looking at that?

**Mr SENDT:** We have not reviewed and will not be looking at that in the cross-city tunnel inquiry.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Do you look at the financial model for PPPs generally, in terms of their viability and to see whether we are getting a good deal from them?

**Mr SENDT:** No, we do not. We always can do that as part of a particular performance audit, but we do not have any ongoing automatic role in terms of each PPP or PFP, apart from reviewing the content of the contract summary.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But they are, in a sense, making sure that we get performance will value for money for those jobs.

**Mr SENDT:** The contract summary is only summarising what is in the contract. It is not—

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** No, the financial model?

**Mr SENDT:** Well, yes. But that is not part of our ongoing role with PFP contract summaries; it is a matter we can address if we choose for a particular project that is entered into, but we are not doing that as part of the cross-city tunnel.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** That would be a separate request?

**Mr SENDT:** That would be a separate request.

**Mr PAUL McLEAY:** Just by way of confirmation, you did audit the cross-city tunnel contract summary?

**Mr SENDT:** Yes.

**Mr PAUL McLEAY:** Your audit found that it complied?

**Mr SENDT:** Yes.

**Mr PAUL McLEAY:** Were your findings made public?

**Mr SENDT:** Yes.

**(The witness withdrew)**

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**DAVID RICHMOND**, Special Adviser, Infrastructure Implementation Group, Premier's Department, sworn and examined:

**CHAIR:** What is your occupation?

**Professor RICHMOND:** I have a range of part-time positions, one of which is Strategic Adviser to the Premier on infrastructure. I am a part-time chairman of two government boards, and I hold a part-time position as Director of the Graduate School of Government at the University of Sydney.

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

**Professor RICHMOND:** As Strategic Adviser to the Premier on Infrastructure Implementation.

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

**Professor RICHMOND:** I am

**CHAIR:** If at any point you wish to give any information in camera, the Committee will be willing to consider your request.

**Professor RICHMOND:** Thank you.

**CHAIR:** Would you like to begin by making a brief statement?

**Professor RICHMOND:** I would, thank you. Thank you for the opportunity to appear before the inquiry. I am, as I have indicated, a part-time adviser to the New South Wales Premier on infrastructure issues. I have recently assisted the Premier to establish the Infrastructure Implementation Group within the Premier's Department. This group assists in the delivery of the Government's major infrastructure projects and provides strategic advice to the Premier on infrastructure that is generally. It was established in August 2005. On 24 October 2005 the Infrastructure Implementation Group was directed by the Premier to conduct a review of the future provision of motorways. I formally table for the inquiry's information the review, which no doubt you have copies of.

### **Document tabled.**

The copy of the review—the report—was released by the Premier on 8 December and the report, which I have tabled, includes the terms of reference for the review, which are at appendix 1. As these terms of reference indicate, while the impetus for the review was obviously the issues then and still surrounding the opening of the cross-city tunnel, the Infrastructure Implementation Group's task was to take one step back from the immediate controversies around the cross-city tunnel and to look more broadly at the policy framework around the provision of motorways in New South Wales—things like government structures, the setting of project parameters, consultation processes and so on.

While we drew on the cross-city tunnel experience, we also drew on lessons and experiences from other processes of motorways procurement, not only New South Wales but also Victoria and, to a lesser extent, Queensland. I emphasise that the purpose of the review was not to undertake an in-depth investigation of the cross-city tunnel and all its detailed commercial aspects—although we obviously did make reference to some of the issues; the focus, as requested by the Premier, was on how the Government might ensure better policies to guide the delivery of motorway projects in the future. As I have indicated, we had the benefit of information on procurement policies and practices relating to a number of motorways, within and outside New South Wales. We had discussions with over 50 individuals from government and the private sector before developing the 32 recommendations contained in the report.

The recommendations, which are at pages 7, 8 and 9, covered six broad areas: future use of PPPs and PFPs; public disclosure; public domain and user issues; consultation and community

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relations; government decision-making processes; and RTA tender and assessment processes. These recommendations have been adopted by the Government and are now currently in the process of being implemented as Government policy. They represent a significant shift in the policy position, which drove, if you like, the procurement process for projects like the cross-city tunnel. The Government is now, as I have said, progressively implementing those recommendations as policy. That concludes my opening statement and I am very happy to answer the Committee's questions.

**CHAIR:** Thank you. You mentioned in your submission the basis for your recommendation regarding abandoning the policy of "no cost to government" in motorway procurement.

**Professor RICHMOND:** Fundamentally, it was the view that I formed that such a policy was likely to—and had, in the case the cross-city tunnel—distort some of the outcomes from the project, and that there was far too much focus right throughout the process on avoiding any cost to government and insufficient attention being paid to some of the other issues that needed to be addressed in the process. As a consequence, that focus on no cost to government obscured some of the other important policy issues that needed to be discussed as the project proceeded through its life. It would be a mistake to look at any one recommendation in isolation; that recommendation needs to be particularly linked to two other recommendations about the Government's own decision-making processes.

For example, in the modified arrangements in the future, where there are issues of policy which have an impact on costs, it is proposed under the system of checks and balances through the Cabinet process that we have suggested that those issues would come back to Cabinet and there would be a proper discussion about the impact of issues such as, in the case of the project like the cross-city tunnel, where there was difficulty in securing an alternative viable route for motorists, that kind of issue needed to be discussed as a policy issue and not, if you like, somewhat less considered because consideration of it "might" void the policy objective of no cost to government.

So it was a general view that it was much better if government went to look for outcomes which met the objectives of the project and, particularly in the case of motorways projects, value for money for the user and did not have a tightly constrained view that it was an absolute imperative that there was no cost to government.

**CHAIR:** How does your role, which is a new position, actually function within the Premier's Department?

**Professor RICHMOND:** Probably the better way of putting that is that we are unit within the Premier's Department, but we work directly with the Premier on the basis that the Premier, when he assumed the office of Premier, highlighted the implementation of infrastructure as a very high priority for him as the new Premier. He invited me in to assist him in setting up a unit to work on the implementation of infrastructure. Essentially, what the unit does, and it is a small unit, is that we, at the Premier's request, identify and assist agencies with some key projects where we become involved in the planning and design and, when the project proceeds to the delivery phase, possibly in the delivery of the project. The Premier approves individual projects where we, to use my phrase, have a hand on the shoulder of the agency to give them the benefit of some of the high-level specialist advice that is available from some people that are in the unit and the consultants that we can bring in, who are people with very extensive experience in the delivery of infrastructure projects.

Currently we are assisting agencies with a number of specific projects: the desalination plant; the Shoalhaven and Tallowa Dam project; the metropolitan water recycling project; the metropolitan rail expansion program, which is linked to the metropolitan strategy; the Port Botany expansion project; the Enfield intermodal terminal; Liverpool Hospital stage 2; Royal North Shore Hospital upgrade; and the St Vincent's mental health unit, all key projects and projects that the Premier has identified as projects that he is concerned to ensure that there is a strong focus on and strong assistance available to agencies in order to go through the various phases of delivery of the projects.

**The Hon. GREG PEARCE:** What is Liverpool hospital stage two?

**Professor RICHMOND:** It is a project that is being scoped at the moment. When we have scoped the project I am sure the Minister and the Premier will be happy to answer that. There have

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been plans for sometime. As you would appreciate, it is a significant area of growth with significant issues around health status. There are issues about capacity of the hospital. There are also issues about the integration of medical teaching in the future with the opening eventually of the new medical school. That is linked to a whole—

**The Hon. GREG PEARCE:** So it is at the planning stage?

**Professor RICHMOND:** It is only at the planning stage and our role in that particular one is to help the agency with the scoping and help move the project through the Government's processes. Other projects such as Port Botany, we are working on details now as to how it will be physically delivered. So, it is that full range of activities.

**CHAIR:** How did you get that list?

**Professor RICHMOND:** It is from the Premier.

**CHAIR:** The Premier says, "I want you to take this"?

**Professor RICHMOND:** Correct. We identified a number—

**CHAIR:** He personally gives them to you or you select them?

**Professor RICHMOND:** We suggested a number and I have to say he added a couple.

**CHAIR:** How did you make that decision, on the cost of the project?

**Professor RICHMOND:** No, based on the scale of the project, the degree of difficulty of the project. Most of these projects are complex projects where there are difficult issues of planning, difficult issues of construction and delivery, and often quite difficult issues in bringing many variable stakeholders together. They are often projects that have a wide impact across government or they are simply projects like Royal North Shore, which has been very difficult to get to a stage where a proper project can be formulated. So, our task there is to help the health department to do that as the first step. They are projects that fit significant government priorities in terms of water, the metropolitan strategy, the expansion into the north-west and south-west of Sydney, which is underpinned by the metropolitan rail expansion program, Port Botany and Enfield, which are critical issues both State and nationally in terms of freight and port movement and of course health, which is an ongoing issue and particularly health in the south-west of Sydney, and of course mental health which is a high priority of the Premier personally in his personal commitment and commitment as a government. They are those kinds of projects.

We are also working in relation to the expansion of Port Botany. When the Minister for Planning gave planning consent for the Port Botany expansion to proceed, we were then asked to review generally the metropolitan freight strategies that would support that expansion, drawing on the work that had already been done through the freight advisory board. We are doing that work at the moment. We also provide advice and assistance on some key areas. One is into the State infrastructure strategy, which is a long-term strategy being developed by Treasury and the Minister for Infrastructure. We provide advice and assistance on that. We provide advice and assistance on the implementation now of the metropolitan and various regional planning strategies and we provide advice to the Premier generally and to Cabinet on infrastructure issues. That is the remit, if you like, and they are the specific things we are doing at the moment.

**CHAIR:** You only have a small unit.

**Professor RICHMOND:** We do.

**CHAIR:** Is there a danger that you will become a bottleneck? There seems to be a very heavy program on your shoulders with the size of your unit.

**Professor RICHMOND:** I do not have a history of being a bottleneck, so I hope I do not become one in this role. No, the model is essentially that we injected our fairly scarce resources into

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key parts of the project. Typically for a major project we would encourage the proponent agency to have a project control group and a high-level steering committee to deal with policy issues. A senior person like me or the acting director of the unit, Mr John Barraclough, who is the former CEO of the Transport Infrastructure Development Corporation, will sit on the steering committee, which might meet once a month or something like that.

We would then bring in a person we would select from a panel, someone we would choose to represent us on the project control group. They would usually be people very experienced in infrastructure and delivery. They provide an independent eye on the project. They report back through me to the Premier. Consequently, if there are issues, and there often are issues where matters have to be resolved across government, we can intervene and move things along. So, we are limiting our workload, and our intervention is very much at that strategic level, problem-solving, keeping an eye on the project. We work very closely with the Office of Infrastructure Management in Treasury and the Department of Planning.

We are not on our own in these things but, if you like, we are a catalyst for removing roadblocks and moving projects to a point where government can make decisions, maybe to decide exactly what the character of the project is, the detailed scope, maybe the next stage to fund it or to go to tender, or it may be not to proceed. That is fine. Our remit is very much to get the project at the appropriate stage onto the Cabinet table so an informed decision can be taken to move it on.

**The Hon. GREG PEARCE:** I was interested to hear about your role. Your role seems to be in significant priorities for the government and complex projects. You mentioned your role in formulating infrastructure strategy with Treasury and the very active role in projects with agencies. What I am missing, though, is what does infrastructure Minister Costa do? Do not smile too much.

**Professor RICHMOND:** No, I am smiling because you are missing it.

**The Hon. GREG PEARCE:** The only thing I have been able to get him to tell me that he does is that he does typesetting for budget paper No. 4.

**Professor RICHMOND:** The office of infrastructure management in Treasury, which effectively reports to Mr Costa as finance Minister and Minister for Infrastructure, is the office that is developing the State infrastructure strategy. It is getting help from us but essentially that is its responsibility because the infrastructure strategy has to be integrated with the forward capital works budget, forward estimates—budget statement No. 4 I think is the right number—and that is a significant \$8 billion-plus program.

**The Hon. GREG PEARCE:** Costa cannot add up. He has admitted that himself.

**Professor RICHMOND:** Mr Costa's role is very much to accept responsibility for that particular activity, and he is of course also in his role as finance Minister looking very closely at the Cabinet processes on the cost of projects and plays a significant role in the infrastructure area. We make sure they get to Cabinet. It is the Minister's prerogative to take things to Cabinet. We encourage them to do so. As the Minister often representing the Premier and the Treasurer in the current arrangements, as the shareholding Minister with a state-owned corporation, he plays a major role in the approval of their infrastructure projects. I think he has a reasonable amount to occupy him, and he plays that key oversight role in that strategy.

**CHAIR:** I understand he has a lot of experience in economics.

**Professor RICHMOND:** That is my understanding of his role, and we work closely with him.

**The Hon. GREG PEARCE:** Just back onto the tunnel, then. I have read your report fairly thoroughly. You really do not leave us very much room to do our second report, because effectively you have jettisoned almost every basis on which the previous road procurement policy proceeded—the upfront fee, no cost to government, paying all the public domain changes out of it, the idea of value for money, of the toll, consultation, transparency, every area. It is basically a crushing

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indictment of the previous approach and certainly the cross-city tunnel itself. Is there any area where you think they got it right on the cross-city tunnel?

**Professor RICHMOND:** It was not a review of the cross-city tunnel per se. I think you could say that fundamentally the current approach has worked quite well in a number of projects. There is a very extensive investment now that we did not have any motorways across the city over the past decade or so, and that has worked. That has been procured because of the use of the PPP approach, and that in my view has been appropriate. However, obviously there are issues about the character of the cross-city tunnel project which perhaps in hindsight—and it is very easy to be wise in hindsight—would suggest that was not the best approach to take. The Government has a strong commercial position and it would be unwise to do anything else but protect that position at this point in time and indefinitely into the foreseeable future.

What the cross-city tunnel controversy has done and what this point of time has done where you have now quite a mature system of motorways, is given the Government the opportunity to commission the review we have done. Yes, it does change direction quite dramatically and the Premier's clear view in asking me to do the review is that I should range widely across these things and not be constrained by what has been done before.

I think there is a distinction between criticising the way in which the procurement and the detailing of the design and therefore the impact on the uses of the cross-city tunnel road have occurred. I do not think anybody is in the position at this point in time to say whether or not in the future that will not become quite a useful piece of infrastructure for the city. I suspect it will. Perhaps it would have been better if it had been done differently. I think it is premature to be saying it is not something that will be of value into the future. I am sure it will be, just like a lot of other projects, but in a different world it would have been done in a different way, in my view.

**The Hon. GREG PEARCE:** Can I ask you about the no cost to government concept. I have a lot of trouble with no cost to government when what it effectively means is tolls, a different sort of tax on taxpayers. Are we here for the Government or for the people? It seems to me to be an odd sort of concept in the first place, and I suppose I applaud your recognising that, given your position.

**Professor RICHMOND:** I do not think it is necessarily enough. I think tolls are a way of financing a particular piece of road or parts of the road network. The fact that there is a private contribution through private debt and equity does not mean it should not have a toll. Obviously, at times you do need a toll. That does not mean you do not have toll roads. The issue is whether you create an equation, if you like, where it is so tightly constructed that you have a toll level, you have no cost to government, and the only thing you can start to contemplate varying is the level of traffic. That has the potential to distort the outcome, and then you have to look at other ways to keep costs down. Whereas, it still may be legitimate to toll a road because it has some private equity and debt but equally it has a significant government contribution.

If one steps back for a moment from the fact it is a very substantial Commonwealth contribution, the M7 represents a package where you have, if you like, a government contribution to the road and then the recognition that private debt and equity is in there and the toll is appropriate to that section because there is a much clearer relationship between charging a toll and the value the users are getting out of the road, as we can see from the numbers. It is discerning and distinguishing the projects where the mix is appropriate and the level of the mix. How much is government contribution and how much is private-sector equity and debt, starting from the proposition that you have no government contribution is likely to give you some very unsatisfactory policy distortions.

**CHAIR:** There needs to be strict control by the Government over the level of tolls. If we talk about reviewing prices in other areas, the people who set the toll have unlimited freedom, which means the taxpayers paying.

**Professor RICHMOND:** I would not envisage they would have that. If you are still tendering a toll road, the distinction we have made is between the idea that you set the toll upfront and say the toll will be X rather than saying let us tender the road and see what comes out in the best bid. There would still be a contract that would agree the parameters for the toll and the future setting of the toll. It is in no way intended that the government does not have the whip hand, because if the

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government is the principal tendering for the road, it will be the one that decides whether it will accept a particular toll or not.

Current policy I think makes the bid inflexible. I do not think you necessarily get the right opportunity to mix and match issues like: How much will the government put in? How much will the toll be? But, at the end of the day, the government is the one that sets the figure in the contract. That would not change.

**Mr ANDREW CONSTANCE:** In light of your recommendations, did you not find it remarkable that no-one in government gave any consideration to the fact that the level of patronage of the tunnel would be directly affected by the value for money of its use?

**Professor RICHMOND:** I think people in government would argue that they did. I think, however, they are applying a methodology which had worked quite well on what are relatively stand-alone types of projects, where it is pretty clear that people will decide to use the toll road—roads like the M4 and the M7, which is now open. I think in those kinds of projects, which are relatively stand-alone, the RTA methodology has worked quite well.

**Mr ANDREW CONSTANCE:** But that did not seem to happen in this case.

**Professor RICHMOND:** In this case, I think it is a fundamentally different kind of road. It is a road that has a much greater impact on the surrounding urban domain, because of lots of changes in patterns of travel in what are quite, for Australian standards, dense residential areas. Also, of course, the project attempts to fund a major public domain improvement in William Street. That puts a very significant impost on the project. I guess it was not the best place to apply the formula that worked well in other places. What I think is emerging increasingly is that, when you start to look at the highly localised impacts of these sorts of roadways on the road structure, you really have to get down to very fine-grain analysis about what people will pay and will not pay. It is just not that straightforward. It is a very different environment in terms of what are fairly straightforward changes from almost one section of Sydney going west, where there is an imperative to move quite quickly over quite large distances.

**Mr ANDREW CONSTANCE:** I noted your conclusion about requiring the RTA assessment and evaluation processes, and I just wondered why you gave regard to value for money for users.

**Professor RICHMOND:** Because I think value for money had got a bit lost in the process. In the context of this evaluation, it had been much more expressed in the concept of no-cost-to-government; you have got the best value if it has not cost the government any money. What we are saying is the cost to government, the cost to the taxpayer, is a very important factor, but for these kinds of projects where you want to induce people to use the road and generate revenue from the tolls, you must make sure in your final evaluation that you really have got value for money for the road user. And at this stage it appears that that has not happened in this project. It is not necessarily clear that in a decade's time it will not represent value for money, when it is a very different city in that it is a much more congested and much more dense city.

**CHAIR:** We have to move on.

**Ms LEE RHIANNON:** Professor Richmond, I imagine you are aware the Auditor-General has recommended that the Government put public disclosure requirements in legislation. Why did you not comment on that or make that recommendation in your report?

**Professor RICHMOND:** There was no specific reason for that. I think it was basically that, in my view, the next logical step in this evolution, if you like, of public disclosure was to get a firm policy commitment from the Government. The Government has started to act in terms of providing a wide range of information in the light of recent events on motorway projects, but it seemed to me the logical next step that was most easily accommodated and digestible would be for the Government to adopt a policy to start to release the documentation. Legislation is fine, but one of the issues with the recommendations that I have made here is that, even though I personally think it is appropriate to release all the documentation, there does have to be some discretion because there are issues which

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could impact on the Government's commercial position, often in relation to the contract that is then under consideration. It may be that at the time of the release of the material there are still some contractors and others to be procured in relation to the project; it could be that there are public domain improvements going on. It would be better if the government were not vulnerable in terms of its negotiations with the private sector on those sorts of issues.

So I think there has to be a little bit of flexibility in this, and therefore I did not favour legislation. Frankly, my view was that the first step is for the Government to adopt a clear policy. The course is open to others, no doubt, such as this Committee, to make recommendations about legislation. But I think one has to be a bit careful about this. It has been a period of transition over time, as we have learnt to both release and consume what is very complex documentation. I came in at the end of the evidence of the Auditor-General about the contract summaries. I think, for example, that was a very important step in a process which must now evolve so that the community increasingly is able to understand the character of some of these contracts.

You may well say that they should be legislated so that all gets released. That is a position that I did not take, as I said, for the reasons I have outlined. But it seems to me it is an evolutionary process. In our sort of community we have not done that kind of thing in a mandatory way. In other countries it is simply legislated, and there appears a massive amount of information, which is almost impossible to digest. That is one of the reasons that I have said, whatever you do, no matter how much you release of all the contract documentation, it is terribly important that that contract summary concept is kept going, because, notwithstanding some people's views about it, I think it is an invaluable document to start one on the quest for understanding about the nature of some of these contracts. It will often be enough for many people. For those who want to go further, once you have the other detailed documentation released, the contract summary then provides a bit of a guide to help you go into that. I think it is a learning process. I would rather see it evolve. But, of course, it is open to others to suggest legislation.

**Ms LEE RHIANNON:** My understanding is that the Premier specifically asked you to consider time frames for the public release of contract information. You did not take that up in your report. When you mentioned this in the earlier part of your answer, you seemed to leave open that you could support—and I am certainly not trying to verbal you; I am literally trying to understand what you said—legislation to cover limited disclosure. Is that where you are heading?

**Professor RICHMOND:** Yes, because I think maybe you mandate the contract summaries. But I think there needs to be a bit of discretion—discretion which recognises the role of the Parliament—because I appreciate that at the end of the day the Parliament is in a position to require the tabling, but there has to be some discretion about public interest. The public interest is served by information; that is true about the detail. But it is not necessarily served if information comes out that makes it hard for the government to do a good deal for the public. That would be my concern. But, no, do not verbal me; I have not recommended legislation. I think it is too early to recommend legislation. But it is a matter for others.

On the question of timing, however, it seemed to me that each contract is different, and the circumstances surrounding the contracts are different. That is why I suggested, in the context of this particular set of issues—because they revolve around the RTA—that the timing should be agreed with the Auditor-General. That is how I have dealt with the timing issue, because I think it can be unnecessarily prescriptive to say it must be in a certain time. The Auditor-General has the ability to be publicly critical if he cannot get agreement on timing and say, "This is not acceptable. I want it released in two months, but they are telling me six months." He has the ability to make that a public issue if there is a conflict.

It seemed to me that the Auditor-General is the appropriate person to have the right to be able to say, "We will negotiate with the Minister," or the RTA in this case, "as to when the contract material will be available"; and, if there are things going to be withheld at that time, why, and when they will be available. It just seems to me that that is a more sensible system for these sorts of things, because the circumstances surrounding each contract will be very different. Whilst the RTA has been criticised over this issue, nonetheless, in the context of the very ambitious program that it was running, with three major motorways projects procurements going on very close together, there were real issues about the timing of the release of information. But I think it should not be left to them to

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make that judgement. It is a judgement for government and somebody like the Auditor-General. That is my answer on timing.

**Ms LEE RHIANNON:** In your work for the Premier on motorway projects, have you provided any advice to the Premier on the peak oil phenomenon?

**Professor RICHMOND:** No, I have not.

**Ms LEE RHIANNON:** Why have you not done that, considering there is increasing concern that world oil reserves could run out quite soon, and that quite recently the Swedish Prime Minister has given specific attention to this matter?

**Mr PAUL McLEAY:** Mr Chairman—

**Ms LEE RHIANNON:** Let us not waste time on a point of order. It is clearly relevant.

**Mr PAUL McLEAY:** It is not even remotely relevant to the terms of reference.

**CHAIR:** Do you have any comment on that?

**Professor RICHMOND:** My only comment is that I did not think it had a direct relevance to the issue of the policies about procuring motorways. It may be an issue about the kinds of transport systems you provide, but my overwhelming issue on the matter was that it is not directly relevant and, in any case, it is a very controversial subject. There are very widely differing views on that, as I understand it. But this is not an area that I am expert on, and it did not seem to me to bear directly on the terms of reference.

**Ms LEE RHIANNON:** It sounds like you gave some attention to it.

**Professor RICHMOND:** I was aware of the issue, but it did not fall, in my view, within the terms of reference, and it was not an appropriate matter to deal with.

**Mr PAUL McLEAY:** Do you think the Government should continue to use PFPs to deliver motorways and possibly other projects?

**Professor RICHMOND:** Yes, I do. It is an appropriate form of procurement. But the decision as to how you procure is very much a decision that should follow the decision that you are going to do the project. It should not be a decision that is driven by the idea, as perhaps might have been the case with the cross-city tunnel that "we can do this"; that is, that "it becomes a good project because we can do it at no cost." It should be a good project because it is a good project, worthy of placement on the State infrastructure strategy, which Mr Costa is working on at the moment; and, when it is on that strategy, then you look at what is the best way to procure, and one of the sensible ways to bring forward the provision of infrastructure is to attract private financing, to use PFPs in that context. They should continue to be used, but intelligently, and on a case-by-case basis.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is there a tendency for motorway projects, such as this one, to be larger in scope than the original public sector comparison that was made? In other words, what starts off as a small project ends up a very large project. Had it been put up as it finished up, would it have got the resources it did?

**Professor RICHMOND:** I am not quite sure I follow.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** If you start off with a proposal for a small tunnel, and you end up with a very long tunnel, obviously that takes away your options.

**Professor RICHMOND:** Yes, you could argue, in one sense, it does. On the other side, however, one of the opportunities—as I think has been shown in a number of situations—for innovation occurs when you provide the private sector with the opportunity to come up with alternatives. In this case there were some clear benefits to the project from the longer tunnel. I would not see the fact that the project changed as a result of an assessment by the private sector as

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necessarily a bad thing. I think the bigger issues are the basic policy issues of no cost to government and those sorts of issues, rather than the idea that some innovation should occur in the tender process. There are many examples, particularly in the area of PMPs, of the private sector coming forward with a quite significant innovation that has improved projects. I would not like to see us lose that capability.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But it does give the private sector an immense advantage over the public sector in the sense that they can change it as they go along.

**Professor RICHMOND:** They cannot change it as they go along.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Well, they did.

**Professor RICHMOND:** they get the chance to respond to a scope of works for a particular project, and to suggest alternatives. That can happen in traditional construction contracts where the public sector has itself defined the scope and is going to let it directly to a contractor. It sometimes does happen.

It is generally the case though that it is more likely to happen when there is some incentive because there are private funds going into the project. This tends to focus the private sector's mind more on innovation and that is a good thing. But any changes need to be carefully considered. What we have tried to suggest, and the Government has accepted this view, is that when you do get those kinds of changes it is really appropriate that it comes back to the Government's core deliberating and decision-making body, the Cabinet, to look at it more broadly. Not just to say, "We get a better project and it does not cost any money", but to actually say, "What are the other implications? What does it do to the road system?" That is the kind of approach that we are encouraging. It would be wrong to read into that that we do not like and would not want the private sector to come up with innovation. The private sector should innovate and the public sector should have the capacity to respond appropriately. Responding appropriately means that the full range of consideration comes to bear on the project, not just the cost impact on the motorist and the impact on the resident. That is the kind of analysis we would like to see happen more in the life of these projects, hence the recommendations about improving some of the Government's own decision-making processes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Would you say that these projects favour road over rail—

**CHAIR:** We are running out of time. It is now question time for the Government.

**Mr PAUL McLEAY:** Professor Richmond, your report recommends that local road changes must remain at the discretion of government. Would you elaborate? Has the cross-city tunnel been different from other motorways in this respect?

**Professor RICHMOND:** I think the difference with the cross-city tunnel is the point I have made already. The difference is that it is much less of a stand-alone project to previous projects. I think, from a cursory glance at some of the other submissions you have received, the former Commissioner for Main Roads Bruce Loder makes a similar point. That does make it different. It means you are confronted with the idea that you do have to address a range of local road closures. Our philosophical position is that those road closures should be done for the purposes of either achieving a better result for those who use the road and/or for local improvements to the environment, to the road network and to urban domain and residential amenity and to make sure that those changes are done for that reason and not to simply boost the finances of the project. It is essential that those changes remain in government control. That is a fundamental statement which has been strongly reaffirmed by the Premier: that the road network belongs to the public. Notwithstanding the issues that have come out of the cross-city tunnel, that position has to be reaffirmed in the future and has been done so by the Government. In the future those kinds of changes will stay in the hands of the government. So that the interaction is really between the government and the users and the citizens that are affected by those changes, not just an interaction with the concessionaire, as is the case with this project.

**Mr PAUL McLEAY:** In relation to government processes, you make a number of recommendations, particularly as to the alignment of the environmental planning and assessment

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processes with internal government approval processes. How did those processes impact on the cross-city tunnel project?

**Professor RICHMOND:** I think the point we make in the report is that it meant that it was very difficult. Because the RTA was working to an imperative of no cost to government it was very difficult to have a wider consideration of some of the other policy objectives in the project as it progressed. Whilst that may or may not have been an issue at the time, certainly in retrospect it would have been better if there had been some more discussion about some of the issues that are now the subject of this report and the subject of your inquiries. Our view is that if we make sure that there is an appropriate linkage between what is happening in the Environmental Planning and Assessment Act processes and the Government is actually seeing the impact of likely planning conditions, you will get more sensible trade-offs between things like how much will be the toll, how much will the Government put into the project. That recommendation has been adopted. The Minister for Planning needs to stand outside those processes, but he is the one who needs to be able to say, "These are the kinds of planning conditions." The Government then says, "How are we going to respond to that? Maybe we need to change the project. Maybe we need to put some more money in or do something different." That opportunity would be there in the processes that we have talked about and that is where it should lie. It should be a Cabinet decision about those sorts of issues.

**CHAIR:** Our time has expired. Do you have an urgent single question, Dr Arthur Chesterfield-Evans?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Does this sort of project favour road over rail because of the activity of the agencies?

**Professor RICHMOND:** I am sorry, I do not understand the question. It was a road project, so it would be road.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Because rail does put up these sorts of projects, you never get any rail inquiries. You only deal with projects put on the table. If an agency does not put a project on the table, it does not get looked at.

**Professor RICHMOND:** We keep coming back to the idea that fundamentally for any government project the starting point is the justification of the project to get it onto the State infrastructure strategy. That is the way the Government will work in the future. It has a massive ongoing investment in rail projects at the moment in terms of the Epping to Chatswood project. We are working on very significant possible rail projects to support the growth of Sydney in the north-west and south-west. Those are clear areas where the Government is giving very serious consideration to investment in rail. Ultimately the investment has to be a sensible and sound investment. I do not think it is true that there is not consideration of rail projects. There is. Historically rail projects in the area of public-privately financed projects have been very difficult to sustain, that is true. There have been numerous projects put to governments at different time and, I think, wisely rejected.

**CHAIR:** Thank you very much for appearing before our Committee. All the best with guiding and directing your infrastructure unit.

**(The witness withdrew)**

**(Short adjournment)**

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**ROGER FREDERICK WILSON**, Acting Chief Executive, State Transit Authority, and

**IAN JAMES GLASSON**, Manager and Director General, Ministry of Transport, sworn and examined, and

**LYALL WILLIAM KENNEDY**, Director of Transport Planning, Ministry of Transport, affirmed and examined:

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

**Mr WILSON:** I am.

**Mr GLASSON:** I am.

**Mr KENNEDY:** Yes.

**CHAIR:** If any of you wish to give evidence in camera the Committee will be happy to consider your request. Would any of you like to make a short statement?

**Mr WILSON:** Yes, I would like to make a brief statement to open. First of all, thank you for the opportunity to appear here this afternoon. The function of the State Transit Authority is to operate bus services in Sydney and Newcastle and to operate ferry services in Newcastle. Our operating businesses are known as Sydney Buses, Newcastle Bus and Ferry Services and Western Sydney Buses. As a service provider only State Transit did not have any role in relation to negotiation of the contract with the cross-city tunnel consortium. However, State Transit has had a long involvement with the project by participation as a stakeholder in various statutory and consultative planning processes.

In addition, State Transit has been represented on the cross-city tunnel public transport committee and on the traffic and transport liaison group. The public transport committee was established under condition 27 to co-ordinate the interests of transport agencies, minimising impacts on public transport, and to identify public transport opportunities, including bus priority measures and to ensure that potential benefits to public transport are captured and maintained. The traffic and transport liaison group was established to maintain close liaison and co-ordination between agencies and the cross-city motorway at the detailed working level for traffic and transport arrangements during construction. Thank you.

**Mr GLASSON:** Might I make a brief statement on behalf of the Ministry of Transport?

**CHAIR:** Yes.

**Mr GLASSON:** The Ministry of Transport did not have any role in contract negotiations, nor did it have a direct role as the consent authority, which was the Department of Planning. The Department of Transport, as the ministry was formerly known up to 2003, had two principal roles. One was commenting on the environmental impact statements, both the original and the subsequent amended one, and participation within the public transport committee that was formed as part of the project.

The department supported the cross-city tunnel for two principal reasons and that was that the alternative do-nothing position would, over time, provide circumstances for the ongoing reduction in CBD public transport efficiency, particularly the upgrade street level public transport, and that the project offered the opportunity for improvements in priority primarily on the north-south street level public transport, which is buses, taxis, pedestrians and cyclists, by reducing overall numbers of cars in the city.

In the 2003 the department was reconstructed as a ministry and the transport planning functions were repositioned to the Department of Infrastructure and Planning, which then took over the major role of transport planning within the Sydney metropolitan area.

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More broadly, I think finally I just need to make the observation that most, if not all of the staff who were involved in the processes that are at the centre of the Committee's interests have either gone to other agencies or have left the public service at this point so, clearly, we retain little corporate knowledge but we are happy to answer all questions.

**CHAIR:** I notice that you are all acting in your positions?

**Mr GLASSON:** My status changed yesterday I think. I have not got a piece of paper yet, but I understand I was appointed yesterday.

**CHAIR:** You are no longer acting.

**Mr GLASSON:** That is right.

**CHAIR:** How has the cross-city tunnel affected the provision of public transport in Sydney?

**Mr WILSON:** I think at this stage it is too early to draw any definite conclusions. What I can say is that during construction, in terms of bus services, operating conditions have been very difficult and that has been especially during the afternoon peak. There have been a significant number bus priority measures already introduced and there are more measures yet to come. From a patronage point of view overall across Sydney our patronage is stable at the moment.

**CHAIR:** There does seem to be more congestion in William Street because of the narrowing of the road, although I know that there is a bus lane.

**Mr WILSON:** Yes, that is correct. The impacts have been different on the various corridors into the city. We have evidence in some corridors of conditions being worse and others being better, so it is quite a mixed result.

**CHAIR:** I note that there was a suggestion made to use the large buses that you have outside the CBD and somehow transfer passengers into smaller buses in the city to reduce congestion. Is that a viable proposition?

**Mr WILSON:** I actually think it would have the opposite effect and, more than that, it would actually be a quite expensive way to do things. Our major cost is labour and it is more expensive to employ the driver driving the bus than to buy the bus that is being driven, so the use of small vehicles for mass transit is really counterproductive in terms of operating efficiencies.

**CHAIR:** In regard to measuring bus efficiencies, you are required under planning approval condition 28 to measure those bus efficiencies. How are you doing that?

**Mr WILSON:** Bus travel time surveys were undertaken in March, April, June and November 2003 to establish a six-month impact analysis and that was done by consultants Maunsell, and there has been a report produced on those surveys. I understand that further surveys will be undertaken in March this year, which is six months after the opening of the tunnel. The conditions also require that that be repeated after one year and three years of operation.

In the first six months of operation—and the Maunsell survey was intended to compare the pre-construction conditions with the construction conditions—there were mixed results in that period. We had deterioration in running times for services on the Parramatta Road, Victoria Road, William Street and Oxford Street corridors but we did have some improvement in the York and Clarence Street corridors. We have undertaken our own further surveys last year—that is State Transit surveys—and we did some surveys in July-August, which was shortly before the tunnel opened and we also undertook some further surveys in November last year.

In those surveys after the tunnel was opened we had improvements for services in George Street and York Street but services using Elizabeth Street and Castlereagh Street deteriorated. Again, the total patronage overall has been reasonably stable but there has been evidence of growth in the morning peak period virtually right throughout 2005.

## CORRECTED TRANSCRIPT

**CHAIR:** You mentioned that a report was collated. Do you have that report with you about measuring bus efficiencies and, if so, could you table that?

**Mr WILSON:** Yes. It is not actually State Transit's report, but I have a copy of it.

**CHAIR:** It is a consultants report.

**Mr WILSON:** Yes, by Maunsell, and it was for the cross-city tunnel joint venture so I presume that would be available for the Committee, but the report was not prepared for State Transit.

**Report tabled.**

**Ms LEE RHIANNON:** I ask a question of clarification. Was the study done before the cross-city tunnel or after?

**Mr WILSON:** The first report that I was referring to was published in February 2004. That was after construction had commenced but before the tunnel was opened.

**Ms LEE RHIANNON:** Have there been any studies after?

**Mr WILSON:** The other studies I referred to were State Transit's own internal studies. I do not have possession of any other studies done by the RTA.

**Ms LEE RHIANNON:** Were they done after the tunnel opened?

**Mr WILSON:** The STA ones?

**Ms LEE RHIANNON:** Yes?

**Mr WILSON:** One set was, yes.

**Mr JOHN TURNER:** With respect to any of your studies after the tunnel was opened, did you look at efficiencies on the Anzac Bridge?

**Mr WILSON:** Our after study was only really within the CBD itself. It did not extend out into the approach arterials.

**Mr JOHN TURNER:** The RTA presented us with some graphs that I think they said were done by you. I cannot find them at the moment and I will not delay the hearing. They alleged that the improvements were significant on the Anzac Bridge. I am pretty sure they refer to your organisation as having done the study.

**Mr WILSON:** I have seen the graph that you are talking about. I understand that it was done by RTA observations. The information in that graph may well be correct for that part of the road. As I understand it, it is only roughly from White Bay to the middle of the Anzac Bridge. From a total system point of view that is not really representative of what has happened across the system.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I want to ask about general changes in things such as bus lateness. The Committee has heard evidence that buses have run very late, particularly in the William Street area where the road closures are a far greater factor than traffic being removed by the tunnel. Residents are complaining that the buses are running much later. Can you give us some quantitative data on the on-time running on those routes?

**Mr WILSON:** No, I do not have any quantitative data on that.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is there not routine monitoring of quantitative data on lateness on routes?

**Mr WILSON:** The monitoring we do is monitoring of the on-time departure on routes.

## CORRECTED TRANSCRIPT

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But surely if the bus gets to its destination—where presumably it does not spend very long—and then returns you could learn now how late it was for the next route by how late it was on the previous route.

**Mr WILSON:** Not really because we try to schedule in sufficient layover times so that if there is late running there is still an opportunity for the bus to depart on time for its next trip.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** So you do not keep statistics routinely of bus lateness like trains do.

**Mr WILSON:** We do in terms of departures from terminals, yes—and have done for many years.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But if the bus leaves the terminal at the right time and reaches its destination severely late you do not have any figures on that. Is that the bottom line?

**Mr WILSON:** Not quantitative figures, no.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Do you have any non-quantitative figures?

**Mr WILSON:** We have an information system to record customer complaints, for example, that classifies complaints according to the nature of the complaint. We can look at complaints about reliability and they can be associated with routes so that we are able to see if there are patterns.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Have you done that with routes associated with the cross-city tunnel?

**Mr WILSON:** No, we have not done an analysis of that. The data is available but we have not analysed it with that in mind.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Would it be a good thing for you to do given that the cross-city tunnel is supposed to help public transport?

**Mr WILSON:** We have been aware of the problems we have been having and we have been working with the RTA to minimise those problems.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Are lane closures a fairly significant part of the fact that you cannot run a bus on time?

**Mr WILSON:** Most of our corridors have not been affected directly by the road closures. I think the main route affected by that sort of work was route 311.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Does that go up William Street?

**Mr WILSON:** Partially, yes.

**The Hon. GREG PEARCE:** Have you increased capacity as a result of the cross-city tunnel opening? Have you increased the number of services or your capacity in other ways?

**Mr WILSON:** No.

**The Hon. GREG PEARCE:** So how will public transport provided by buses be improved as a result of the cross-city tunnel opening?

**Mr WILSON:** If we are able to achieve some reductions in running time we will be able to provide the current number of trips with less buses and less drivers. That means we will have resources that can be deployed to those areas of need where the demand warrants additional services.

## CORRECTED TRANSCRIPT

**The Hon. GREG PEARCE:** Did you plan for that? Do you have some documents that show what improvements you expect to make as a result of the cross-city tunnel being opened?

**Mr WILSON:** No, because we need to understand what the achievable running times will be on each corridor. That is very difficult to do until you are actually operating under those conditions.

**The Hon. GREG PEARCE:** So it was just a good-faith promise that public transport would be improved.

**Mr WILSON:** If the running times can be reduced and the variability of running times can be reduced that will be an improvement in public transport.

**The Hon. GREG PEARCE:** But running times have not been improved yet.

**Mr WILSON:** They have on some corridors and not on others. But you are right: It is a mixed result.

**The Hon. GREG PEARCE:** Mr Glasson, you said that the planning function of the Ministry of Transport has been removed to DUAP.

**Mr GLASSON:** To DIPNR, which is now the Department of Planning.

**The Hon. GREG PEARCE:** So what does Transport do now?

**Mr GLASSON:** All our broader strategic transport planning resources went there in 2003 and we now focus primarily on the short-term issues—the zero to five-year incremental improvements—as well as forming views on and having input into the broader strategic planning that the Department of Planning has overall accountability for. We have a major focus at the moment on the implementation of the strategic bus corridors in the metropolitan area, which have an overall impact on travel times to and from the city and to other centres. We also have a clear focus on public transport around major centres—not only the CBD but Parramatta, Hurstville and other centres. That is in a strictly planning sense.

**The Hon. GREG PEARCE:** Did your relationship with the RTA involve any particular consultation on the cross-city tunnel as a project?

**Mr GLASSON:** No. As I understand it, we made comment primarily to the Department of Planning, as the consent authority, in relation to documentation prepared by the RTA by way of EISs and other mechanisms. Clearly, when the public transport committee was formed to oversight the broader implementation, we were a member of that, along with other agencies.

**Mr ANDREW CONSTANCE:** Mr Glasson, earlier today we heard that the RTA had changed the traffic lights phasing at about 400 intersections. Given the reasonably extensive transport routes that you are operating in the immediate area, was there any consultation with any of you in relation to that traffic light phasing?

**Mr GLASSON:** Certainly. Lyall might elaborate on this if necessary. In terms of the public transport committee, which oversees general improvements or changes in the CBD—whether that be increased bus lanes or changes in the phasing of traffic lights—I think there has been a reasonably detailed collaboration, if you like, between the agencies, Planning and the RTA, and the Ministry on those issues. Clearly, as part of what is going on at the moment as the impacts of the tunnel opening bed down and there are various behavioural changes in the traffic movements around the city, I would expect that the RTA are continuing to change the phasing of the lights primarily focusing on the north-south corridors through the city rather than the east-west.

**Mr ANDREW CONSTANCE:** Are you being consulted on those changes?

**Mr KENNEDY:** Yes, we have been consulted and State Transit has as well. When the two-way Drutt Street operation came into effect for the buses there was an issue with the phasing of the lights in that section of Drutt Street between George and Sussex streets. We worked with State

## CORRECTED TRANSCRIPT

Transit and the RTA to rearrange those phasings to improve the bus movements. Likewise, another example is when they installed the right-hand turn from George Street into Druitt Street for the Victoria Road services. We have been in discussions with the RTA on the phasing of the lights at that intersection to improve the bus movements. It is an ongoing process.

**Mr WILSON:** I might also add that State Transit's radio supervisory control room is co-located with the RTA's traffic management centre. So we have a lot of liaison on a day-to-day basis with the RTA when we have particular problem areas as well as the sorts of issues that Lyall has already talked about.

**Mr JOHN TURNER:** To follow on, does that liaison with the RTA involve cross-city tunnel representations in the discussions about light phasing?

**Mr WILSON:** Not as far as I am aware.

**CHAIR:** There was a suggestion that the phasing of the lights had the deliberate purpose of trying to force people to use the tunnel and create congestion in other ways so that folk would not use the normal roads and would use the tunnel instead. Is there any truth in that? If that was a factor it would obviously cause congestion for buses too.

**Mr WILSON:** From the State Transit perspective, our input has been solely related to trying to improve bus operations and ensure that we are able to maintain a reliable service.

**CHAIR:** So there is no indication that the lights phasing system has had any harmful effect on bus movements? It is had no negative effect.

**Mr WILSON:** Clearly we have had difficulties in maintaining on-time running but when we have raised issues with the RTA they have done their best to respond to those issues. Naturally they have got a lot of other users in the system as well as the buses and they are balancing all those inputs.

**Mr MATT BROWN:** Which body is now the overall regulator of buses in Sydney?

**Mr GLASSON:** The Ministry of Transport regulates buses under metropolitan bus contracts.

**Mr MATT BROWN:** Can you expand a little on that regulatory role?

**Mr GLASSON:** As you may be aware, there has recently been change in the bus contracting model in the metropolitan area. There has been a rationalisation from a large number of contracts—something like 87—down to 15 principal contracts. The primary purpose was to foster a better system of bus networks. The State Transit part of Sydney has remained less affected by that because they already had, as a single entity, significantly integrated services over recent years. But the private bus areas are now coming under a process of rationalisation of service delivery to try to get a better integrated strategic network.

**Mr MATT BROWN:** The conditions of approval of the cross-city tunnel project included a number of bus priority improvements to the streets within the Sydney central business district. How were these improvements identified and what mechanisms have been put in place to oversight their implementation as part of the overall project?

**Mr GLASSON:** I will ask Lyall to answer that question. He has a far more detailed knowledge of those matters.

**Mr KENNEDY:** My understanding is that those bus priority measures were discussed in the early phases of the EIS process. At that point the then Department of Transport and State Transit had an opportunity to put what priorities they wanted as a result of the cross-city tunnel. That is being monitored through the cross-city tunnel public transport committee, which was formed under condition 27 of the conditions of consent.

**Mr MATT BROWN:** Can you explain a bit about that committee?

## CORRECTED TRANSCRIPT

**Mr KENNEDY:** Yes. That committee has membership comprising the Ministry of Transport, the RTA, the Department of Planning, police and the City of Sydney was also invited on.

**Mr MATT BROWN:** So the council sits on that committee.

**Mr KENNEDY:** Yes, the council also sits on the committee. That committee has been established to review the public transport initiatives that have been included as part of the cross-city tunnel project. It is required to be in existence for three years after the opening of the tunnel.

**Mr MATT BROWN:** What were some of the specific improvements identified? You said they were part of the EIS.

**Mr KENNEDY:** Some of the specific improvements were to consolidate bus movements into the city from the Victoria Road area on Druiitt Street. There was a bus-only section of Druiitt Street. There were some associated works coming off the Anzac Bridge. They have created a bus-only lane off the Western Distributor down into the city. There are additional bus lanes on Chalmers Street and Elizabeth Street and also in Liverpool Street. Quite a number of those bus priority measures were put in place.

One of the biggest advantages seen over time with the introduction of the cross-city tunnel was the ability to start to realign the traffic light phasing to give more green time to north-south movements in the city rather than to the east-west. Given that the bus network is primarily north-south focused, if we get east-west traffic off the roads we can give priority to north-south movements. That was seen as a good opportunity to improve the predictability and reliability of the bus network.

**Mr MATT BROWN:** I would like to hear from State Transit on the mechanisms identified and the implementation of those mechanisms.

**Mr WILSON:** It probably would not surprise anyone to know that State Transit is a vigorous advocate of bus priority. Where we have the opportunity to promote bus priority we take it. The measures we have put forward concentrate on those corridors where we have the highest bus volumes. In addition to some of the issues mentioned by Mr Kennedy, we have also had bus lanes implemented on Elizabeth Street, Chalmers Street and Pitt Street. We have had some further restrictions on general traffic in York Street and fairly significant changes introducing a right turn from George Street into Druiitt Street for outbound buses. A number of bus priority projects are yet to be completed. Some others were proposed that we have agreed are probably not worth pursuing. For example, we originally thought bus lanes in Ocean Street would be worthwhile, but the analysis has not supported an overall benefit. There is no point in our pursuing bus priority measures if we end up being worse off.

**Mr MATT BROWN:** You have identified some bus issues that were not part of the cross-city tunnel. What processes exist to identify bus priority improvements? How are they funded and implemented?

**Mr KENNEDY:** Funds were set aside for bus priority as part of the cross-city tunnel project. We have spoken about that today. Apart from that, we are now working with the RTA and the City of Sydney to look at how we can improve bus services in the city generally over and above any benefits we may achieve from the cross-city tunnel.

**Mr MATT BROWN:** Did the cross-city tunnel help fund processes to improve bus priority?

**Mr KENNEDY:** Yes.

**Mr GLASSON:** There is a separate major program of bus priority improvement in consultation with the RTA on the arterial network, both feeding the city and more broadly across the metropolitan area.

**Mr MATT BROWN:** You spoke about that committee earlier and provided the membership. Are there other consultative processes in place at the moment?

## CORRECTED TRANSCRIPT

**Mr KENNEDY:** Yes there are, but they are not related to the cross-city tunnel directly. We are meeting on a regular basis with the City of Sydney, RTA and the Department of Planning looking at improving bus services in the city.

**Mr MATT BROWN:** So the cross-city tunnel aspect is not seen in isolation from your department's point of view; it is part of an overall transport strategy?

**Mr KENNEDY:** Yes.

**Mr MATT BROWN:** How effective are the bus priority movements and measurements?

**Mr WILSON:** Where priorities are provided it is very effective. We have still had difficulties with our operating conditions in sections of the city where no bus priorities have been provided. We need some continuity of priority. If we can get that through the city then those areas in which we are still having difficulties will be eliminated and we will get real benefit out of the project.

**CHAIR:** Are you subject to the city council agreeing to do it? Can you not implement it without its approval?

**Mr WILSON:** State Transit does not have the power to implement any of that. We are strong advocates of it, but it is a matter for the relevant road authority.

**CHAIR:** And that is the city council.

**Mr KENNEDY:** The city council is the road authority for the streets in the city.

**CHAIR:** Is it being obstructive in introducing these priorities?

**Mr KENNEDY:** It is being quite co-operative. One of the things we are trying to achieve is extended operating hours for bus lanes, which will have an impact on street parking. Clearly, that is a sensitive issue for the City of Sydney. There are areas in which there is close agreement and others in which there is a bit of difference.

**CHAIR:** Because it is weighing up the needs of other users?

**Mr KENNEDY:** Yes. It has different priorities to ours in some regards.

**The Hon. AMANDA FAZIO:** I refer to your interaction with the City of Sydney and the changes to roads and so on because of the cross-city tunnel. I am sure you know that councils have local traffic committees. Are you involved with them and in the consultative process so that you can have your say? We have heard a lot of conflicting evidence that people in some areas want roads re-opened and some want them closed. There are many competing priorities. Do you have your say so that bus commuters do not get overlooked?

**Mr KENNEDY:** The Ministry of Transport has not been directly involved in them. I am not sure whether State Transit has had some involvement.

**Mr WILSON:** State Transit is not a voting member of those committees, but we attend committee meetings across Sydney and provide input to those committees. They work fairly effectively on most occasions to take into account the views of all the stakeholders involved.

**Ms LEE RHIANNON:** I refer the representatives of the rail system to MetroWest and MetroPitt and correspondence from RailCorp to Mr Wielinga of 20 May 2005. It relates to some structural problems. I will read out what is stated here and I would like to know how it was resolved:

As you are aware, the structural design of the cross-city tunnel does not meet the express provisions of Appendix 39 of the project deed in that CCM has not designed the tunnel structure in such a manner that RailCorp can construct and operate MetroPitt and MetroWest without affecting the cross-city tunnel or free flow of traffic within the cross-city tunnel. In particular, RailCorp is not satisfied that the structural design is of sufficient integrity to preclude cracking of the cross-city tunnel during construction of MetroWest and MetroPitt.

## CORRECTED TRANSCRIPT

Can you explain how that was resolved?

**Mr GLASSON:** I cannot speak on behalf of RailCorp and I do not know the details of those structural issues. We can either seek information and provide it later or the committee can ask RailCorp to speak directly on it.

**Ms LEE RHIANNON:** The committee is not willing to call other witnesses. That is why he is laughing.

**Mr PAUL McLEAY:** That is not true.

**Ms LEE RHIANNON:** Will you go on the record now saying that you will agree to call more witnesses?

**CHAIR:** Mr Glasson has said he is happy to take the question on notice.

**Ms LEE RHIANNON:** Thank you for that. I would appreciate it if you would put the question on notice. I refer to the material adverse effects. We have been trying to understand them and how they are triggered. Have you had any involvement in that aspect of the material adverse effects that could be triggered if public transport services or systems were changed in any way? Have there been discussions, and, if so, how was it determined that an MAE would be costed?

**Mr GLASSON:** I am not familiar with discussions that the ministry has had directly with the RTA over the terms of the contracts or, indeed, in terms of compensation should there be an issue arising under the contract.

**Ms LEE RHIANNON:** So you do not think it has happened or you are not aware of it? Is it something you should take on notice, because we are trying to gain a better understanding?

**Mr GLASSON:** I am happy to take it on notice to the extent that we have an involvement, but I do not know the detail of the contract in that respect.

**Ms LEE RHIANNON:** What involvement has STA had in any discussions on how MAEs work with regard to future developments in public transport?

**Mr WILSON:** I am not aware that STA has been involved in any such discussions. In relation to future bus services in Sydney, as Mr Glasson pointed out, we now operate under contract to the Director-General and the approval of any changes to bus services requires the Director-General's consent. So State Transit cannot of its own volition change services.

**Ms LEE RHIANNON:** I refer again to the bus issue. You provided some useful information, but I am still trying to understand something. When the former Premier, Mr Carr, gave evidence with a great flourish he referred to the great benefits of the cross-city tunnel and placed particular emphasis on improved bus services. When I asked him to supply details of that, he said that he did not have any of the reports. I want to clarify whether any quantifying data has been produced. I know you have already spoken about this, but I want to clarify again whether there has been anything with regard to changes to bus services since the cross-city tunnel opened.

**Mr GLASSON:** I am happy to speak generally and Mr Wilson can speak in more detail.

**Ms LEE RHIANNON:** Thank you.

**Mr GLASSON:** The ministry has a view and I know a similar view has been put to the committee by other people. Our view is that it will be at least 18 months to two years before the general level of traffic change and public transport priority improvements settles down to a point at which we are able to draw solid conclusions about improvements or otherwise in public transport. Any conclusions we may draw now may not be the longer-term outcomes.

**Ms LEE RHIANNON:** Thank you. Mr Wilson was going to answer.

## CORRECTED TRANSCRIPT

**Mr WILSON:** I support those comments. It is too early for us to make any significant response to the changes. We must bear in mind that the cross-city tunnel is just one of the influences on demand in transport in Sydney and our operating capacity along the roads. It is not only the tunnel that is influencing the changes that we make to bus services.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Mr Wilson, you said there are no extra buses and you do not have any hard data on running times or lateness on those routes, although you did concede that all the entry routes into the city seem slower and the internal routes of York and Clarence are quicker. Is that the situation?

**Mr WILSON:** Between the late construction period and the tunnel opening, there were improvements in George and York Streets, so the George Street service improved as well. The deterioration was in the Elizabeth and Castlereagh Street services.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Yes, but you also said there had been worse services coming into and out of the city on the east-west routes. Is that correct; do you concede that that is true for Oxford Street and William Street and Victoria Road and Parramatta Road?

**Mr WILSON:** Yes. That comment was in relation to what happened between pre-construction work and six months into construction.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But you do not have any data since it was closed; is that correct?

**Mr WILSON:** No, we are waiting for further surveys to be done in March this year.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Mr Glasson said that we will not know for a year or 18 months. From the public's point of view, if a number of lanes are closed and the buses have to share lanes with cars that are being forced into a smaller space it is unsatisfactory, is it not, to have to wait 12 or 18 months to see what is going on? Surely there should be monitoring from day to day when the residents are telling us that the buses are running much later, which is hardly surprising.

**Mr WILSON:** We do monitor the bus services every day and we do what we can operationally to overcome any problems of late running. We can work alter the services and other things like that to try to overcome any problems.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Do you have data on how many buses are late? If not, why not?

**Mr WILSON:** As I said, we regularly monitor the departures from terminals. That is the key performance indicator [KPI], if you like, that we maintain to measure that part of our system.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** But you do not measure the arrival times, is that right?

**Mr WILSON:** Correct.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** In fact, if you have a nice buffer before they leave next time, as long as they reach the destination within the time they are supposed to, plus the buffer, you would not actually have any figures that they were late at all. Is that right?

**Mr WILSON:** We have more ad hoc reports from drivers and from customers on issues, and we occasionally do specific surveys in particular areas, but we do not have an ongoing series of statistics of the type you are talking about.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** You are saying you have to do some finetuning based on those ad hoc reports and complaints, as you call them. Could we have some conclusions from those ad hoc reports and complaints as to how the buses are going?

## CORRECTED TRANSCRIPT

**Mr WILSON:** I thought we had already indicated to you what the conclusions were, that in some corridors we are better off and in some corridors worse off.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** That is pretty vague. Can you do a bit better than that? Will you take the question on notice and give us some figures?

**Mr WILSON:** I do not believe we have the figures.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Well, on what are you basing that decision?

**Mr WILSON:** We conduct occasional surveys of the sort I told you about. These surveys are quite expensive to conduct because the data has to be collected manually. One of the things that will be coming about as a result of the new contracts is that we will have a system that can track buses and maintain this data automatically. In future years we will indeed be able to provide the sort of information that you are talking about, but at the moment it is very expensive to collect all that data manually.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Mr Glasson, was there any input from the train planners suggesting alternatives to a tunnel?

**Mr GLASSON:** From?

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** From road planners, suggesting that the money that was to be put into—the RTA had a proposition to build a tunnel.

**Mr GLASSON:** Yes.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Did anyone in transport planning have a plan to build an alternative road? It was stated at one time that a light rail system to be University of New South Wales would be roughly the same cost as a cross-city tunnel and would have the same impact on traffic. You aware of that statement?

**Mr GLASSON:** I am aware that City Rail has, for a number of years, had a corridor preserved down the western side of the central business district [CBD] and has been working on another alternative corridor through the centre of the CBD, but I am not aware specifically of discussions within agencies in terms of the competing claims of a cross-city tunnel versus investment in rail.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** Is there any such plan that might look at those possibilities? Is there any overall plan? The Committee was told by the department of planning that there was not an overall plan. Is that the situation?

**CHAIR:** That does not come within the witness's area of expertise.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** The witness has been involved in rail planning until recently.

**Mr GLASSON:** Not since 2003.

**The Hon. GREG PEARCE:** Are you running any buses through the cross-city tunnel?

**Mr WILSON:** No, we are not running any.

**The Hon. GREG PEARCE:** Are there any plans to do so?

**Mr WILSON:** No, there are no plans to do so.

**CHAIR:** Is it the case that buses are prohibited from using the cross-city tunnel?

## **CORRECTED TRANSCRIPT**

**Mr WILSON:** No, not as far as I am aware. In fact, my understanding is that it is toll-free for our buses. The demand patterns for public transport are not likely to produce the need to run a bus from White Bay to Rushcutters Bay, if you like.

**CHAIR:** I assume the fact that buses leave the terminal at the scheduled time means they cannot be late because they have to be back in order to start the next run on time. So there could not be a big gap in time, could there? You say you only measure the time of departure from the terminal. That would suggest that the bus turnaround time could not be overdue significantly or it would not be at the terminal in time to start its next circuit.

**Mr WILSON:** If a bus is running so late that it cannot make its next trip on time, the driver will radio through to the control room and we will make a service adjustment to try to accommodate that.

**CHAIR:** That is what I am getting at. Buses cannot be running that late because you have said they are departing from the terminal on time.

**Mr WILSON:** It varies a lot from day-to-day and there have been some very difficult days where buses have been late running on a number of routes and on other days they have been fine.

**(The witness withdrew)**

## **CORRECTED TRANSCRIPT**

**ROBERT DAVID LANG**, Chief Executive Officer of the Sydney Harbour Foreshore Authority, and

**DIANA MAY TALTY**, Executive Director Major Projects, and Sydney Harbour Foreshore Authority, affirmed and examined:

**CHAIR:** Dr Lang, in what capacity are you appearing before the Committee?

**Dr LANG:** As the Chief Executive Officer of the Sydney Harbour Foreshore Authority.

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

**Dr LANG:** Yes, I am.

**CHAIR:** Ms Talty, in what capacity are you appearing before the Committee?

**Ms TALTY:** As Executive Director Major Projects, and Sydney Harbour Foreshore Authority.

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

**Ms TALTY:** Yes, I am.

**CHAIR:** If you wish to give any of your evidence in camera, the Committee is willing to consider your request.

**Dr LANG:** Thank you.

**CHAIR:** What role, if any, has the Sydney Harbour Foreshore Authority had in relation to the cross-city tunnel?

**Dr LANG:** I should say at the outset that our involvement in the motorway construction project has indeed been somewhat limited and peripheral. With respect to the inquiry terms of reference, we know nothing of the contract between the RTA and the consortium, nor about the RTA contracting processors, nor the details of the consortium arrangements, other than what is public knowledge. Our role in the project is as an affected landowner as the cross-city tunnel emerges in its western end in part of our lands at Darling Harbour. At all times our engagement with the consortium project, the CCT project, and the RTA was in that context, as an affected landowner. We are not a proponent, designer, planner or advocate, and at all times our efforts were really focused on just two things. The first was minimising disruption to our precinct and attendant businesses during the construction. The second was maximising the quality of the amenity and urban design elements that were approved for the tunnel that lay within the precinct.

**CHAIR:** What role, if any, did the authority have in regard to the ventilation stack at Darling Harbour and its relocation?

**Dr LANG:** The ventilation stack certainly, because it appeared in the lands of Darling Harbour, was an area that we took some interest in. One of the requirements of the development application conditions for the approved tunnel project was to investigate possible alternative stack locations within 100 metres radius of the approved site. Our role very much was in discussing with the RTA the details of that investigation and looking at various options that would have resulted in a decision being made about whether or not to relocate the stack within that radius.

**CHAIR:** Did you have any concerns about the relocation of the stack?

**Dr LANG:** Yes, the foreshore authority certainly had a view about the stack location—putting a very large tower in the middle of our precinct. In terms of the location that was approved between the flyovers that go across Darling Harbour, we were concerned about the visual amenity of that, about the impact on the urban design. We were of the view that there may be location is not very far from the approved location that would be a slightly better urban outcome. So we were keen to

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investigate those as much as possible, and to discuss with the RTA the pros and cons of that relocation.

**CHAIR:** Did you have any success?

**Dr LANG:** In the end the Government's decision was to leave it in the approved location, but that was after being well informed of the pros and cons of the various options and we accepted that result.

**CHAIR:** You had to accept it but you were not happy and still had concerns. Is that the case?

**Dr LANG:** I think in the end we were happy to accept the result, given that many of the issues we raised resulted in slight variations in the design and construction of the tunnel—appearance of the stacks, sorry. So, we were pleased with the end result, as it has turned out.

**CHAIR:** Did you make recommendations about how the stack might be disguised so that it fitted in with its surroundings?

**Dr LANG:** One of the conditions of consent was to do with the appearance of the stack, the cladding or whatever that was on the outside, and we were consulted in terms of what sort of material that would be and how it would look. Clearly, we were pleased with the outcome. It ended up being a good design.

**The Hon. GREG PEARCE:** Dr Lang, I had some bad news for you. I am afraid we are not going to have much fun sparring today. I your forward to the next time we have an opportunity to talk about the Superdome again.

**Dr LANG:** That will be a pleasure.

**The Hon. GREG PEARCE:** I recall from another inquiry that be consideration of an alternative location for the stack did reach quite a detailed stage. Just for the record, could you explain for the benefit of the Committee where the other proposal was and how far discussions reached with the department of planning?

**Dr LANG:** Certainly. Condition 248 of the development application that was approved by Minister Refshauge in December 2002, and condition 249, both that talked about the details of the stack—how it looked and where reach would be located—and those conditions required that various options be investigated. From February 2003 through to about December 2003 our whole series of discussions were handed in monthly meetings with the RTA and others about all those details—planning was involved in some of those meetings as well—to look at all the various options; and also, at the same time to consider the various construction impacts on Darling Harbour. We were very careful that the construction itself did not disrupt the normal flow of business in Darling Harbour, our tenants and our visitors. We get 26 million visitations a year and it was important that that was not an affected by those operations.

The outcome of all of that was that we looked very carefully at one particular location, which was to enclose the stack in a building. That would need to have been built in the area of Darling Harbour, within 100 metres of the site in due course, anyway, and it was a question of whether or not it would be better to incorporate the stack effectively within the building envelope so that you got a better urban outcome. So a lot of work was done in looking at that option, looking at how it could be incorporated, and the conclusion that was drawn was that it was possible and feasible to do in a way that would allow the stack to be constructed in the timeframe required, yet allow the building to be added later. At the end, that and various other options were put to the Government to consider and a decision was made not to do that, but to leave it in the approved place.

**The Hon. GREG PEARCE:** What was the estimated cost of that alternative?

**Dr LANG:** I think from memory it was in the order of \$12 million. I could check that for you.

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**The Hon. GREG PEARCE:** That was an additional to the cost of putting the stack where it was originally planned?

**Dr LANG:** I think that is correct, yes.

**The Hon. GREG PEARCE:** In relation to the funds that were expended on the Sydney Harbour Foreshore Authority land, the RTA has given us some information that \$3.08 million was spend by it on utility adjustments in the Sydney Harbour foreshore land. Are you aware of that?

**Dr LANG:** No, I am not.

**The Hon. GREG PEARCE:** Could you take that on notice and let us know whether you have any record of that accounting been done?

**Dr LANG:** Certainly I will check. I think it is a matter for Energy Australia.

**The Hon. GREG PEARCE:** Yes, they separate that to Energy Australia.

**Dr LANG:** We do not provide any of the utility structure in Darling Harbour. It is all done by other utilities.

**Mr ANDREW CONSTANCE:** In December 2003 the head of Premier's conducted an investigation into a leaked Cabinet minute which everyone knows is subject to ICAC, but did Premier's investigate the Sydney Foreshore Authority at any point or have any discussion with the Sydney Harbour Foreshore Authority about the stack?

**Dr LANG:** With respect to the leaked Cabinet document?

**Mr ANDREW CONSTANCE:** Yes, and the argument between the authority and the RTA?

**Dr LANG:** As I was a witness to the ICAC investigation, I cannot talk about the matters that were discussed with Mr Gellatly regarding that matter at the time. With respect to the stack location, certainly there were a number of government departments involved, including planning, premiers, RTA and others, looking at the various options, and including the DEC. Obviously there were impacts related to the stack vacation with regard to emissions and so on. All those government departments at various times had some part to play, but that is probably all I can say.

**Mr ANDREW CONSTANCE:** Also, do you see cost as the principal reason for the ventilation stack being located at its current site?

**Dr LANG:** I am probably not in the best position to answer that. It was really a planning paper that went up to Cabinet to decide on whether or not the location was picked in one place or another. We were not parties to that so we do not know what the final reasons were for choosing that. We know the outcome

**Mr ANDREW CONSTANCE:** Were you engaged in any direct discussions with the Cross City Motorway at any point?

**Dr LANG:** We were involved over that period from February through to December 2003 on all sorts of different committees. First of all, there was a committee called the CCT Liaison Group Western, which was set up by the RTA and also the air quality community consultative committee, also an RTA committee where we were represented as an affected landowner, and our role at those meetings was mainly to receive information from the RTA about the project and, where appropriate, to raise any issues we might have about how it was progressing and so on.

**Mr ANDREW CONSTANCE:** So, in answer to my question about discussion with the Cross City Motorway—

**Dr LANG:** The only time we were in meetings with the RTA and the consortium together were to do with the actual construction timing and details, when bids were going to be demolished and

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when roads were going to be closed. It was very operational-level discussions that were held monthly to ensure that we were well informed about how the construction timetable was progressing.

**Mr MATT BROWN:** I wonder if you could explain a little more about the role that SHFA had in relation to Darling Harbour and how you undertake that role?

**Dr LANG:** Certainly. Sydney Harbour Foreshore Authority is the place manager for The Rocks and Darling Harbour. By that it means we are both a landlord forme 440-odd tenants. We also look after the public domain. In the case of The Rocks we look after the heritage infrastructure, the 98 heritage buildings. In the case of Darling Harbour we are looking after everything from Tumbalong Park through to the convention and exhibition facilities and all the events and activities that happen down there. So, clearly from our point of view we are focused on making sure those precincts continue to be successful from a tourism perspective and also from a business perspective. So, we had a lot of discussions with, for example, the Darling Harbour Business Association, as we do with The Rocks Chamber of Commerce to make sure that they are properly informed about anything that is happening within our precincts or that might affect their businesses. With respect to the cross-city tunnel project we kept those groups well-informed about what we were hearing, what we were understanding was going on, so they could understand and be suitably notified as the project progressed.

One of the concerns of the Darling Harbour Business Association was clearly that the location of the stack was something that could be detrimental to their business. It raised with us very early in the piece its concerns that that might create perceptions and hence the impact it might have on visitation. From our point of view it was very much an aesthetic and perception-driven issue but nevertheless one that needed to be addressed. That was one of reasons why we progressed very strongly with looking at the location and the aesthetics of it, to make sure it was a good project and one that ended up not impacting those businesses so strongly.

As a result of that the Darling Harbour Business Association was being better informed and being kept in the loop, if you like, about what was going on. It was more comfortable about the whole process that it would otherwise have been and I think that was very successful in the long run.

**Mr MATT BROWN:** You say you had 440 tenants. Can you describe what other landholdings there are in Darling Harbour? When you say tenants, have they shortish leases or are they 100-year leases or what?

**Dr LANG:** We have a large variety. For example, in The Rocks we have a lot of small shopowners—everything from newsagents to fashion stores to the cafes and restaurants, and so on, who have short leases, maybe up to five years. In other locations there are longer-term leases depending on what was agreed at the time. They might be 30 or 40 years long in some other locations.

In Darling Harbour they tend to be all bigger lessees and with longer leases and bigger players, players such as the Sydney Aquarium, that is one of our lessees, so is the Imax Theatre, so is the Harbourside shopping centre. So, they are relatively large players and therefore have strong commercial views which they like to express and we listen to very carefully.

**Mr MATT BROWN:** They are also the landlord for a lot of the land where unit development is going on around Darling Point and the Pymont area?

**Dr LANG:** The short answer is no. What I can provide, there is a map at the back of the foreshore authority's annual report which spells out in some detail the areas around which the foreshore authority has some legislative interest and also showing where we own various properties. But, in effect, the main ownership is around The Rocks and Circular Quay and Darling Harbour from King Street Wharf through to the Maritime Museum. They are the main landholdings. Even though we add some influence in Pymont, we have largely handed that role back to the city of Sydney in recent years. So now our main focus is on Darling Harbour and The Rocks.

**Mr MATT BROWN:** Do you have any processes in place or maybe you could talk to us about how you assess the impact of development proposals, I suppose, specifically on Darling Harbour?

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**Dr LANG:** In Darling Harbour we are the assessment agency for the Minister in dealing with any development applications that might impact on Darling Harbour itself. However, the cross-city tunnel project was not a Darling Harbour project. It was the Department of Planning that did the assessment for that. We had no role in the assessment for the cross-city tunnel project. Therefore, our role was only as the affected landowners in the way that the tunnel emerged within the Darling Harbour precinct. The decision to build a tunnel, the fact that that the stack was going to be in Darling Harbour, the decision by the original approved location, was all without—we had no role in the planning or assessment of that.

**CHAIR:** We have had a discussion with previous witnesses about land tax. You are a landowner. Did you have to do a calculation about how much of your land is related to the cross-city tunnel, with the entry and the location of the stack? Did you make a calculation and say that that is the amount of land area that should now be covered with land tax?

**Dr LANG:** There are two parts to that question, if I may. First of all, there was a part of this project and part of the early discussions with the RTA that the RTA compulsorily acquired various bits of land from the authority in Darling Harbour to allow for the cross-city tunnel to do what it does, emerging there. So, we ended up not being a landowner, ultimately, of any of that land. That is now owned by other parties. With respect to land tax, we are very much affected by land tax in all of our precincts and is a long and involved subject which I would be delighted to discuss.

**Mr MATT BROWN:** I would like to ask about the impact of construction of the cross-city tunnel on Darling Harbour. Was there an impact, and can you describe that?

**Dr LANG:** Yes. If I may say, I think the impact was well managed. Certainly from day one when we first started to talk to the RTA and the consortium about the construction impacts, because they involve such extensive works, not only the construction of the stacks, which is a relatively modest construction exercise in one part of Darling Harbour. But certainly the impact on Harbour Street, which is the street to the east of Darling Harbour, and the impact on the pedestrian walkways that cross from the city over to Darling Harbour, which at various times were demolished and replaced and other alternative arrangements made, and the actual impact on the day-to-day operation of Darling Harbour was quite large and therefore we were very carefully to ensure that those impacts were not felt in unacceptable ways but I must say that the co-operation we had with the RTA and the consortium was excellent, and as a result of that I think we managed those impacts quite well.

**Mr MATT BROWN:** Were any mitigation measures taken?

**Dr LANG:** Yes.

**Ms TALTY:** We had agreements in place with the RTA that restricted the working hours and days and periods like the school holidays, Australia Day, so they had a calendar of major events at Darling Harbour. They agreed they would stop work to make sure they did not interfere with those major occasions. So, a lot of it was learning as we went but for the amount of work that was done there had surprisingly little impact on our customers and stakeholders.

**CHAIR:** Was there any negative effect on the businesses in Darling Harbour or did they feel they should have compensation for loss of business?

**Ms TALTY:** Again, we had weekly contact with the major tenants who were in the area of the construction, such as the Imax Theatre, so we could constantly monitor what was happening to them. As a consequence, there was no claim for compensation from any party.

**Dr LANG:** Certainly there was a fear in the early stages that we would have a big impact. I do not think the evidence to date has suggested that has been a strong impact. Perhaps as other parties may have said to this inquiry, it is early days yet to understand that fully but at this stage there does not appear to be on the evidence we have seen and from the experience of our tenants that that has been a large impact.

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**Mr PAUL McLEAY:** Can you describe the consultation process between yourselves and the RTA in relation to the cross-city tunnel project?

**Dr LANG:** Certainly. There are a number of established processes. I have mentioned already the liaison groups of which we were a member, which were run by the RTA. Those groups were set up to communicate with all of the affected parties, not just ourselves. There are other landowners and also other community groups that were represented on those same committees. In addition, we add, as I mentioned, the project control group, which was talking about the day-to-day impacts of the construction timetable and process. But in terms of consultation we were not a party that was required to do any consultation because we were not the assessor and we were not the project proponent. We were just one of the parties being consulted with, rather than having to do consultation.

However, what we did do in terms of consulting with our tenants, we kept them informed by newsletters and by regular briefings about what we knew, but it was really a matter of passing on what we had been told, and that was the main role we had in consultation with various parties.

**Ms LEE RHIANNON:** What was Col Gellatly's involvement with the attempt to have the stack moved?

**Mr MATT BROWN:** Chair, I think this is the ICAC matter that we have come across many times and agreed that those questions would be inappropriate while the inquiry is still under way.

**Ms LEE RHIANNON:** Is that a point of order?

**Mr MATT BROWN:** It is a point of order.

**Ms LEE RHIANNON:** To the point of order: It is a simple question. I asked the witness what was his involvement.

**Mr MATT BROWN:** Further to the point of order: We had Dr Col Gellatly here yesterday and Ms Lee Rhiannon had the opportunity to ask him this question. I submit it is inappropriate to ask other witnesses about another person's involvement.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** To the point of order: Someone may ask a question about someone's else's involvement, without assuming that they are corrupt, even in New South Wales. The fact that Ms Lee Rhiannon may not have had time to ask Dr Gellatly a question yesterday does not mean that she should not ask this witness about the functions of other departments as he sees them.

**CHAIR:** I do not know whether the witness has any knowledge in any case.

**Dr LANG:** I do not know in detail what Dr Gellatly's involvement was. I know that he was occasionally at meetings that I also was at. But I do not know whether that was a regular thing, or whether that was something that was one-off. So I really cannot answer on his behalf.

**Ms LEE RHIANNON:** I was not asking you to answer on Dr Gellatly's behalf. I was asking you whether you were at meetings where it was discussed.

**Dr LANG:** As I mentioned, there were a number of government departments involved in the cross-city tunnel, and from time to time the CEOs of various organisations were called together to talk about that and other matters, but I do not know the detail.

**Ms LEE RHIANNON:** Reading the correspondence and e-mails, there is a flurry of activity in 2003, especially between DIPNR, RTA and SHFA. I note that in your letter of 11 November to Mr Forward you express disappointment, I think is probably the best way to describe it, that you had expected that there would be a joint Cabinet submission from DIPNR, SHFA and RTA, and said, "Yes, I was disappointed to be advised today that the RTA has chosen not to circulate the current draft Cabinet paper to DIPNR or SHFA so that our contributions could be incorporated." It is at that point, I gather, that you learned that RTA is going it alone and is going to put in its own submission to Cabinet. Is that correct?

## CORRECTED TRANSCRIPT

**Dr LANG:** Yes, that is correct. We were under the impression that Planning was to be the lead agency, if you like, in putting forward a wholesome document to put together all the various options. As it turned out, several different drafts of documents were created. We from the Foreshore Authority also submitted some paperwork, I think on 19 November. I understand the RTA may have done a separate document itself, and I understand Planning also may have produced separate documents. How those various documents got amalgamated in the end, I do not know.

**Ms LEE RHIANNON:** That letter was in November 2003. Then we find in December 2003—this is a memorandum, certainly within Planning, but I understand SHFA has been involved—that Planning and SHFA are still working on relocating the stack: should RTA wish then to relocate, it would not have to consider a stand-alone situation, but rather compare the relativities between the existing stack and just a stack in a building. It goes on to say, further down the paragraph, "Obviously, the other option is to legislate a stack relocation change immediately and not require a formal EIS assessment." Is my reading correct that, although you had parted ways with the RTA, which was working on keeping the stack where it had been identified, Planning and SHFA are still working together on possible ways to trigger a relocation?

**Dr LANG:** No. We had come to a final view, and all the work had been done by late November on what the various options were, and from that point onwards it was a matter for Government decision. Ultimately, a decision was made, I think in early December, which stopped work completely on those alternative options, and the original location was retained.

**Ms LEE RHIANNON:** I am sorry, but did you say early December?

**Dr LANG:** The decision was made in early December, but we finished all the works on the options in mid-November.

**Ms LEE RHIANNON:** That is curious, because this is dated 11 November and it is setting out different options for a relocation.

**Dr LANG:** Yes, that is consistent.

**CHAIR:** That is what the witness just said.

**Dr LANG:** That is what I just said, yes—in mid-November.

**Ms LEE RHIANNON:** You have said the Cabinet meeting in early December made the decision.

**Dr LANG:** The decision was made in early December.

**Ms LEE RHIANNON:** And that decision is?

**Dr LANG:** Not to relocate the stack.

**Ms LEE RHIANNON:** So why, on 11 December—which I do not think we would call early December—are these options being explored?

**Mr MATT BROWN:** You said 11 November.

**Ms LEE RHIANNON:** No, it was 11 December.

**CHAIR:** You said 11 November initially, and that has confused us.

**Ms LEE RHIANNON:** I am sorry. I apologise. You have said the Cabinet meeting that made the decision was in early December.

**Dr LANG:** I think the Cabinet meeting was after 11 December. But, again, we were not involved in the creation of that Cabinet paper, and I do not know.

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**Ms LEE RHIANNON:** I will go to something else. Today I asked the RTA representatives questions about this, and they were able to throw only some light on it. It involved SHFA. I am referring to some documents that have just come to Parliament. One is a handwritten document that Mr Wielinga said he wrote, but that he did not attend the meeting. These notes are from a meeting "Discussion with Minister 19/11/03 re relocation of the stack". It says, "Met with Minister Knowles last night." Mr Wielinga said that he did not go to that meeting, that he wrote these notes up, but he cannot remember who spoke to him about it. I am wondering whether it was you who attended that meeting with Mr Knowles.

**Dr LANG:** No, I did not.

**Ms LEE RHIANNON:** Do you know who from SHFA would have? While you are thinking about that, because I know we are running out of time, it talks about the RTA stack being "big and ugly". It says, "Planning will approve even if slightly worse impacts." I must admit I found it quite worrying—and I am really trying to understand it, and it is a handwritten note, so I would ask you to bear with me—that it has been suggested today that it was a SHFA representative meeting in the evening with the Minister and working through this issue of the stack and how to relocate it. I am really trying to get to the bottom of: (a) who met with Mr Knowles, and (b) SHFA's involvement in this whole working with DIPNR and the Minister to achieve that relocation.

**Dr LANG:** I can confidently say I did not attend the meeting, and I would be very confident to say that no-one other than I from the Sydney Harbour Foreshore Authority would be meeting with the Minister on any matter.

**CHAIR:** Ms Lee Rhiannon, you said there was a representative from the authority. We do not know that, I do not think. Does it say that in the document?

**Mr JOHN TURNER:** It's fishing!

**Ms LEE RHIANNON:** It is not fishing.

**Mr JOHN TURNER:** Of course it is fishing. It does not say SHFA in it anywhere.

**Ms LEE RHIANNON:** Mr Wielinga suggested that.

**Mr PAUL McLEAY:** Mr Lang said it was not him and it would not be anyone else from SHFA.

**Ms LEE RHIANNON:** So you are saying that you are confident that it is nobody from SHFA?

**Dr LANG:** That is correct.

**Ms LEE RHIANNON:** You are saying that you are just living with the stack where it is, and that has been your position since Cabinet made the decision in December?

**Dr LANG:** Yes, happily accepting that. And the stack, I think, if anything, is surprising in how well it looked.

**Mr MATT BROWN:** Very attractive, I think.

**CHAIR:** Not what comes out of it.

**Mr MATT BROWN:** As far as stacks go, it's a spunk!

**Ms LEE RHIANNON:** Yes. Nobody knows that it is a stack. That is the whole point: it is a con job.

**Mr MATT BROWN:** Well, that is good.

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**Ms LEE RHIANNON:** I hope that is on the record. In terms of the relocation, the issue appears still to be alive in December 2004, because there is a note to a Minister—I assume the planning Minister—for question time, and it is dated 1 May 2004. The final paragraph in the suggested response to a possible question on the cross-city tunnel stack location says, "Notwithstanding the above—"

**Mr MATT BROWN:** She's not fishing!

**Ms LEE RHIANNON:** I will have that on the record, because again it is getting insulting, and it shows that some members do not want to get to the bottom of this. We have a document here that is a response from your own Minister about this issue. It states, "Notwithstanding the above, the RTA will continue liaison with SHFA regarding future opportunities for relocating the stack within a building if such opportunity present themselves." So there we have the Minister saying that they will liaise with SHFA, and that is in May 2004. But you are saying that as of December 2003 this issue was off the agenda for you.

**Dr LANG:** Yes, it was. As of December 2003 a decision was made, and we moved on. The option to relocate it in the building that we were talking about came and went, and I think the only option would be if another building might have come along, or another opportunity at a later date presented, but I would be surprised. As far as we were concerned, it was a dead issue.

**Ms LEE RHIANNON:** So you are absolutely ruling it out. If a building did come along where you could locate the stack, would you or would you not explore it?

**Dr LANG:** I think it became a Government policy matter to leave it where it is, and as far as we are concerned we accepted that. If the policy changed, then we would obviously look at it again.

**Ms LEE RHIANNON:** Thank you, Mr Chair.

**CHAIR:** That brings us to the end of our hearing. We thank you very much for attending our hearing. We wish you all the best with the Foreshore Authority.

**(The witnesses withdrew.)**

**(The Committee adjourned at 4.22 p.m.)**