

Joint Select Committee on the Cross City Tunnel

Third Report

Lane Cove Tunnel

Tabled according to Legislative Council Standing Order 231

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Joint Select Committee on the Cross City Tunnel.

Inquiry into Lane Cove Tunnel : [report] / Parliament of NSW, Joint Select Committee on the Cross City Tunnel. [Sydney, N.S.W.] : the Committee, 2006. – 170 p. ; 30 cm. (Report / Joint Select Committee on the Cross City Tunnel ; 3rd)

Chair: Fred Nile.

“August 2006”.

ISBN 9781920788179

1. Lane Cove Tunnel (Lane Cove, N.S.W.).
2. Tunnels—New South Wales—Lane Cove.
3. Toll roads—New South Wales—Lane Cove.
 - I. Title.
 - II. Nile, Fred.
- III. Series: New South Wales. Parliament. Joint Select Committee on the Cross City Tunnel. Report ; 3rd.

DDC 388.13

“Tabled according to Legislative Council Standing Order 231”.

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Terms of Reference

1. That a Joint Select Committee be appointed to inquire into and report on:
 - (a) the role of Government agencies in relation to the negotiation of the contract with the Cross City Tunnel Consortium,
 - (b) the extent to which the substance of the Cross City Tunnel contract was determined through community consultation processes,
 - (c) the methodology used by the Roads and Traffic Authority for tendering and contract negotiation in connection with the Cross City Tunnel,
 - (d) the public release of contractual and associated documents connected with public private partnerships for large road projects,
 - (e) the communication and accountability mechanisms between the RTA and Government, including the Premier, other Ministers or their staff and the former Premier or former Ministers or their staff,
 - (f) the role of Government agencies in entering into major public private partnership agreements, including public consultation processes and terms and conditions included in such agreements,
 - (g) the role of Government agencies in relation to the negotiation of the contract with the Lane Cove Tunnel Consortium,
 - (h) the extent to which the substance of the Lane Cove Tunnel contract was determined through community consultation processes,
 - (i) the methodology used by the Roads and Traffic Authority for tendering and contract negotiations in connection with the Lane Cove Tunnel, and
 - (j) any other related matters.
2. That the committee report:
 - (a) in relation to paragraphs 1 (a) to (e) by the first sitting day in February 2006,
 - (b) in relation to paragraph 1 (f) by 31 May 2006, and
 - (c) in relation to paragraph 1 (g) to (i) by the first sitting day in September 2006.

The original terms of reference 1(a) to 1(f) were referred to the Committee by resolution of the Legislative Council on 15 November 2005, Minutes 128, Item 14, page 1720 and Legislative Assembly 16 November 2005, Votes and Proceedings No 158, Item 28, page 1765.

The current terms of reference were referred to the Committee by resolution of the Legislative Council on 24 May 2006, Minutes 3, Item 6, page 33 and Legislative Assembly 25 May 2006, Votes and Proceedings No 4, Item 24, page 67.

Committee Membership

Revd the Hon Fred Nile MLC	Christian Democratic Party	<i>Chairman</i>
The Hon Amanda Fazio MLC	Australian Labor Party	
The Hon Greg Pearce MLC	Liberal Party	
Ms Lee Rhiannon MLC	The Greens	
Mr Matt Brown MP (To 22 February 2006 and from 2 March 2006 to 7 June 2006)	Member for Kiama Australian Labor Party	
Mr Andrew Constance MP	Member for Bega Liberal Party	
Mr Paul McLeay MP (To 25 May 2006)	Member for Heathcote Australian Labor Party	
Mr Michael Daley MP (From 22 February 2006 to 2 March 2006 and from 25 May 2006)	Member for Maroubra Australian Labor Party	
Mr John Turner MP (To 7 June 2006)	Member for Myall Lakes The Nationals	
Mr Steven Pringle MP (From 7 June 2006)	Member for Hawkesbury Liberal Party	
Ms Kristina Keneally MP (From 7 June 2006)	Member for Heffron Australian Labor Party	

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Chair's Foreword

The Lane Cove Tunnel is the final link in the Sydney Orbital. When it opens, it will connect the M2 with the Gore Hill Freeway to provide a network of freeways and motorways around the city. The Lane Cove Tunnel is intended to improve the flow of traffic in Sydney, but the project also has the important objective of improving the urban amenity of the Lane Cove area.

The well-publicised problems with the Cross City Tunnel project have provided a challenge to the Government: to do better with the Lane Cove Tunnel project by ensuring that the community is fully aware of the implications of the tunnel opening and the associated surface roadworks, especially those on Epping Road. In spite of extensive consultation, the narrowing of the three general traffic lanes on Epping Road to one general traffic lane when the Lane Cove Tunnel is opened will still come as a shock to many motorists and will cause a funnelling effect as occurred with the Cross City Tunnel project.

The Committee has therefore recommended that the NSW Roads and Traffic Authority work with Connector Motorways to ensure that the new traffic arrangements are well understood by the road users before the tunnel opens.

The Committee has also recommended careful monitoring of the road conditions to ensure that the surface streets, once narrowed, can meet the remaining traffic demand.

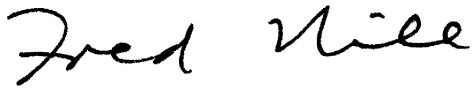
While the Committee heard credible evidence that the Lane Cove Tunnel project is likely to result in a net improvement to air quality in the surrounding region, the Committee acknowledges that the effect of unfiltered emissions from the Lane Cove Tunnel's ventilation stacks on the health and wellbeing of the surrounding community is a continuing and serious concern for some sections of the community. To address this concern, the Committee has made a number of recommendations intended to ensure that the community is made aware of the results of the NSW Health study currently in progress, and that the improvement of air quality is a continuing priority of the Government. The Committee has also recommended that the trial of filtration technology in the M5 East tunnel be closely monitored, and that future tunnel projects incorporate into the call for tenders a requirement to design and cost in-tunnel filtration.

The actions of the Government in timing their announcements in relation to the pedestrian crossings at Falcon Street and the trial filtration of the M5 East tunnel to coincide with the Committee's hearings demonstrate the effectiveness of the Committee's Inquiry. Community groups and local government had been seeking Government action to address these issues for a long time, but it took the promise of this Committee's scrutiny for the Government to deliver. It is unfortunate that the Government did not address these community and local government concerns in a more timely and direct manner, but their actions are a validation of the continuing importance of the work of parliamentary committees in holding Governments accountable to the community.

We have heard from a wide range of people during the Committee's hearings, from representatives of Government departments, representatives of Connector Motorways, community members and groups, and representatives of local government. On behalf of the Committee, I thank all of the witnesses for their evidence and assistance.

I would like to thank the members of the Committee for their efforts throughout this three stage Inquiry. I would also like to thank the Legislative Council's Committee staff for their hard work – Natasha O'Connor, Annie Marshall, Elizabeth Galton, Victoria Pymm and Simon Johnston.

I commend this report to the Government.

A handwritten signature in black ink that reads "Fred Nile". The signature is written in a cursive, slightly slanted style.

**Revd Fred Nile MLC
Chairman**

Executive Summary

The Joint Select Committee on the Cross City Tunnel (the Committee) tabled its First Report on the Cross City Tunnel on 28 February 2006. The Committee made 17 recommendations in its First Report, some of which were specific to the Cross City Tunnel and others which applied more generally to the processes, procedures and guidelines that provide the framework for the establishment of Public Private Partnerships (PPP). The Committee's Second Report on Public Private Partnerships was tabled on 17 May 2006, and made a further nine recommendations with a focus on further improving the framework for the establishment of PPPs.

Many of the issues addressed in the Committee's first two reports apply to the Lane Cove Tunnel project, and the conclusions and recommendations remain relevant. The focus of this Third Report is on issues specific to the Lane Cove Tunnel project, and an examination of the issue of air quality.

The Lane Cove Tunnel project

A tunnel has been proposed for the Lane Cove area for over a decade. Population increases in Sydney's northwest region have led to increased travel demands on the major routes in that region, particularly along the Epping Road corridor. The Lane Cove Tunnel involves two 3.6 kilometre tunnels between the Epping Road Bridge crossing of the Lane Cove River in Lane Cove West and the Gore Hill Freeway in Artarmon. It will connect the M2 motorway with the Gore Hill Freeway and includes the widening of the Gore Hill Freeway to six lanes, the construction of one untolled south-facing and two tolled north-facing ramps on the Warringah Freeway connecting to Falcon Street and Military Road in North Sydney.

The Lane Cove Tunnel is intended to complete the final link in the Sydney Orbital, a connected series of motorways and freeways that provide a ring road around metropolitan Sydney.

The project is divided into two stages. Stage One works include construction to open the Lane Cove Tunnel and Falcon Street Gateway to traffic, and the widening of the Gore Hill Freeway to six lanes. Stage One works are due to be completed by 10 May 2007.

Stage Two surface works will commence once the Lane Cove Tunnel is open for traffic. The Stage Two works are associated with achieving the urban amenity objectives of the project and include the changes to those sections of Epping Road under which the tunnel runs and a new bus interchange and pedestrian bridge at Lane Cove.

Government agencies and contract negotiation

The NSW Roads and Traffic Authority (RTA) has been the principal Government agency involved in the negotiation of the various contracts that form the basis of the Lane Cove Tunnel project.

The process followed in the selection of the Lane Cove Tunnel Consortium (now Connector Motorways) as the successful proponent was essentially the same as that followed for the Cross City Tunnel project. The major difference between the two projects is that, whilst the Cross City Tunnel project implemented a non-conforming proposal that required substantial changes to the project and a subsequent supplementary Environmental Impact Assessment process, the Lane Cove Tunnel project complied with the original parameters of the project proposal.

The Committee has seen no evidence to suggest that the RTA conducted the tendering process and the contract negotiations in anything other than a professional manner.

Many of the concerns that the Committee raised and addressed in the First and Second Reports remain applicable to the use of the Public Sector Comparator (PSC) in relation to the Lane Cove Tunnel project. In this report, the Committee reiterates the recommendations of the First and Second Report relating to the PPPs, particularly the recommendation that there be greater explanation and information provided in the *Summary of Contracts* about the PSC and how the comparison with the private sector proposal is actually conducted.

Development Fees and Business Consideration Fees

The confusion over what exactly the development fee paid by Connector Motorways to the RTA is and comprises indicates that there has been a shift in definitions over time. In its First Report, the Committee found that there was likely to have been an intention to charge for a 'right to operate' the infrastructure as part of the tender process. This appears to have been the understanding of the consortia that bid for the Cross City Tunnel and Lane Cove Tunnel projects, and was the finding of the NSW Auditor General in relation to the Cross City Tunnel. The Committee recommended that the practice of charging a 'right to operate' fee be immediately abandoned, and the Infrastructure Implementation Group's *Review of Motorways* similarly recommended that the charging of up-front fees should not be automatic.

In the case of the Lane Cove Tunnel project, the up-front fee paid by Connector Motorways to the RTA has been absorbed in meeting the RTA's costs associated with the project.

Environmental Impact Assessment process

The Committee believes that the Lane Cove Tunnel project that was approved following the environmental planning and assessment process has been broadly welcomed by the community, despite concern remaining in some sections of the community relating to issues of air quality. However, as with the Cross City Tunnel project, it is likely that there will be confusion arising from the proposed changes to existing roads and associated roadworks once the Lane Cove Tunnel project moves into Stage Two, with the tunnel open.

A number of changes were made to the project following the issue of the Minister for Planning's Conditions of Approval for the project. The RTA provided the Department of Planning with Consistency Assessment and Environmental Reviews for the changes, as required under section 115BA of the *Environmental Planning and Assessment Act (1979)* (*EP&A Act*), and concluded that the changes did not require modification of the Minister's Conditions of Approval for the project, and thus did not require further community consultation.

One of the changes involved the Lane Cove Tunnel's ventilation system, and the Committee believes that, given the obvious and demonstrated importance of air quality to the community, the RTA should have taken greater steps to ensure that this change was widely advised. Similarly, the changes made to the Falcon Street ramps demonstrate a lack of community engagement. The lack of information provided to, and involvement with, the relevant councils in relation to these late changes, in particular, has the potential to undermine the thoroughness and transparency of the EIA process up to that point. The Committee has recommended that Consistency Assessment and Environmental Reviews are made publicly available at the same time as they are provided to the Department of Planning.

Traffic Estimates

The Committee notes the difference between the traffic estimates by RTA and Connector Motorways, and highlights the concerns raised by a number of witnesses over the possibility of congestion when the Lane Cove Tunnel opens and certain parts of Epping Road are narrowed to two lanes in each direction, with one 24 hour bus lane.

The Committee has recommended that the Government review the decision to narrow Epping Road to one general traffic lane and one 24 hour bus lane, however the Committee believes that the significant urban amenity benefits that will arise from the project should not be compromised by decisions intended to compensate for surface traffic congestion. In particular, the shared cycleway and pedestrian path, which is a clear outcome of satisfactory community consultation, should be retained.

Community Consultation

Information provided to the community about the project by the RTA, and through the local councils, has been substantial. The bulletins provided by the Lane Cove Tunnel constructors throughout the construction of the Tunnel have also provided a level of awareness of the project, although the bulletins have necessarily focussed on the Tunnel itself rather than the associated surface works. Consultation occurred at a number of stages during the project's progression from design phase to construction. The Committee acknowledges the many positive comments made concerning the consultative process, including from participants who did not get their desired outcome.

There are, however, some similarities with the Cross City Tunnel project that concern the Committee. The Lane Cove Tunnel project and Cross City Tunnel project both involve major modifications to existing streets, primarily William Street and Epping Road respectively. The Lane Cove Tunnel project has always included the narrowing of Epping Road as an integral component, and works will only begin on Epping Road once the Lane Cove Tunnel opens. However, the lengthy duration of the project requires a consistent approach to community information, and the Committee highlights the need for frequent reminders about the implications of the project.

The Committee notes that the community frustration over the Cross City Tunnel project did not fully appear until the surface road works commenced. The Committee has therefore recommended that the RTA work with Connector Motorways to ensure that the community is fully aware of the detailed surface road changes associated with the project before the Lane Cove Tunnel opens, to minimise the confusion that occurred when the Cross City Tunnel opened.

Air quality

The Lane Cove Tunnel incorporates two large ventilation stacks at either end of the tunnel that will release concentrated and unfiltered emissions into the atmosphere. There is considerable concern in the community over the effect of these concentrated and unfiltered emissions on the health and wellbeing of the community within which they are released, concern which has been expressed through all stages of the project's development.

The Committee notes that, in response to concerns over the effect of air pollution on the health of the community, NSW Health has commissioned a research study to measure the present pollution levels and health of local residents and compare with measurements once the Lane Cove Tunnel has opened. The Committee has recommended that the details of the study and the results of the study are made available to the community through the Department's website.

The Committee has heard considerable evidence suggesting that the ventilation system proposed for the Lane Cove Tunnel will be sufficient to meet the in-tunnel air quality standards set in relation to carbon monoxide. The fact that the ventilation system has far greater capacity than that required for the M5 East tunnel, and the fact that the air quality modelling has been comprehensively and independently assessed by a credible and reliable expert should reassure the community that the in-tunnel air quality measures meet existing air quality standards.

The Committee urges the NSW Government to continue to implement the requirements of the *Action for Air* plan and strive to constantly improve and update the air quality standards. It is clear, too, that the Government must take responsibility for implementing any changes to ventilation systems in road tunnels that will be required as a result of improved air quality standards, rather than accept an inferior standard imposed at the time of construction.

Air quality and air pollution are complex areas, and the potential for misunderstood information to be disseminated to the community is great. It is important to maintain a sense of perspective about the impact of the Lane Cove Tunnel on air quality, and to recognise that large numbers might have small effects.

In relation to the Minister for Road's 16 June 2006 announcement regarding the M5 East Tunnel filtration trial, the Committee recognises that there is a need for careful and considered planning in relation to the installation of filtration technology, however, it is important that the community be reassured that the trial will commence in a timely fashion. The Committee has recommended that the Government ensure that a timetable for the installation of filtration technology in the M5 East Tunnel is publicly announced before the end of 2006. The timetable should identify objectives of the trial, with such objectives to be established with the oversight of a community consultative group that includes key community stakeholders.

Summary of Recommendations

- Recommendation 1** **37**
 That Consistency Assessment and Environmental Reviews prepared for variations to major infrastructure projects be made publicly available by the proponent at the same time as they are provided to the Department of Planning.
- Recommendation 2** **43**
 That Connector Motorways Group Pty Ltd publish monthly reports on its website of the number of vehicles using the Lane Cove Tunnel, commencing the month after the date of its opening.
- Recommendation 3** **49**
 That community information strategies for projects of long duration be maintained through all phases of the project, with the relevant government agency taking a key role in the community information strategy.
- Recommendation 4** **49**
 That the Roads and Traffic Authority work with Connector Motorways to ensure that the monthly information sheets provided by Connector Motorways include clear and concise descriptions of the surface street changes that will follow once the Lane Cove Tunnel opens. This work should be done in conjunction with the Lane Cove Tunnel Transition Working Group.
- Recommendation 5** **50**
 That the NSW Government give consideration to reviewing the current proposal to have one general traffic lane and one 24 hour bus lane in each direction on Epping Road.
- Recommendation 6** **50**
 That the Roads and Traffic Authority retain the shared pedestrian path and cycleway associated with the project.
- Recommendation 7** **53**
 That the imposition of up-front fees for major infrastructure projects delivered by Public Private Projects be limited to reasonable development costs incurred by the public sector, and details should be made public with the contract.
- Recommendation 8** **61**
 That the Department of Planning have an increased role in assessing the Consistency Assessment and Environmental Review process, relating to any modifications submitted subsequent to the Preferred Activity Report and the project's Conditions of Approval, to ensure that the community is fully informed of substantial modifications.
- Recommendation 9** **72**
 That in order to ensure a broad range of community representation on Community Construction Liaison Groups, the Department of Planning increase the minimum number of community representatives on these groups from two.
- Recommendation 10** **75**
 That the RTA consider constructing a scale model of future projects for public display, in order to assist residents visualise the project as a whole.

- Recommendation 11** 86
That NSW Health ensure that information about, and the results of, the Lane Cove Tunnel Air Quality study are made available on the Department's website, and that progress updates on the study are made to the Lane Cove Tunnel Air Quality Consultative Committee and promptly made available on the Department's website.
- Recommendation 12** 89
That the NSW Government continue to implement the requirements of the Action for Air plan and strive to constantly improve and update the air quality standards.
- Recommendation 13** 95
That future road tunnel projects include within the call for tenders a requirement for tenderers to design and cost in-tunnel filtration as a component of the ventilation systems.
- Recommendation 14** 95
That the decision on whether or not to install in-tunnel filtration in future road tunnel projects be made by the Budget Committee of Cabinet, on the basis of advice received from relevant Government departments.
- Recommendation 15** 95
That the NSW Government continue to work with the Federal Government to ensure that Australian standards for vehicle emissions meet international best-practice standards.
- Recommendation 16** 97
That the proposed in-tunnel filtration trial for the M5 East be monitored carefully by the RTA, and that the assessments be promptly made available on the RTA's website.
- Recommendation 17** 97
That the Government ensure that a timetable for the installation of filtration technology in the M5 East Tunnel is publicly announced before the end of 2006. The timetable should identify objectives of the trial, with such objectives to be established with the oversight of a community consultative group that includes key community stakeholders. This community consultative group should oversee the operation of the trial and contribute to regular public reporting on the efficacy of tunnel filtration against the trial's objectives.

Glossary

Acronyms

CCM – CrossCity Motorway Pty Ltd

CCT – Cross City Tunnel

CCTC – Cross City Tunnel Consortium

CM – Connector Motorways (formerly Lane Cove Tunnel Company)

DOP – Department of Planning

EIS – Environmental Impact Statement

ICAC – Independent Commission Against Corruption

IIG – Infrastructure Implementation Group

JSC – Joint Select Committee

LCT – Lane Cove Tunnel

PAR – Preferred Activity Report

PFP – Privately Financed Project

PPP – Public Private Partnership

RTA – NSW Roads and Traffic Authority

TOR – Terms of Reference

T2 – transit lane requiring vehicles to have a minimum of two occupants

T3 – transit lane requiring vehicles to have a minimum of three occupants

Abbreviations

the Committee – the Joint Select Committee on the Cross City Tunnel

the Project Deed – the principal contract between Connector Motorways and the RTA for the design, financing, construction, operation and maintenance of the Lane Cove Tunnel and associated works.

Chapter 1 Introduction

Establishment of the Committee and the Inquiry

- 1.1 On 15 November 2005, the Hon John Della Bosca MLC moved a motion in the Legislative Council to appoint a joint select committee to inquire into the Cross City Tunnel (CCT).
- 1.2 Chapter 1 of the First Report of the Committee details the process by which the Committee was established by resolutions of both Houses.¹

Extension of the Inquiry Terms of Reference and reporting dates

- 1.3 On 1 March 2006, the Revd the Hon Fred Nile put forward a motion that the reporting date for the Second Report of the Joint Select Committee on the Cross City Tunnel be extended to Wednesday 31 May 2006. The motion was passed and a message was forwarded to the Legislative Assembly for consideration.²
- 1.4 On 8 March 2006, the Legislative Assembly considered and passed the motion of the Legislative Council in relation to the extended reporting date of the second report of the Joint Select Committee on the Cross City Tunnel,³ and reported this back to the Legislative Council with the message being received on 9 March 2006.⁴
- 1.5 On 4 April 2006, the Hon Michael Gallacher put forward a motion to amend the Committee's terms of reference to include after paragraph 1 (f) new terms of reference 1 (g) – 1 (i) relating to aspects of the Lane Cove Tunnel and creating a third reporting date of the first sitting day in September 2006. The motion was passed and a message was sent to the Legislative Assembly in the following terms:
1. That the terms of reference for the Joint Select Committee on the Cross City Tunnel be amended by inserting after paragraph 1 (f):
 - (g) the role of Government agencies in relation to the negotiation of the contract with the Lane Cove Tunnel Consortium,
 - (h) the extent to which the substance of the Lane Cove Tunnel contract was determined through community consultation processes,
 - (i) the methodology used by the Roads and Traffic Authority for tendering and contract negotiation in connection with the Lane Cove Tunnel.

¹ NSW Parliament, Joint Select Committee on the Cross City Tunnel, First Report, *Cross City Tunnel*, February 2006, pp1-3

² Legislative Council, New South Wales, *Minutes and Proceedings, No 136*, 1st Session of the 53rd Parliament, item 3

³ Legislative Assembly, New South Wales, *Votes and Proceedings, No 168*, 1st Session of the 53rd Parliament, item 15

⁴ Legislative Council, New South Wales, *Minutes and Proceedings, No 140*, 1st Session of the 53rd Parliament, item 2

2. That the committee report on paragraphs 1 (g) to (i) by the first sitting day in September 2006.⁵

1.6 On 6 April 2006, the Legislative Assembly considered the new terms of reference. The motion was passed, and reported to the Legislative Council on the same day.⁶

1.7 Following prorogation of the Parliament on 19 May 2006, the committee was re-established by resolution of the Legislative Council on 24 May 2006 and the Legislative Assembly on 25 May 2006.⁷ As part of the resolution of the Legislative Assembly, the membership of the Committee was changed, with Mr Michael Daley MP replacing Mr Paul McLeay MP. A resolution of the Legislative Assembly on 7 June 2006 resulted in a further change of membership, with Mr Steven Pringle MP replacing Mr John Turner and Ms Kristina Keneally MP replacing Mr Matthew Brown MP.⁸

1.8 The current terms of reference for the Joint Select Committee on the Cross City Tunnel are therefore:

1. That a Joint Select Committee be appointed to inquire into and report on:

- (a) the role of Government agencies in relation to the negotiation of the contract with the Cross City Tunnel Consortium,
- (b) the extent to which the substance of the Cross City Tunnel contract was determined through community consultation processes,
- (c) the methodology used by the Roads and Traffic Authority for tendering and contract negotiation in connection with the Cross City Tunnel,
- (d) the public release of contractual and associated documents connected with public private partnerships for large road projects,
- (e) the communication and accountability mechanisms between the RTA and Government, including the Premier, other Ministers or their staff and the former Premier or former Ministers or their staff,
- (f) the role of Government agencies in entering into major public private partnership agreements, including public consultation processes and terms and conditions included in such agreements,
- (g) the role of Government agencies in relation to the negotiation of the contract with the Lane Cove Tunnel Consortium,
- (h) the extent to which the substance of the Lane Cove Tunnel contract was determined through community consultation processes,
- (i) the methodology used by the Roads and Traffic Authority for tendering and contract negotiations in connection with the Lane Cove Tunnel, and

⁵ Legislative Council, New South Wales, *Minutes and Proceedings, No 146*, 1st Session of the 53rd Parliament, item 24

⁶ Legislative Assembly, New South Wales, *Votes and Proceedings, No 175*, 1st Session of the 53rd Parliament, item 15

⁷ Legislative Council, New South Wales, *Minutes and Proceedings, No 3*, 2nd Session of the 53rd Parliament, item 6, and Legislative Assembly, *Votes and Proceedings, No 4*, 2nd Session of the 53rd Parliament, item 24

⁸ Legislative Assembly, *Votes and Proceedings, No 6*, 2nd Session of the 53rd Parliament, item 32

(j) any other related matters.

2. That the committee report:

- (a) in relation to paragraphs 1 (a) to (e) by the first sitting day in February 2006,
- (b) in relation to paragraph 1 (f) by 31 May 2006, and
- (c) in relation to paragraph 1 (g) to (i) by the first sitting day in September 2006.

1.9 The Committee tabled its First Report on the Cross City Tunnel on 28 February 2006 and its Second Report on the Cross City Tunnel and Public Private Partnerships on 18 May 2006.

Operation of the Committee

1.10 As the motion to establish the Committee originated in the Upper House the Joint Select Committee on the Cross City Tunnel is the first Legislative Council administered joint select committee since 1981, when the Joint Select Committee Inquiry into the Western Division of New South Wales was formed. At its first meeting, and at the first meeting after the re-establishment of the Committee, the Clerk of the Parliaments informed the Committee that, according to practice, the operation of the Committee is governed by the Standing Orders of the Legislative Council.

Conduct of the Inquiry

Call for submissions

1.11 The Committee advertised the terms of reference relating to the Lane Cove Tunnel widely in major Sydney metropolitan newspapers and in local newspapers. Specific stakeholders were also invited to make submissions, including the NSW Roads and Traffic Authority (RTA), NSW Treasury, Department of Planning (DoP), Connector Motorways Pty Ltd, and relevant community groups. The closing date for submissions was 25 May 2006 in relation to terms of reference 1 (g) – 1 (i).

1.12 The Committee received 46 submissions in relation to the Lane Cove Tunnel. A full list of submissions, including those provided in response to the first and second stages of the Committee's inquiry into the Cross City Tunnel and the role of government agencies in entering into Public Private Partnerships, is available at Appendix 1.

Public hearings

1.13 In preparing its Third Report, the Committee conducted three days of hearings, with a total of 42 witnesses from 22 organisations. A full list of witnesses is available in Appendix 2.

1.14 Minutes of the proceedings of the Committee since the tabling of the Second Report are included at Appendix 8.

1.15 Tabled documents, answers to questions on notice and submissions are available at www.parliament.nsw.gov.au/crosscitytunnel.

Site visit

- 1.16 On Wednesday 14 June 2006, the Committee conducted a site visit of the Lane Cove Tunnel construction area and affected surface streets. The site visit included a tour through the tunnel and ramp works and the Sirius Road ventilation stack location. The Committee was guided by representatives of Thiess John Holland and Connector Motorways. During the site visit the Committee met with Mr Bill Orme, a representative of the community group Walking Volunteers, who explained the group's concerns with the Falcon Street pedestrian crossings.

Appearance of Ministers

- 1.17 The Committee repeatedly invited the Premier and a number of current Ministers to appear before the Committee during the first stage of the Inquiry. The Hon Morris Iemma, Premier; the Hon Carl Scully, Minister for Police, and Minister for Utilities (formerly Minister for Roads and Minister for Transport); the Hon Frank Sartor, Minister for Planning; and the Hon Joseph Tripodi, Minister for Roads, all informed the Committee they would not be available to appear.⁹
- 1.18 The Committee resolved to invite current Ministers to appear before the Committee during the third stage of the Inquiry and wrote to the Hon Carl Scully, Minister for Police (formerly Minister for Roads and Minister for Transport); the Hon Eric Roozendaal, present Minister for Roads, and the Premier, the Hon Morris Iemma, on 25 May 2006. Mr Iemma and Mr Scully informed the Committee they would not be available to appear.¹⁰

Other relevant inquiries and reports

- 1.19 There have been several bodies investigating issues relating to the Cross City Tunnel, many of which are also relevant to the Lane Cove Tunnel project. These include the Infrastructure Implementation Group (IIG), the NSW Audit Office, and the Legislative Assembly Public Accounts Committee (PAC).

Infrastructure Implementation Group Review of Future Provision of Motorways in NSW

- 1.20 The Committee notes that in December 2005 the newly formed NSW Premier's Department Infrastructure Implementation Group released the Review of Future Provision of Motorways in NSW (IIG Review).¹¹ The Government agreed to adopt the recommendations of the IIG Review. The Joint Select Committee on the Cross City Tunnel's First and Second Reports included and considered relevant key issues and recommendations raised in the IIG Review.

⁹ Correspondence from Ministers available at www.parliament.nsw.gov.au/crosscitytunnel

¹⁰ Correspondence from the Hon Morris Iemma, Premier, to the Chairman, 7 June 2006 and from the Hon Carl Scully, Minister for Police, to the Chairman, on 14 June 2006.

¹¹ available at: <http://www.premiers.nsw.gov.au/NR/rdonlyres/EACD92DB-0A24-4d96-B7EC-046930544047/0/Motorwas2005.pdf> (accessed 27 July 2006).

NSW Audit Office Performance Audit

- 1.21** The *Auditor-General's Report to Parliament 2005, Volume 4*¹² stated that the Audit Office would be conducting a performance audit on aspects of the Cross City Tunnel project, and was likely to examine three specific aspects:
- the upfront payment of approximately \$96 million made by the successful consortium to the RTA
 - the RTA's decision making processes in relation to road closures, and
 - the circumstances surrounding amendments to the Project Deed in December 2004.¹³
- 1.22** The Auditor General's *Performance Audit: the Cross City Tunnel Project*¹⁴ was presented to the NSW Parliament on 31 May 2006.
- 1.23** The Auditor General's conclusions and recommendations were similar to those of this Committee, and those of the IIG *Review*. Amongst other things, the Auditor General concluded that:
- the 'no net cost to government' policy was legitimate, but that Treasury and the RTA should 'limit the upfront payment sought from the private sector to recovery of development costs, and abandon the option of a Business Consideration Fee'¹⁵
 - amendments to the Project Deed were reasonable, but the handling of the First Amendment Deed 'lacked transparency' and made 'an already expensive toll even more expensive'¹⁶
 - communications and consultation over the surface road changes associated with the Cross City Tunnel, while 'sound at the detailed level', were 'not effective in conveying the overall impact of the package of changes'.¹⁷

Public Accounts Committee Inquiry

- 1.24** An Inquiry into Public Private Partnerships was established by the Legislative Assembly's Public Accounts Committee on 4 May 2005. The Inquiry's terms of reference included investigation of the following matters:

¹² available at: <http://www.audit.nsw.gov.au/publications/reports/financial/2005/vol4/Contents.htm> (accessed 27 July 2006)

¹³ NSW Auditor General, *Auditor General's Report to Parliament 2005, Volume 4*, p5

¹⁴ available at:
http://www.audit.nsw.gov.au/publications/reports/performance/2006/cross_city_tunnel/cross_city_tunnel.pdf (accessed 27 July 2006)

¹⁵ NSW Auditor General *Performance Audit: the Cross City Tunnel Project*, p4

¹⁶ NSW Auditor General *Performance Audit: the Cross City Tunnel Project*, p3

¹⁷ NSW Auditor General *Performance Audit: the Cross City Tunnel Project*, p3

- a) New South Wales, Australian and international legislative and policy frameworks and practices regarding private sector investment in public infrastructure
- b) government models for evaluating and monitoring private investment in public infrastructure
- c) the framework for risk allocation between the public and private sectors and its application, especially how well risk is assessed, allocated and managed
- d) the extent of opportunities to share knowledge across and between agencies, and
- e) the extent to which agencies are managing intellectual property issues.

1.25 The Public Accounts Committee Inquiry tabled the *Final Report of the Public Accounts Committee Inquiry into Public Private Partnerships* in June 2006.¹⁸ The Committee concluded that Public Private Partnerships are an essential, if minor, part of the Government's asset acquisition program. A number of recommendations were made, many of which were similar to and reinforced recommendations contained in the *IIG Review*, and in the First and Second Reports of this Committee.

1.26 The Public Accounts Committee made 26 recommendations, including that:

- the Working with Government Guidelines for Privately Financed Projects be made mandatory
- the framework governing PPPs be revised and strengthened
- ongoing evaluation and monitoring of PPP projects over their whole life should be conducted.

1.27 The Committee notes that many of the recommendations of the Auditor General and the Public Accounts Committee, as well as the recommendations of this Committee's First and Second Reports, are being implemented by the Government.

Lane Cove Tunnel documents tabled in Parliament

1.28 The Legislative Council has made three orders for the production of state papers relating to the Lane Cove Tunnel, as well as a number of orders for the production of state papers relating to tunnel air quality and filtration. Legislative Council standing order 52 states:

- (1) The House may order documents to be tabled in the House. The Clerk is to communicate to the Premier's Department, all orders for documents made by the House.
- (2) When returned, the documents will be laid on the table by the Clerk.
- (3) A return under this order is to include an indexed list of all documents tabled, showing the date of creation of the document, a description of the document and the author of the document.

¹⁸ available at:
<http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/AA89A6E559D0A776CA25718700192DB4> (accessed 27 July 2006)

- (4) If at the time the documents are required to be tabled the House is not sitting, the documents may be lodged with the Clerk, and unless privilege is claimed, are deemed to have been presented to the House and published by authority of the House.
- (5) Where a document is considered to be privileged:
 - (a) a return is to be prepared showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege,
 - (b) the documents are to be delivered to the Clerk by the date and time required in the resolution of the House and:
 - (i.) made available only to members of the Legislative Council,
 - (ii.) not published or copied without an order of the House.
- (6) Any member may, by communication in writing to the Clerk, dispute the validity of the claim of privilege in relation to a particular document or documents. On receipt of such communication, the Clerk is authorised to release the disputed document or documents to an independent legal arbiter, for evaluation and report within seven calendar days as to the validity of the claim.
- (7) The independent legal arbiter is to be appointed by the President and must be a Queen's Counsel, a Senior Counsel or a retired Supreme Court Judge.
- (8) A report from the independent legal arbiter is to be lodged with the Clerk and:
 - (a) made available only to members of the House,
 - (b) not published or copied without an order of the House.
- (9) The Clerk is to maintain a register showing the name of any person examining documents tabled under this order.

Lane Cove Tunnel order for papers – June 2005

- 1.29** On 22 June 2005, the House agreed to an order for the production of documents relating to the Lane Cove Tunnel which had been created since 3 December 2003 and not previously provided. The documents requested emphasised correspondence concerning air quality and traffic volumes.¹⁹
- 1.30** On 6 July, the Clerk received documents in response to this resolution, along with a claim that the documents be considered privileged. The documents were tabled in the House on 13 September 2005. The claim for privilege was disputed. The House noted that the President had requested Sir Laurence Street provide a report on the claim for privilege relating to these papers, as well as those supplied in relation to tunnel filtration and tunnel air quality.²⁰

¹⁹ Legislative Council, New South Wales, *Minutes and Proceedings, No 111*, 1st Session of the 53rd Parliament, item 7

²⁰ Legislative Council, New South Wales, *Minutes and Proceedings, No 133*, 1st Session of the 53rd Parliament, item 25

- 1.31** On 28 February 2006, the Clerk announced receipt and tabled these reports, provided by Sir Laurence on 24 January 2006. Sir Laurence concluded that a number of documents were considered not to be privileged and were authorised to be made public on 25 January 2006.²¹

Lane Cove Tunnel order for papers – March 2006

- 1.32** On 8 March 2006, the House agreed to an order for the production of documents relating to the Lane Cove Tunnel which had been created since the resolution of the House of 22 June 2005, with particular emphasis on correspondence between the RTA and the Minister for Roads, the Premier's Department and the Lane Cove Tunnel Consortium, including contractual information relating to the project.²²
- 1.33** In response to this resolution the Clerk received documents on Wednesday 22 March 2006. The documents were tabled in the Legislative Council on 28 March 2006. As with the previous orders for papers in relation to the Cross City Tunnel, the Government requested that certain documents remain privileged. This claim was disputed and, in accordance with Standing Order 52 the documents were released to an Independent Legal Arbiter, Sir Laurence Street, for assessment.
- 1.34** The Report of the Independent Legal Arbiter was tabled in the Legislative Council on 25 May 2006.²³ Sir Laurence Street did not uphold the RTA's claim for privilege due to the public interest in disclosure, but concluded that that documents produced by the Cabinet Office in relation to the order for papers were privileged, under the terms of legal professional privilege.²⁴

Lane Cove Tunnel order for papers – May 2006

- 1.35** On 3 May 2006, the House agreed to an order for the production of documents relating to the Lane Cove Tunnel project, particularly those relating to contract negotiations and community consultation be obtained from the RTA and Treasury.²⁵ A day later the House agreed to a motion for a further order for papers by Ms Lee Rhiannon, including documents relating to the filtration of the tunnel, the M5 East tunnel and the Cross City tunnel.²⁶

²¹ Legislative Council, New South Wales, *Minutes 135*, 1st Session of the 53rd Parliament, 28 February 2006, item 26

²² Legislative Council, New South Wales, *Minutes and Proceedings, No 139*, 1st Session of the 53rd Parliament, item 6

²³ Legislative Council, New South Wales, *Minutes and Proceedings, No 139*, 1st Session of the 53rd Parliament, item 6

²⁴ Sir Laurence Street, *Disputed Claim of Privilege – Papers on Lane Cove Tunnel Project*, 1st report of independent legal arbiter, para 12

²⁵ Legislative Council, New South Wales, *Minutes and Proceedings, No 148*, 1st Session of the 53rd Parliament, item 6

²⁶ Legislative Council, New South Wales, *Minutes and Proceedings, No 148*, 1st Session of the 53rd Parliament, item 6

- 1.36 On 17 May 2006, the Clerk received these documents, which were accompanied by a claim for privilege. These documents were tabled in the House on 23 May 2006.²⁷
- 1.37 The Committee also notes the tabling of documents including the Lane Cove tunnel Project Deed and the Lane Cove Tunnel Base Case Financial Model by the Premier and the then Minister for Roads, Mr Tripodi on 8 and 9 November 2005.²⁸

Report structure

- 1.38 This Third Report addresses terms of reference 1(g) to (i). The focus of the Report is on issues specific to the Lane Cove Tunnel project, as this Committee's previous reports have examined the framework for Public Private Partnerships and planning for major infrastructure projects in detail.
- 1.39 **Chapter 2** provides an overview of the history and background to the Lane Cove Tunnel project.
- 1.40 **Chapter 3** outlines the planning requirements for the Lane Cove Tunnel project and the planning process followed. The chapter also reviews the methodology used by the RTA for tendering and contract negotiation, and examines the role of government agencies in the contract negotiation process with the Lane Cove Tunnel Consortium (now Connector Motorways).
- 1.41 **Chapter 4** examine the role of community consultation in determining the substance of the Lane Cove Tunnel project contract between the RTA and the Lane Cove Tunnel Consortium.
- 1.42 **Chapter 5** examines the issue of air quality in and around the Lane Cove Tunnel and other road tunnels, with an emphasis on the issue of tunnel ventilation systems.

Current status of the Cross City Tunnel project

- 1.43 While the main focus of this Third Report is the Lane Cove Tunnel project, it is appropriate to provide a brief update on developments in relation to the Cross City Tunnel project since the Committee's Second Report.
- 1.44 On Sunday 4 June 2006, the Minister for Roads announced the reversal, subject to attaining planning approval, of 13 road changes on surface streets associated with the project, in response to the recommendations of this Committee's First Report.
- 1.45 A letter dated 14 June 2006 from the RTA's then Acting Chief Executive to the Director General of the Department of Planning requests a modification to the Cross City Tunnel

²⁷ Legislative Council, New South Wales, *Minutes and Proceedings, No 2*, 2nd Session of the 53rd Parliament, item 13

²⁸ Legislative Assembly, *Votes and Proceedings, No 154*, 1st Session of the 53rd Parliament, item 6; and Legislative Assembly, *Votes and Proceedings, No 155*, 1st Session of the 53rd Parliament, item 10.

project's approval, and details a number of proposed changes to surface traffic arrangements.²⁹ The road changes include:

- the creation of an extra eastbound traffic lane on William Street, east of Palmer Street to McElhone Street
- removal of cycle lanes on Kings Cross Road eastbound from Darlinghurst Road and on Craigend Street westbound between Roslyn Street footbridge and Darlinghurst Road
- re-opening of Druitt Street to general traffic between Kent Street and Clarence Street, allowing freer flowing traffic movement through the CBD to the Anzac Bridge
- changes in and around Sir John Young Crescent to improve traffic flow and allow direct access to the harbour crossings from Palmer Street/Sir John Young Crescent
- the re-opening of the southern intersection of Bourke Street with William Street to allow traffic to enter Bourke Street southbound and William Street eastbound.

1.46 At least two of the changes constitute Material Adverse Events (MAE) under the Project Deed, which may entitle the Cross City Motorway company to seek compensation, based on the traffic figures contained in the Base Case Financial Model used by the Cross City Motorway company to win the project. It was reported that the Government had offered \$20 million as compensation for the changes, but the Cross City Motorway sought \$96 million.³⁰

1.47 Clause 19.2 of the Cross City Tunnel Project Deed obliges the Cross City Motorway company and the RTA to negotiate in good faith if the events have a material and adverse effect on the ability of the trustee and Cross City Motorway to carry out the project in the project documents, the ability of CCM Finance, the trustee, or Cross City Motorway to pay financiers under the debt financing documents in accordance with the terms of those documents, or the equity return.³¹

1.48 The Committee notes that the Government has responded quickly to the recommendations of the Committee's First Report, which reflect community demands for action to address the disruption caused by the Cross City Tunnel project surface road changes. The Committee regrets that the road changes were not able to be negotiated with the Cross City Tunnel operators and that compensation arising from the road changes, as well as associated litigation, may be borne by the taxpayer. Alternatively, instead of compensation, the Cross City Tunnel project deed contemplates that other outcomes may be achieved such as variation of the term of concession and adjustments to the toll schedule.³²

1.49 The Committee's First Report commented on the lack of flexibility in relation to road changes that is a consequence of the Cross City Tunnel tender and contract. If the project had

²⁹ Copy of the letter contained in answers to questions on notice taken during evidence 16 June 2006, Mr Sam Haddad, Director General, Department of Planning

³⁰ Davies A, 'Roads reopen – but toll may be millions' *Sydney Morning Herald*, 5 June 2006; Fisher D, 'Cross City Tunnel war', *Daily Telegraph*, 5 June 2006.

³¹ RTA, Cross City Tunnel Project Deed, Clause 19.2

³² RTA, Cross City Tunnel Project Deed, Clause 19.2

remained under Government control after design and construction had been completed, decisions about road changes and toll levels could have been made without the need for costly and time-consuming negotiation with the private sector operator. It is unclear how much the costs associated with bringing about these changes will affect the 'value for money' to the taxpayer of having the project delivered by the private sector as a Public Private Partnership.

³³ available at www.treasury.nsw.gov.au/wwg/pdf/wwgguidelines.pdf

³⁴ available at www.premiers.nsw.gov.au/TrainingAndResources/Publications/MemosAndCirculars/Memos/2000/M2000-11.htm

Chronology of key events relating to the Lane Cove Tunnel

1.50 The following chronology is drawn from a number of sources including key documents, media reports and evidence from hearings. It is intended to provide a brief overview of important stages in the history of the Lane Cove Tunnel project.

Date	Event
Early 1990s	The idea of a Lane Cove Tunnel is raised, in the context of the opening of the Gore Hill Freeway in 1992.
February 1997	RTA identifies options for improving Epping Road, one of which includes a tunnel under Epping Road between Pacific Highway and west of Centennial Avenue. Community feedback to this option favours a longer tunnel.
February 1997	A task force (the M2 –Epping Road Task Force) composed of the mayors and other representatives of Lane Cove, Willoughby, Ryde and North Sydney Councils and the Parliamentary Secretary for Roads is formed to lead community discussion on options to connect M2 with Gore Hill Freeway.
30 March 1998	Six options to connect the M2 with the Gore Hill Freeway are put to community by the taskforce for comment. Options are on display from 30 March 1998 to 15 May 1998, with feedback provided through discussions with the task force, public meetings and a questionnaire.
November 1998	Project is listed in <i>Action for Transport 2010</i> in a section titled ‘Making freight more competitive’.
17 December 1999	The <i>Lane Cove Tunnel Overview Report</i> released for public comment from 17 December 1999 to 10 March 2000. The identified option includes a tunnel under Epping Road, tolled ramps at Falcon Street, the widening of Gore Hill Freeway, with the project to be funded through tolls (\$2.00 and \$1.00 for the Falcon Street ramps). Estimated cost of the project \$550 million.
April 2000	Department of Planning Director General issues requirements for the Environmental Impact Assessment.
8 November 2001	The RTA releases the <i>Lane Cove Tunnel Environmental Impact Statement</i> for public comment. Project includes major elements of the project described in <i>Overview Report</i> and incorporates a number of modifications arising from consideration of the <i>Overview Report</i> and associated consultation. Public comment period extends from 8 November 2001 to 1 February 2002. 340 submissions (representations) received. Estimated cost of the project \$815 million, funded through tolls (\$2.00 and \$1.00 for the Falcon Street ramps, in 1999 dollars).
20 March 2002	The RTA invites <i>Registrations of Interest</i> from private sector parties for the financing, design, construction, operation and maintenance of the Lane Cove Tunnel project.
24 April 2002	The Lane Cove Tunnel Consortium, Lane Cove Motorway, Lane Cove Expressway and Tunnellink consortia all register an interest in the project.

15 July 2002	The RTA provides the Department of Planning with the <i>Lane Cove Tunnel and associated works Preferred Activity Report</i> , including the <i>Lane Cove Tunnel Representations Report</i> . The <i>Preferred Activity Report</i> is publicly displayed from 15 July 2002 to 16 August 2002.
26 July 2002	Formal <i>Request for Proposals</i> provided to the four registered consortia, calling for detailed proposals. The <i>Request</i> includes a draft Project Deed and a number of other draft technical and legal documents.
November 2002	The <i>Proposed Lane Cove Tunnel: Director General's Report</i> , as required under s115C of the <i>Environmental Planning and Assessment Act</i> is submitted to the Minister for Planning, the Hon Andrew Refshauge.
3 December 2002	Minister for Planning, the Hon Andrew Refshauge, issues planning approval for Lane Cove Tunnel project under section 115B(2) of the <i>Environmental Planning and Assessment Act</i> . The planning approval contains 259 conditions of approval.
21 January 2003	All four consortia provide detailed proposals to the RTA. Evaluation panel (overseen by a review panel) assesses the proposals against each other and against a Public Sector Comparator (PSC).
1 October 2003	Following Budget Committee of Cabinet approval, the Minister for Roads, Hon Carl Scully, announces the Lane Cove Tunnel Consortium as the preferred proponent, with Lane Cove Motorway named as the reserve proponent. Negotiations commence between the RTA and the preferred proponent.
26 November 2003	Approval given by the Treasurer, Hon Michael Egan for the project to be considered a joint financing arrangement, under the <i>Public Authorities (Financial Arrangements) Act 1987</i> .
4 December 2003	Contract between the RTA and the Lane Cove Tunnel Company (now Connector Motorways) is signed, with the Consortium to finance, construct, operate and maintain the Lane Cove Tunnel. Announcement made on 9 December 2003, following the satisfaction of conditions precedent.
June 2004	Major work starts on Stage One works for the Lane Cove Tunnel project.
31 August 2004	<i>Lane Cove Tunnel Summary of Contracts</i> tabled in Parliament.
22 June 2005	Legislative Council orders the production of state papers relating to the Lane Cove Tunnel in the possession of the Cabinet Office and the RTA.
13 September 2005	Documents tabled in Parliament in response to the order for papers of 22 June 2005.
8-9 November 2005	Lane Cove Tunnel Project Deed, Base Case Financial Model and other associated documents tabled in Parliament by the Premier and Minister for Roads.
8 March 2006	Legislative Council orders the production of state papers relating to the Lane Cove Tunnel in the possession of the Cabinet Office and the RTA since the previous order of the House of 22 June 2005.
22 March 2006	In response to the order for papers of 8 March 2006, the RTA and Cabinet Office lodge documents and claim Legal Professional Privilege.

3 April 2006	Claim for privilege challenged, documents referred to Sir Laurence Street, the Independent Legal Arbiter, for evaluation.
3 May 2006	Legislative Council orders the production of papers relating to the Lane Cove Tunnel, including the RTA's Finalisation Report and Pre-Signing Report.
17 May 2006	Documents tabled in Parliament in response to the order for papers of 3 May 2006.
22 May 2006	Sir Laurence Street, Independent Legal Arbiter, in relation to the documents tabled 22 March 2006, upholds the validity of the claim of privilege for the Cabinet Office documents and denies the claim for the RTA documents.
3 June 2006	Untolled ramp providing access from Warringah Freeway to Falcon Street opens to traffic.
10 May 2007	Project Deed completion date for motorway tunnel, ramp and associated Gore Hill and Warringah Freeway works (Stage One works).
November 2007	Project Deed completion date (the latest potential completion, assuming Stage One works completed in May 2007) for modifications to Epping Road, Longueville Road and associated surface works (Stage Two works). If Stage One works are completed before 10 May 2007, the Stage Two works must be completed within 26 weeks of the Stage One completion date.
10 January 2037	Motorway project and Falcon Street ramps return to public ownership.

Chapter 2 Background to the Lane Cove Tunnel project

A tunnel has been proposed for the Lane Cove area for over a decade. This chapter outlines the history of the Lane Cove Tunnel project, including the key agencies and processes involved in its planning and development. The chapter provides an overview of key material the Committee considered in examining the negotiations, consultation and other processes relating to the Lane Cove Tunnel and associated works, and provides context for the analysis conducted in later chapters.

A series of diagrams illustrating the changes to the surface streets is provided in Appendix 3.

Lane Cove Tunnel project

- 2.1 The idea of a Lane Cove Tunnel has been in the public consciousness since the early 1990s. Continued population growth in Sydney's northwest region has led to increased travel demands on major routes in that region, including the Epping Road corridor. The Lane Cove Tunnel is intended to address these traffic demands and complete the final link in the Sydney Orbital, a connected series of motorways and freeways that provides a ring road around metropolitan Sydney.
- 2.2 The Lane Cove Tunnel project is a privately financed, constructed, owned and operated tollway, which will pass into public ownership after 10 January 2037. The project consists of two stages: Stage One, the Lane Cove Tunnel and Falcon Street ramps, anticipated to open to traffic in late 2006; and Stage Two, associated surface works, due to be completed within 26 weeks of the opening of the tunnel.³⁵
- 2.3 The Lane Cove Tunnel toll was set (by the RTA, in 1999 dollars and indexed to the Consumer Price Index) at \$2.00 for cars and \$4.00 for heavy vehicles. The Falcon Street ramps' toll was set at \$1.00 for cars and \$2.00 for heavy vehicles.³⁶ In evidence to the Committee, the Chief Executive of Connector Motorways, Mr Ian Hunt, said that upon the Tunnel opening and after the one month toll free period, the toll would be 'no more than \$2.60 for the tunnel and \$1.30 for the ramps.'³⁷ The Project Deed allows for the toll to be increased in line with inflation every quarter, and the project deed theoretical toll represents a maximum amount.

Stage One – Lane Cove Tunnel and Falcon Street ramps

- 2.4 The Lane Cove Tunnel involves two 3.6 kilometre tunnels between the Epping Road Bridge crossing of the Lane Cove River in Lane Cove West and the Gore Hill Freeway in Artarmon. It will connect the M2 motorway with the Gore Hill Freeway, and consequently includes the

³⁵ Mr Ian Hunt, Chief Executive Officer, Connector Motorways, Evidence, 15 June 2006, p72, 73

³⁶ NSW Roads and Traffic Association, *Lane Cove Tunnel: Summary of contracts*, July 2004, p4,5

³⁷ Mr Hunt, Evidence, 15 June 2006, p72

widening of the Gore Hill Freeway to six lanes, the construction of one untolled south-facing and two tolled north-facing ramps on the Warringah Freeway connecting to Falcon Street and Military Road in North Sydney.³⁸

- 2.5** Stage One works ‘comprise all construction required to open the Lane Cove Tunnel and Falcon Street Gateway to traffic, and include the widening of the Gore Hill Freeway to six lanes’.³⁹ Modifications to the Pacific Highway to enable access to and from the Lane Cove Tunnel are included in Stage One, and Epping Road from the Lane Cove River to Wicks Road in North Ryde will be provided with an extra general traffic lane.
- 2.6** Stage One works are due to be completed by 10 May 2007, but in evidence to the Committee Mr Hunt, was confident that the construction would be completed before that date, possibly ‘late this year [2006]’.⁴⁰

Stage Two – Surface Works

- 2.7** Stage Two surface works will commence once the Lane Cove Tunnel is open for traffic. The Stage Two works are associated with achieving the urban amenity objectives of the project and include the changes to those sections of Epping Road under which the tunnel runs and a new bus interchange and pedestrian bridge at Lane Cove.⁴¹
- 2.8** The Epping Road changes involve a narrowing of the road between Mowbray Road west and Longueville Road, with the existing three lanes eastbound (one morning T2 transit and two general traffic lanes) replaced with one 24-hour bus lane and one general traffic lane, supplemented by turning lanes. Epping Road westbound will be narrowed from three general traffic lanes to one 24-hour bus lane and one general traffic lane between Centennial Avenue and Sam Johnson Way. On either side of this section, between Longueville Road and Centennial Avenue, and between Sam Johnson Way and Mowbray Road West, three general traffic lanes will be converted to one 24-hour bus lane and two general traffic lanes. The changes are illustrated in a series of figures and diagrams in Appendix 3.
- 2.9** Other changes to Epping Road in both directions include the re-instatement of right turn lanes and the provision of turning lanes. A shared cycleway and pedestrian path, part of a 7.5km continuous shared cycle and pedestrian path from Wicks Road, North Ryde to Naremburn, will be constructed along the south side of Epping Road from the Pacific Highway to Wicks Road in North Ryde.
- 2.10** Mr Ian Hunt, Chief Executive of Connector Motorways, in evidence to the Committee cautioned that the Stage Two works would involve disruption to the community:

I think is important to understand that those works will disrupt traffic and cause impacts for the local residents. It is a \$30 million project in its own right, to be

³⁸ NSW Roads and Traffic Authority, *Lane Cove Tunnel: Summary of contracts*, July 2004, p17

³⁹ Submission 84, Connector Motorways, p2

⁴⁰ Mr Hunt, Evidence, 15 June 2006, p73

⁴¹ NSW Roads and Traffic Authority, *Lane Cove Tunnel: Summary of contracts*, July 2004, p2

delivered in a very short time, 26 weeks, and that will require Thiess John Holland to open up work several places along the length.⁴²

- 2.11** The Committee notes that the disruption to traffic associated with the opening of the Cross City Tunnel and related surface construction works on William Street resulted in widespread frustration among commuters and residents affected, and is aware that the commencement of Stage Two works for the Lane Cove Tunnel project is likely to result in similar frustration. The issue is addressed at various points in this Report.

Key parties in the Lane Cove Tunnel project

- 2.12** This section outlines the key Ministers, Government agencies and private organisations involved in the Lane Cove Tunnel Project.

Ministers

Minister for Roads

- 2.13** The Minister for Roads, who is responsible for the NSW Roads and Traffic Authority, was delegated authority by the Treasurer under the *Public Authorities (Financial Arrangements) Act 1987 (PAFA Act)* to enter into the contract with the then Lane Cove Tunnel Motorway Company (now Connector Motorways) on behalf of the Government.⁴³

- 2.14** Ministers for Roads during the Lane Cove Tunnel Project were:

- Hon Carl Scully MP, from 28 November 1996 to 21 January 2005
- Hon Michael Costa MLC, from 21 January 2005 to 3 August 2005
- Hon Joseph Tripodi MP, from 3 August 2005 to 16 February 2006
- Hon Eric Roozendaal MLC, from 16 February 2006.

Minister for Planning

- 2.15** The Minister for Planning is responsible for the Department of Planning and is the consent authority under *Environmental Planning and Assessment Act 1979 (EP&A Act)* for the Lane Cove Tunnel Project.

- 2.16** Relevant Ministers for Planning during the Lane Cove Tunnel Project are:

- Hon Craig Knowles MP, Minister for Urban Affairs and Planning from 4 April 1995 to 8 April 1999 and Minister for Infrastructure, Planning and Natural Resources 2 April 2003 to 3 August 2005

⁴² Mr Hunt, Evidence, 15 June 2006, p73

⁴³ *Public Authorities (Financial Arrangements) Act 1987* (NSW), section 63E

- Hon Dr Andrew Refshauge MP, Minister for Urban Affairs and Planning from 8 April 1999 to 21 November 2001 and Minister for Planning from 21 November 2001 to 2 April 2003
- Hon Frank Sartor MP, Minister for Planning, from 3 August 2005.

Treasurer

- 2.17** The role of the Treasurer in privately funded projects is to enter into the guarantee on behalf of the Government and to authorise the entering into a joint financing arrangement.
- 2.18** Relevant Treasurers during the Lane Cove Tunnel project are:
- Hon Michael Egan MLC, Treasurer from 3 April 1995 to 21 January 2005
 - Hon Andrew Refshauge, MP, Treasurer from 21 January 2005 to 3 August 2005
 - Hon Morris Iemma MP, Premier and Treasurer from 3 August 2005 to 16 February 2006
 - Hon Michael Costa MLC, Treasurer from 17 February 2006.

Budget Committee of Cabinet

- 2.19** The Budget Committee of Cabinet (BCC) gives approval for major capital works. The five stages are:
- project definition
 - expressions of interest and short listing
 - detailed proposals and assessment
 - negotiations and contracts and
 - disclosure and implementation.⁴⁴
- 2.20** Approval must be given by the BCC for the first two stages.
- 2.21** The RTA's submission to the inquiry states that the 'decision to negotiate and sign the Project Deed' was approved by the 'Cabinet Standing Committee on the Budget' on 1 October 2003.⁴⁵

⁴⁴ NSW Government, *Working with Government: Guidelines for Privately Financed Projects*, November 2001, table 3.1, p16

⁴⁵ Submission 114, RTA, p6

Key Government Agencies

Roads and Traffic Authority of New South Wales (RTA)

2.22 In the Lane Cove Tunnel Project, the RTA is the proponent for the activity for the purposes of the *Environmental Planning and Assessment Act 1979*, and is the Government representative in terms of the contract negotiation and entry into the Project Deed.

2.23 Key personnel involved in the Lane Cove Tunnel Project were:

- Mr Paul Forward, Chief Executive Officer (December 1999 – October 2005)
- Mr Mike Hannon, Acting Chief Executive Officer (October 2005 – July 2006)
- Mr Les Wielinga, Director, Motorways (Chief Executive Officer from July 2006)
- Mr Chris Ford, Director, Traffic and Transport
- Mr Brett Skinner, Director, Finance
- Mr Graham Read, Corporate Counsel

Department of Planning (DoP)

2.24 Responsibility for administering the planning approval process is undertaken by the Department of Planning. Their role, at the time of the development and approval of the Lane Cove Tunnel Project, was:

- to consult with the RTA about strategic planning and assessment
- to issue Director General's requirements for the development of the Environmental Impact Statement
- to assess the environmental impact of the project and advise the Minister
- to monitor compliance with planning conditions of approval.

2.25 Responsibility for planning and environmental assessment has moved between departments as a result of restructures and amalgamations of agencies over a number of years. Relevant agencies and the periods for which they were responsible for planning assessment, approval and monitoring functions are listed in the table below. To avoid confusion, this Report will use the title 'Department of Planning' to refer to the agencies.

Department of Urban Affairs and Planning	To December 2001
PlanningNSW	December 2001 – May 2003
Department of Urban and Transport Planning	May 2003 – July 2003
Department of Infrastructure, Planning and Natural Resources	July 2003 to August 2005
Department of Planning	August 2005 to present.

Treasury

- 2.26 A specialist Private Projects Branch was established in the NSW Treasury as it was seen that a ‘concentration of expertise is needed in the public sector to assist agencies with PFP proposals and provide government advice to the private sector’.⁴⁶
- 2.27 The role of Treasury in relation to the Lane Cove Tunnel project was to consult with the RTA and to advise the RTA on key decisions regarding financial aspects of the project.

Department of Environment and Conservation (DEC)

- 2.28 The DEC provided advice to the Department of Planning on environmental standards and conditions that should apply to the construction and operation of the tunnel.
- 2.29 The Environmental Protection Authority (EPA) is now contained within the Department of Environment and Conservation.

Other government agencies

- 2.30 The Lane Cove Tunnel project involved a range of other agencies including:
- State Transit Authority
 - Department of Health (in-tunnel air quality standards)
 - State Rail Authority

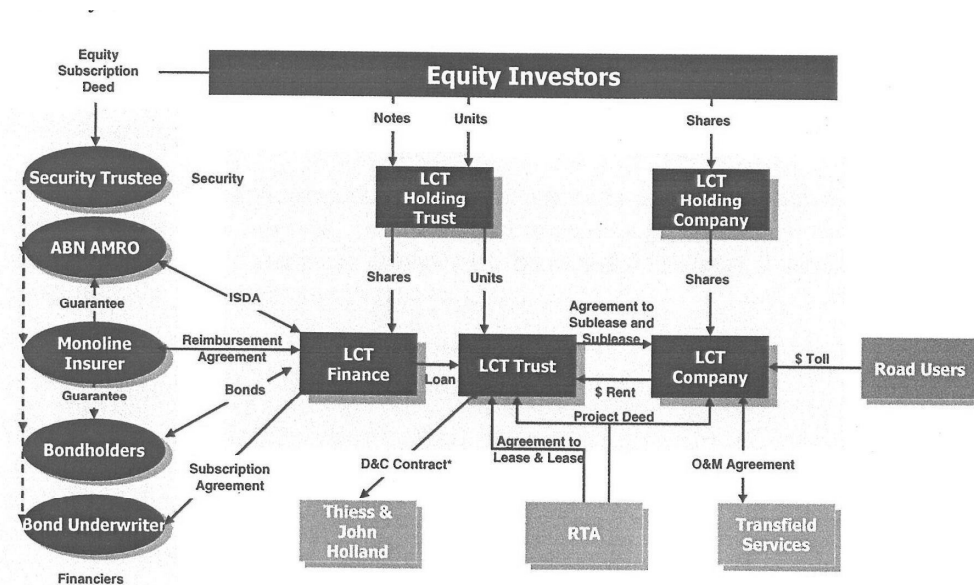
Lane Cove Tunnel Consortium (now Connector Motorways Pty Ltd)

- 2.31 The consortium selected to finance, build, own, operate and maintain the tunnel for the concession term. The internal arrangements of the consortium and associated companies are complex, and it is not necessary for the purposes of the Committee’s report to exhaustively describe the arrangements. Accordingly, only a brief explanation of the arrangements is provided here.
- 2.32 The five companies that comprise the Connector Motorways Group are: a trust that owns the assets; an operating company that operates and maintains the assets, and collects the toll; two holding companies, and a financing company.
- 2.33 The consortium initially comprised ABN AMRO Australia Limited, Thiess Pty Limited and Transfield Holdings Limited. The consortium was joined by John Holland Pty Limited in January 2003.

⁴⁶ NSW Government, *Working with Government Guidelines*, November 2001, p2

- 2.34 Figure 2.1 illustrates the relationship between the five companies that comprise Connector Motorways Group and the other entities associated with the project such as the RTA and road users.

Figure 2.1 Financing summary – Connector Motorways Group



Source: Submission 85, ABN AMRO, p2

- 2.35 The project involves \$542.8 million of equity investments and \$1,142 million of debt finance, with debt finance raised on capital markets through the issue of debt bonds. Equity investors include a number of superannuation funds.⁴⁷
- 2.36 For the purposes of this report, Connector Motorways Pty Ltd (CM) is the company with overall responsibility for the construction and operation of the Lane Cove Tunnel.

Key documents

- 2.37 There are a range of key documents central to the Lane Cove Tunnel project referred to throughout this Report. The documents are all publicly available, either through the RTA or Treasury website, or tabled with the Legislative Council or Legislative Assembly. Where documents are available via agencies, references to websites are made. These are summarised below:

⁴⁷ RTA, *Lane Cove Tunnel Contract Summary*, July 2004, p2

General documents

Action for Transport 2010

- 2.38 The November 1999 publication, *Action for Transport 2010*, produced by the Minister for Transport to detail the Government's strategic transport plan leading into the first years of the 21st century, referred to the Lane Cove Tunnel project in the section titled 'Making Freight More Competitive'.⁴⁸ Community comment was invited.

*Action for Air 1998*⁴⁹

- 2.39 *Action for Air* is a 1998 publication detailing the NSW Government's 25 year air quality management plan for the Greater Metropolitan Region, covering Sydney, the Lower Hunter, and the Illawarra. The management plan identifies the reduction in emissions from motor vehicles as the highest priority in order to meet national air quality standards and goals. The improvement of public transport, and encouraging cycling and walking, are objectives of the management plan, reflected in the objectives of the Lane Cove Tunnel project.

*Working with Government: Guidelines for Privately Financed Projects*⁵⁰

- 2.40 The *Working with Government: Guidelines for Privately Financed Projects (Working with Government Guidelines)* were issued in November 2001. They state the Government's policy and procedures for entering into privately financed projects (a form of public private partnership, or PPP). PPPs and privately financed projects have been discussed extensively in the Committee's First and Second Reports.

*Premier's Memorandum, No 2000-11, Disclosure of Information on Government Contracts with the Private Sector*⁵¹

- 2.41 This memorandum sets out public disclosure requirements of agencies that enter into contracts with the private sector.

*Lane Cove Tunnel Pre-Signing Report*⁵²

- 2.42 The RTA's *Lane Cove Tunnel Pre-Signing Report* is an internal document prepared by the RTA with the purpose of detailing 'issues arising in the final negotiations leading to contractual and financial close of the Lane Cove Tunnel Project'.⁵³

⁴⁸ Department of Transport, *Action for Transport 2010*, November 1999

⁴⁹ Environment Protection Authority, *Action for Air*, 1998. Available at <http://www.environment.nsw.gov.au/resources/actionair.pdf> (accessed 27 July 2006)

⁵⁰ available at www.treasury.nsw.gov.au/wwg/pdf/wwguidelines.pdf

⁵¹ available at www.premiers.nsw.gov.au/TrainingAndResources/Publications/MemosAndCirculars/Memos/2000/M2000-11.htm

⁵² provided in response to the Legislative Council order for papers regarding the Lane Cove Tunnel

⁵³ RTA, *Lane Cove Tunnel Pre-Signing Report*, December 2003, p1

Lane Cove Tunnel Finalisation Report⁵⁴

- 2.43 The RTA's *Lane Cove Tunnel Finalisation Report* is a report on the finalisation of the contract with the preferred proponent. The document was prepared by the RTA's Evaluation Panel, which concluded that 'the Preferred Proposal, as adjusted during contract finalisation, continues to represent better value for money than both the adjusted PSC [Public Sector Comparator] and the adjusted LCM [Lane Cove Motorway] selected Proposal'.⁵⁵

Planning documents***Lane Cove Tunnel – Overview Report (1999)***⁵⁶

- 2.44 The *Overview Report* was on public display from 17 December 1999 to 10 March 2000. The *Overview Report* summarised the feedback from the M2-Epping Road Task Force's six options to connect the M2 with the Gore Hill Freeway, first proposed in March 1998. The identified option included a tunnel under Epping Road, tolled ramps at Falcon Street, and the widening of Gore Hill Freeway, with the project to be funded through tolls (\$2.00 and \$1.00 for the Falcon Street ramps). The estimated cost of the project was \$550 million. The *Overview Report* incorporated surface road changes including the narrowing of Epping Road to 'one traffic and one transit lane in each direction through Lane Cove'.⁵⁷

Director General's Requirements for the Lane Cove Tunnel Project⁵⁸

- 2.45 The *Director General's Requirements for the Lane Cove Tunnel Project* were developed following the Government's decision to proceed with the tunnel. In April 2000, the Director General of Planning issued requirements for the preparation of the initial EIS by the RTA, in accordance with the *EP&A Act 1979*. These provided guidance to the RTA on what environmental and planning standards and plans, including Local Environment Plans and State Environmental Planning Policies, were required to be considered.

Lane Cove Tunnel Environmental Impact Statement (EIS)

- 2.46 Under s112 of the *EP&A Act 1979*, agencies must assess whether an infrastructure project requires an Environmental Impact Statement. The EIS for the Lane Cove Tunnel was prepared by Sinclair Knight Merz on behalf of the RTA.
- 2.47 The EIS, a document comprising 15 volumes, provided detail of the proposed tunnel, its construction and operation, and of other associated works. It included the proposed toll level and the toll escalation formula to be used, traffic management measures in surrounding/affected areas, and associated works.

⁵⁴ provided in response to the Legislative Council order for papers regarding the Lane Cove Tunnel

⁵⁵ RTA, *Lane Cove Tunnel Finalisation Report*, December 2003, p20

⁵⁶ Submission 114, RTA, Attachment 2

⁵⁷ Submission 114, RTA, p9

⁵⁸ available in Lane Cove Tunnel: Environmental Impact Statement, volume 1, appendix A

- 2.48 The EIS for the Lane Cove Tunnel was placed on public display by the proponent, the RTA, between 8 November 2001 and 1 February 2002. 340 representations were received during the consultation period. The EIS was advertised in the media and exhibited in public locations and on the RTA website.

Lane Cove Tunnel Representations Report

- 2.49 The *Lane Cove Tunnel Representations Report* comprises information on the submissions (representations) that were received by the RTA in response to the public exhibition of the EIS. The report was submitted to the Department of Planning in June 2002.

Lane Cove Tunnel Preferred Activity Report

- 2.50 The *Lane Cove Tunnel Preferred Activity Report* outlines the modifications to the EIS that the RTA proposed in response to the public representations contained in the *Lane Cove Tunnel Representations Report*. It was submitted to the Department of Planning together with the *Lane Cove Tunnel Representations Report* in June 2002.

Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report⁵⁹

- 2.51 The *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report* was prepared by the Department of Planning under s115C of the *EP&A Act*, and provided an independent assessment of the proposed project prior to the Minister for Planning's decision to approve the project. The report considered the EIS, representations made in submissions to the EIS and other factors, and considered the environmental and amenity impacts. The report contained recommendations relating to conditions of approval for the proposed tunnel.

Lane Cove Tunnel Planning Approval Conditions⁶⁰

- 2.52 The *Lane Cove Tunnel Planning Approval Conditions* were issued by the Minister for Planning. These conditions are required to be adhered to by the RTA (as the proponent) in the construction and operation of the tunnel. There were 259 Planning Conditions of Approval associated with the EIS approval issued by the Minister for Planning in December 2002.

⁵⁹ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report* November 2002. Available at: www.planning.nsw.gov.au/assessingdev/pdf/consents02/lanecovetunnel-FinalDGReport.pdf (accessed 27 July 2006)

⁶⁰ Department of Planning, *Lane Cove Tunnel Planning Approval Conditions*. Available at: http://www.planning.nsw.gov.au/assessingdev/pdf/lane_cove_revised_conditions.pdf (accessed 27 July 2006)

Contracts

*Lane Cove Tunnel Project Deed (Project Deed)*⁶¹

- 2.53 The Lane Cove Tunnel Project Deed (Project Deed) was signed on 4 December 2003 between the RTA, the Trustee and the Company, which sets out the terms under which the Trustee and the Company must finance, plan, design, construct and maintain the Lane Cove Tunnel and associated works, collect tolls, and hand over the Lane Cove Tunnel to the RTA.

*Lane Cove Tunnel Summary of Contracts*⁶²

- 2.54 The *Lane Cove Tunnel Summary of Contracts* was prepared by the RTA in accordance with the public disclosure requirements of the *Working with Government Guidelines*, provides an outline of the development and execution of the Lane Cove Tunnel project, and a summary of the main contracts for the project. The contract summary was tabled in Parliament on 31 August 2004.

⁶¹ tabled in the Legislative Assembly on 8 November 2005

⁶² available at www.treasury.nsw.gov.au/wwg/pdf/lane-cove.pdf

Chapter 3 **Planning process, project tendering methodology and negotiation of contracts**

The Committee's terms of reference require it to address the role of Government agencies in relation to the negotiation of the contract for the Lane Cove Tunnel project, and the methodology used by the Roads and Traffic Authority (RTA) for the project tendering and subsequent contract negotiation. The RTA was the principal Government agency involved in the negotiation of the various contracts which form the basis of the project. This chapter examines the processes used by the RTA in the negotiation and tendering process and the involvement of other Government agencies in those processes. The chapter also outlines the planning process for the Lane Cove Tunnel project. The Committee's previous reports have examined these issues as they relate to the Cross City Tunnel specifically and as they apply more generally to Public Private Partnerships.

Many of the issues addressed in those reports apply to the Lane Cove Tunnel project, and the conclusions and recommendations remain relevant. Accordingly, this chapter will be limited to issues specific to the Lane Cove Tunnel project. The recommendations of the Committee's first two Reports can be found at Appendices 6 and 7.

Role of government agencies in the planning process and the negotiation of contracts

3.1 A large number of government and other organisations were involved to some extent in the planning and development process for the Lane Cove Tunnel project, however the RTA was the lead Government agency involved in the negotiation of the contracts. There were also multiple occasions during the project when input from the community was sought, which are outlined in Chapter 4.

The Roads and Traffic Authority

3.2 The RTA is the lead Government agency for the Lane Cove Tunnel project. The project which was to form the basis of the contract entered into with the then Lane Cove Tunnel Consortium first appeared in the *Lane Cove Tunnel Overview Report*, which was released by the RTA in December 1999 and drew on the six options previously canvassed by the M2-Epping Road Task Force.

3.3 The *Lane Cove Tunnel Environmental Impact Statement*, released in November 2001, was prepared by Sinclair Knight Merz and coordinated by the RTA. The RTA conducted the public consultation process associated with the EIS and prepared the July 2002 *Lane Cove Tunnel Representations Report*, summarising comments received during the consultation process, and the July 2002 *Lane Cove Tunnel Preferred Activity Report* detailing the RTA's preferred project option, for the information and consideration of the Department of Planning.

3.4 Simultaneous with the development and planning process for the Lane Cove Tunnel project, the RTA was responsible for identifying consortia interested in financing, designing, constructing, operating and maintaining the tunnel, and selecting a successful proposal. An Evaluation Panel and a Review Panel were established to determine a short list of consortia,

with similar panels then used to assess the detailed shortlisted proposals. The RTA then conducted contract negotiations with the successful consortium.⁶³

The Department of Planning (formerly Department of Urban Affairs and Planning, formerly Department of Infrastructure Planning and Natural Resources)

- 3.5** The Department of Planning issued the requirements for the preparation of the initial EIS, and assessed the information provided by the RTA following their submission of the 2002 *Lane Cove Tunnel Representations Report* and the 2002 *Lane Cove Tunnel Preferred Activity Report*. The Department of Planning's assessment is contained in the *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report*, which informed the Minister for Planning in relation to the final Conditions of Approval for the project.
- 3.6** The Minister for Planning issued the planning approval for the initial project in December 2002, which included 259 Conditions of Approval.
- 3.7** The Minister's Conditions of Approval for the contract were used by consortia when preparing their detailed responses to the Request for Proposals issued by the RTA.

Office of Financial Management and Treasury Corporation

- 3.8** The Office of Financial Management of NSW Treasury is 'the arm of NSW Treasury that advises the Treasurer and the NSW Government on state financial management policy and reporting, and on economic conditions and issues'.⁶⁴ Treasury Corporation (T-Corp) is 'the central financing authority for the New South Wales public sector'.⁶⁵
- 3.9** Treasury and T-Corp advised the RTA on financial issues throughout the Lane Cove Tunnel project's tender and negotiation process. Representatives from Treasury were on the RTA's Evaluation Panel and Review Panel for consideration of consortia and for consideration of detailed proposals from shortlisted consortia.
- 3.10** Mr John Pierce, Secretary, NSW Treasury, in evidence to the Committee said that:
- given the parallel tender processes of the other toll road projects, the review panel that was oversighting the procurement was kept much the same as the other toll road projects to ensure, if you like, continuity.⁶⁶
- 3.11** The Treasurer issued approval to enter into the project as a joint financing arrangement, as required by the *Public Authorities (Financial Arrangements) Act 1987* (NSW). This approval was issued in November 2003.

⁶³ RTA, *Lane Cove Tunnel Summary of Contracts*, July 2004, p7

⁶⁴ Office of Financial Management website www.treasury.nsw.gov.au (accessed 28 July 2006)

⁶⁵ Treasury Corporation website, www.tcorp.nsw.gov.au (accessed 28 July 2006)

⁶⁶ Mr John Pierce, Secretary, NSW Treasury, Evidence, 16 June 2006, p14

Department of Environment and Conservation (DEC, includes Environment Protection Authority (EPA))

- 3.12** The Department of Environment and Conservation and the Environment Protection Authority provided input to the RTA on the initial environmental impact statement, and advice to the Department of Planning in relation to ‘the environmental assessment of the projects, and on the environmentally related conditions of consent for the project’.⁶⁷
- 3.13** In evidence to the Committee, Ms Lisa Corbyn, Director General, said that the Department’s other main role in relation to the project was to identify environmental outcomes expected to be achieved by the project:

We also identify the environmental outcomes that we expect to be achieved by the project, including the air quality standards that need to apply to the project. We do not specify the design nor the technology that is used to achieve those outcomes, that is up to the proponent, but we do assess whether we think the proposal can meet the specified outcomes.⁶⁸

Other Government Departments

- 3.14** The **Ministry of Transport** (formerly Department of Transport) and State Transit Authority provided input into traffic and public transport arrangements associated with the project.
- 3.15** The **Department of Health** provided input into the air quality and tunnel ventilation, through working with DEC, including information on in-tunnel air quality standards. The RTA also consulted with the Department of Health ‘during the concept development, investigation and environmental assessment process’.⁶⁹
- 3.16** A representative of the **State Contracts Control Board (Department of Public Works and Services)** was on the RTA’s Review panel for the project.
- 3.17** The **Rail Infrastructure Corporation, State Rail Authority, and Energy Australia**, had requirements associated with providing access to land or provision of other consents necessary for the project.

Role of local government

- 3.18** While councils did not have a direct role in the negotiation of the contracts, they were involved in consultation throughout the project’s planning and development phase.

⁶⁷ Ms Lisa Corbyn, Director General, Department of Environment and Conservation, Evidence, 16 June 2006, p45

⁶⁸ Ms Corbyn, Evidence, 16 June 2006, p45

⁶⁹ Submission 114, RTA, p17

Lane Cove Council

- 3.19** Lane Cove Council representatives were members of the M2-Epping Road Task Force, which led to community discussions to develop and scope the preferred tunnel option.
- 3.20** The Council worked with the RTA through five Community Focus Groups during preparation of the proposal for the EIS, and provided submissions in response to the EIS, and in response to the *Preferred Activity Report*.

North Sydney Council

- 3.21** North Sydney Council representatives were members of the M2-Epping Road Task Force, which led to community discussions to develop and scope the preferred tunnel option.
- 3.22** The Council worked with the RTA through two Community Focus Groups during preparation of the proposal for the EIS, and provided a submission in response to the EIS.

Willoughby Council

- 3.23** Willoughby Council representatives were members of the M2-Epping Road Task Force, which led to community discussions to develop and scope the preferred tunnel option.
- 3.24** The Council worked with the RTA through four Community Focus Groups during preparation of the proposal for the EIS, and provided a submission in response to the EIS.

Ryde Council

- 3.25** Ryde Council representatives were members of the M2-Epping Road Task Force, which led to community discussions to develop and scope the preferred tunnel option.
- 3.26** The Council worked with the RTA through a Community Focus Group during preparation of the proposal for the EIS, and provided a submission in response to the EIS.

Planning of the Lane Cove Tunnel project

- 3.27** This section outlines the statutory environmental planning assessment and approval process that, until recent changes to the *Environmental Planning and Assessment Act 1979* (NSW) (*EP&A Act*), applied to public infrastructure projects under Part 5 of the *EP&A Act*.⁷⁰ Chapter 2 of this Report includes a list and brief description of relevant documents that are referred to throughout this chapter. Later sections of this chapter cover the process of tender selection and contract negotiation followed in delivering the project.
- 3.28** The preparation and public display for comment of an Environmental Impact Statement (EIS) is the centrepiece of the Environmental Impact Assessment process (EIA). The EIS for a major project is typically thorough and runs to many volumes. It describes the project's characteristics and likely effect on the environment. There are however, many other important

⁷⁰ The *EP&A Act* was amended in 2005; major infrastructure projects will now generally be assessed under Part 3A of the *EP&A Act*. The significance of this change is discussed later in the chapter.

steps in the EIA process. Chapter 4 examines the opportunities for community consultation before, during and after the EIA process, and the effectiveness of that consultation in relation to the final project.

3.29 The following table provides the key milestones in the environmental planning and assessment process for the Lane Cove Tunnel project under Part 5 of the *EP&A Act*.

Table 3.1 Lane Cove Tunnel project – Environmental Impact Assessment

State Government development under Part 5 of the <i>EP&A Act 1979</i> ⁷¹	Lane Cove Tunnel project Environmental Impact Assessment	Timeline
Proponent and other Determining Authority determine if 'review of environmental factors' or an EIS is required following a preliminary assessment – if likely to significantly affect the environment	Decision taken by RTA to prepare EIS	2000
Planning Focus Meeting with proponent, Department of Planning (DoP) and other approval authorities		
DoP issues Director General's Requirements	Director General of Planning issues requirements for the preparation of the initial EIS by letter to RTA (including EPA requirements)	April 2000
Proponent prepares EIS	RTA contracted Sinclair Knight Merz to prepare the EIS	
DoP and approval authorities pre-lodgement review		
Proponent advertises and exhibits EIS for a minimum of 30 days, inviting representations	RTA released <i>Lane Cove Tunnel - EIS</i> for public comment, displayed in various locations (see Appendix 3)	8 November 2001 – 2 February 2002
Proponent considers issues in submissions and if appropriate develops mitigation strategies		
Proponent prepares Representation Report and makes submission to Minister for approval	<i>Lane Cove Tunnel Representations Report</i> and <i>Preferred Activity Report</i> submitted by the RTA to DoP	15 July 2002
Proponent prepares Preferred Activity Report and makes public	RTA places <i>Preferred Activity Report</i> on public display	15 July 2002 – 16 August 2002
DoP prepares Assessment Report – if approval to be recommended DoP consults with determining authorities and other parties in finalising recommended integrated approval conditions		
DoP makes recommendations to Minister. Minister for Planning must consult with	<i>Proposed Lane Cove Tunnel: Director General's Report</i> , as required under s115C of	November 2002

⁷¹ Outline of the environmental planning and assessment process under Part 5 of the EP&A Act adapted from NSW Audit Office, *Performance Audit Report: Department of Urban Affairs and Planning: Environmental Impact Assessment of Major Projects in NSW*, 2001, p16

Minister for the Proponent	<i>Environmental Planning and Assessment Act.</i>	
Minister makes determination under Div 4 Part 5 of the <i>EP&A Act</i>	Planning approval (with 259 conditions) granted	3 December 2002

3.30 As illustrated in the previous table, and as seen in relation to the Cross City Tunnel and detailed in the Committee’s First Report, the planning process was complex and occurred over a considerable period of time.

Objectives of the Lane Cove Tunnel project

3.31 The Environmental Impact Assessment process provides a key opportunity for the articulation of a project’s objectives and how they are to be achieved through the project’s delivery. They are central to the assessment of the project’s suitability.

3.32 The project’s primary objectives were described in the RTA’s October 2001 *Lane Cove Tunnel Environmental Impact Statement* and are detailed below:

- To improve the efficiency of east-west travel along the corridor for road based transport modes through a reduction in congestion and improved travel times
- To improve air quality and reduce traffic noise, particularly along the arterial road network, through a reduction in surface traffic volumes and congestion
- To improve the amenity of the local community and businesses through:
 - improving safety, connectivity and access for pedestrians and cyclists on Epping Road
 - improving air quality and reducing traffic noise along the arterial road network
 - reducing traffic and congestion on Epping and other roads
 - improving local access by reducing restrictions on traffic turning movements on Epping Road
 - enhancing the urban fabric of the lower North Shore
- To improve the operation of road based public transport for people in north-western Sydney and along the corridor through:
 - provision of bus lanes on Epping Road
 - provision of transit lanes on the Gore Hill Freeway
- To minimise impacts on the natural environment during both the construction and operation phases of the project
- To provide for cyclists along the corridor

- To provide the benefits of the project to the community at least cost to Government.⁷²

3.33 These primary objectives have been consistently restated in evidence to the Committee from officials of the Roads and Traffic Authority, the Department of Planning and by the Chief Executive Officer of Connector Motorways.⁷³

3.34 Mr Mike Hannon, then Acting Chief Executive, RTA, in evidence to the Committee commented simply that ‘the project has been sought by the local community and local representatives for decades’.⁷⁴ Mr Les Wielinga, then Director, Motorways for the RTA, in discussing the community reaction to the RTA’s 1999 *Lane Cove Tunnel Overview Report*, commented that:

[t]here was strong council and community support for both a long tunnel coupled with changes on the Epping Road/Longueville Road area. The overview report basically recommended the proposal described in the EIS.⁷⁵

3.35 In relation to the community responses received during the EIS public comment phase, the Department of Planning *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General’s Report* confirmed that:

[g]enerally, the majority of representations showed a broad level of support for the Proposal, though much of the support was conditional on the inclusion of either in-tunnel or stack discharge filtration.⁷⁶

3.36 Mrs Kerry Chikarovski, former Member for Lane Cove, in evidence to the Committee confirmed that the issue of traffic congestion in Lane Cove was apparent to her from the time of her election to the seat:

When I was first elected to Parliament, the question of traffic along Epping Road was a matter of some concern to the electorate mainly because people could not get in and out of the village of Lane Cove itself.⁷⁷

3.37 Mrs Chikarovski explained that the preference expressed to her by community members in her electorate was for a tunnel to remove traffic from surface streets, thus allowing changes to those streets:

⁷² RTA, *The Lane Cove Tunnel Environmental Impact Statement, Volume 1*, October 2001, p1-5

⁷³ See, for example, Submission 114, RTA; Mr Mike Hannon, Acting Chief Executive, RTA, Evidence 16 June 2006; Mr Sam Haddad, Director General, Department of Planning, Evidence, 16 June 2006; Mr Ian Hunt, Chief Executive, Connector Motorways, Evidence, 15 June 2006.

⁷⁴ Mr Mike Hannon, then Acting Chief Executive, RTA, Evidence, 16 June 2006, p59

⁷⁵ Mr Les Wielinga, then Director, Motorways, RTA, Evidence, 16 June 2006, p61

⁷⁶ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General’s Report*, 2002, p. i

⁷⁷ Mrs Kerry Chikarovski, former Member for Lane Cove, Evidence, 15 June 2006, p26

The discussions which we had when I was the local member certainly involved a narrowing of Epping Road. It certainly involved a question of reducing the volume of traffic on the surface by some narrowing of the road, and there was a fair bit of representation to me from local people, particularly those who lived along Epping Road, who were keen to see that happen.⁷⁸

- 3.38** Other evidence received by the Committee confirmed that the proposal for a tunnel through Lane Cove has had broad community support for many years. A submission from the Lane Cove Tunnel Action Group, for example, commented that ‘the Action Group was formed over ten years ago to seek the construction of a 3.7km, bore driven, twin three-lane tunnel with the installation of air-cleaning technologies’.⁷⁹ In fact, the Lane Cove Tunnel Action Group describes the community desire for a tunnel as a ‘war of attrition’ against the RTA’s early proposals to turn Epping Road into a grade separated motorway.⁸⁰
- 3.39** It is important to note that support for the Tunnel from councils, community groups and members of the community was often accompanied by concern over the air quality implications of an unfiltered ventilation system. The issue of air quality is addressed in Chapter 5.
- 3.40** The Environmental Impact Assessment process allows for changes to the design and parameters of the project, in response to community feedback received and ‘more detailed investigations’.⁸¹ Following consideration of the *Preferred Activity Report* and the *Representations Report* for a project, the Minister for Planning issues the planning approval and associated Conditions of Approval, which define the parameters of the project.
- 3.41** The Committee notes that the RTA acted lawfully in accordance with the *EP&A Act*, which sets out the level of consultation required.
- 3.42** The project scope and details can still change after the issue of the planning approval, however under section 115BA of the *EP&A Act* the RTA must prepare a Consistency Assessment and Environmental Review demonstrating that the changes are consistent with the conditions of approval. If the changes are not consistent then a process involving further consultation is required to modify the relevant Condition(s) of Approval.
- 3.43** There were two significant changes to the Lane Cove Tunnel project following planning approval: changes to the layout of Falcon Street to accommodate on and off ramps from the expanded Gore Hill Freeway; and changes to the ventilation system. Neither of these were subject to consultation in the sense that it applied to other elements of the project, because Consistency Assessment and Environmental Reviews were prepared by the RTA declaring them consistent with the Minister’s Conditions of Approval.

⁷⁸ Mrs Chikarovski, Evidence, 15 June 2006, p27

⁷⁹ Submission 113, Lane Cove Tunnel Action Group, p2

⁸⁰ Submission 113, p8

⁸¹ RTA, *Lane Cove Tunnel Summary of Contracts*, July 2004, p6

- 3.44** Ms Penelope Holloway, General Manager of North Sydney Council, explained in evidence to the Committee the changes to Falcon Street and the lack of involvement of the North Sydney Council and the community in those changes:

Since the EIS and after the consent was given and the Minister's conditions prepared, the design of the Falcon Street works and pedestrian access have been significantly changed. The northbound entry ramp to Falcon Street is now on the western side of the Falcon Street Bridge and an additional northbound exit ramp has been located to the centre of the Falcon Street Bridge. These changes occurred in December 2003 and were made public in July 2004. At no time has the council or the community been invited to comment on these very significant changes.⁸²

- 3.45** Similarly, the Lane Cove Council have been vocal in their dissatisfaction with the process followed for the revision of the ventilation system. Their submission to the inquiry characterised the changes as being 'secretly made without community, Council or Government Agency consultation'. The Council also disagreed with the Department of Planning acceptance of the change:

The perfunctory RTA Consistency Assessment and Environmental Review carried out 5 months after the Contract, clearly failed to establish consistency with the approval.⁸³

- 3.46** Mr Sam Haddad, then Deputy Director General of the Department of Planning, responded in a letter to the Lane Cove Council General Manager Mr Peter Brown dated 29 June 2004. In the letter, Mr Haddad stated that:

The RTA has advised that it considers the changes to be consistent with the approval and therefore will not be seeking a formal modification. It is not a statutory requirement nor is it normal practice for the Department to independently assess changes to projects proposed by Proponents. The legislation intends that this should and always has been a responsibility that the Proponent carries.⁸⁴

- 3.47** The RTA in its submission to the Inquiry states that the ventilation system modifications were 'further developed to meet design standards, approval conditions and feedback from stakeholders.' The relevant Construction Community Liaison Group was 'briefed on construction progress including final details and alignment of the ventilation tunnel in November 2004'.⁸⁵

- 3.48** The Lane Cove Tunnel Action Group shared the Lane Cove Council's concern over the lack of transparency in the changes to the project that included the revision of the ventilation system. In their submission, they commented:

Allowing the proponent to determine whether or not a proposed change is "minor" or "consistent with the Minister's Approval" is clearly problematic. There is no check on the RTA's power, no independent scrutiny of such changes, the Minister's

⁸² Ms Penelope Holloway, General Manager of North Sydney Council, Evidence, 14 June 2006, p4

⁸³ Submission 116, Lane Cove Council, p2

⁸⁴ Copy of letter reproduced in submission 116, Lane Cove Council, p69

⁸⁵ Submission 114, RTA, p27

Conditions of Approval can apparently be altered or ignored and there is a serious lack of transparency of process.⁸⁶

- 3.49** The Committee examines the ventilation system that is being installed in the Lane Cove Tunnel in the context of the issue of air quality, in Chapter 5.

Conclusions

- 3.50** The Committee believes that the Lane Cove Tunnel project that was approved following the environmental planning and assessment process appears to have been broadly welcomed by the community, with some sections of the community expressing strong concern over air quality issues.
- 3.51** The Committee believes that the changes to the surface streets associated with the Lane Cove Tunnel Project are compatible with the project's objectives and are an integral part of the project as it has been described since its inception. The surface road changes were not proposed by Connector Motorways but were required by the RTA as part of the project and reflect the desire of the community, at least the community in the Lane Cove Area, for improved urban amenity.
- 3.52** This situation appears distinct from the Cross City Tunnel project, where changes to the Cross City Tunnel resulting from the RTA's acceptance of a non-conforming proposal from the Cross City Motorway company led to surface road changes beyond those contained in the project represented by the original EIS (and broadly supported by the local community and Sydney Council). The Lane Cove Tunnel project described in the EIS, however, is substantially the project envisaged by the community and described in the RTA's *Overview Report*, released for public comment in 1999.
- 3.53** However, as with the Cross City Tunnel project, it is likely that there will be substantial confusion arising from the proposed changes to existing roads and associated roadworks once the Lane Cove Tunnel project moves into Stage Two, with the tunnel open. At a later point in this chapter, the Committee comments on this likelihood and recommends action to minimise confusion.
- 3.54** While the base toll levels for the Lane Cove Tunnel have not changed since the project's inception, unlike the Cross City Tunnel (where the toll's base level was first increased, and then the maximum permitted rate of toll escalation was increased), the final toll levels may have an impact on patronage, particularly when the combined tolls of the M2, the Lane Cove Tunnel and the harbour crossings are considered.
- 3.55** The Environmental Impact Assessment process requires the consideration of the impact of toll levels on traffic management and the Committee reiterates Recommendation 2 from the First Report - that, for future toll road infrastructure projects, mechanisms be in place to ensure that appropriate environmental and planning consideration is given to the impact of tolls and tolling regimes on mode shift, traffic inducement, and value for money for the motorist. The Committee notes that the Premier's Department Infrastructure Implementation

⁸⁶ Submission 113, p12

Group's *Review of Motorways* (the IIG *Review*) made a similar recommendation, which has been adopted.

- 3.56** In relation to changes made to the Lane Cove Tunnel's ventilation system after the planning approval was granted, the Committee believes that, given the obvious and demonstrated importance of air quality to the community, the RTA should have taken greater steps to ensure that this change was widely advised. The information provided and the manner in which it was provided may increase community concern about the methodology used by large government departments in the delivery of large infrastructure projects.
- 3.57** The Committee reviews the issue of air quality in relation to the Lane Cove Tunnel in Chapter 5. Evidence received from the RTA, Connector Motorways and the CSIRO's Chief Research Scientist for Marine and Atmospheric Research, Dr Peter Manins, suggests that the ventilation system is sufficient to meet the air quality standards imposed under the Minister's Conditions of Approval, and represents a considerable improvement over the ventilation system installed in the M5 East tunnel. This does not, however, mitigate the lack of information provided to the community in relation to the last revisions made to the ventilation system.
- 3.58** Similarly, the changes made to Falcon Street following the granting of planning approval demonstrate a lack of community engagement. The lack of information provided to, and involvement with, the relevant councils in relation to these late changes undermines the thoroughness and transparency of the EIA process up to that point, and is regrettable.
- 3.59** The role of the Department of Planning in relation to determining whether modifications to the project require modifications to the Minister's Conditions of Approval is also of concern. The acceptance of the Consistency Assessment and Environmental Review without any independent assessment may raise questions about where the accountability lies for a project and who monitors that accountability. In the words of the Lane Cove Council submission 'Who does the community turn to if DoP have no capacity or legislative power to insist on compliance?'⁸⁷
- 3.60** The Committee believes that the community has a right to know about modifications to infrastructure projects, whether they are consistent with the conditions of approval or not. The Consistency Assessment and Environmental Reviews prepared by proponents in relation to major infrastructure projects should be made publicly available at the same time as they are provided to the Department of Planning. Transparency and accountability are vital for the maintenance of public confidence in government departments.

Recommendation 1

That Consistency Assessment and Environmental Reviews prepared for variations to major infrastructure projects be made publicly available by the proponent at the same time as they are provided to the Department of Planning.

⁸⁷ Submission 116, p2

Changes to the *Environmental Planning and Assessment Act 1979 (EP&A Act)*

3.61 Mr Haddad, Director General, Department of Planning, in evidence to the Committee said that the changes to the *EP&A Act* would result in changes to the way the Environmental Impact Assessment is conducted:

There are procedural changes in that, for example, we have requested a bit more information upfront before issuing what we call director general requirements. That will be a procedural change. We would have to put the documentation on public exhibition. We would ask for what we call a statement of commitments by the proponent, that they would have to go through the range of commitments that they would have to do. I note in that regard that notwithstanding these new provisions, the RTA did provide what we call a project preferred activity report whereby they did actually respond to the submissions.⁸⁸

3.62 The Committee is unclear what difference this change will actually make to the consultation process conducted for major projects, but supports the principle that the proponent not be responsible for analysing feedback received from the community in relation to a project, a position consistent with the conclusions and Recommendation 1 above.

3.63 The Committee also notes Mr Haddad's comments suggesting that the changes will improve the Department of Planning's capacity for strategic planning, a weakness identified by the Committee in its First Report:

Probably the main differences, as I said before to this Committee, would have been an opportunity to have more of a strategic look at the conceptual level.⁸⁹

Methodology for tendering and contract negotiation

3.64 The RTA has maintained that the methodology behind the contract negotiation and project tendering for the Lane Cove Tunnel project is consistent with that required by the NSW Government under the *Working with Government Guidelines*, a NSW Government policy issued in November 2001.

3.65 In evidence to the Committee, the then Acting Chief Executive of the RTA Mr Mike Hannon, said:

(T)he RTA followed the Government's guidelines including the *Working with Government* guidelines for privately financed projects, through all aspects of the project's development and its implementation.⁹⁰

3.66 Mr John Pierce, Secretary, NSW Treasury, in evidence to the Committee detailed the three stage process set out in the *Working with Government Guidelines*, stating that it consisted of:

⁸⁸ Mr Sam Haddad, Director General, Department of Planning, Evidence, 16 June 2006, p47

⁸⁹ Mr Haddad, Evidence, 16 June 2006, p47

⁹⁰ Mr Hannon, Evidence, 16 June 2006, p60

...initial expressions of interest to assess the capacity of the proponents, followed by short-listing, and finally a request for detailed proposals. That final stage can involve negotiations and execution of the contracts with the preferred proponent.⁹¹

- 3.67** For the first stage of the tendering process, the RTA called for *Registrations of Interest* from private sector parties for the financing, design, construction, operation and maintenance of the Lane Cove Tunnel project in March 2002. *Registrations of Interest* were received from four consortia: the Lane Cove Tunnel Consortium; Lane Cove Motorway; Lane Cove Expressway; and TunnelLink.
- 3.68** All four consortia were shortlisted after an evaluation by the RTA. Mr Pierce, Secretary, NSW Treasury, in evidence to the Committee said that the main reason for progressing all four *Registrations of Interest* was to ‘maintain a sufficient degree of competitive tension in the process’.⁹²
- 3.69** In response to the RTA’s *Request for Proposals*, the four consortia submitted detailed proposals by January 21 2003.⁹³ The *Request for Proposals* documentation included drafts of a Project Deed, *Scope of Works and Technical Criteria* documentation, a Deed of Appointment of Independent Verifier, a Rail Agreement, a Contractor’s Side Deed, and RTA Consent Deed and an Agreement to Lease.⁹⁴
- 3.70** The detailed proposals, which included both options that conformed to the EIS and those that did not (non-conforming), were evaluated by an evaluation panel comprising:
- Mr Les Wielinga, then General Manager, Private Infrastructure, RTA (currently Chief Executive of the RTA)
 - Mr Garry Humphrey, General Manager, Motorway Services, RTA
 - Mr John Anderson, Senior Project Manager, Motorway Services, RTA
 - Mr Kevin Pugh, Senior Manager, Corporate Finance, NSW Treasury
 - Mr Peter Gemell, a principal of Evans and Peck Pty Limited.⁹⁵
- 3.71** The evaluation panel was assisted by the RTA’s Lane Cove Tunnel project team (providing technical and financial advice), NSW Treasury Corporation (providing financial advice), Clayton Utz (providing legal advice), Evans and Peck (providing commercial and technical advice) and PricewaterhouseCoopers (providing financial advice).⁹⁶
- 3.72** The activities of the evaluation panel were overseen by a review panel, whose membership included:

⁹¹ Mr Pierce, Evidence, 16 June 2006, p14

⁹² Mr Pierce, Evidence, 16 June 2006, p14

⁹³ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p7

⁹⁴ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p7

⁹⁵ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p7

⁹⁶ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p7

- Mr Mike Hannon, then RTA Director Road Network Infrastructure
- Mr Brett Skinner, Director, Finance, RTA
- Mr Graham Read, then RTA corporate counsel
- Mr Danny Graham, acting Director, Private Finance Projects, NSW Treasury
- Mr Alan Griffin, then Chairperson of State Contracts Control Board, Department of Public Works and Services
- Mr Peter Gifford, probity auditor, PAJI Pty Limited.⁹⁷

3.73 The assessment process for the detailed proposals included:

- A ‘comparative value’ assessment against the Public Sector Comparator
- A ‘non-price assessment’ against weighted pre-determined criteria including:
 - Design and construction (35%)
 - Project structure, participants and organisation (25%)
 - Initial project plans (21.5%)
 - Operation and maintenance (10%)
 - Initial traffic management and safety plans (8.5%)⁹⁸

3.74 The RTA’s evaluation and review panels concluded that:

The proposals submitted by the Lane Cove Tunnel Consortium would represent better value for money than the ‘public sector comparator’ and the proposals submitted by Lane Cove Motorway.⁹⁹

3.75 The Minister for Roads, the Hon Carl Scully MP, announced the Lane Cove Tunnel Consortium as the preferred proponent on 1 October 2003, and contract negotiations between the RTA and the proponent commenced.

3.76 The main Project Deed for the Lane Cove Tunnel project was entered into on 4 December 2003, and the *Lane Cove Summary of Contracts* was tabled in Parliament in July 2004 in accordance with the NSW Government *Working with Government: Guidelines for Privately Financed Projects*. The Auditor General, in his 2005 *Report to Parliament, Volume Four*, noted that the summary of contracts was not provided to him within 30 days of the contracts being entered, nor was it tabled in Parliament 90 days following submission to the Auditor General. The Auditor General acknowledged that in this case, where Parliament was not sitting when he signed off on the summary of contracts on 2 July 2004, the delay was not as marked as for the *Cross City Tunnel Summary of Contracts* but the Auditor General nevertheless commented that contract summaries should have been tabled ‘significantly earlier than dates shown.’¹⁰⁰

⁹⁷ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p7,8

⁹⁸ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p8,9

⁹⁹ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p9

¹⁰⁰ NSW Audit Office, *Auditor General’s Report to Parliament 2005, Volume Four*, tabled 16 November 2005, p4

The function of the Public Sector Comparator in the tender process

- 3.77** The *Working with Government Guidelines* state that a PSC is ‘a model of the costs (and in some cases, revenues) associated with a proposal under a government financed method of delivery.’¹⁰¹ The guidelines continue with the direction that the PSC ‘will be developed for all proposals to assist the Government determine whether a private finance arrangement offers superior value for money over traditional methods of government delivery.’¹⁰²
- 3.78** ‘Traditional methods of government delivery’ can include elements of private sector provision – the PSC might incorporate the contracting out of the development and construction elements of the project while retaining the operation and maintenance elements, for example.¹⁰³
- 3.79** In the case of the Lane Cove Tunnel, the RTA prepared a PSC with the assistance of NSW Treasury, NSW Treasury Corporation, Evans and Peck and PricewaterhouseCoopers prior to receiving proposals from consortia.¹⁰⁴
- 3.80** The assessment process included a ‘comparative value’ assessment of each consortia’s tender against the PSC.¹⁰⁵ The RTA’s *Summary of Contracts* concluded that:

The delivery of the project by the private sector, in accordance with the rights, obligations and risk allocations described in this report, is expected to result in a significant net financial benefit to the RTA, with the financial costs of the project to the RTA being outweighed by a substantive transfer of risks to the private sector ... and by an up-front payment to the RTA.¹⁰⁶

Conclusions

- 3.81** The Committee has seen no evidence to suggest that the RTA conducted the tendering process and the contract negotiations in anything other than a professional manner. Comments from a wide range of witnesses during hearings associated with the Committee’s First and Second Reports have indicated that the RTA has an excellent reputation for the development and delivery of major PPP projects.
- 3.82** The Committee notes that the process followed in the selection of the Lane Cove Tunnel Consortium as the successful proponent was essentially the same as that followed for the Cross City Tunnel project. The critical difference lies in the acceptance of a non-conforming proposal for the Cross City Tunnel project that required substantial changes to the project and a subsequent supplementary Environmental Impact Assessment process.

¹⁰¹ NSW Government, *Working with Government: Guidelines for Privately Financed Projects*, November 2001, p45

¹⁰² NSW Government, *Working with Government Guidelines*, November 2001, p45

¹⁰³ NSW Government, *Working with Government Guidelines*, November 2001, p45

¹⁰⁴ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p8

¹⁰⁵ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p8

¹⁰⁶ RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p8

3.83 In its First Report, the Committee examined the use of the Public Sector Comparator (PSC) in relation to the Cross City Tunnel Public Private Partnership and made a number of recommendations. The IIG *Review* also made recommendations, which the Government has adopted. Many of the same concerns that the Committee raised and addressed in the First Report remain applicable to the use of the PSC in relation to the Lane Cove Tunnel project. In particular, the detail provided in the *Summary of Contracts* is not sufficient to explain how the comparison between the PSC and the proposals of the consortia was conducted. The Committee reiterates its recommendations of the First and Second Report relating to Public Private Partnerships, particularly the recommendation that there be greater explanation and information provided in the *Summary of Contracts* about the Public Sector Comparator and how the comparison with the private sector proposal is actually conducted.

Estimates of traffic flows

3.84 The estimated numbers of vehicles to use the Lane Cove Tunnel provided in the Environmental Impact Statement differ from those relied upon by the successful consortium in the Base Case Financial Model, as detailed in paragraphs 3.87 to 3.89. A number of witnesses referred to these differences in the estimates and raised concerns over the implications for air quality and traffic congestion on surface streets.

3.85 The Cross City Tunnel has provided an excellent example of the difficulty of predicting traffic flows. The current vehicle numbers using the Cross City Tunnel are approximately 34,000 per day,¹⁰⁷ considerably lower than the ‘up to 90,000’ vehicles per day by 2006 predicted by the Cross City Motorway’s traffic consultants.¹⁰⁸

3.86 In the case of the Lane Cove Tunnel, Mr Ian Hunt, Chief Executive of Connector Motorways, in evidence to the Committee, stated that he was confident of the accuracy of the traffic estimates relied upon by the company in its Base Case Financial Model. The fact that the Lane Cove Tunnel will connect the M2 and the Gore Hill Freeway, two major motorways, was provided as a strong reason for the likely accuracy of the figures, as were assumptions around land use in Sydney’s north west region and the population growth implications of that land use.

3.87 Connector Motorways estimated that at the end of an 18 month ramp-up period following the opening of the Lane Cove Tunnel the traffic numbers would be ‘about 100,000 to 115,000 vehicles per day in the Lane Cove Tunnel, and about 35,000 to 40,000 vehicles per day on the new ramps of the Falcon Street Gateway.’¹⁰⁹

3.88 Figures provided in the RTA’s Environmental Impact Statement were similar but lower, with 104,786 vehicles per day in 2006 estimated for the Tunnel with a \$2.00 toll (1999 dollars) and 113,283 vehicles per day in 2016.¹¹⁰

¹⁰⁷ Cross City Motorway media release, 5 June 2006, available at www.crosscitytunnel.com.au

¹⁰⁸ Submission 38, CrossCity Motorway Pty Ltd, p2

¹⁰⁹ Submission 83, Connector Motorways, p10

¹¹⁰ RTA, *Lane Cove Tunnel Environmental Impact Statement*, p8-33

- 3.89** Mr Les Wielinga, then Director, Motorways, for the RTA, emphasised that in the early years of the project the traffic projections for the RTA and Connector Motorways were similar, with the main distinction being a greater rate of growth predicted by Connector Motorways:

When you have a look at the RTA's preferred activity report, the RTA or its traffic advisers were projecting about 105,500 in the tunnel in 2007, whereas the Lane Cove Tunnel Company, in its financial model, is projecting about 107,800. At the early years of the project, the traffic projections are essentially similar.

The Lane Cove Tunnel Company has predicted a much faster growth in traffic in the corridor, so that by the time we get to 2016 the comparisons are about 152,000 versus 112,000.¹¹¹

Recommendation 2

That Connector Motorways Group Pty Ltd publish monthly reports on its website of the number of vehicles using the Lane Cove Tunnel, commencing the month after the date of its opening.

Lane Cove Tunnel traffic capacity and number of lanes

- 3.90** The issue of traffic estimates is linked to the issue of capacity in the Tunnel. The Lane Cove Tunnel comprises twin tunnels, three lanes westbound and two lanes eastbound becoming three lanes 1.3kms into the 3.6km tunnel. The last schematic in Appendix 3 illustrates the tunnel configuration. A number of witnesses criticised the RTA's decision to have a two-lane entry portal at the west, predicting a lack of future capacity in the tunnel to meet traffic demands, and consequent congestion on Epping and Longueville Roads once the surface works associated with Stage Two of the project commenced.
- 3.91** The Lane Cove Tunnel Action Group (LCTAG) characterised the two lane western portal entry as the result of an attempt by the RTA to thwart an early proposal of the group for a 3.7km Lane Cove Tunnel. In their submission, LCTAG claim that the decision by the RTA to sell land at the intersection of Epping Road and Mowbray Road for residential development (in 1998) was taken in order to ensure that LCTAG's proposal, which relied on that site as a western entry point, could not be adopted.¹¹² Following the adoption of the tunnel proposal by the RTA, LCTAG claim that the RTA was 'left with the only option to carve into the middle of Epping Road to build the western portal',¹¹³ where there was only space for a two lane entry portal.

¹¹¹ Mr Wielinga, Evidence, 16 June 2006, p63

¹¹² Submission 113, p2

¹¹³ Submission 113, p2

- 3.92** This contention was vigorously denied by the RTA during their evidence to the Committee. Mr Wielinga, then Director, Motorways for the RTA, told the Committee that there were no engineering constraints on providing extra lanes at the western portal:

When you have a look at the western end from an engineering point of view, as you come up towards Mowbray Road, the tunnel ducks away to the left. There is a sandstone wall there and it ducks underground fairly quickly. You could have put extra lanes in there from an engineering point of view if you needed to, if it was compatible with the rest of the network, and sometime in the future it would be possible to have a similar alignment with another shaft down through that area if you needed to.¹¹⁴

- 3.93** In an answer to a question taken on notice by witnesses during the hearing, Mr Wielinga confirmed his verbal evidence that the sale of the property had no bearing on the construction of the Lane Cove Tunnel's western portal:

The sale of the former RTA depot on the corner of Mowbray Road West and Epping Road had no impact on the constructability of the 3 lane option for the Lane Cove Tunnel and expanded Gore Hill Freeway project. A third eastbound lane to the tunnel could have been provided within the existing road boundaries and within the property purchased from the Community Association for the current works.¹¹⁵

- 3.94** Witnesses for the RTA, in evidence to the Committee, maintained that the reason for the tunnel's western entry portal being limited to two lanes and widening to three lanes 1.3 kilometres into the tunnel was because the project was part of a broader corridor of roads that included the M2 and the Harbour crossings. In responding to the suggestion that the successful consortium had proposed a three lane western entry, Mr Wielinga commented that the consortium were considering the project in isolation, while the RTA was considering the project in the context of the total road network:

If you were to make an extra lane into this project all the way through, you would have to immediately put additional lanes on the Gore Hill Freeway in order to make it work. In the medium term you would have to do something about the complex merging arrangements on the Warringah Freeway. You would have to look seriously at expanding the Bradfield and you would have to do something about the harbour crossing. You are looking at a minimum of \$2 billion or \$3 billion to solve those problems. You cannot just look at a single project in isolation.¹¹⁶

- 3.95** In evidence to the Committee, Mr Hunt, Chief Executive of Connector Motorways, confirmed that the consortium had submitted a non-conforming proposal including a three-lane western entry portal, and that the non-conforming proposal had not been adopted. Mr Hunt added:

When I first started in this job I went to see the RTA to say that it seemed obvious to me that perhaps a third lane, if not needed now, might be needed in the future and that it would be better to build it now rather than in the future. The RTA explained to

¹¹⁴ Mr Wielinga, Evidence, 16 June 2006, p74

¹¹⁵ RTA, Answers to questions taken on notice, 16 June 2006, p3

¹¹⁶ Mr Wielinga, Evidence, 16 June 2006, p72

me that, as part of its strategy for managing the whole orbital network, it saw the need for a two-lane entrance there, effectively to regulate traffic as it headed down towards the cross harbour tunnels. There is quite a constraint there.¹¹⁷

- 3.96** Other witnesses suggested that a two-lane entry at the western portal would have an impact on Epping Road congestion, on that section of Epping Road narrowed to one general transit lane and one 24 hour bus lane in each direction. Dr David Poole, Executive Director of the Urban Development Institute of Australia, in evidence to the Committee said that he believed the restricted traffic capacity of Epping Road would not be sufficient to meet the traffic demand, even taking into account the traffic that would use the tunnel once it opened:

The consortium, the Roads and Traffic Authority, and the environmental impact statement for the tunnel all predict up to a maximum 60 per cent traffic reduction on Epping Road. Down to one lane in each direction, its capacity will be around 1,350 vehicles per hour. But the 60 per cent maximum traffic reduction from Epping Road still leaves at least 1,500 vehicles per hour during the peak periods eastwards and 1,700 vehicles per hour in the peak period moving westwards in the afternoon and evening.¹¹⁸

- 3.97** Mr Steven Coy, Senior Executive for Ford Land Company, a major landholder in the Lane Cove West Business Park, in evidence to the Committee explained his concern that the end result of this surface congestion would be a negative impact on the Lane Cove West Business Park, which can only be accessed from Sam Johnson Way, in turn accessed from Epping Road:

This is a problem now. It has always had this stigma of getting onto Epping Road. That is why we were all looking forward to the opening of the tunnel, but when we found that Epping Road was going to be reduced to one lane we were in horror.¹¹⁹

- 3.98** Mr Hunt, in evidence to the Committee, commented that he had met with representatives of businesses from the Lane Cove West Business Park and in relation to this problem:

I was not able to offer them a solution because we are delivering a project that is fairly tightly defined in that respect, but they did share with me their analysis of the problem, which I got our forecasters to look at, who found that it was not an unreasonable assessment. I passed that to the RTA for them to look at.¹²⁰

- 3.99** Mr Phil Margison, Acting Director, Traffic and Transport, in evidence to the Committee said that the intersection of Sam Johnson Way with Epping Road would ‘work at the forecast traffic volumes’:

In fact the submission by the Lane Cove west business group had in it some work by an independent consultant who did some traffic figures on that. Their figures show that with the forecast traffic volumes, the traffic volumes expected on that part of

¹¹⁷ Mr Ian Hunt, Chief Executive, Connector Motorways, Evidence, 15 June 2006, p74

¹¹⁸ Dr David Poole, Executive Director, Urban Development Institute of Australia, Evidence, 15 June 2006, p2

¹¹⁹ Mr Steven Coy, Senior Executive, Ford Land Company, p4

¹²⁰ Mr Hunt, Evidence, 15 June 2006, p81

Epping Road will be accommodated by the intersection, according to their own analysis.¹²¹

3.100 On 16 June 2006, the final day of hearings conducted by the Committee, the Minister for Roads, the Hon Eriz Roozendaal, announced the establishment of a Lane Cove Tunnel Transition Working Group (LCTTWG) to ‘oversee the integration of the Lane Cove Tunnel and expanded Gore Hill Freeway into the broader road network’. Membership of the LCTTWG (also referred to in the same media release as the ‘Government Integration Group’) includes representatives of the Premier’s Department Infrastructure Implementation Group, the RTA, State Transit Authority and Connector Motorways and will engage with the local councils and community groups to address ‘teething issues’ that may arise from the project.¹²²

3.101 One of the ‘teething issues’ to be addressed by the LCTTWG includes the issue of the impact of the opening of the tunnel on the operation of intersections along the modified Epping Road. Mr Mike Hannon, then Acting Chief Executive of the RTA, explained that, given the one month toll free period Connector Motorways will implement, there may be a considerable amount of induced traffic into the traffic corridor which will need to be taken into account. The Lane Cove Tunnel Transition Working Group will:

look at not just the Sam Johnson Way intersection but obviously all the intersections and the impact of the tunnel and the reduction in lanes as per the approved project. That will need to be carefully monitored basically from day one.¹²³

3.102 Mr Coy was concerned that the element of the Lane Cove Tunnel project involving the narrowing of Epping Road was not made clear to him, or to other businesses in the Lane Cove West Business Park:

No notification at all was given to anyone as to this. We came across it because we looked at the web site. Otherwise we probably would not have spotted it.¹²⁴

3.103 Mr Coy and Dr Poole conceded that they had not read the Environmental Impact Statement relating to the Lane Cove Tunnel project during the consultation period in 2001-2002. Their understanding of the project was limited:

We all thought the tunnel would open and Epping Road would stay the same.¹²⁵

3.104 One of the implications of the suggestion by Dr Poole to ‘leave Epping Road as it is or at least leave two car lanes in each direction’¹²⁶ is that the cycleway and buslanes would be affected. The Committee has received a large number of submissions from members of the community

¹²¹ Mr Phil Margison, Acting Director, Traffic and Transport, RTA, Evidence 16 June 2006, p75

¹²² Minister for Roads, Media Release, ‘Integration Group for Lane Cove Tunnel – Gore Hill Freeway’, 16 June 2006

¹²³ Mr Hannon, Evidence, 16 June 2006, p75

¹²⁴ Mr Coy, Evidence, 15 June 2006, p3

¹²⁵ Mr Coy, Evidence, 15 June 2006, p4

¹²⁶ Dr Poole, Evidence, 15 June 2006, p5

concerned that the measures implemented for cyclists and pedestrians as a part of the Lane Cove Tunnel project are retained.

3.105 Of the 46 submissions received by the Committee that specifically relate to the Lane Cove Tunnel, 17 submissions specifically called for the retention of the 7.5 kilometre shared cyclepath and pedestrian walkway. Submissions were also received from a number of community bicycle and pedestrian organizations, who evidently put in considerable effort at the various community consultation phases of the project and are clearly concerned that their efforts through that protracted process might be overturned at the last moment – an understandable concern given the RTA’s decision to remove the cycleway on William Street (a decision made in pursuit of this Committee’s First Report recommendation to reverse all road changes).

3.106 Mr Don Murchison, a private citizen, in his submission provided a typically strong endorsement for the cycle path:

I would like to congratulate the RTA and State Government on the bike path. Bring it on! Make it happen! The sooner the better for all concerned!!!¹²⁷

3.107 There is a clear tension between the desires of cyclist, pedestrian and other community groups to retain the cyclepath on the Epping Road, and the desire of the businesses located within the Lane Cove West Business Park to increase the number of general traffic lanes available on that same stretch of Epping Road.

3.108 Clr Genia McCaffery, Mayor of North Sydney Council, in evidence to the Committee, while offering criticism of some elements of the project nevertheless noted the importance of retaining the benefits of the project for the community:

My final plea to the Committee is that we do not, with the problems that we are now experiencing with the Cross City Tunnel, forget the positive results for our communities that we used to get with large-scale projects. I remind you all about Surry Hills before the Eastern Distributor. That suburb was criss-crossed by busy roads, with very poor conditions for its residents. As a result of road closures that were enabled through the Eastern Distributor Surry Hills is now a beautiful place to live. We must not lose the positive results for our community that we gained before, with better streets, better facilities for pedestrians and cyclists and better public transport. That should be part of any major new road infrastructure. Many of us are very concerned, because of the backlash from the Cross City Tunnel, that we will lose these kinds of positive results for our community in the future.¹²⁸

Conclusions

3.109 The Committee notes that there is a discrepancy between the traffic figures cited in the EIS and the traffic figures relied upon by the consortium in their Base Case Financial Model. This discrepancy mirrors that evident in the case of the Cross City Tunnel, but is of a smaller scale in the first years following the Tunnel’s opening.

¹²⁷ Submission 97, Mr Don Murchison, private citizen, p1

¹²⁸ Clr Genia McCaffery, Mayor of North Sydney Council, Evidence, 14 June 2006, p2

- 3.110** As for the Cross City Tunnel project, the financial risk associated with the traffic estimates is carried by the private sector party – Connector Motorways. If the traffic flow does not meet the estimates then the revenue for the project will not meet predictions. In the case of the Cross City Tunnel, the lower than estimated traffic figures have resulted in a downgrading of the value of at least one equity partner’s investment in the project.¹²⁹ Conversely, if the traffic estimates in the Base Case Financial Model are exceeded, then a proportion of the revenue is required to be shared with the RTA.
- 3.111** While this transfer of risk may appear to safeguard the taxpayer from financial exposure, the Cross City Tunnel project has provided a timely illustration that with the transfer of risk is a transfer of flexibility. The changes proposed to the Cross City Tunnel project may give rise to compensation claims from the operators and are likely to involve a cost to taxpayers. The Committee notes that clause 19.2 of the Cross City Tunnel Project Deed sets out procedures for negotiation if the changes have a material and adverse effect on the ability of the trustee and Cross City Motorway to carry out the project in the project documents, the ability of CCM Finance, the Trustee or Cross City Motorway to pay financiers under the debt financing documents in accordance with the terms of those documents, or equity return.¹³⁰
- 3.112** The Committee believes that the nature of the project is reasonably well understood by community groups and local government representatives. The narrowing of Epping Road has been a consistent part of the project since its inception, and the associated improvements to urban amenity and public transport are important objectives of the project.
- 3.113** The level of information provided to the community about the project by the RTA, and through the local councils, has been significant. The bulletins provided by the Lane Cove Tunnel constructors to the community throughout the construction of the Tunnel have also maintained a level of awareness of the project, although the bulletins have necessarily focussed on the Tunnel itself rather than the associated surface works.
- 3.114** There are, however, some similarities with the Cross City Tunnel project that are a cause for concern. The Lane Cove Tunnel project and Cross City Tunnel project both involve major modifications to existing streets, the narrowing of William Street and the narrowing of Epping Road being the two most obvious respective examples. Despite the fact that the narrowing of William Street was an integral part of the project since its conception, there was a widespread lack of awareness in the community about the detail and implications of that narrowing. There was subsequently a groundswell of community outrage once the construction works commenced on William Street following the opening of the Cross City Tunnel, and well documented traffic chaos. The Lane Cove Tunnel project has similarly always included the narrowing of Epping Road as an integral component, and similarly works will only begin on Epping Road once the Lane Cove Tunnel opens.
- 3.115** The full spectrum of changes to surface streets along the length of the project can be seen in the schematics in this report at Appendix 3.

¹²⁹ Cheung Kong Infrastructure 2005 *Annual Report*, December 2005, p23. Available at <http://www.cki.com.hk/english/investor/annualReport/index.htm> (accessed 28 April 2006)

¹³⁰ RTA, Cross City Tunnel Project Deed, Clause 19.2

- 3.116** The fact that senior executives of companies directly impacted by the Lane Cove Tunnel project remain unaware of important details nearly a decade after the project was first conceived indicates that there is likely to be a significant proportion of the population who are similarly unaware, and for whom the commencement of surface roadworks associated with Stage Two of the project will come as an unpleasant surprise. The lengthy duration of the project requires a consistent approach to community information, with frequent reminders about the implications of the project.

Recommendation 3

That community information strategies for projects of long duration be maintained through all phases of the project, with the relevant government agency taking a key role in the community information strategy.

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- 3.117** There is sufficient time before the Stage Two roadworks commence for a public information campaign to reiterate the project's objectives and provide detail on the changes to surface streets. The Committee's inquiry, and increased media coverage of the project, has itself contributed to the community's awareness of the project, but it would be a sensible precaution to ensure that the community is as forewarned as possible.

Recommendation 4

That the Roads and Traffic Authority work with Connector Motorways to ensure that the monthly information sheets provided by Connector Motorways include clear and concise descriptions of the surface street changes that will follow once the Lane Cove Tunnel opens. This work should be done in conjunction with the Lane Cove Tunnel Transition Working Group.

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- 3.118** Given the discrepancy between the traffic estimates of the RTA and those relied upon by Connector Motorways for the Lane Cove Tunnel, the Committee shares the concerns raised by a number of witnesses over the possibility of congestion when the Lane Cove Tunnel opens and certain parts of Epping Road are narrowed to two lanes in each direction, with one 24 hour bus lane.
- 3.119** A staged approach to the proposed Epping Road changes might reduce the potential for traffic congestion, and allow the RTA time to monitor the capacity of the narrowed Epping Road, through the agency of the newly announced Lane Cove Tunnel Transition Working Group.
- 3.120** For future tunnel projects, the RTA should consider imposing a reasonable period between the completion of the tunnel and any disruptive changes to surface traffic arrangements, to allow time for the community to become accustomed to the impact of the project.

Recommendation 5

That the NSW Government give consideration to reviewing the current proposal to have one general traffic lane and one 24 hour bus lane in each direction on Epping Road.

- 3.121** The Committee notes the information that the Lane Cove Tunnel includes a stub which would allow for the future construction of an additional lane to meet future traffic demand.
- 3.122** The Committee believes that the significant urban amenity benefits that can arise from the project should not be compromised by decisions intended to compensate for surface congestion. In particular, the shared cycleway and pedestrian path, which is a clear outcome of satisfactory community consultation, should be retained.

Recommendation 6

That the Roads and Traffic Authority retain the shared pedestrian path and cycleway associated with the project.

Development Fees and Business Consideration Fees

- 3.123** An upfront fee of \$79,301,000 was paid by Connector Motorways to the RTA.¹³¹ The *Lane Cove Tunnel Contract Summary* characterised this fee as being to ‘help fund its costs on the project’ including environmental assessments, feasibility and traffic studies, obtaining information for the project and land acquisitions.¹³²
- 3.124** In the case of the Lane Cove Tunnel, there remains confusion over what the development fee is for and comprises. Mr Les Wielinga, then Director, Motorways for the RTA (now Chief Executive, RTA), in evidence to the Committee characterised the \$79 million fee as a development fee – ‘the RTA costs associated with the development of the project, the preparation and all the planning documents, the EIS, the project management.’¹³³
- 3.125** Mr Bob Sendt, NSW Auditor General, indicated in evidence to the Committee given during the Committee’s inquiry into the Cross City Tunnel, that detailed examination of what constituted the upfront payment was a part of the performance audit his office was to conduct into the Cross City Tunnel:

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

¹³¹ RTA, Answers to questions taken on notice, 16 June 2006, p2

¹³² RTA, *Lane Cove Tunnel Summary of contracts*, July 2004, p16

¹³³ Mr Wielinga, Evidence, 16 June 2006, p64

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.¹³⁴

We will be looking to see what made up the \$96 million and whether it was for cost incurred or whether it was at the other extreme, effectively the consortium paid to win the job.¹³⁵

3.126 The Auditor General's *Performance Audit: the Cross City Tunnel Project*, tabled in May 2006, found that the upfront payment for the Cross City Tunnel Project:

included an additional component, a 'Business Consideration Fee', that the RTA used for the first time in a privately financed project. This is a fee payable by the proponent to the RTA for the right to operate the business.¹³⁶

3.127 Mr John Martin, Head of Structure Finance for ABN AMRO, the company that underwrote and arranged the debt finance for the project, in evidence to the Committee explained the business consideration fee in some detail:

There are two elements to the business consideration fee. One portion of that, around \$56 million, is a reimbursement of the RTA's costs for developing the project up to the point where we bid for it. So that is the development fee, as it is termed. There is a separate component of \$23 million, which is the business consideration, as we refer to it. That adds up to the \$79 million. That is how we split the amount of money. So it is partly reimbursement of the RTA's costs and partly payment of value to the RTA, if you like. The way we calculate it is as the total \$79 million.¹³⁷

3.128 Mr Martin provided further detail on how the Business Consideration Fee was calculated for the Lane Cove Tunnel Consortium's successful tender:

Essentially, we look at the future revenues of the project. So, over the whole concession period, it is pretty much the number of cars by toll. We take off operating expenses. We present value that figure as the total value of that income in today's dollars. We look at the total cost of developing the project today. So, we take the present value of all that income, take off the costs of developing it today, and the difference between those two is how much we are willing to pay as the total business development fee.¹³⁸

3.129 Mr John Pierce, Secretary, NSW Treasury, in evidence to the Committee said that the *Request for Proposals* established the tolls and the rate of toll escalation applicable for the project. The *Request for Proposals* also:

sought a development fee for the reimbursement of the RTA's costs and also mentioned the option of a business consideration fee for the ongoing right to operate

¹³⁴ Mr Bob Sendt, NSW Auditor General, Evidence, 2 February 2006, p52

¹³⁵ Mr Sendt, Evidence, 2 February 2006, p56

¹³⁶ NSW Auditor General *Performance Audit: the Cross City Tunnel Project*, p25

¹³⁷ Mr John Martin, Head of Structural Finance, ABN Amro, Evidence, 15 June 2006, p76

¹³⁸ Mr Martin, Evidence, 15 June 2006, p76

the business during its term, although that fee could be traded off against a shorter concession period.¹³⁹

- 3.130** Dr Kerry Schott noted that the RTA's preference the Lane Cove Tunnel project was to have no business consideration fee and a shorter concession period.¹⁴⁰
- 3.131** Mr Ian Hunt, Chief Executive Officer, Connector Motorways, in evidence to the Committee said that the Lane Cove Tunnel Consortium's detailed tender included both conforming and non-conforming proposals. One of the non-conforming proposals incorporated a third lane for the full length of the eastbound tunnel, and the proposal included a 'higher business consideration'.¹⁴¹
- 3.132** Mr Brett Skinner, Finance Director, RTA, clarified that two other toll road projects that were finalised prior to the Lane Cove Tunnel project (the Cross City Tunnel and the Western Sydney Orbital) included Business Consideration Fees (in addition to development fees), and suggested that consortiums bidding on the Lane Cove Tunnel project may have structured their tenders in the same way.¹⁴²
- 3.133** The Committee notes that documents provided by the RTA in response to a question taken on notice during the hearings show that the full amount of \$79 million is expected to be absorbed by the RTA's costs associated with development.¹⁴³
- 3.134** If no up-front fee had been charged, the toll could theoretically have been reduced by 14 cents, or the concession period shortened.¹⁴⁴ In this situation, the development costs would have been absorbed by the RTA's budget.

Conclusion

- 3.135** The confusion over what exactly the development fee is and comprises indicates that there has been a shift in definitions over time. In its First Report, the Committee found that there was likely to have been an intention to charge for a 'right to operate' the infrastructure as part of the tender process. This appears to have been the understanding of the consortia that bid for the Cross City Tunnel and Lane Cove Tunnel projects, and was the finding of the NSW Auditor General in relation to the Cross City Tunnel. The Committee recommended that the practice of charging a 'right to operate' fee be immediately abandoned, and the Infrastructure Implementation Group's *Review of Motorways* similarly recommended that the charging of up-front fees should not be automatic.
- 3.136** The Committee reiterates its stated position in the First Report, that upfront fees covering all development costs effectively shifts the total cost of the project to the toll-paying motorist.

¹³⁹ Mr Pierce, Evidence, 16 June 2006, p14

¹⁴⁰ Dr Schott, Evidence, 16 June 2006, p19

¹⁴¹ Mr Hunt, Evidence, 15 June 2006, p74

¹⁴² Mr Brett Skinner, Finance Director, RTA, Evidence, 16 June 2006, p64

¹⁴³ RTA, Answers to questions taken on notice, 16 June 2006, Attachment A

¹⁴⁴ NSW Treasury, Answers to questions taken on notice, 16 June 2006, p1

For projects of the size and scope of the Lane Cove Tunnel project, it is appropriate that the NSW Government, on behalf of the community, contribute to the cost of the project, as happened on this occasion.

Recommendation 7

That the imposition of up-front fees for major infrastructure projects delivered by Public Private Projects be limited to reasonable development costs incurred by the public sector, and details should be made public with the contract.

The relationship between planning assessment, contract negotiation and government decision-making processes

- 3.137** As with the Cross City Tunnel project, the Committee is concerned that the objective of providing the project at 'least cost to government' resulted in the payment by the successful consortium of an up-front fee to cover the RTA's development costs, may have contributed to a higher toll for motorists than could have been expected if no up-front fee had been paid.
- 3.138** The Committee's First Report considered in detail the relationship between project planning assessment, negotiation of contracts and government decision-making processes in the context of the Cross City Tunnel. The Committee concluded then that the 'no net cost to government' policy had an impact on the project that adversely affected the primary objectives of the project. In that case, the project that had been approved through an initial EIS process was significantly changed in a Supplementary EIS, which had the effect of increasing restrictions on free through-routes on surface streets and thus increased the size of the upfront fee that could be paid to the RTA. The contract negotiation for the Lane Cove Tunnel project occurred in the same policy environment, but the project as conceived in the EIS remains substantially the project that is being currently constructed.
- 3.139** The Committee is satisfied that the recommendations of the IIG *Review* and the recommendations of this Committee in its First Report, if adopted and fully implemented by the Government, will create more appropriate boundaries and linkages between the planning assessment, contract negotiation and government decision making processes.
- 3.140** Previous Reports of this Committee have discussed and made recommendations about the Government's *Working with Government Guidelines for Privately Financed Projects*, and the Committee will therefore not make further comment in this Report.

Chapter 4 Community consultation

The Committee's terms of reference require it to examine the extent to which the substance of the Lane Cove Tunnel contract was determined through community consultation processes. Consultation occurred at a number of stages during the project's progression from design phase to construction. In this chapter the Committee outlines the consultation that occurred throughout the project's development up to and including the current construction phase, and examines evidence concerning the adequacy of the consultative mechanisms.

Opportunities for community consultation

4.1 There have been a number of phases during which consultation with the community on the project has been formally undertaken or could have been undertaken:

- The project development phase, when options for connecting the M2 Motorway with the Gore Hill Freeway were first considered
- The pre-Environmental Impact Assessment phase, during which the *Environmental Impact Statement* for the project was prepared
- The Environmental Impact Assessment phase, during which public submissions were sought in relation to the project as defined in the comprehensive *Environmental Impact Statement*
- The post-Environmental Impact Assessment phase, during which public comment was sought in relation to the RTA's *Lane Cove Tunnel Preferred Activity Report*, which provided modifications to the EIS project as a consequence of the submissions received from the community and other investigations
- Consultation after planning approval was granted
- The construction phase.

4.2 The following sections provide detail on each of these phases, with comments on the effectiveness of the consultation provided.

Consultation during project development

4.3 The Roads and Traffic Authority (RTA) has been examining 'road development options' for Epping Road since the late 1980s.¹⁴⁵ However, it was not until the late 1990s that the option of a long tunnel, running beneath Epping Road was broached.

¹⁴⁵ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p3.1

The M2-Epping Road Task Force

- 4.4** In February 1997 the Minister for Roads established a Task Force to examine various options for an arterial road network between the M2 Motorway and the Gore Hill Freeway. The Taskforce comprised representatives from Lane Cove, Ryde, Willoughby and North Sydney Councils.¹⁴⁶
- 4.5** A number of different options were canvassed by the M2-Epping Road Task Force and were displayed at the Lane Cove, Ryde, Willoughby and North Sydney Council offices during 1998. Feedback from the community was sought and ‘comments from the community indicated considerable support for a long tunnel.’¹⁴⁷

Lane Cove Tunnel Overview Report

- 4.6** The *Lane Cove Tunnel Overview Report*, outlining the preferred proposal arising from the M2-Epping Road Task Force consultations, was placed on public exhibition between 17 December 1999 and 10 March 2000.¹⁴⁸
- 4.7** At this early stage the project included a narrowing of Epping Road to two lanes in each direction for parts of its length, and suggested a toll of \$2.00 for the Tunnel and \$1.00 for the Falcon Street ramps.
- 4.8** The *Lane Cove Tunnel Overview Report* was on public display from December 1999 to March 2000. Submissions were received until April 2000 and the resulting community and stakeholder feedback was ‘considered in the development of the EIS’ by Sinclair Knight Merz.¹⁴⁹

Consultation during the pre-Environmental Impact Assessment process

Preparation of the *Lane Cove Tunnel Environmental Impact Statement*

- 4.9** The purpose of the October 2001 *Lane Cove Tunnel Environmental Impact Statement* – prepared by Sinclair Knight Merz on behalf of the RTA - was to assess and summarise the likely impacts of the Lane Cove Tunnel project, examining the project’s compliance with the principles of Ecologically Sustainable Development (ESD).¹⁵⁰ The EIS is intended to establish a basis for the environmental management of the construction and operation of the project, should it proceed.

¹⁴⁶ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p3.1

¹⁴⁷ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p3.1

¹⁴⁸ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p3.1

¹⁴⁹ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p1.5

¹⁵⁰ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p2.2

- 4.10** The preparation of the EIS involved a number of consultative mechanisms, including a 1800 telephone information line, briefings for stakeholders, a website for project updates and five focus groups to provide a forum for community input.¹⁵¹ The five focus groups each addressed a specific issue:
- Tunnel ventilation and associated air quality
 - Epping Road and tunnel traffic and transport/urban design
 - Cycling, pedestrian and public transport
 - Gore Hill freeway widening
 - The Falcon Street ramps.
- 4.11** In their submission to this inquiry, the RTA highlighted a number of elements of the Lane Cove Tunnel project that were ‘determined during the planning and Environmental Impact Assessment phase.’¹⁵² The EIA process allowed the RTA to determine how to implement measures such as improved public transport and the provision of a cycle way along Epping Road as a consequence of traffic being diverted down the tunnel.¹⁵³
- 4.12** Throughout the project design process, the RTA consulted the community on a number of key issues, including the toll level, traffic arrangements and the tunnel ventilation system.¹⁵⁴ Information concerning the tolling issue was provided through the public display of the study report on the financial feasibility of the Tunnel, at libraries and council offices, the distribution of a brochure for community comment and the availability of the *Lane Cove Tunnel Overview Report*, which proposed a \$2 toll (\$1999) each way in the tunnel and a \$1 toll (\$1999) toll on the two north facing Falcon Street ramps.¹⁵⁵
- 4.13** Also at this early stage of the process, community workshops were organised in order to discuss traffic arrangements related to the Tunnel proposal. The community response assessment, together with input from local government informed the Lane Cove Tunnel EIS eventually presented for discussion.¹⁵⁶
- 4.14** Similarly, the issue of air ventilation in the Tunnel was raised for community input prior to the development of the EIS.¹⁵⁷ The Committee notes that the focus group established to consider tunnel ventilation and associated air quality issues was unable to reach agreement on a number of issues, and community representatives disagreed with the RTA representatives’ position that ‘they had not observed any proven technologies to negate the need for ventilation stacks for this project.’¹⁵⁸

¹⁵¹ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p3.6

¹⁵² Submission 114, RTA, p6

¹⁵³ Submission 114, pp7-11

¹⁵⁴ Submission 114, p21

¹⁵⁵ Submission 114, p22

¹⁵⁶ Submission 114, p24

¹⁵⁷ Submission 114, p26

¹⁵⁸ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p3.7

Consultation in relation to the *Environmental Impact Statement*

4.15 Once finalised, the *Lane Cove Tunnel Environmental Impact Statement* was advertised and placed on public exhibition from 8 November 2001 to 1 February 2002, at the RTA office in Surry Hills, a number of Government information centres in central Sydney, libraries on the North Shore and Lane Cove, North Sydney and Willoughby Council offices. A full list of the locations at which the EIS was available to view and purchase is included in the EIS, and can be found in Appendix 4. Feedback from the community was invited in the form of submissions.

Lane Cove Tunnel Representations Report and Lane Cove Tunnel Preferred Activity Report

4.16 Following the exhibition of the EIS, the RTA reviewed the submissions received for the preparation of the *Lane Cove Tunnel Representations Report (Representations Report)* and the *Lane Cove Tunnel Preferred Activity Report (Preferred Activity Report)*.

4.17 The *Representations Report* assessed the submissions made in response to the exhibition of the EIS by stakeholders and the community. The *Preferred Activity Report* is an outline of the project that the RTA proposed in light of these representations.¹⁵⁹

4.18 The *Preferred Activity Report* is a summary of the RTA's preferred project, and takes into account the submissions and other assessments resulting from the EIS. The *Preferred Activity Report* was exhibited between 15 July 2002 and 16 August 2002 at the same locations the EIS had been exhibited.¹⁶⁰ The *Representations Report* and the *Preferred Activity Report* are prepared by the RTA and submitted to the Department of Planning, along with the original submissions, for review and for the Minister's approval.

4.19 The Department of Planning undertook a supplementary assessment of the representations 'in order to better understand the nature of the concerns raised.'¹⁶¹ The objective of this assessment was to determine if the community input to the EIS had been appropriately assessed in the *Representations Report* and reflected in the *Preferred Activity Report*.

4.20 The Department of Planning assessed the *Representations Report* against the submissions, to determine their concurrence with the RTA's assessment of the key issues. The Department of Planning also examined the *Preferred Activity Report* in this context and provided the *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report (Director General's Report)*¹⁶² to the Minister for Planning, for consideration.

¹⁵⁹ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p2.4

¹⁶⁰ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements, Director General's Report*, 2002, p13

¹⁶¹ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements, Director General's Report*, 2002, p8

¹⁶² available at www.planning.nsw.gov.au/assessingdev/pdf/consents02/lanecovetunnel-FinalDGReport.pdf

4.21 The key issues highlighted by the RTA in the *Representations Report* were in accord with those identified by the Department of Planning and included:

- Support for further treatment of emissions
- Operational air quality
- Local access and traffic on Epping Road and more generally
- The design of pedestrian and cycle ways
- Acquisition for surface modifications
- Moore Street compound and
- Land clearing and biodiversity.¹⁶³

Consultation during the post-Environmental Impact Assessment phase

4.22 The *Director General's Report* incorporates the community responses to the *Preferred Activity Report* into its recommendations to the Minister for Planning for the project's Conditions of Approval.

4.23 The *Director General's Report* shows that Lane Cove and Willoughby Councils, and the Lane Cove Tunnel Action Group (LCTAG) made additional representations subsequent to the *Preferred Activity Report*.¹⁶⁴

4.24 The modifications to the Lane Cove Tunnel proposal, as a result of the *Lane Cove Tunnel Representations Report* and contained in the *Preferred Activity Report* are outlined below:

Table 4.1 Summary of Design Modifications in PAR

Section	Type of Modification	Description
Epping/Longueville Road and Lane Cove Tunnel	Vent Stack Relocation	Western Vent Stack relocated to Sirius Road
	Bus lane alterations	<ul style="list-style-type: none"> • Changed bus lane eastbound on Epping Road west of Lane Cove River • Improved bus lane priority on the Pacific Highway between Longueville Rd North Sydney

¹⁶³ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements, Director General's Report*, 2002, pp9-11

¹⁶⁴ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements, Director General's Report*, 2002, pp14-15

Section	Type of Modification	Description
	Bus interchange provision	Bus interchange on the north east corner of Longueville Rd/Epping Rd and Parklands Rd intersection
	Improved pedestrian access	Pedestrian overpass at the Longueville Rd/Epping Rd and Parklands Avenue intersection
Gore Hill Freeway Section Modifications	Improved pedestrian access	Changes to the cycleway/pedestrian path west of Reserve Rd Bridge and along Flat Rock Creek
Falcon St Off-Ramp Modifications	Provision of extra lanes	Provision of an extra lane on the off ramp from Warringah Freeway to Military Rd
	Improved pedestrian access	Pedestrian footpath on the southern side of Falcon St between Merlin St and St Leonards Oval
Other	Traffic monitoring alterations	Provision of extra CCTV and Variable Messaging Services (VMS)

Source: Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements, Director General's Report, 2002, p14*

4.25 The Department of Planning noted that these modifications were intended to improve pedestrian and cyclist access, enhance bus facilities, and improve air quality and traffic management. The Department added ‘the modifications are considered to reduce the detrimental effect of the activity on surrounding residents and businesses.’¹⁶⁵

4.26 Subsequent to the *Preferred Activity Report*, the Department of Planning received from the RTA two requests for modification to the project. On 25 October 2002, the RTA requested that a revision be made to the ventilation system proposed for the Lane Cove Tunnel, including construction of an air intake connection and an air intake and exhaust connection added to the main tunnel. Secondly, the Department of Planning received a request for modification of the Gore Hill Freeway and Willoughby Road intersection to include six traffic lanes wholly within the existing corridor.¹⁶⁶

4.27 The *Director General's Report* concluded that these revisions would ‘reduce the detrimental effect of the activity on surrounding residents and businesses’ and that, therefore an additional EIS was not required to be exhibited and the amendments were not provided for public comment.¹⁶⁷

¹⁶⁵ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements, Director General's Report, 2002, p18*

¹⁶⁶ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements, Director General's Report, 2002, p16*

¹⁶⁷ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements, Director General's Report, 2002, p18*

Consultation after planning approval is granted

- 4.28** Under the *Environmental Planning and Assessment Act*, the RTA is required to seek the Minister for Planning's approval for the Lane Cove Tunnel project. Based on the *Director General's Report*, the Minister issues Conditions of Approval which the RTA must meet in order for the project to proceed. The Minister's Conditions of Approval for the Lane Cove Tunnel project are outlined in Chapter 12 of the *Director General's Report*. During this phase of the project, opportunities for community consultation and input are limited, unless the Director General of the Department of Planning or the RTA decides that consultation is required.
- 4.29** There were two significant changes to the Lane Cove Tunnel project following planning approval: changes to the layout of Falcon Street to accommodate on and off ramps from the expanded Gore Hill Freeway; and changes to the ventilation system. Neither of these changes was made the subject of consultation, as the RTA considered they were consistent with the Minister's Conditions of Approval.
- 4.30** As highlighted in Chapter 3, the Committee notes the limited impact of, and opportunity for, community input after the *Preferred Activity Report (PAR)* is submitted by the RTA and assessed by the Department of Planning.
- 4.31** The Committee is particularly concerned that modifications submitted after the planning approval had been granted by the Minister for Planning were not brought to the attention of the community, but only subjected to a Consistency Assessment and Environmental Review, prepared by the RTA itself. Whilst consistent with the Minister's Conditions of Approval, the two modifications submitted to the project were substantial and the Committee believes that at the very least, the community should have been provided with this information, if not asked for additional input relating to these modifications.
- 4.32** In line with Recommendation 1 in Chapter 3, that any Consistency Assessment and Environmental Reviews be made publicly available, the Committee also believes that the Department of Planning should have an increased role in relation to the Consistency Assessments prepared by the RTA.

Recommendation 8

That the Department of Planning have an increased role in assessing the Consistency Assessment and Environmental Review process, relating to any modifications submitted subsequent to the Preferred Activity Report and the project's Conditions of Approval, to ensure that the community is fully informed of substantial modifications.

Consultation during the construction phase

- 4.33** Throughout the construction phase, the RTA is required to prepare compliance reports detailing how it is meeting the Minister's Conditions of Approval for the project. The RTA submits the reports to the Department of Planning, which assesses whether the Minister's

Conditions of Approval are being complied with. Given that the report is wholly prepared by the RTA, it is difficult for the Committee to assess the efficacy of the Department of Planning input at this stage.

4.34 Both the RTA and Thiess John Holland, the joint venture constructors contracted by Connector Motorways to build the Lane Cove Tunnel, undertook consultation surrounding the construction phase. At the commencement of the project, Thiess John Holland developed a campaign of public information strategies. The aim of these strategies was to inform the community as well as providing a forum in which the community could contribute suggestions to how project delivery might be improved.¹⁶⁸

Table 4.1 Consultation activities undertaken by Thiess John Holland¹⁶⁹

Target group	Consultation/communication	Number
General public	24 hour contact line	Over 3000 public contacts
General public	Website www.lanecovetunnelproject.com.au	Over 100,000 visitors and over 3 million hits
General public	Quarterly construction update and regular traffic and other advertisements in SMH, Daily Telegraph and 5 suburban papers	114 advertisements
General public	Display centre operates 6 days a week	1850 visitors since opening
General public	Mobile displays	Displays in Lane Cove Plaza, Artarmon Fair, Naremburn shops, Macquarie centre, Big Bear shopping centre Neutral Bay, Greenwood Plaza North Sydney
General public	Public Libraries	Project information in Libraries in 4 local government areas
All residents and businesses in the project corridor	Bi Monthly, 4 page colour Project Newsletter <i>Lane Coe Tunnel News</i>	Over a million newsletters distributed to up to 95,000 households and businesses from North Sydney to North Ryde
Local residents and businesses	Letterbox notifications and local updates	Over 800 separate notices delivered to relevant areas
Travelling public, bus and taxi operators, emergency services	Weekly traffic updates	78 issued to all member organisations

¹⁶⁸ Submission 83, TJH, p5

¹⁶⁹ Submission 83, pp5-6

Local residents, community groups and business	Information sessions, presentations, on site street meetings and inspections	Over 250 individual sessions
Local Councils	Regular and special issue meetings with council officers and presentations to Council committees, site inspections	Over 100 meetings
Residents and businesses within 50 metres of tunnel alignment	Tunnelling notification letters, updates and doorknocks	3200 individual letters and doorknocks
Property owners	Property pre-construction condition surveys with information about damage complaint and resolution process	2241 surveys undertaken
Local resident, business and Council representatives	Construction Community Liaison groups (CCLGs)	4 CCLGs Over 100 meetings, site inspections and workshops
Local resident, business and local council representatives	Air Quality Community Consultation Committee (AQCCC)	21 meetings
Local Council traffic managers, representatives of bus, taxi operators, Bicycle NSW, NRMA, RTA	Traffic and Transport Liaison Group	37 meetings 32 Traffic Management Plans considered
Residents, Lane Cove council and bushland conservation groups	Mid tunnel rehabilitation and revegetation working group	8 meetings including on site inspections

4.35 The Construction Community Liaison Groups, established to meet Minister's Condition of Approval 14, provide community representatives and local government with a forum in which to liaise with the constructors and the RTA and gain information on the progress of the Lane Cove Tunnel project. As described further in the next section, the CCLGs also provide an opportunity for community representatives to have some input into the project design, although any change is usually to the periphery of the project design, rather than the fundamental elements of the project as a whole.

Construction Community Liaison Groups

4.36 The purpose of the four Construction Community Liaison Groups (CCLGs) is to enable community input into the construction impacts of the Lane Cove Tunnel project, as

construction is occurring.¹⁷⁰ The CCLGs comprise local residents, business and Council representatives.¹⁷¹ In their submission, Thiess John Holland advised the Committee that the charter of these groups ‘primarily focussed on construction issues’.¹⁷²

4.37 The groups comprise representatives selected with the assistance of the St James Ethics Centre to ‘ensure that members were representative of a broad range of community interests’ and are independently chaired by facilitators appointed by the Department of Planning.¹⁷³ At each meeting participants are updated on communication activities, construction progress and planned construction activities, including out of hours work.¹⁷⁴

4.38 Ms Roberta Ryan, one of the two Independent Community Liaison representative (ICLR) assigned by the Department of Planning to the Lane Cove Tunnel project, clarified her role in relation to the CCLGs:

The role of the independent community liaison representative [ICLR] includes attending and chairing the CCLGs, involvement in the consultation processes when needed, being available for contact by the community during normal construction hours and periods of significant noise generation, and mediating and resolving community disputes.

...

We ensure that minutes are taken—in fact, the minute takers on the project are employed by me—and review those in the meeting. Subsequently the ICLRs sign them off as an independent record of events. We provide quarterly reports to the Department of Planning on emerging community issues and the work of the project. We are available for direct contact by the department if required, and the department avails itself of that from time to time. We also provides a liaison-mediation role if complaints are raised through the complaints mechanisms of Thiess John Holland that are not resolved at that level. They come up to us if there are complaints.¹⁷⁵

4.39 In accordance with the Minister’s Conditions of Approval, the four CCLGs each address a specific geographic part of the project. CCLG 1 deals with Mowbray Road and Epping Road west. CCLG 2 covers Epping Road and Lane Cove to the Pacific Highway. CCLG 3 covers the Pacific Highway and Gore Hill Freeway improvements, and CCLG 4 covers the Falcon Street works. In addition to the CCLGs, there is an Air Quality Community Consultation Committee or AQCCC and a Traffic and Transport Liaison Group or TTLG.¹⁷⁶

¹⁷⁰ Ms Roberta Ryan, Independent Community Liaison Officer, Department of Planning, Evidence, 15 June 2006, p14

¹⁷¹ Submission 83, p6

¹⁷² Submission 83, p7

¹⁷³ Submission 83, p7

¹⁷⁴ Submission 83, p7

¹⁷⁵ Ms Ryan, Evidence, 15 June 2006, p11

¹⁷⁶ Ms Ryan, Evidence, 15 June 2006, p10

4.40 Thiess John Holland advised that senior construction, design, environmental and community relations staff attend these meetings, along with consultants invited to address specific issues, including urban design, architecture, noise and vibration and flora and fauna.¹⁷⁷

4.41 Ms Ryan, in her role as independent Chair of CCLGs 1 and 4, told the Committee she believed there had been a high level of commitment from the members of the CCLGs she chaired and that this had contributed to some changes related to the project:

...they are an incredibly useful source of ongoing local knowledge about impacts. They provide very useful feedback into the construction management statements, landscaping design plans in particular, and specific project documents.¹⁷⁸

4.42 Ms Ryan advised that each group exceeded the Minister's requirements for a minimum number of community representatives, which require only two community representatives per CCLG, representatives from business groups, the RTA and relevant Councils:

In fact, all groups exceed those minimum numbers in terms of community representation. But the Minister's conditions say they should be a minimum of two community representatives and one business representative, where applicable, for each of the CCLGs, and each of them has more than that. In terms of whether members drop away: in both groups that I chair there has been some changing of the community members. In one case, the business representative has moved on, has a different job and I think is living somewhere else. There was an effort to replace him, but that has not been successful.

4.43 Ms Ryan explained that a typical agenda for the CCLGs might include a construction update from the construction manager for the relevant site, an environmental management plan, including noise impact statements, followed by a general community update 'which describes all the consultation that has occurred across the project, including an analysis of complaints'.¹⁷⁹

Air Quality Community Consultative Committee

4.44 Community concern surrounding the impact of the project on air quality was, and continues to be, significant. A preference for in tunnel filtration of stack emissions, as opposed to the construction of ventilation stacks was highlighted during the early stages of the EIS process.

4.45 The Air Quality Community Consultative Committee (AQCCC) was formed, along with the CCLGs, just prior to the commencement of construction. The Terms of Reference establishing the AQCCC provide a framework for the operation of the committee and must be agreed to by all participants.¹⁸⁰ These Terms of Reference clearly set out the role of the AQCCC as a 'forum for the RTA and the TJH project team to discuss project air quality issues which directly affect local residents and businesses in the community'.¹⁸¹

¹⁷⁷ Submission 83, p7

¹⁷⁸ Ms Ryan, Evidence, 15 June 2006, p14

¹⁷⁹ Ms Ryan, Evidence, 15 June 2006, pp12-13

¹⁸⁰ Terms of Reference AQCCC, www.lanecovetunnelproject.com.au (Accessed 2 August 2006)

¹⁸¹ Terms of Reference AQCCC, www.lanecovetunnelproject.com.au (Accessed 2 August 2006)

- 4.46 The AQCCC also has a key role in the oversight of the two Community Based Monitoring Stations that monitor ambient air quality, which are required to operate for at least three years after the tunnel is open to traffic.¹⁸²
- 4.47 The AQCCC has a key, ongoing role as a forum in which community members may identify, raise and address issues concerning air quality. The AQCCC is an important mechanism through which the community may assure itself that the Tunnel is operating according to the Minister's Conditions of Approval in relation to air quality.

Conclusions

- 4.48 Various stages of the project involve community consultation, as the previous sections have outlined. However, the Committee notes that opportunities for community consultation to significantly impact on the nature of the project (and the substance of the contract between the RTA and the private sector) are effectively limited to the initial stages of the planning process. Once the Minister's Conditions of Approval have been set for a project and the contract negotiated with the private sector, there is limited scope for the CCLGs or the AQCCC to impact on the final nature of the project.
- 4.49 The Committee believes that it is appropriate that the degree to which community consultation can affect the project's parameters diminishes as the project is developed. The consultation process outlined in the sections above is essentially robust, although the Committee has identified a number of areas of concern, particularly in relation to modifications to the project after the Minister's Conditions of Approval have been granted.
- 4.50 The Committee notes that expectations of participants in the CCLG and AQCCC process are often out of proportion to the power and capacity of those groups to affect the conditions of the project. The Committee reiterates the recommendations of its First Report in relation to community consultation, which recommended a more comprehensive review of community consultation be conducted by the Legislative Council's Social Issues Committee, and a government review of existing consultation practices to more clearly define 'community consultation' in relation to major infrastructure projects.

Issues with consultation

- 4.51 A number of concerns regarding the efficacy of the consultation process through the various phases were raised with the Committee, by relevant Councils and members of the community.

Local Government

- 4.52 At the local government level there was some dissatisfaction expressed, in evidence and submissions to this Inquiry, concerning the adequacy of the consultation process. Councillor McCaffery, Mayor of North Sydney Council told the Committee that she believed that

¹⁸² Terms of Reference AQCCC, www.lanecovetunnelproject.com.au (Accessed 2 August 2006)

consultation with residents had been ‘very good’ but that, at certain points ‘critical things have not happened.’¹⁸³

- 4.53** Councillor Ian Longbottom, Mayor of Lane Cove Council, while agreeing with Councillor McCaffery that consultation was good, attributed it to the work of local councils:

As the mayor said, there has been very good consultation with our community but a lot of that was done by us. A lot of it was brought about by councils communicating with the community. I am very critical of the RTA right through this whole process.¹⁸⁴

- 4.54** Councillor Longbottom argued that the project had changed as it progressed without the changes being effectively communicated and consequently local government and the community ‘are not behind the final project’.¹⁸⁵ Important aspects, particularly those concerning changes to the contract, had not been provided to councils and the community for input:

The contract was kept very silent. We were not aware of what was in the contract. I think all the details are starting to come out now thanks to members of this House asking questions. A lot more is becoming evident.¹⁸⁶

- 4.55** Councillor McCaffery told the Committee that, while the Minister’s recent announcement of a pedestrian and cycle facility was welcomed by North Sydney Council, they had made representations concerning this issue for some time prior to this announcement, with no adequate response:

We have been making these complaints for many years and we have been unsuccessful in getting anywhere, and the current Minister acted swiftly. We are grateful for his intervention. I point out to the Committee that we believe the RTA failed to include this pedestrian facility in the original project, and we are very happy that has now been fixed.¹⁸⁷

- 4.56** Ms Penelope Holloway, General Manager of North Sydney Council reinforced this point, suggesting that while North Sydney Council had had the opportunity to comment on the EIS, the comments had not been taken into account in the final development of the project proposal:

Council made a number of comments in response to the EIS for the project, including concerns that there will be a significant increase in traffic congestion on the Warringah Freeway and the Harbour Bridge. No provision has been made to include travel demand management measures with the tunnel project and the Harbour Bridge, which is a major concern to us.¹⁸⁸

¹⁸³ Councillor McCaffery, Mayor, North Sydney Council, Evidence, 14 June 2006, p5

¹⁸⁴ Councillor Ian Longbottom, Mayor, Lane Cove Council, Evidence, 14 June 2006, p5

¹⁸⁵ Councillor Longbottom, Evidence, 14 June 2006, pp9-10

¹⁸⁶ Councillor Longbottom, Mayor, Lane Cove Council, Evidence, 14 June 2006, p5

¹⁸⁷ Councillor McCaffery, Evidence, 14 June 2006, p2

¹⁸⁸ Ms Penny Holloway, General Manager, North Sydney Council, Evidence, 14 June 2006, p4

- 4.57** Ms Holloway told the Committee that she believed that post-EIS consultation, plans for the Falcon St ramps had been changed significantly, without consultation. She explained:

These changes occurred in December 2003 and were made public in July 2004. At no time has the council or the community been invited to comment on these very significant changes. They were considered to be consistent with the approval and therefore there was no supplementary EIS or Minister's approval required. But these changes in the Falcon Street design will have a number of impacts.¹⁸⁹

- 4.58** Councillor Ian Longbottom, Mayor of Lane Cove Council, also highlighted to the committee the lack of action that had been taken concerning the Lane Cove Council's comments on the EIS, specifically in relation to the issue of tunnel ventilation and filtration.

We wanted filtration—we have argued for filtration—but we are getting nowhere. The evidence internationally is that filtration works. We have not been listened to. Evidence—good, factual evidence—from around the world has not been listened to. You heard my colleague Mr Lee say that one of the RTA guys went overseas, came back and said, "It works." Yet we have not got anywhere with it.¹⁹⁰

- 4.59** Councillor McCaffery told the Committee providing comments on the EIS was made particularly difficult because North Sydney Council was not able to finalise its plans for pedestrian and cycleway facilities within the timeframe in which the RTA was receiving comments on the EIS. Councillor McCaffery noted that the provision of pedestrian and cycleway facilities is government policy, but felt in this case sufficient detail had not been included in the EIS:

...at the environmental impact statement [EIS] stage the council did not have a finalised design. All we requested was improved pedestrian and cyclist facilities as part of this project. That is government policy. It is meant to be RTA policy. When we finally saw the design, the recommendation from our transport planners was that, in fact, we would end up with poorer pedestrian and cyclist facilities. That is why we have been lobbying for many years for this. We got to the stage where we designed a bridge, which we took to the RTA and, as I said, thankfully today we actually have the bridge being announced.¹⁹¹

- 4.60** Nonetheless, the RTA described in its submission the opportunities Councils had taken to comment on the proposal for the Lane Cove Tunnel project. The RTA believe that the *Lane Cove Tunnel Representations Report* it had developed in response to stakeholder concerns regarding the EIS specifically addressed concerns articulated by Lane Cove Council, Willoughby Council, Ryde Council and North Sydney Council.¹⁹²

- 4.61** Councils were also represented on the CCLGs covering the geographic areas of the project that overlapped with council boundaries. Ms Roberta Ryan, the Independent Community Liaison Representative, explained how councils were involved in the CCLG process:

¹⁸⁹ Ms Holloway, Evidence, 14 June 2006, p4

¹⁹⁰ Councillor Longbottom, Evidence, 14 June 2006, pp9-10

¹⁹¹ Councillor McCaffery, Evidence, 14 June 2006, p12

¹⁹² Submission 114, p9

Each of the CCLGs has, as part of its membership, the council or councils relevant to that geographical area. For example, in relation to CCLG 4, which deals with the Falcon Street works, North Sydney Council is the affected council area. Every meeting is attended by a representative of North Sydney Council, who is an official member of the group, and she receives all correspondence, notifications and so on. She brings forward issues from council directly to those groups. That is part of the process. It is part of her role, as I understand it, to communicate those issues back through to council... There is quite extensive council involvement.¹⁹³

- 4.62** Ms Ryan also noted that the CCLGs provided a forum in which Council representatives could raise concerns directly with the RTA representatives, who are also present at the meetings. She further explained that the minutes taken for these meetings acted as a record of the actions agreed to during the meeting and usually required a response. She explained:

It might be an action for North Sydney Council, for instance, to discuss what might be the maintenance of the trees after the project opens, and that information comes back through. It is collected and acted upon between meetings—it does not all just stop between meetings. It is all reported through that process and the minutes and all those documents are available on the project web site for people to look at and to review.¹⁹⁴

Conclusions

- 4.63** The Committee believes that the involvement and cooperation of the local Councils in major infrastructure projects may be a critical factor in the success of the projects. Councils provide a level of grass-roots contact with the community that large government departments or private companies cannot replicate. The Committee notes that Council involvement in the Lane Cove Tunnel project has been generally good throughout all stages of the project, but notes with concern the comments of the Lane Cove Council and North Sydney Council mayors about the lack of information provided about modifications made to the project following the granting of planning approval.
- 4.64** The Committee reiterates the conclusions of Chapter 3 and Recommendations 1 and 3, and urges the RTA to ensure that local government remains actively engaged throughout the project.

Efficacy of the Community Construction Liaison Groups

- 4.65** Ms Ryan provided examples of issues that had arisen in the CCLGs that had produced a change to the original project including appropriate landscaping, the noise walls running either side of the road, signage design, pedestrian and cyclist use of the shared paths.¹⁹⁵
- 4.66** However, some members of the CCLGs were not satisfied that the CCLGs were taken seriously by the Lane Cove Tunnel consortium and the RTA and were concerned that neither

¹⁹³ Ms Ryan, Evidence, 15 June 2006, p13

¹⁹⁴ Ms Ryan, Evidence, 15 June 2006, p13

¹⁹⁵ Ms Ryan, Evidence, 15 June 2006, pp14-15

Connector Motorways or the RTA intended to change parts of the project in response to the concerns raised in the CCLGs.

4.67 Ms Cathy Merchant, a participant in CCLG 1 told the Committee in evidence:

I always got the impression that they were working to a time frame and that we were very much there as just a tick-the-box exercise. We had some success when we argued about getting a good drainage system to divert away from Pages Creek bushland. But in terms of planting it was very much like there was an agenda operating outside our CCLG that was probably the real agenda...the people were very polite. We were probably the more noisy ones. But it was not a meaningful dialogue.¹⁹⁶

4.68 Ms Merchant was particularly concerned about an environmental issue that she believed was not adequately addressed by the EIS, namely the preservation of the Pages Creek bushland. She argued that the RTA had failed to assess an important ecological community along the Lane Cove River, and as a consequence, the issue was not included in the limited terms of discussion of the CCLGs:

CCLG 1 covered west of the Lane Cove River and, as I have stated in the report, there was no assessment done in the EIS. Consequently, there were no specific conditions attached to that area. The RTA, I guess via its contract, basically empowered the road builders to do what they wanted to do—obviously within some constraints—to meet the project brief. The issue was that it was not assessed and did not have conditions attached to it. Therefore, the CCLG was a bit artificial because it was not really discussing things that were legally binding conditions in the Minister's consent.¹⁹⁷

4.69 This type of concern was raised with the Committee a number of times throughout this Inquiry. A resident of a block of apartments on the Pacific Highway, Artarmon and a member of CCLG 3, Mr Stewart Begg was extremely concerned about a modification made to the intersection of the Pacific Highway and the Gore Hill Freeway.

4.70 Mr Begg expressed concern that the ability to turn left from the Gore Hill Freeway onto the Pacific Highway will be removed with the development of the Lane Cove Tunnel project and that this will negatively affect residents in the area. Mr Begg told the Committee that he had raised these concerns as a member of CCLG3, but felt he had not been given an adequate response:

It has been a waste of time. The only thing I can talk about at the committee meetings—as I said hypothetically the other day, when they start replanting it would be great if they put in bougainvillea, lantana and blackberry bushes to stop the graffiti artists who are up and coming Ken Dones or Albert Namatjiras; they take great pride in their graffiti efforts. But, of course, we cannot have them because they are noxious weeds. So I tried to put it on a lighter note. The people I represent get back to me saying, "What's happening, Stewart? Are you getting anywhere?" My answer is, "No, no, no."¹⁹⁸

¹⁹⁶ Ms Cathy Merchant, Member of CCLG 1, Evidence, 15 June 2006, p57

¹⁹⁷ Ms Merchant, Evidence, 15 June 2006, p57

¹⁹⁸ Mr Stuart Begg, Member of CCLG 3, Evidence, 15 June 2006, p70

4.71 Mr Bill Orme, a member of a CCLG as well as a representative of the Walking Volunteers community group, told the Committee that while the CCLG mechanism was a very restricted forum, it was effective in its role of addressing construction related issues. His criticism was that these issues were ‘peripheral’, that the key components of design and project changes were not adequately addressed in this forum, creating substantial work for those groups attempting to have input into the project.¹⁹⁹

4.72 In response to a question concerning the frustration expressed by some members of the CCLGs in relation to the limited charter, Ms Ryan noted that, to some degree, this was a natural limitation of the project as a whole:

...there is some underlying frustration about the groups being constrained tightly to construction impacts because, again, in a design and construct project it is difficult to draw up those boundaries because the detailed design is not available, or it is only available on an ongoing basis, and so it is hard to get interaction into that phase.²⁰⁰

4.73 Mr David Archbold, a member of CCLG 1, told the Committee that he believed that the CCLG was an effective forum in which to address issues relating to the project and that disagreement was an inevitable part of the process:

I believe there are two types of people: those who will never be happy no matter what the outcome, and those who will roll up their sleeves and get on with the job for a better outcome.²⁰¹

Conclusions

4.74 The Committee notes the limitations inherent in the CCLG process, namely that with the format and parameters of the project having previously been determined, the scope for modifying or changing aspects of the project is limited.

4.75 The Committee supports the CCLG process and believes that input into the CCLGs has brought about a number of changes to the project that seek to improve the project for the community.

4.76 One of the issues evident to the Committee is that of the representative nature of the CCLGs. As Ms Roberta Ryan, the Independent Community Liaison Representative, told the Committee:

Representativeness is a very difficult concept, and when you are not talking about a group of 40 people, but a group of 3, 4 or 5, it is difficult to identify which interests people might need to have representative input to.²⁰²

4.77 The Committee believes the current minimum number of community representatives, two, is insufficient to adequately reflect the diversity of community opinion. While there are

¹⁹⁹ Mr Bill Orme, Chair, Walking Volunteers, Evidence, 15 June 2006, p39

²⁰⁰ Ms Ryan, Evidence, 15 June 2006, pp17-18

²⁰¹ Mr David Archbold, Member of CCLG 1, Evidence, 15 June 2006, p64

²⁰² Ms Ryan, Evidence, 15 June 2006, p18

opportunities for broader community participation in consultation at earlier stages in the project's planning and development, that diversity should be better reflected during the construction stage.

Recommendation 9

That in order to ensure a broad range of community representation on Community Construction Liaison Groups, the Department of Planning increase the minimum number of community representatives on these groups from two.

Information distribution and presentation

- 4.78** A number of community groups also had criticisms of the consultation and information provision processes throughout the project. Members of the Naremburn Progress Association explained that for them the process had been disempowering, and that in their view the consortium had failed to facilitate an adequate consultative mechanism:

I think the experience of the residents of Naremburn and the Naremburn Progress Association was that the consultative process did not allow us to have any real influence over what was happening in our area. We felt quite strongly that it was poacher acting as gamekeeper; that the tunnel consortia were acting constantly to minimise our voice to fragment us, to deal with us in very small parcels. Even on very small issues we would go to meetings and they would not issue minutes for over a month and then without actions or commitments to dates. They would constantly push back at times when we could actually rally some support around issues...²⁰³

- 4.79** Mr Keith Anderson of the Artarmon Progress Association held a similar view. He told the Committee that while the RTA were prepared to listen to community members and attend meetings, he did not believe that this produced a positive outcome as far as residents were concerned:

We found Garry Humphrey and his RTA colleagues most approachable and very helpful in coming to our meetings, and they listened very closely. But they go away and nothing ever happens.²⁰⁴

- 4.80** Mr George Farrell of the Naremburn Progress Association told the Committee that while information relating to construction noise and times had been distributed, it was not a form of consultation and that the community had little capacity for response if they were unhappy with the arrangements:

Certainly, there has been a flier from Thiess John Holland saying that they were going to dig up the road between 9.00 p.m. and 4.00 a.m. on certain days and there was going to be a lot of beeping noises as trucks reverse. That is about the extent of the consultation from them. From the meetings we have had on site with members of

²⁰³ Mr Jan Esman, Representative, Naremburn Progress Association, Evidence, 14 June 2006, p18

²⁰⁴ Mr Keith Anderson, Representative, Artarmon Progress Association, Evidence, 14 June 2006, p19

Willoughby council, they in turn have an opinion but they do not seem to have any bite, and I presume the process is out of their hands.²⁰⁵

- 4.81** Community members with specific concerns relating to the project's impact also described a lack of confidence in the way their complaints were handled. Representatives of the groups that had approached Thiess John Holland for information and, in some cases compensation, expressed the opinion that their complaints had not been satisfactorily resolved. Ms Eva Wiland, of the Parkes Road Action Group (PRAG) told the Committee:

We are also appalled by the community liaison, which I can only describe as divide and rule. I would say that they have spread misinformation.²⁰⁶

- 4.82** Ms Wiland also told the Committee that not being on a CCLG meant that the wider community had almost no avenue for input into the process and that sufficient information concerning construction was not generally available. Ms Cathy Merchant, a member of CCLG 1 agreed:

The Gilda Street residents, in parallel to what Ms Wiland is saying, in some respects were outside the CCLG process. I think there was an effort to keep the two groups separate—I do not know whether it was a deliberate attempt to divide. So members of the CCLG had to make an effort to stay in contact with residents and residents made a point of staying in contact with us. It was quite necessary. We would get a piece of information through our process that was different from what the residents were given.²⁰⁷

- 4.83** Ms Lisa Corbyn, Director General of the Department of Environment and Conservation emphasised to the Committee the importance of continuing community consultation and information throughout the construction phase:

This goes back to community consultation questions, if there is a good communication process so that people know for how long the noise is going to be, they are much more tolerant if there is a good communication process. If that communication process is not good then we usually get more complaints.²⁰⁸

- 4.84** Information was provided to the community and stakeholders in a number of formats. These included the establishment of five focus groups to assist in the development of the EIS, the maintenance of a freecall 1800 information line and a project web page.²⁰⁹ After the EIS, information continued to be disseminated, including provision of a project display centre in Artarmon, CCLG and AQCC meetings as well as specific information and briefing sessions.²¹⁰

²⁰⁵ Mr George Farrell, Representative, Naremburn Progress Association, Evidence 14 June 2006, p20

²⁰⁶ Ms Eva Wiland, Representative, Parkes Road Action Group, Evidence, 15 June 2006, p53

²⁰⁷ Ms Merchant, Evidence, 15 June 2006, p58

²⁰⁸ Ms Lisa Corbyn, Director General, Department of Environment and Conservation, Evidence, 16 June 2006, p56

²⁰⁹ RTA, *Lane Cove Tunnel and associated road improvements Environmental Impact Statement, Volume 1*, p3

²¹⁰ Submission 83, pp25-28

- 4.85** Despite the varied nature of the information available to the community, Mr Rohan Ahern of the Naremburn Progress Association told the Committee that it was difficult to envisage the full scale of the project without a scale model to view:

I think one of the biggest shortcomings that the community found about this whole project was that there was no scale model. We were being told where noise walls were. The topography did not allow us access to work out where this thing was going. To date, we still cannot work out quite where things like the bicycle track are going. Our local council demands that developments over a certain size have to have a scale model. It would have been most helpful for the community to have had a scale model for a project of this size.²¹¹

- 4.86** Similarly, Mr Keith Anderson of the Artarmon Progress Association, also told the Committee of the difficulties he believed were compounded by the lack of a scale model available to the community:

When you look at the flat map, you have lines everywhere. They are not coloured and you cannot work out—you have no idea of the relativity because you have roads coming this way and roads going that way, and the capacity to move from one lane to another is not clear unless you see a scale model. They have declined to provide anything which will help people understand. It is apparent effectiveness rather than actual effectiveness.²¹²

- 4.87** Mr George Farrell, also of the Naremburn Progress Association, told the Committee that being given a map of the area was not an adequate tool with which to address specific issues such as lighting or graffiti prevention as it required substantial enlargement in order to properly read the document.²¹³

- 4.88** The Committee also heard some evidence that residents of the suburbs affected by the project were not consistently receiving information in the mail. A number of residents told the Committee they had to make requests to the RTA and Connector Motorways in order to receive backdated information that had not been delivered.

I can only answer from the sector where I am, on Naremburn Avenue Bridge. I have actually asked Lane Cove Tunnel to supply me with back copies from one to nine because I was not getting them, and I was supposed to be, in my mail. I made a request of the liaison officers who said, "Yes, you are supposed to be on the route", and I am quite affected because I kiss the RTA boundaries on Naremburn Avenue Bridge. Certainly what they are doing there with the cycleway and the noise walls is quite significant. I found that I had to extract information from them rather than have them delivering it to me. ²¹⁴

- 4.89** Ms Eva Wiland of the Parkes Road Action Group also told the Committee that information had not been provided to her group, despite their apartment block's location above a major project construction site:

²¹¹ Mr Rohan Ahern, Representative Naremburn Progress Association, Evidence, 14 June 2006, p21

²¹² Mr Anderson, Evidence, 14 June 2006, p22

²¹³ Mr Farrell, Evidence, 14 June 2006, p22,23

²¹⁴ Mr Farrell, Evidence, 14 June 2006, p21

I have not been in contact with the RTA at all. Thies John Holland has recognised us a group because they held an information session for us on 30 May. That was the first time since the construction started that we had been informed—that any information was given to us.²¹⁵

Conclusions

- 4.90** The Committee received evidence demonstrating the wide variety of methods through which both the RTA and Connector Motorways distributed information. This distribution process sought to include and inform all members of the community affected by the project. As noted in this Committee's First Report, public consultation and the provision of information in relation to major infrastructure projects is critical.
- 4.91** The Committee believes that in the case of the Lane Cove Tunnel project, the process of information distribution, particularly that conducted by Connector Motorways, was much improved over that conducted throughout the Cross City Tunnel project.
- 4.92** The Committee believes that there is value in providing information across the full spectrum of delivery methods, and to that end the RTA should consider constructing a scale model of future projects for public display, in order to assist residents visualise the project as a whole.

Recommendation 10

That the RTA consider constructing a scale model of future projects for public display, in order to assist residents visualise the project as a whole.

- 4.93** While the information strategy employed by the contractors seems to be comprehensive, the Committee is concerned that some residents directly affected by the Lane Cove Tunnel project, particularly during the construction phase, appear not to have been receiving information concerning project developments. The Committee urges the RTA to ensure that the provision of community information updates is monitored over the construction period, with particularly emphasis on those residential areas directly affected by the construction work.

Specific concerns

- 4.94** While the Committee's terms of reference are not intended to cover an in-depth examination of all the specific issues related to community consultation, the following issues are provided as illustrations of the difficulty and complexity of achieving adequate community consultation.

²¹⁵ Ms Wiland, Evidence, 14 June 2006, p57

Bicycle and pedestrian path

4.95 A key objective of the initial project was the alteration of Epping Road to include an improved bicycle and pedestrian path.²¹⁶ Proposals for the path were considered by a cycling, pedestrian and public transport focus group and exhibited as part of the EIS.²¹⁷ The evidence before the Committee presents conflicting views on the adequacy of the consultation process, as well as the outcomes related to cycling and pedestrian facilities.

4.96 Mr Russ Webber, President of the North Shore Bicycle Group, in his submission stated that the Group believed that consultation was weighted toward motor vehicle users. Mr Webber considered that representatives of cycling groups had not been given adequate opportunity to contribute to the various stages of the project and that other community groups had dominated the consultative group process:

[T]he consultative process unfortunately significantly favours the continuation of focus on providing evermore road space and priority for motor vehicles...far too often, cyclist safety is being compromised, while facilities are negligible or non-existent.²¹⁸

4.97 Representing the Naremburn Progress Association, Mr Jan Esman noted that a working group had been implemented to address issues concerning the placement of the cycleway, including local government, Theiss John Holland and cycling associations. He described the nature of a compromise concerning the cycleway to the Committee:

The option that the community voted strongly in favour of was one in which there would be a set of traffic lights, and the bicycles would have to cross instead at traffic lights, whereas currently they can cycle through the streets and over the top of the road. That was in exchange for three on-road narrowings and what we considered to be dangerous places that were being included in the current design; they would be taken out, and there would be a single, lit road crossing. So I guess they did not want to go across the crossing.²¹⁹

4.98 Ms Carolyn New, a member of BikeNorth, a cyclists' community group, told the Committee that while there had been compromises in relation to the construction of the bicycle path as part of the Lane Cove Tunnel project, that cyclists considered the path to be 'one of the great positives about this project.'²²⁰

4.99 Ms New explained that whilst BikeNorth members would have ideally liked the project to include cycleways on each side of the road to allow cyclists to ride with traffic, nonetheless, the cycleway eventually built as part of the project was viewed as an acceptable compromise:

In this case the proposal for what is starting to be built is an off-road cycleway that will encourage all sorts of people to try to ride to work because they do not have to

²¹⁶ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p1.5

²¹⁷ RTA, *Lane Cove Tunnel Environmental Impact Statement, Volume 1*, p3

²¹⁸ Submission 112, Mr Russ Webber, North Shore Bicycle Group, p10

²¹⁹ Mr Esman, Evidence, 14 June 2006, p20

²²⁰ Ms Carolyn New, Representative BikeNorth, Evidence, 15 June 2006, p32

fight with cars. That is one of the great positives about this project. The proposed facility is excellent and wide. There are compromises from our point of view. We have been involved in this project right from the beginning.

We would have liked to see separate cycleways on each side of the road so that we did not have bicycles going the wrong way against traffic and confusing cars at intersections and the like. We would have liked to see complete separation from pedestrians. We know that there has been an attempt to do that and it is a good attempt. I would say that the proposal is the best quality cycleway we have in Sydney.²²¹

- 4.100** The Committee also received a substantial number of submissions from residents of the inner North Shore areas expressing support for the cycleway. Many noted the positive environmental and social benefits of the facility and noted the need for improved facilities to further encourage cyclists. In her submission, Ms Barbara Khalifa commented:

Sydney is well behind other cities in Australia and throughout the world in routes and facilities for cycle commuting. I believe we also have a lower proportion of community cyclists as a direct result of not having safe enough routes available for commuting cyclists to use.²²²

Conclusions

- 4.101** While the Committee understands that a number of competing community interests exist, the Committee believes that the Lane Cove Tunnel project represents an opportunity for the RTA to improve cyclist and pedestrian amenity through the construction of the bicycle and pedestrian path. The Committee supports the construction of the path in line with the project's objectives: to provide safer conditions for cyclists and pedestrians and to improve the amenity of the local community. In Chapter 3, the Committee has recommended that the shared pedestrian path and cycleway be retained.

Falcon Street pedestrian underpass

- 4.102** Mr Bill Orme represents the Walking Volunteers, a group that have strongly lobbied for a pedestrian underpass/overpass at the Falcon Street crossing of the Warringah Freeway. Mr Orme explained to the Committee that while the group had made representations from the very beginning of the project and provided a submission to the EIS, the RTA had not taken these representations on board:

We designed, as volunteers, for the EIS as it was originally proposed and working with the RTA, the connection between the pedestrian-cycleway that finished at Willoughby through to the harbour bridge. How the RTA operated was very interesting. What happened was, despite their initial enthusiasm, it was not a priority. It was referred to their general manager, bicycles and pedestrians. So these proposals for the underpasses and protection fell by the wayside.

²²¹ Ms New, Evidence 14 June 2006, pp32-33

²²² Submission 81, p1

While they say that they balance the needs of vehicles, pedestrians and cycles, in every instance where decisions and changes have been made the proposal that best suits the vehicles is the one that is chosen. Provision is then made from what is left over. At the meeting of the Lane Cove Tunnel consultative group we pointed out the extremely dangerous crossings. The RTA's answer—which I think summarises the whole problem—was, "It's the best we can do in the circumstances" We believe that is a disgrace.²²³

- 4.103** Mr Orme also represented the Walking Volunteers on a CCLG, which provided an additional avenue for communication with the RTA. Mr Orme explained that through the CCLG, RTA working papers had been requested, so that the decision-making process relating to the pedestrian facilities could be justified. However, Mr Orme explained that after criticism was levelled at the working documents, further material was not easily obtained.²²⁴
- 4.104** On 14 June 2006 the Committee conducted a site visit to the Falcon Street crossing, led by Mr Orme. The Committee was shown the crossings and the area where the Walking Volunteers proposed the underpass should go. Later that day, the Minister for Roads announced that the underpass project would go ahead. The Minister's press release noted that 'as the design is developed, community consultation and environmental impact assessment will be undertaken, involving the council and a community focus group.'²²⁵ Both North Sydney Council and Mr Orme expressed their satisfaction with the decision.

Conclusions

- 4.105** While the Committee welcomes the announcement of the Minister for Roads, the importance of this bridge to the project's objectives of improved pedestrian amenity is noted and the Committee considers that the pedestrian bridge should have been a part of the project from its inception.
- 4.106** The Committee also notes the timing of the Minister for Roads' announcement, and regrets the impression this timing creates – that the Government only responded to the reasonable demands of the community under the pressure of a public Committee hearing.

Subsidence issue

- 4.107** During the excavation of the Marsden Street ventilation tunnel, in the early hours of 2 November 2005, subsidence developed above the Pacific Highway Exit Ramp. The result was that, as the supporting structures fell away, part of the residential apartment building at 11-13 Longueville Road also started to subside. Fortunately, workers on site raised the alarm and all residents were evacuated without incident.
- 4.108** On 4 November 2005, Emeritus Professor E T Brown AC was contacted by a representative of Thiess John Holland to conduct an independent investigation of the incident. On 10

²²³ Mr Orme, Evidence, 15 June 2006, p36

²²⁴ Mr Orme, Evidence, 15 June 2006, pp37-38

²²⁵ Media Release, NSW Minister for Roads, Eric Roozendaal, June 14 2006

November 2005, Golder Associates finalised an agreement to provide a report on the incident, written by Emeritus Professor Brown.²²⁶

- 4.109** Professor Brown's report on the incident concluded that 'the processes and methodology used in the design of the LCTP tunnels was in accord with best practice in Sydney and elsewhere, and the resulting designs were generally suitable for their purposes.'²²⁷ Further, Professor Brown concluded that 'TJH has in place a series of appropriate and best practice processes for the safe and productive execution of the underground construction works on the LCTP'.²²⁸
- 4.110** Responsibility for the collapse was borne by TJH and the company offered compensation to residents at 11-13 Longueville Road and, their neighbouring building at 15 Longueville Road. The way the compensation process was handled was the subject of some concern for participants in this inquiry.
- 4.111** The Committee received a number of submissions outlining the dissatisfaction residents felt with the way that the compensation process had been handled, and recognises that many of residents were, naturally, shocked and upset by the collapse of their apartment building.

Conclusions

- 4.112** The Committee notes that TJH expressed commitment to 'an early compensation process, including assistance for tenants to relocate, or the purchase of units at a fair, pre-incident, market price.'²²⁹ TJH advised that, as at 24 May 2006, 49 of the 56 parties affected by the collapse had settled.²³⁰
- 4.113** The Committee felt it was not in a position to hear from people affected by the collapse, without those people first seeking legal representation in relation to their appearance before a parliamentary committee because of legal undertakings into which they may have entered. It was therefore not possible for the Committee to make any determination surrounding the conduct of TJH in relation to the subsidence incident.

Consultation – conclusions

- 4.114** The Committee is of the view that, overall, community consultation was undertaken comprehensively. The Committee acknowledges the many positive comments made concerning the consultative process, including from participants who did not get their desired outcome.

²²⁶ Golder Associates, *Report on Causes of Subsidence 2 November 2005 Lane Cove Tunnel Project Sydney NSW*, December 2005, p2

²²⁷ Golder Associates, *Report on Causes of Subsidence 2 November 2005 Lane Cove Tunnel Project Sydney NSW*, December 2005, p38

²²⁸ Golder Associates, *Report on Causes of Subsidence 2 November 2005 Lane Cove Tunnel Project Sydney NSW*, December 2005, p38

²²⁹ Submission 83, p10

²³⁰ Submission 83, p11

- 4.115** Nonetheless, the Committee notes the limited opportunity for community input after the *Preferred Activity Report (PAR)* is submitted by the RTA and assessed by the Department of Planning. The Committee is concerned that modifications submitted after the planning approval had been granted by the Minister for Planning were not brought to the attention of the community. The Committee believes that the community should have been provided with this information, if not asked for additional input relating to these modifications.
- 4.116** The Committee recognises the difficulties that the RTA and Connector Motorways face in their attempts to address issues of concern to the diverse range of residents affected by large infrastructure projects such as the Lane Cove Tunnel project. The Committee does not view these problems as a failure of the consultative process, but believes that efforts were made to investigate and address these specific concerns, even though the final outcome may not have been to a resident's satisfaction.
- 4.117** Overall, the information strategies of the private operators appear to be considerably better than those in place throughout the Cross City Tunnel project. However, as discussed in Chapter 3, the Committee also acknowledges that the community frustration over the Cross City Tunnel project did not fully appear until the surface road works commenced. This makes the Committee's recommendations contained in Chapter 3 and concerning the distribution of community information particularly important.

Chapter 5 The Lane Cove Tunnel and air quality

The Lane Cove Tunnel will have thousands of cars and trucks travelling its length every day once it opens. Emissions from these vehicles will be expelled through two large ventilation stacks at either end of the tunnel. There is considerable concern in the community over the effect of these concentrated and unfiltered emissions on the health and wellbeing of the community within which they are released, concern which has been expressed through all stages of the project's development. The Committee's terms of reference require it to inquire into and report on the role of community consultation in determining the substance of the contract. In this chapter the Committee examines how the project addresses community concerns relating to air quality.

Background and key issues

- 5.1 It is not within the Committee's terms of reference to provide a detailed examination of air pollution in Sydney and the challenges faced in improving air quality generally. The issue of Sydney's air quality is obviously much broader than the question of tunnel ventilation stack emissions. Government attempts to address air pollution and improve air quality are described by *Action for Air*, a 1998 document released by the Environment Protection Authority (EPA).
- 5.2 The focus of this chapter is on the contribution that the Lane Cove Tunnel project in particular, and road tunnels more generally, make to air quality. Accordingly, only a brief, not exhaustive, description of air quality and the relevant pollutants is provided for context.
- 5.3 The broader issue of air pollution in Sydney and the health impacts of that pollution are the subject of a current inquiry being conducted by the New South Wales Legislative Council's General Purpose Standing Committee 2.

Air quality and air pollution

- 5.4 Air quality is assessed by measuring the levels of various pollutants in the atmosphere. Pollutants include carbon monoxide, particulate matter, nitrogen dioxide, toxic compounds and odour compounds. Vehicle emissions are a major source of air pollution in Sydney.
- 5.5 It is the concentration of the pollution released through the tunnel's ventilation stacks, and the fact that it is unfiltered, that is the principal cause of concern for members of the community in their evidence to this Committee. Another concern, highlighted by conditions within the M5 East Tunnel, is the impact of air pollution within the tunnel on users of the tunnel.
- 5.6 The Lane Cove Tunnel measures taken in relation to air quality are prescribed by the Minister for Planning's Conditions of Approval for the project. The Minister's Conditions of Approval were determined following consideration of the *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report* (the *Director General's Report*),²³¹ which reviewed the issues

²³¹ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report*, November 2002, available at:

raised in representations in response to the *Lane Cove Tunnel Project Environmental Impact Statement* (EIS) and the *Preferred Activity Report* of the proponent of the project, the Roads and Traffic Authority. The relevant 32 conditions of approval are attached at Appendix 5.

- 5.7 Pollutants released through the ventilation stacks, and in the ambient air in the region, are required to be measured under the Minister's Conditions of Approval, which establish the methodology for measuring the emissions, and the level of emissions that must not be exceeded for each pollutant. Monitoring stations at the ventilation stacks and in the community measure pollutant levels, the information from which is independently audited every six months from the opening of the tunnel, with the auditor's report made available to the Director General of the Department of Planning and the AQCCC.

Key air pollutants

- 5.8 As previously stated, there are a large number of air pollutants in the Sydney region. The three listed here are particularly relevant to road tunnels.

Carbon monoxide

- 5.9 Carbon monoxide (CO) is a colourless, odourless gas, poisonous in high concentrations. The incomplete burning of fossil fuels from motor vehicles is an important source of carbon monoxide, with about 90% of Sydney's carbon monoxide emissions coming from this source.
- 5.10 Levels of exposure to carbon monoxide are monitored in road tunnels, and it is a condition of approval for road tunnel projects that levels not exceed a certain exposure level within the tunnel. Satisfying this condition of approval is the major driver behind the design of road tunnel ventilation systems

Particulates

- 5.11 Airborne particles can be referred to by descriptions of their size. Common size descriptors are PM10, and PM2.5, where the number refers to maximum particle diameter in micrometres. Particles are emitted directly into the atmosphere from combustion and industrial processes (primary particles) or form from chemical reactions in the atmosphere (secondary particles). Major sources of particulate pollution in Sydney are motor vehicles (particularly diesel vehicles) and wood combustion for domestic heating.²³²

Nitrogen Dioxide

- 5.12 Nitrogen dioxide (NO₂) is a corrosive, pungent gas produced mainly through combustion processes. The combustion of fossil fuels produces nitrogen oxides, which oxidise to nitrogen dioxide in the atmosphere. Nitrogen dioxide can damage the mechanisms which protect the human respiratory tract.²³³

www.planning.nsw.gov.au/assessingdev/pdf/consents02/lanecovetunnel-FinalDGReport.pdf
(Accessed 27 July 2006)

²³² Environment Protection Authority, *New South Wales State of the Environment 1997*, p80

²³³ EPA, *New South Wales State of the Environment 1997*, p73

Lane Cove Tunnel and improvements to air quality

5.13 It is important to note that road tunnels actually have the potential to bring about improved air quality in the area through which they are constructed by removing vehicles and their emissions from the surface streets. In fact, this is a project objective of the Lane Cove Tunnel project, which is expected to bring about a net improvement in air quality for the area.

5.14 Dr Peter Manins, Chief Research Scientist, Marine and Atmospheric Research, CSIRO acted as a technical adviser to the Lane Cove Tunnel project's Air Quality Community Consultative Committee and has also been involved in the M5 East and Cross City Tunnel projects. In his submission Dr Manins stated that:

there is expected to be a substantial reduction of emissions from the traffic with the Tunnel operating compared with no Tunnel, around the eastern ramps and especially along Epping Road above the Tunnel. In other words, removal of traffic into the Tunnel will be beneficial to the air quality in those areas.²³⁴

5.15 Dr Michael Staff, Director, Environmental Health Branch, NSW Health, in evidence to the Committee commented that air quality would improve because the emissions are released much higher into the atmosphere rather than directly at street level:

[i]t is a simple matter that if we have a whole lot of congested cars idling with exhausts that are this far from the road, then dispersion will not be particularly good, so I do not think there is any issue that it does not make sense that a tunnel may improve local air quality.²³⁵

5.16 Mr Ian Hunt, Chief Executive Officer of Connector Motorways, in evidence to the Committee commented that:

Epping Road is currently also a very serious polluter. Importantly, the reduction in traffic on Epping Road will improve air quality on the corridor. Cars are at their most polluting when they are travelling at five kilometres an hour—and we often see that on Epping Road—and the freer-flowing traffic in the tunnel will reduce emissions from vehicles in the corridor by 30 to 40 per cent. This is a very significant and positive outcome.²³⁶

5.17 Mr Mark Curran, President of community group Residents Against Polluting Stacks (RAPS), in evidence to the Committee acknowledged that tunnels 'probably will have a generally beneficial effect on air quality over any regional area, so long as there is no extra traffic.' Mr Curran went on to succinctly describe his group's concern:

Our problem with tunnels relates to the adverse impacts that they can have on both users and those who live around the tunnel. These have been significantly

²³⁴ Submission 117, Dr Peter Manins, Chief Research Scientist, Marine and Atmospheric Research, CSIRO, p3

²³⁵ Dr Michael Staff, Director, Environmental Health Branch, NSW Health, Evidence, 16 June 2006, p39

²³⁶ Mr Ian Hunt, Chief Executive Officer, Connector Motorways, Evidence, 15 June 2006, p71

underestimated, and the general advantage and the gain of the many from the tunnel have been bought at significant expense of the few.²³⁷

- 5.18** In relation to emissions from the ventilation stacks and the contribution they make to ambient air pollution, the Department of Planning, in the *Director General's Report*, recognised the importance to the community of achieving the net improvement to ambient air quality suggested by the Lane Cove Tunnel project's objectives:

[T]he Department recommends meeting National Environment Protection Measure (NEPM) ambient goals as a way of ensuring accountability to such broad and cumulative commitments. Additionally the Department recommends set stack limits for all key pollutants which would provide stringent control of emissions from the stack, for which the RTA would be accountable.

The use of ambient goals in conjunction with proposed stack emission limits would prevent the ability to "pollute-up" to the ambient goals.²³⁸

- 5.19** The Minister's Conditions of Approval for the project therefore require the monitoring of emissions from the ventilations stacks, and the monitoring of ambient air quality at a number of community based monitoring stations.

- 5.20** Dr Manins, commenting on the findings of a 2005 review of air quality modelling for the Lane Cove Tunnel he conducted, put the contribution to air pollution of the Tunnel in context:

In the neighbourhood, including near the ramps to the Tunnel, the contribution to air pollution from the Tunnel and its traffic is likely to be about the same or lower than if the Tunnel did not exist.²³⁹

Health impacts of air pollutants

- 5.21** There is no doubt that air pollutants can have a negative impact on people's health. It is accepted that an increase in air pollution can lead to increased respiratory problems and related illnesses. The existence of the Environment Protection Authority's *Action for Air* plan is evidence that the Government recognises the importance of reducing air pollution.

- 5.22** The Committee heard a great deal of evidence detailing the health consequences of air pollution, particularly from representatives of community groups opposed to unfiltered tunnel stacks such as Residents Against Polluting Stacks (RAPS) and the Lane Cove Tunnel Action Group (LCTAG). The effects of fine and ultra fine particles (those of less than PM10 size) are particularly alarming.

- 5.23** The specific issue of concern for this Committee, however, is the particular health impact of the air pollutants delivered into the atmosphere by road tunnel ventilation stacks, not the health impact of air pollutants more generally.

²³⁷ Mr Mark Curran, President, Residents Against Stack Pollution, Evidence, 16 June 2006, p8

²³⁸ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report*, 2002, p. iv

²³⁹ Submission 117, p2

The NSW Health study

5.24 NSW Health has commissioned a research study to be conducted under the auspices of the Co-operative Research Centre for Asthma and Airways. The study will measure the current links between pollution levels and the health of residents (with pre-tunnel traffic arrangements) and the links once the Lane Cove Tunnel has opened. An independent report will be prepared on the study and provided to NSW Health, which will then provide it to other appropriate government departments.²⁴⁰

5.25 Dr Denise Robinson, Chief Health Officer, NSW Health, in responding to a suggestion that the study was unethical because it involved studying the effects of known pollutants on people, stated that the study represented a responsible way of measuring the possible impacts on the health of people in the area as a consequence of the Lane Cove Tunnel project:

I would say to you that the study that we are proposing is providing us with a measure of any link that exists at the present time between pollution levels and local air quality and the health of residents and that to continue with the second phase of the study once the tunnel has been opened and removed the traffic from surface to below ground would be a more than appropriate and ethical way of us proceeding at the present time.²⁴¹

5.26 Dr Robinson told the Committee that a series of households in three separate areas and at varying distances from the stacks will be enrolled in the study, with a control area (remote from the area affected by the ventilation stack emissions) also enrolled. Dr Michael Staff, Director of the Environmental Health Branch, NSW Health, provided further explanation:

The idea is to get some baseline information prior to the opening of the tunnel and then to repeat and collect that information in approximately 12 months, which is needed for control of some factors such as seasonal variation. We started collecting on 1 June. It is a little unclear exactly when the tunnel will open, so we have decided to err on the side of caution and start now, recruit over the next few months and then repeat that data collection again in 12 months time, that is towards the end of 2007. The data will be cleaned, analysed and a report will be produced.²⁴²

Conclusion

5.27 The Committee notes that Phase 1 and Phase 2 health studies conducted in relation to the M5 East Tunnel were the subject of criticism over the methodology used and the conclusions reached. It is important that the community be reassured that the proposed study for the Lane Cove Tunnel will be accurate and informative. Accordingly, NSW Health should ensure that information about the study is made available to the community through the Department's website, and that frequent updates are provided to the Lane Cove Tunnel Air Quality Community Consultative Committee on the progress of the study.

²⁴⁰ Dr Denise Robinson, Chief Health Officer, NSW Health, Evidence, 16 June 2006, p40

²⁴¹ Dr Staff, Evidence, 16 June 2006, p40

²⁴² Dr Staff, Evidence, 16 June 2006, p40

Recommendation 11

That NSW Health ensure that information about, and the results of, the Lane Cove Tunnel Air Quality study are made available on the Department's website, and that progress updates on the study are made to the Lane Cove Tunnel Air Quality Consultative Committee and promptly made available on the Department's website.

The Lane Cove Tunnel project

- 5.28** The Lane Cove Tunnel, like the Cross City Tunnel and the M5 East Tunnel, has a ventilation system to remove vehicle emissions. The ventilation systems currently used in Sydney road tunnels do not filter the air before it is removed through a ventilation stack or stacks.
- 5.29** To meet the Minister's Conditions of Approval for the project, the Lane Cove Tunnel has two ventilation stacks located at either end of the tunnel, ventilation tunnels to remove emissions from the road tunnels and a fresh air intake at the approximate mid-point of the tunnel. Fans installed in the roof of the road tunnels ensure movement of air. The Minister's Conditions of Approval require that there be no emissions from the road tunnel portals except in emergencies and certain other unusual situations.
- 5.30** The Department of Planning *Director General's Report* noted that air quality impacts from the proposed project were 'the most significant issue raised by the community' in their representations responding to the EIS.²⁴³ The specific concerns raised ranged from the location of the ventilation stacks to the lack of treatment of vehicle emissions either in-tunnel or in the ventilation stacks.
- 5.31** A number of changes to the project resulted from the representations and from additional investigations conducted by the proponent. The changes included the re-location of one of the ventilation stack sites and the addition of a more stringent CO design objective of 50 parts per million (ppm) over 30 minutes (in addition to the 87 ppm over 15 minutes requirement, which also remains). The CO exposure levels set for the Lane Cove Tunnel and the Cross City Tunnel are more stringent than those for the M5 East Tunnel, where the CO exposure levels are 87 parts per million over 15 minutes.
- 5.32** Consequently, the ventilation system for the Lane Cove Tunnel was revised (after the *Preferred Activity Report* had been released but before the project had been approved) to meet these new air quality standards. The revised ventilation system was not subject to a public consultation period, but the Department of Planning concluded that this modification did not necessitate the preparation of another EIS.²⁴⁴

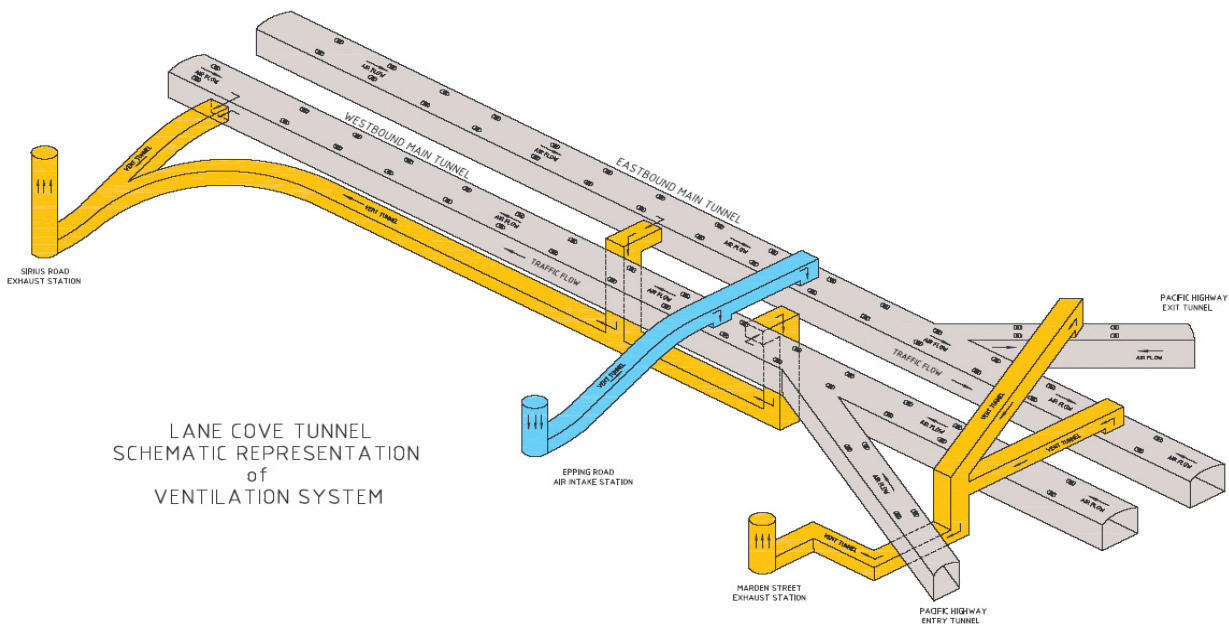
²⁴³ Department of Planning, *Proposed Lane Cove Tunnel and Associated Road Improvements: Director General's Report*, November 2002, p22

²⁴⁴ RTA, *Lane Cove Tunnel Summary of Contracts*, July 2004, p6

- 5.33** The ventilation system was modified again, following the issue of the project planning approval. The changes were determined by the RTA to be consistent with the Conditions of Approval in a *Consistency Assessment and Environmental Review* provided to the Department of Planning. The Committee has considered this issue in Chapter 3.
- 5.34** The ventilation system design for road tunnels is principally driven by the requirement to meet certain exposure levels for carbon monoxide (CO). Mr Les Wielinga, then Director, Motorways, RTA, in a presentation given during his evidence to the Committee, explained the ventilation system illustrated in the diagram at Figure 5.1:

The blue tunnels introduce fresh air into the middle of the tunnel. We have got an air intake station at the middle of the project. The orange areas are the separate ventilation shafts, which collect air from the tunnel and take it away to the ventilation stations. These are substantial structures. They are almost the same size as the main tunnels that the traffic goes through. This is a very substantial ventilation system.²⁴⁵

Figure 5.1 Lane Cove Tunnel schematic representation of ventilation system.



Source: RTA Presentation to the Committee, 16 June 2006 (tabled document)

- 5.35** Mr Hunt, Chief Executive of Connector Motorways, in evidence to the Committee commented on the Lane Cove Tunnel's ventilation capability:

In terms of air quality, the thing that distinguishes our tunnel from others is that we have two stacks. We have the fresh air intake at mid tunnel, and we have over twice

²⁴⁵ Mr Les Wielinga, then Director, Motorways, RTA, Evidence, 16 June 2006, p62

the air handling capacity of other tunnels, which gives us a great deal more flexibility to manage the air quality within the tunnel for all circumstances.²⁴⁶

Conclusions

- 5.36** The Committee has previously commented on the manner in which the various revisions to the ventilation system were introduced and the lack of consultation and information associated with those changes (in Chapter Three).
- 5.37** Despite these reservations, the Committee has heard considerable evidence suggesting that the ventilation system proposed for the Lane Cove Tunnel will be sufficient to meet the in-tunnel air quality standards set in relation to carbon monoxide. The fact that the ventilation system has far greater capacity than that required for the M5 East tunnel, and the fact that the air quality modelling has been comprehensively and independently assessed by a credible and reliable expert – Dr Peter Manins, Chief Research Scientist for the CSIRO’s Marine and Atmospheric Research division, whose findings are contained in the 2005 *Review of Air Quality Modelling for the Lane Cove Tunnel (Manins Review)* – should reassure the community that the in-tunnel air quality measures meet existing air quality standards. The *Manins Review* is discussed in greater detail later in this chapter.

Adequacy of Air Quality standards

- 5.38** One of the main concerns raised by witnesses to the Committee relates to the relevance and adequacy of air quality standards as they apply to the Lane Cove Tunnel. The Committee has heard considerable evidence that the tunnel’s ventilation system will meet the ambient air quality goals required of it, but the issue of whether the air quality standards that are applied are relevant is a more complex issue.
- 5.39** Scientific understanding of air pollution and its health impacts is increasing with every passing year. National and international air quality standards are continually improved over time, but air quality standards associated with tunnel projects do not change as the standards change.
- 5.40** One of the examples used by Mr Mark Curran of RAPS and Dr Ray Kearney of LCTAG to illustrate the importance of appropriate air quality standards was the current standard for measurement of particulate pollution. The current standard requires the measurement of PM10 and PM2.5 particles by weight, and not surface area. However, as Dr Kearney commented:

The point is that weighing particulate pollution, as is currently done, is inappropriate for determination of health risk. For example, one coarse PM10 particle is equivalent in weight to one billion PM0.01 particles, but the latter has 1,000 times the surface area of one coarse PM10 particle. The other factor is the coarse particles are insoluble. In contrast, fine particles are soluble in the respiratory tract and release chemical carcinogens.²⁴⁷

²⁴⁶ Mr Hunt, Evidence, 15 June 2006, p83

²⁴⁷ Dr Ray Kearney, Chairman, Lane Cove Tunnel Action Group, Evidence, 16 June 2006, p2

Conclusions

- 5.41** In relation to the issue of the appropriateness of air quality standards, the Committee is unable to reach a definitive view on the basis of the evidence received. However, our understanding of air pollution and its impacts will improve over time, and our standards for acceptable pollution will also change. The Committee notes that there is no obvious threshold level of fine particles below which there are no effects on health,²⁴⁸ but that some pollution is an inevitable result of life in an industrialised city. The Committee therefore urges the NSW Government to continue to implement the requirements of the *Action for Air* plan and strive to constantly improve and update the air quality standards. It is clear, too, that the Government must take responsibility for implementing any changes to ventilation systems in road tunnels that will be required as a result of improved air quality standards, rather than accept an inferior standard imposed at the time of construction.

Recommendation 12

That the NSW Government continue to implement the requirements of the Action for Air plan and strive to constantly improve and update the air quality standards.

Issues specific to the Lane Cove Tunnel

- 5.42** A number of witnesses questioned aspects of the reports predicting emission levels within the Lane Cove Tunnel. One of the major criticisms, raised by witnesses from the Lane Cove Tunnel Action Group and the Lane Cove Council, relates to the traffic numbers used to predict future emission levels.
- 5.43** One of the well-publicised criticisms of the Lane Cove Tunnel, quoted in media items and raised by witnesses to this Inquiry, stems from a 2005 report *Review of Air Quality Modelling for the Lane Cove Tunnel (Manins Review)* prepared by Dr Peter Manins, Chief Research Scientist, Marine and Atmospheric Research, CSIRO. Dr Manins reviewed the air quality modelling and impact assessments for the Lane Cove Tunnel for the AQCCC. In his evidence to the Committee, Dr Manins took the opportunity to correct some misunderstandings that had arisen in the media from his findings in the *Review*.
- 5.44** One of the widely publicised claims attributed to the *Review* relates to the numbers of vehicles estimated to use the tunnel being at 2016 levels within a year of the tunnel opening. Dr Manins clarified that the information used in the *Review* did not suggest this to be the case:

The information available to me, and that is from traffic experts—and I am not a traffic expert—is that the estimates used by the designers are accurate and they are virtually the same numbers—very close to the same numbers that have been available

²⁴⁸ Environment Protection Authority, *Action for Air*, 1998, p13

to the public for at least five years. There are no surprises on the total traffic numbers.²⁴⁹

- 5.45** Mr Hunt, Chief Executive of Connector Motorways, in evidence to the Committee said that the traffic figures used in the EIS, while having a lower number of vehicles overall than the figures relied upon by the consortium in their Base Case Financial Model, had a higher number of heavy vehicles. Mr Hunt explained:

So, for the work that we have done on air quality and in particular the ventilation design has used our overall traffic numbers, which are higher than the EIS, but we have used the EIS higher proportion of trucks, because that is a more conservative approach to dealing with this issue—because trucks pollute more than cars do. That is why there is some confusion. We have actually used the worst element of two separately undertaken forecasts.²⁵⁰

- 5.46** Mr John Lee, Director, Major Projects for the Lane Cove Council, in evidence to the Committee questioned the accuracy of the emission calculations:

The integrity of the emission calculations that I will table today have been defended by the RTA and the tunnel company despite CSIRO advice that the in-tunnel concentrations for particulates are underestimated by up to 100 per cent.²⁵¹

- 5.47** Mr Lee was referring to the Manins *Review*. In relation to the 100% figure cited by Mr Lee, Dr Manins commented:

I expect each truck to emit 50 per cent to 100 per cent more pollution than the designers used for particles. However, that is balanced off by the number of trucks being somewhere around 30 per cent or more lower than the design. So the two issues cancel out, and the level of emissions from the trucks as a fleet will be little different from what the original designers contemplated.²⁵²

- 5.48** Dr Manins emphasised that emissions of particles from the stacks were likely to be the same as predicted by the designers of the ventilation system, with the possibility of slightly more particle emissions from the eastern stack:

Nevertheless particle concentrations in the neighbourhood “should be indistinguishable from background levels at all places”.

Essentially, the points are that even if there is a substantial error in some of the numbers used in the design of the Lane Cove Tunnel:

1. in most cases the errors seem to be balanced off by compensating errors, and

²⁴⁹ Dr Peter Manins, Chief Research Scientist, Marine and Atmospheric Research, CSIRO, Evidence, 15 June 2006, p22

²⁵⁰ Mr Hunt, Evidence, 15 June 2006, p82

²⁵¹ Mr John Lee, Director, Major Projects, Lane Cove Council, Evidence 14 June 2006, p3

²⁵² Dr Manins, Evidence, 15 June 2006, p23

2. a big change to the Tunnel's small contribution to the air pollution in the vicinity is still a small contribution.²⁵³

5.49 Dr Manins, responding to a question from the Chairman about the impact of the increasing number of trucks using the tunnel in future, commented that:

The number of trucks may well increase but probably within expectations. There is a countervailing factor there, though, in that trucks especially are coming under very much more stringent emission controls over the next few years. Eventually the Euro 4 and 5 standards will make trucks cleaner than cars unless cars also improve. While the number of trucks may increase, the expectation of the next 15 years is for overall pollution emissions from motor vehicles to decrease quite substantially.²⁵⁴

Conclusions

5.50 Air quality and air pollution are complex areas, and the potential for misunderstood information to be disseminated to the community is great. It is important to maintain a sense of perspective about the impact of the Lane Cove Tunnel on air quality, and to recognise that large numbers might have small effects.

5.51 The Committee believes that while there were undoubtedly errors made in relation to estimated traffic numbers (and the problem of correctly estimating traffic numbers has been discussed at length in the Committee's First Report and is evidenced daily by the Cross City Tunnel), the impact of those errors is unlikely to significantly change the overall impact of the Lane Cove Tunnel project on air quality in the region. The mistakes of the M5 East Tunnel appear to have been learnt, at least in relation to the provision of adequate ventilation capacity to meet traffic demand.

Filtration of road tunnels

5.52 In evidence to the Committee, Dr Manins explained the approach adopted to maintaining air quality in Sydney road tunnels:

Once upon a time in air pollution control technology, there was a saying, "The solution to pollution is dilution." What you are doing with a stack is sharing it over everybody, at a lower concentration than if you did not have a stack; sharing it over the people in the immediate vicinity of the emissions. The stack raises the pollutants to a higher level, and it takes some time for the pollutants to reach the ground. In that process they are diluted, and so the concentrations are lower after it comes out of the stack. As a sweeping statement, the higher the stack, the lower the pollutants at the ground level, because it takes longer for the pollutants to reach the ground.²⁵⁵

5.53 The Mayor of Lane Cove Council, Clr Ian Longbottom, in evidence to the Committee described the Lane Cove Tunnel's ventilation arrangements succinctly:

²⁵³ Dr Manins, Evidence, 15 June 2006, p23

²⁵⁴ Dr Manins, Evidence, 15 June 2006, p23-24

²⁵⁵ Dr Manins, Evidence, 15 June 2006, p27

We will have two vent stacks that will put all that crap up in the air, and it will go somewhere. There is no question about that. It must fall, and it will fall and drift across all of Sydney.²⁵⁶

5.54 Filtration is an alternative ‘solution to pollution’.

Types of Filtration

5.55 Current filtration technology allows for the removal of particles from the air being filtered using electrostatic precipitators. Technology also exists to remove nitrogen oxides from the air, using denitrification plants.

5.56 Air filtration for road tunnels can occur in-tunnel or in-stack. In-tunnel filtration cleans the air in the tunnel, while in-stack pollution cleans the air after it is removed from the tunnel but before it is released into the atmosphere. Dr Manins was definitive in his support for in-tunnel filtration over in-stack filtration:

the improvement of neighbourhood air pollution is the lesser of the two air pollution concerns: the dominant problem is air pollution in the tunnels – particularly particle pollution. In-tunnel filtration should be the first priority consideration, not in-stack filtration. The former would improve the experience of tunnel users (motorists) as well as residents around the stacks.²⁵⁷

5.57 Dr Manins provided the Committee with his expert opinion on the relative need for filtration in the M5 East, the Cross City Tunnel and the Lane Cove Tunnel. He was most critical of the M5 East Tunnel:

The M5 tunnel, I believe, requires filtration now. The evidence supports the public's perception of emissions from portals and emissions from the stacks and residents looking into the stack with the stack located in the valley. They are all dreadful features of the M5 tunnel. Filtration is a very important need for the tunnel.²⁵⁸

5.58 These comments are consistent with the findings and recommendations of General Purpose Standing Committee No. 5 throughout the three reports that Committee has released in relation to the M5 East. This Committee discusses the Minister for Roads’ announcement of a large filtration trial in the M5 East Tunnel later in this Chapter.

5.59 The Cross City Tunnel, Dr Manins found, would be discharging emissions into the ‘relatively calm’ atmosphere around Darling Harbour, however the low level of emissions meant that ‘we do not expect a substantial problem in the region’. A related ‘global pollutant’ – excessive greenhouse gases created through the generation of electricity to force the ventilated air through the ventilation system – would be created, but with no direct local impact.²⁵⁹

²⁵⁶ Clr Ian Longbottom, Mayor of Lane Cove Council, Evidence, 14 June 2006, p8,9

²⁵⁷ Submission 117, p4

²⁵⁸ Dr Manins, Evidence, 15 June 2006, p24

²⁵⁹ Dr Manins, Evidence, 15 June 2006, p24

- 5.60** In relation to the Lane Cove Tunnel, Dr Manins found that there was ‘practically no case, other than best practice, to install in-tunnel filtration’.²⁶⁰

The best tunnel of all, in my view, will be the Lane Cove Tunnel. It is a very conventional design, with chimneys at each end. It will cause a small increase of air pollution to the neighbourhood, but I am quite convinced that the monitoring stations will not be able to discern any impact from that tunnel. There is substantial background air pollution in the region. That will decrease a little bit because of the operation of the tunnel, but only a little bit because most of the pollution being measured at these monitoring stations is actually regional pollution from that whole general area of Sydney.²⁶¹

Cost of Filtration

- 5.61** The Committee heard differing evidence about the cost of providing filtration for the Lane Cove Tunnel.

- 5.62** The Chief Executive of Connector Motorways, Mr Ian Hunt, in evidence to the Committee said that the cost of filtering the Lane Cove Tunnel would be from \$400 million to \$500 million for in-stack filtration involving electrostatic precipitators and denitrification, and from \$160 million to \$200 million for in-tunnel filtration limited to electrostatic precipitation to remove particles.²⁶²

- 5.63** Mr Hunt acknowledged that these figures were very high as a proportion of the total cost of the approximately \$1.1 billion project, and went on to explain the reasons for the high cost:

I am sure that they seem like very high numbers. I am sure you think that. But in order to do that—bearing in mind that, in view of where the project is at the moment, they have to be retrofitted rather than included as part of the original construction—they require extra caverns or bypass tunnels to be excavated. They require extra fans to be included to force the air through electrostatic precipitators or filters, which in turn requires extra electricity. I think we probably have enough substation capacity for the in-tunnel scenarios that I talked about. But for the full in-stack \$400 million to \$500 million scenario, we would probably need additional substations to accommodate the extra electricity required.

The nature of electrostatic precipitation is that the plates that attract the particles have to be washed down regularly. That is done with water, so you need a water treatment plant within the tunnel to treat that water, which then goes to waste in the way that other water does. It leaves a cake-type product that then has to be disposed of at a licensed landfill. It is much more than just the precipitator unit being installed.²⁶³

- 5.64** Mr Curran, President of Residents Against Polluting Stacks, told the Committee that the quote provided by Mr Hunt seemed unreasonable:

²⁶⁰ Submission 117, p4

²⁶¹ Dr Manins, Evidence, 15 June 2006, p24

²⁶² Mr Hunt, Evidence, 15 June 2006, p79

²⁶³ Mr Hunt, Evidence, 15 June 2006, p79,80

I would suggest that the figure quoted for the filtration cost was blatantly inaccurate and a fatuous attempt to mislead, in line with other aspects of so-called community consultation. More realistically, the planning documents for the much longer and more complex North-South Bypass tunnel in Brisbane, currently under construction, put the all-up cost of fully filtering that tunnel at \$70 million.²⁶⁴

5.65 While the Committee did not receive evidence directly comparing the cost of filtration between tunnels, it is noted that the Minister for Road's announcement of a trial of filtration technology in the M5 East, which will also require retrofitting, suggests a figure of \$50 million. This cost is for filtration equipment to be installed in one direction only, and filtering only a proportion of the total air.²⁶⁵

5.66 In his submission to the Committee, Dr Manins explained that the cost of providing filtration is in part dependent on the level of traffic and the length of the tunnel to be filtered:

Sydney tunnels appear to be unique in their combination of high traffic levels and long length. This makes in-tunnel filtration very expensive, especially so if filtration of both particles and nitrogen dioxide is required.²⁶⁶

5.67 Mrs Kerry Chikarovski, former Member for Lane Cove, in evidence to the Committee said that the issue of filtration had been of concern to her, and that the cost of filtration could have been met by extension of the project's concession period:

I had a meeting with the Minister for Planning as both a local member and as the Leader of the Opposition. The question of filtration was one which was concerning me in both those capacities for a number of years when I was here. I suggested very strongly to the then Minister for Planning that they should be filtered. I also suggested that if it was a question of cost, then it would make sense—and I am sure there would be not a great deal of objection from the community or anyone else—if the term of the contract was extended to cover the cost of adding filtration.²⁶⁷

Conclusions

5.68 The Committee shares the concern of community members about the health impacts of vehicle emissions. The Committee recognises that vehicle emissions that are released from ventilation stacks are only a small part of the total challenge facing the community in relation to air pollution.

5.69 The Committee notes that one of the main factors for the high cost of installing filtration into the Lane Cove Tunnel is the need to retrofit the technology. The Committee believes that it is a sensible precaution to require future road tunnel projects to consider in-tunnel filtration as a component of the project, to avoid the extra costs associated with retro-fitting.

²⁶⁴ Mr Curran, Evidence, 16 June 2006, p9

²⁶⁵ Minister for Roads, Media Release, 'Major air quality improvements for M5 East tunnel', 16 June 2006

²⁶⁶ Submission 117, p4

²⁶⁷ Mrs Kerry Chikarovski, former Member for Lane Cove, Evidence, 15 June 2006, p27

- 5.70** Given the sensitivity and public interest in this issue, the final decision to install in-tunnel filtration should be made by the Budget Committee of Cabinet, drawing on advice from relevant Government departments.

Recommendation 13

That future road tunnel projects include within the call for tenders a requirement for tenderers to design and cost in-tunnel filtration as a component of the ventilation systems.

Recommendation 14

That the decision on whether or not to install in-tunnel filtration in future road tunnel projects be made by the Budget Committee of Cabinet, on the basis of advice received from relevant Government departments.

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- 5.71** The Committee notes that the greatest contribution to reducing air pollution from vehicle emissions can be made at the source of the emissions, through improved emissions technology on cars and trucks. Stricter standards for vehicle emissions, particularly for diesel vehicles, should be an urgent part of the Federal Government's strategy to address air pollution.

Recommendation 15

That the NSW Government continue to work with the Federal Government to ensure that Australian standards for vehicle emissions meet international best-practice standards.

Air quality in the M5 East Tunnel

- 5.72** Concern over unfiltered emissions from the M5 East exhaust stack, the ventilation stack's location and conditions within the M5 East Tunnel have resulted in three NSW Parliament inquiries (all by the Legislative Council's General Purpose Standing Committee No. 5), with reports tabled in December 1999, July 2001 and December 2002.²⁶⁸ The shortcomings of the M5 East tunnel's ventilation system include a ventilation stack poorly located and heavily criticised by the community within which it is located, and a lack of capacity to deal with the emissions of the greater than expected numbers of vehicles using the tunnel. In-tunnel filtration was recommended in the 2002 report.
- 5.73** The problems arising from the M5 East Tunnel have had an impact on subsequent projects, with the Cross City Tunnel and Lane Cove Tunnel incorporating far greater ventilation capacity. However, the RTA and the Government had not met the persistent calls for filtration of road tunnels, despite an announcement of a filtration trial in the M5 East Tunnel in 2004.

²⁶⁸ Available at www.parliament.nsw.gov.au/gpsc5 (Accessed 27 July 2006)

5.74 In an announcement timed for the final day of this Committee’s hearings, the Minister for Roads, the Hon Eric Roozendaal, announced a trial of tunnel filtration in the M5 East tunnel, as part of a larger Air Quality Improvement Plan for the M5 East. The trial involves:

- Video identification of pollution causing heavy vehicles and the Clean Fleet Plan
- Increased ventilation flows with an extra 12 jet fans
- A trial of filtration technology.²⁶⁹

5.75 The trial of the filtration technology is anticipated to commence in ‘12 to 15 months’ from the June 2006 date of the announcement, with an estimated cost of \$50 million over two financial years. The filtration equipment is only to be installed in the westbound tunnel.²⁷⁰

5.76 The Government has previously announced trials of filtration technology in the M5 East tunnel (a filtration trial was proposed for 2004), but to date there has been no filtration equipment installed. In evidence to the Committee, Mr Les Wielinga, then Director of Motorways, RTA, (now Chief Executive, RTA) explained that the RTA intended to use information gained from the operation of the Cross City Tunnel’s ventilation system, and a Department of Planning audit on the M5 East to ‘feed into’ the filtration trial. He also stated that the previous work conducted in relation to tunnel filtration, two stages of tendering for filtration technology, would ‘feed into this fine detailed proposal we see now’.²⁷¹

5.77 Mr Wielinga further explained that the installation of the filtration technology in the M5 East tunnel would require extensive construction and planning:

You have to appreciate that when you have got a system that is four times the size of what it had before ... there is significant civil infrastructure that has got to be constructed before the technology is put into it. We have to construct an underground cabin that is about 60 metres long, 10 metres wide and 6 metres high. The technology will go into that. We will have to organise connections into the tunnel and then we will put in the filtration technology. ... You have got to go through a detailed design process. If you think about the sequence of events that have got to come together—some environmental assessment that is not expected to be complex will have to take place and some detailed design has to take place both from the civil and structural and rock mechanics point of view about how this cabin is going to work, where the best place to put it is, how to make the connection into the tunnel, and those sorts of detailed design.²⁷²

5.78 While the announcement of a large filtration trial in the M5 East was welcomed by community groups, the lack of action in response to previous Parliamentary Committee recommendations into this issue, and the lack of tangible filtration outcomes from previous Ministerial announcements, is grounds for caution.

²⁶⁹ Minister for Roads, Media Release, ‘Major air quality improvements for M5 East tunnel’, 16 June 2006

²⁷⁰ Minister for Roads, Media Release, ‘Major air quality improvements for M5 East tunnel’, 16 June 2006

²⁷¹ Mr Wielinga, Evidence, 16 June 2006, p77

²⁷² Mr Wielinga, Evidence, 16 June 2006, p77

- 5.79** The Committee recognises that there is a need for careful and considered planning in relation to the installation of filtration technology. However, it is important that the community be reassured that the filtration trial will commence in a timely fashion, and that they are kept informed of developments in the trial planning process.

Recommendation 16

That the proposed in-tunnel filtration trial for the M5 East be monitored carefully by the RTA, and that the assessments be promptly made available on the RTA's website.

Recommendation 17

That the Government ensure that a timetable for the installation of filtration technology in the M5 East Tunnel is publicly announced before the end of 2006. The timetable should identify objectives of the trial, with such objectives to be established with the oversight of a community consultative group that includes key community stakeholders. This community consultative group should oversee the operation of the trial and contribute to regular public reporting on the efficacy of tunnel filtration against the trial's objectives.
