T R A N S C R I P T

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into infrastructure projects

Melbourne — 20 April 2016

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Witnesses

Mr Nial Finegan, CEO,

Dr Paul Torre, EPA principal expert, air quality, and

Dr German Ferrando-Miguel, manager, major projects, Environment Protection Authority Victoria.

The CHAIR — I welcome our next witnesses to the Standing Committee on the Economy and Infrastructure public hearing. Today we are going to be hearing evidence with regard to our infrastructure inquiry. Today's evidence is being recorded. I will just remind you that all evidence taken today is protected by parliamentary privilege. Therefore you are protected for what you say in here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege.

I welcome you all and hand over to you to introduce yourselves, state the capacity in which you are appearing before us today. You may then move onto your introductory comments, at conclusion of which we will have some questions. Over to you.

Mr FINEGAN — Thank you, Chair. By way of introduction, my name is Nial Finegan. I am the chief executive officer of the Environment Protection Authority in Victoria, and I am joined today by my two colleagues. On my left, Dr German Fernando-Miguel, who is our major projects lead, and on my right, Dr Paul Torre, who is our principal air expert.

I have done a very short presentation, which I will run through, which just puts the EPA within a context around major projects. Then our intent today is to take the questions that you put to us, and hopefully we will be able to answer them today. If they are a bit too technical or they require a bit more work, we can take them back and return after if you wish.

The CHAIR — Fabulous.

Visual presentation.

Mr FINEGAN — Just by way of introduction, I thought it would be useful to give a bit of an overview of the EPA. So this short presentation outlines the role of the EPA as an independent environmental regulator and in fact an influential authority; presents EPA's framework; touches on the relevant legislation, regulation and policy that we use to make our decisions; and talks about the environmental risks that we are often faced with when dealing with infrastructure projects. On the slide there, just to read them for Hansard, the overview is: Victoria's environment protection framework, environmental risks in infrastructure projects, EPA's role in infrastructure projects and EPA's risk-based approach to those projects.

The CHAIR — Mr Finegan, to save you having to read everything, obviously please do go through but we can also upload your presentation along with the transcript. So feel free to talk through your presentation, but there is no need to read every word because that will be available as well.

Mr FINEGAN — Thank you, Chair. The Environment Protection Act 1970 established the EPA. The act defines EPA's powers, duties and functions. The act also provides for a number of instruments which are used to minimise waste, prevent pollution and control environmental risks. The instruments used by EPA that are most relevant to this inquiry include matters such as the state environment protection policies — commonly known as SEPPs — works approvals and licences.

The scheduled premises regulations is the document that determines what activities require an EPA works approval. The regulations are in essence a risk-based backbone to the work that we do. We aim to use best available evidence to inform our work, consider community aspirations in setting standards, and we engage with the community in making regulatory decisions.

The environmental risks that we face when dealing with infrastructure projects are around air quality; water, both surface and ground; contamination and spoil management; and noise. All Victorian infrastructure projects must meet relevant state environment protection policy standards and regulations. The SEPPs are statutory documents and they apply across all of Victoria. Policies identify the beneficial uses, also known as environmental values, that Victorians want to see protected and the standards required to achieve this protection. In the context of this inquiry, the relevant policies for a project such as the western distributor are those covering air quality, water quality, protection of groundwater, noise, contamination and spoil management. The environmental risk profile changes throughout the life cycle of a project, hence the EPA's role in engagement with projects changes in line with the life cycle of a project.

This next slide tries to depict that life cycle from design through to the operation of a project. For infrastructure projects, the key roles that EPA performs to minimise environmental risk are largely advisory during the design

and assessment phase of a project. By this I mean we work to clarify standards, allow the proponents to understand the SEPPs and provide advice on how they might achieve them. We become much more regulatory and put on our regulator's hat when we move into the approval phase and we approve certain aspects of projects. If you take the western distributor by way of example, the fact that it will have tunnels will mean that it will have ventilation stacks. Those ventilation stacks are covered by the scheduled premises regs, and we will be an approval authority on that. So we are very much a regulator as opposed to an adviser.

We also regulate during the construction phase. This could be about day-to-day pollution matters — you know, spills of chemicals, spills of materials and the like — but also provide advice to the community, councils and others about how to manage noise, dust and other nuisances and pollutions from construction activities. When a project such as the western distributor, or any major project, moves into operation, we have an ongoing regulatory oversight role of it. Just to make a point which we make with project proponents, the earlier EPA is involved, the better the environmental outcomes, because we can adopt that advisory role up-front and help people and guide people through the decision-making.

The EPA adopts a risk-based approach to projects. This slide just shows the elements of those risks or how we categorise or triage those risks. The highest order would be a project that would require an environment effects statement and our role through that, right through to lower risk projects. While we triage our involvement in projects, all projects must meet the statutory requirements of the SEPPs.

The EPA is a risk-based regulator. The EPA's involvement is generally proportionate to the level of environmental risk, which is consistent with our guiding principles. To explain EPA's direct involvement with infrastructure projects, EPA classifies infrastructure projects into three categories, as shown on this slide, for internal resource allocation purposes and approach to it.

Projects that are likely to have a large impact on the environment or many elements of the environment and are therefore most likely, by the Minister for Planning, to require an environment effects statement, will be managed by our major projects group, headed up by German. Projects that are of higher risk, complex and have the potential to impact on a range of environmental areas but do not require an EES also would fall within German's group, and we would manage internally as major projects and resource accordingly. Then there are many other projects which happen day to day and we interact with the proponents as required. These lower risk projects are managed often by some of German's group or, depending on their scale, by other business units within the EPA.

Under environment effects statements, the major infrastructure projects, some of which have been called in by the Minister for Planning, what is the EPA's role? The EPA will take a role within the technical reference group set up on projects such as the western distributor, and we will input into it that way. As I said earlier, there will be aspects of some projects which require formal EPA approval over and above any other mechanism that is used to approve or assess a project. The best placed example I could give you would be the ventilation stacks on something like the western distributor.

I will leave it at that as a quick introduction to give you more time for your questions.

The CHAIR — Thank you, Mr Finegan. I might kick off with the first question. I was interested in that second-last slide you showed there about the EPA's risk-based approach. You have the EES there at the top. Our committee today has heard that an EES will not be developed for the Pakenham-Cranbourne level crossing removal. Are you aware of that?

Mr FINEGAN — Whether a project is required to have an EES is a decision of the minister. But what I said earlier by way of introduction was that regardless of whether a project has an EES or not, our expectation would be that a project would meet the environmental requirements of the state which are set out in the SEPPs.

The CHAIR — Indeed. With regard to the development of whether or not an EES is going to be gone through, what role does EPA play in that? Are you an advisory body for that? Do groups or proponents come to you and ask advice as to whether an EES is going to be required in a particular project?

Mr FINEGAN — Do proponents come directly to us?

The CHAIR — Yes, or do other departments defer to your advice with regard to whether or not an EES is required? What is the EPA's role in deciding whether or not an EES is going to be required?

Mr FINEGAN — It is not the EPA's role to decide if a project has an EES or not.

The CHAIR — So there is no role there for the EPA?

Mr FINEGAN — It is not our decision whether a project has an EES or not.

The CHAIR — No, of course not.

Mr FINEGAN — We would happily engage with anybody who sought our advice on a project, and that is what we do with many project proponents and indeed departments. We sit down, we talk about the aspects of the environment which might be of concern to us and talk them through. The genesis of some of these things — so something like the western distributor, which has had many guises before it gets to where it is — is that there is a lot of thinking and a lot of talking amongst bureaucrats, amongst professionals as to what would be the risk with a project such as that.

The CHAIR — Has the EPA's advice been sought by the Level Crossing Removal Authority or others with regard to the sky rail project?

Mr FINEGAN — On various aspects of each of the individual components of those jobs we are engaged with the Level Crossing Removal Authority.

The CHAIR — Would you be able to provide the committee with that advice?

Mr FINEGAN — I think we would be able to, yes.

The CHAIR — Excellent, that would be very much appreciated, thank you. With regard to the level crossing removals, obviously the sky rail proposal presents certain concerns with regard to noise — sound pollution and the like — to surrounding residents and also diesel emissions and the like. Is that the type of thing that the EPA has looked into with regard to level crossing removal along the Pakenham-Cranbourne line?

Mr FINEGAN — Our engagement on level crossing removal projects has been around individual projects — things like management of contaminated soils and advising on that. We have also responded to some community feedback on noise from various projects on the way, some of which are the rail level crossing projects and some are just general rail maintenance work. We have taken it on ourselves to write to other authorities and remind them of their obligations under the SEPPs, so it is very much around that sort of guidance and influencing role.

The CHAIR — But not so much in the forecast for potential diesel emissions or sound issues with regard to the project as it is proposed right now?

Mr FINEGAN — I am not aware that we have been directly involved. I will ask German to just confirm that, but just as I said, regardless of whether we are involved or not, there is an obligation on the project proponent to show that their project will meet the SEPPs and the legal requirements within the state.

Dr FERRANDO-MIGUEL — We have not been involved with regards to noise or air quality issues due to diesel.

The CHAIR — I understand the New South Wales EPA has developed a report called *Diesel emissions and their management in NSW*. Is this the type of document the EPA would refer to when providing advice to the Level Crossing Removal Authority into the future perhaps?

Mr FINEGAN — One of the things we always aim to do is ensure that the advice we are giving is reflective of best practice. The EPAs across Australia share knowledge and information. In fact there is a group called HEPA, which is heads of EPA, and we meet regularly to make sure that we are sharing and working on things. Paul Torre, as our principal air expert, would be dealing with colleagues in other jurisdictions around these things, and in fact the national legislation requires us all to work together, so there are very good networks of professionals, knowledge-sharing and the like.

The CHAIR — Dr Torre, would you intend to provide any advice to the Level Crossing Removal Authority with regard to this particular report that has been developed by the New South Wales EPA?

Dr TORRE — Yes, if the request comes through and we are required to look at that. We work very closely with our colleagues. I think it is all about supporting each other and understanding what the impacts are and the best way to make these assessments.

The CHAIR — If that request was not forthcoming, though, would this be something you would be proactive in providing advice to the Level Crossing Removal Authority?

Dr TORRE — We tend to work within a work program, and as requests come through we just, in general, respond to advice.

The CHAIR — Going back to the western distributor tunnel, I am just curious to know what work has been done on the impact of the two different tunnel options on the environment. Have the two tunnel options been weighed up — the short and the long tunnel — in terms of the impact to the environment?

Mr FINEGAN — Exactly the point I was making about the earlier we are involved, the better. Those two proposals are now just out and being considered and there will be community consultation. We will be engaging with the proponents. We have been engaging to a degree, but now that there is more detail on the table, our advice, our input can be much, much more targeted.

The CHAIR — Have you provided that advice to Transurban as yet?

Mr FINEGAN — The advice is not just something that we hand over, it is an ongoing conversation. As the detail of the project grows and is informed by the advice we give, we will be more and more engaged in it.

The CHAIR — Can you give us an indication of the different environmental impacts of the two options, the short and long tunnel?

Mr FINEGAN — I have not been briefed on the two — we probably have not collectively sat down and weighed them up, but it would be just a layperson's comparator if I was to give you one at the moment.

The CHAIR — Would you be able to provide those to the committee?

Mr FINEGAN — What I would probably offer to the committee is these projects will take a lot of time to develop, and as for our involvement, as per the slide I was showing, as the project ages, our advice, our understanding of the components of the project will also increase. We are happy to come back at any time and brief you further as to what our concerns, what our issues and what our advice is on any aspect that might be of interest to you.

The CHAIR — The reason for my question is I think we have certainly heard from many community members that the lack of information forthcoming from Transurban leaves them in a position where they do not feel they have the capacity to make informed contributions to the two different proposals, which is why I ask that question whether or not even to this point that advice might be able to be made available to the committee.

Mr FINEGAN — As I understand the two different options, it is very early days, to use a phrase. We will work with them. We have been sitting down with Transurban and others talking about what we would expect from them to understand what the impacts are — the impacts during construction and the impacts during operation ultimately. There would be a whole range of impacts which could be of interest to the community and to others, but from our perspective it will be about air quality. Very basic first principles: a system which is congested and inefficient is going to be poorer for the environment than a system that is efficient and effective. If the proposal draws heavy vehicles off local streets onto a much more efficient network, that would be a better community and indeed environmental outcome.

The CHAIR — What do you think is the likely impact of the ventilation stacks of the proposed tunnels? Have you done any work on the impact of those particular ventilation stacks to this point?

Mr FINEGAN — This would be an area that the EPA would have a great degree to say and a great amount of influence on the ultimate outcome. We will begin a conversation. It is still too early in the process to get into

the detail of what might be coming from the chimney stacks, but we have experience. We have got a number of other tunnels in Victoria which have them. We look at what is happening around Australia and in other jurisdictions around tunnels, the exhaust fumes and the concentration of them into the chimney stack. A key aspect of the project from our perspective on the western distributor on the tunnel sections will be the placement of the exhaust stacks and how they are designed and operated to ensure that the impact on the community is as minimal as can be achieved.

The CHAIR — I am interested in land contamination in and around the positioning of the western distributor. Having visited the site and spoken to some locals there and understanding the history of the site and what the site has been used for in the past, I can understand that there are going to be some significant land contamination issues. Does the EPA have any reports or the like about possible land contamination in the area that the western distributor tunnel or project is expected to proceed in?

Mr FINEGAN — There will be some historical knowledge as to previous uses of land and the likely impact of those previous uses of that land. So if you had electricity transmission stations and the like, you can have leakage of PCBs, and those things are understood and manageable. There are other industrial sites in the area which are going through redevelopment and change. We sit down with landowners or project proponents. In fact, we require them under the Environment Protection Act to do a certain number of things if they are changing the use of that land.

I think one of the benefits of the project will be that any contaminated land that the project goes through and over will need to be cleaned up to a current modern standard. That will be a benefit of the project — that is, it will lead to the clean-up of contaminated sites. Of course there are risks with that, but they are manageable risks. They are risks that the EPA, industry and others have knowledge of and experience in dealing with, and that will be a key aspect of our interest in these projects.

The CHAIR — I would be interested — could the EPA provide any information reports, what have you, with regard to the particular tract of land the western distributor is expected to go through?

Mr FINEGAN — I do not know what we know, but what we would know would be publicly available. To make it readily and easily available to the committee, we would be quite happy to do that.

The CHAIR — That would be great.

Mr FINEGAN — How would we get that information, if I may. Land, particularly in and around that Whitehall Street area where it has had industrial uses in the past and it is going through a bit of a regeneration, when land is going through that type of change we often require it to be subject to what is called a 53X, so section 53X of the Environment Protection act, or a section 53V, so two different aspects of an environmental audit, which require the full characterisation or a particular characterisation of the elements of the environment, so the groundwater, the soil — whatever our concern is in. That is oversighted by independent auditors. As I said, that then becomes a publicly available document.

The intent behind that is both to understand the contamination on a site and to make sure that for whatever use that site is then used for in the future it is cleaned up to a degree that is suitable for that. The extremes I use are if it was a petrochemical plant and it was going to be a kindergarten, it would only ever be allowed to be a kindergarten when it was back to pre-European condition — that is, all the contaminants were removed. If it was a heavy industrial site and it was going to be used for another heavy industry, we might require the clean-up to be something a bit lesser.

The CHAIR — Excellent. Thank you.

Ms TIERNEY — With advising proponents for either the Metro tunnel or the western distributor on the placement and construction of ventilation, you talked about it being an ongoing conversation, but what is the exact timetable for detailed discussions with the proponents?

Mr FINEGAN — I do not have that in in front of me. I am not aware of the detailed program. German, do you have any detailed program?

Dr FERRANDO-MIGUEL — What we understand is the process is to liaise through the EES, so for the EES process the exact locations of those ventilation stacks may be pointed out and therefore the works approval

will be picking on that, and the EES process will also be picking on that as part of the studies. There is no defined, set time frame in which the EPA and Transurban or DEDJTR are going to be deciding the location. It is up to the proponent to make a proposal and detail what the environmental impacts will be of that proposal.

Mr FINEGAN — In areas of works approval, when it gets to the stage where people know, there will be conversations around the placement and that will have to obviously involve community engagement to make sure the community understands why chimney stacks, if I call them that, were going to be placed in any location and get an understanding. We would have a role in advising. As I said, early on it is about advice and later on it is about putting on the regulator's black cap and saying, 'You will do'. We would have a role and there would be many others with professional experience who can advise on the good placement. So there will be some technical requirements of a good site, so that there is clean air, there is air movement, it is not in a pocket et cetera. So the topography, the geography, the built environment around any chimney stack would need to be considered.

You will have public consultation on the various options and routes and alignments and ins and outs. As we go through that — 'we' being all the parties on the professional side — how we engage with the community will be really, really important. It will be the EPA's intent that we have really open and transparent engagement and information sharing.

When you get to some of this stuff there will be air modelling done and there will be an understanding of the base air requirement, so what is the air like there at the moment, what is the air likely to be like once this is up and operating. We would be requiring work to be done to understand the base air and in fact the future air and try and share that.

Ms TIERNEY — So the advice you give the proponents will be made publicly available?

Mr FINEGAN — The advice we give the proponents will be in many different forms. It will be small-a advice and capital-A Advice. What will be very public will be the works approval that we give to the proponents: what are the requirements, what are the air emissions allowed from chimney stacks and all those. That will be a publicly available document.

Ms TIERNEY — Does that then allow you as an authority to have discussions with the local community about the logic behind your position on certain things?

Mr FINEGAN — Yes. In a normal works approval — if I can use that language; we do works approvals on many, many projects — there is a threshold where we can call for what is called a 20B conference. Under the Environment Protection Act there is a section 20B which allows us to require the proponent to have community consultation. The EES actually has a requirement around consultation, which I think will be good, and our works approval will run parallel with that. So regardless of what happens with other processes, the works approval process will allow the EPA, if it is not satisfied that there has been enough community consultation, to require community consultation on the aspects of the project which we grant a works approval to, which would be chimney stacks.

Ms TIERNEY — In terms of the EPA's air quality monitoring network, both fixed and mobile, can you explain how this will help monitor the performance of both the Melbourne Metro rail tunnel and the western distributor?

Mr FINEGAN — Thank you for the question. If I pass round this slide, this is a slide we have developed for engagement with community groups and other interested parties.

Ms TIERNEY — So when you say you have used it with community consultation, where and when and who?

Mr FINEGAN — We have talked to the community many times about air.

Ms TIERNEY — This is just a general one?

Mr FINEGAN — Communities down around the Latrobe Valley. It has been used with the Brooklyn community consultation group around dust. It is basically one slide, and what it is trying to do is talk about what we do in the space of air monitoring.

Starting at the top, there is work that we do as a statutory authority, which is around measuring ambient air quality against the NEPM, which is the national environment protection measures. We are required to do that, and we do that through a statewide network of monitors. They tend to be, like in that picture in the top left-hand corner, static sites with sophisticated measuring equipment in them. There are some of those in the western suburbs.

The next is what we would call a campaign-type location, and it is shown there in the mobile trailer. To use a local location, we have used these in and around Brooklyn. So this is where we know there is community concern or indeed a change in the environment and we want to roll out so that we can measure the air quality at a local level and stream that to the community so the community can have some understanding about air quality. We have a campaign site, and we have them down in the Latrobe Valley at the moment and we have some in and around Brooklyn.

And then we have what is a new capacity for us, which is around rapid response, and this was in response to the Hazelwood mine inquiry. This is mobile equipment which we can deploy in response to an incident. Our capacity in this space has recently been enhanced following an announcement by the Premier down in Morwell last week around the government's response to the Hazelwood inquiry. In our rapid response — the name probably requires some explanation, but it is rapid in a context — we will also have a new capacity which we will have deployed, and then using the resources of the SES we can then move that quite quickly if there is an event elsewhere.

Finally, where we really want to move to is an aspect of citizen science. In my mind I see a network where we maintain a core network for basically a baseline across the state. We can deploy campaign sites to give community confidence around an issue, whether it is the Brooklyn dust issue or a major project or the like — we have the capacity to respond to things. We also want to engage with community about how we can move to a community-based, citizen science-based network where we can basically adopt monitors throughout Victoria and feed them into our system. There is a bit of science behind that, and there is a bit education and training and work around that, but that co-design of the air monitoring network is really important.

The purpose of giving this to you is to sort of differentiate what we mean by our air monitoring stations. So the stations we have in and around Footscray at the moment are around ambient air monitoring.

Ms TIERNEY — And so we have heard today that there is criticism about the location of some of those monitors and that it is perceived that they are too far away from where the real action is — about 2 or 3 kilometres away from Francis Street. What is the rationale?

Mr FINEGAN — Well, the air monitoring that is in is in for a purpose around ambient air monitoring, so it is actually in a good location for the task that it does. What is being asked is for a new task in air monitoring. And this is where we will work with the proponent and tell them and advise them — sorry, you should not say tell; we will advise them. As an influential authority, sometimes when you advise somebody, you can actually square your shoulders up a bit without being bullying. We are working with the proponents, and we are seeing them accept our advice that there will be a need — indeed both a technical need, if I put it that way, and also a community acceptance/perception need. So we will require, with a small 'r', work with the project proponent to see what extra air monitoring we can do in and around the elements of the project that is being delivered. So the community can have confidence.

I think is not unreasonable of the community to say, 'What is our current quality of air?', and, 'Has this project made it bad or worse?'. So there is a need to measure and monitor that, whether that is continuous or at key points. That is the type of thing that we will develop over time as the project progresses.

Ms TIERNEY — To be able to invent new benchmarks.

Mr FINEGAN — If somebody comes back in five years and says the air is so much worse or so much better, the EPA as the referee has to be able to go in and say whether that is factually correct or factually wrong. So we will require, and we are getting, very good cooperation from the project proponents, because they also want to be able to do these things around air monitoring.

Part of it is I can turn around to Paul, and Paul is an excellent technical person, and Paul can tell me, 'You need air monitoring at these three or four locations', and that will be a very good, technical answer. If I turn to the

community and ask, 'Where do you want the air measured?', there will be sometimes a difference, and we need to have that sort of co-design approach. Often you get down into the very rats and mice-type details: the best location for the air monitor is on the corner of Mrs Smith's house, but Mrs Smith does not want it, so you have to walk down the road to Mrs Singh's house and see if they will accept it. So there are all those sorts of property issues, and those are the types of things that we will work through on this.

Ms HARTLAND — I have got a range of questions. I would like to start off with the contamination issues. So having read the preliminary report in the business case for the western distributor, I was not surprised by anything that I read in there, knowing the history of the site. So you are going to be dealing with petroleum hydrocarbons, metals, volatile organic compounds, perfluorinated compounds, polychlorinated biphenyls, total petroleum hydrocarbons, polycystic aromatic hydrocarbons, asbestos, leachate from landfill, acid sulphate soils, oils and greases, cyanide and ammonia. Considering what has been on the site, I was not at all surprised by that list. My particular concern is obviously this site is an old SEC substation.

Mr FINEGAN — Sorry, you're talking about — —

Ms HARTLAND — AusNet.

Mr FINEGAN — Okay, thank you.

Ms HARTLAND — So, it is an old SEC substation, and so it is going to be an issue of the PFCs and the PCBs. I understand there is still no way of actually dealing with that waste; it is still considered to be intractable waste. Am I wrong about that? Is there a way now of dealing with these wastes? And where will they go?

Dr FERRANDO-MIGUEL — Yes, these wastes can be treated.

Mr FINEGAN — In Victoria we categorise contamination and, indeed, waste. So we have prescribed industrial waste, which are categorised A, B and C. Category B and C-type wastes, which would be the lower order wastes, but still of concern to us, can be treated on site or removed from site to a licensed premises to be dealt with. For some of the category A wastes, which would be some of the PCBs and the like, there are new and emerging technologies, including some in Victoria that are about to come onstream which can treat them. There are other sites in the area which, if I move away from the AusNet one in particular, have a similar alphabetic soup underneath them. One of those things, the sulphate soils, could actually be naturally occurring, so we need to differentiate between what is a naturally occurring, harmful element of the environment and what is mankind's pollution through the soils.

One of the things that we will absolutely be really, really hot on and which will be an absolute requirement — and I actually think is an unintended benefit or a perverse benefit of the projects — is that we will see the clean-up of otherwise unusable contaminated sites, and there will be no relief for projects, whether the proponent is the state or the proponent is a private party, around those types of things and there will be a willingness to deal with and to treat.

The other side that is in my mind, which is not on the line of this project but in the same area, is that the landowner has two treatments, which they are currently talking to us about. One is a heat treatment on site, and the other is to dig out the soil, take it to a licensed premises, treat it with a new technology and then return it to the site in a clean form. That is the type of work that we will be heavily involved in, in licensing and permitting. So any soils that come from there which have any type of contamination in them will be fully covered by EPA licence, EPA-licensed vehicles and going to EPA-licensed sites for treatment.

Ms HARTLAND — There are approximately 22 houses, and in front of them they have the Mobil tank farm — this is Hyde Street and Francis Street. They have got the tank farm in front of them, they have got AusNet at the back of them and Francis Street to the side of them. During this work what would you be recommending to those households?

Mr FINEGAN — During the work — it depends on what the work is, so whether it is the long tunnel or the short tunnel where there are things down there — we would require the proponent to be very mindful of both the amenity issues, so the noise and dust during construction and the noise and dust during operation. They will need to be fully considered. Those householders would be the sort of sentinel for us. So if you are going to do this in their back garden, they need to understand it and they need to be comfortable with it, to a degree.

The type of service we can offer a community consultation and the like is — and you found it difficult to read out the names of those things; these chemical compounds can look very scary and indeed hard to pronounce, and I am glad you did the pronunciation and not me as I would have just use the three-letter acronyms — that it can be very alien to people, but we have people in-house who can take the time to sit with people and talk them through it. We can be the honest broker. The proponent will do this as well, I am sure. Any good proponent of any project would do this — explain what might be of concern to the community to the community. Our intent is that the community has confidence in its environment, and to have confidence in your environment you need to understand it.

Ms HARTLAND — I do not think that confidence is there at all, so that is going to be a real problem. I met with those householders last weekend. A number of them want to be acquired. What would the opinion of the EPA be in terms of the kind of clean-up that is going to be required? Would it be easier for that clean-up to occur without those households there?

Mr FINEGAN — Without the detail in front of me I cannot answer that question. But again, that is the type of thing that could be considered by the project proponent. The acquisition of people's homes and things like that is not a role for the EPA. The acquisition of people's homes has many heavy considerations with it.

Ms HARTLAND — On the issue of air monitoring, I would have to say that I am someone who is actually quite critical of the fact that the air monitoring station is in Hansen Reserve, several kilometres away from Francis Street and there has not been an air monitor on Francis Street for some years. How will you be able to assess the baseline of what the air problems are on Francis Street now in comparison to what happens if this project is built?

Mr FINEGAN — If we think of Francis Street, Francis Street is quite long; it is north and south. Just for the record, I know the area very well because I worked out there for a number of years. Is it Francis Street you mean or is it the local streets — —

Ms HARTLAND — It would be between Williamstown Road and Hyde Street.

Mr FINEGAN — Thank you. So around that, in the past EPA has done some air monitoring there, and I might ask Paul maybe to expand on that in a moment. But we are talking with the project proponent around a number of air monitoring stations that need to go in so that we can have confidence around being able to answer that question, 'What is the current air quality in and around that?' so that they understand what the baseline is. As the project develops and as the detail of that becomes more concrete, for want of a better word, we will be able to talk more about that.

The issue that you raise is an issue that we have very much front of mind. Again, I come back to what I was saying earlier. There is what you need for the technical aspects of the job, to prove the job and what is needed et cetera, and then there is what you need, which may be a bit more than that, to give the community confidence. The advice we are giving to the proponent is that based on our recent hard-won experience around things like the Latrobe Valley and elsewhere, to give the community confidence sometimes you need to do more measurement than you might need technically and you might be measuring the absence of a problem, but that is a very important result to be able to share.

Paul, if you wish, could you expand on what we learnt from the air monitoring we did in Francis Street?

Dr TORRE — Back in 2012 the EPA undertook an air monitoring project at Francis Street. The sampling location was next to the Yarraville Community Centre, so it was a vacant piece of land. We monitored for around about 18 to 19 months. In the first 12 months — we generally do air monitoring for 12 months — you need to take into account the seasonal variation of pollution, but we extended it over another three to four months. That data can actually be used as baseline, for background, in terms of an assessment as well. We were really keen to understand the air quality impacts because Francis Street itself has obviously got a lot of trucks, and we feel that in the west it is probably one of the ones that is impacted the most because it has got those narrow streets and you have got houses right on there.

So the air monitoring results: our focus was on the main pollutants — particles — so we monitored PM 10, PM 2.5. They are very small particles that penetrate our lungs and affect our health. We also analysed a marker

for diesel emissions, a compound called benzo(a)pyrene, because it is a carcinogen and it is indicative of those diesel emissions.

In the first 12 months we actually had a couple of exceedances of the air quality standard; two of the exceedances were roadside, but one of them we felt was dust in terms of our work across the network. But I think the interesting one was in June and July, when we get those really low wind days and we get poor dispersal, when we actually got five exceedances. That gave us an indication of those impacts. I think that that is good data that could be used, with complementary monitoring, as part of the project to assess the impacts.

As Nial has already alluded to, there has been a lot of discussion about trying to get a better feel for the roots of the subregional air quality in Francis Street and that Yarraville area and complementing that with the Footscray station. Footscray station for us is a critical monitoring station because it tells us the general air quality for the inner west. We need to keep that there, but we need to complement that monitoring station with those subregional monitoring stations to get a good understanding of those impacts. So part of the assessment for a tunnel is to actually look at all these situations and try to understand the impacts before and after and try to see what discernible impact the ventilation stacks may have in a regional area, and that is the idea of having a number of air monitoring stations there to inform that decision and also to verify any of the air quality assessment processes.

Ms HARTLAND — So does that mean you are going to set up another air monitoring station in Francis Street?

Mr FINEGAN — I think what it says is it is not about moving the Footscray site to somewhere else, because Footscray is required for the broader network — —

Ms HARTLAND — I understand that. I am talking about, as you called it, a complementary site.

Mr FINEGAN — If it is what we would require, what we are aiming to do is have the proponent put in air monitoring around the place, and the detail of that we are working through.

Ms HARTLAND — So will the information from that air monitoring be accessible to the public?

Mr FINEGAN — My advice to the proponent when I met with them was in my experience you can do your measurement, you can store it up and you can release it every quarter, but the community will want to see it. We would be happy to adopt whatever they have and put it into our system to make it open and transparent and readily available to the community, but the detail of that still needs to be worked through. It is about what is the need for the project and what is the need for the community. I have also spoken to VicRoads about what they might be able to do with us and the community in and around the area. I think there is a willingness around to do more to understand the air quality of the area so that the community can have confidence in the air quality, and by confidence I mean understanding what it is as opposed to saying it is really good or really bad. That understanding of the air quality is really important, so I think you will see some positive movement, which is being driven off the back of these projects, in and around.

Ms HARTLAND — Could you give an indication of when you might meet with the community to talk about this? Because certainly there is no confidence at the moment because people do not know any of this is happening. We also know that we have some of the highest admission rates in the state for children on respiratory issues. So clearly we have an air problem, but residents like myself feel that we are not taken seriously on this.

Mr FINEGAN — Residents and the community are taken very seriously by us at EPA. Today, for example, we had an event and there were many community members at it, because we actually really appreciate it. We have got community reference groups. We take the views and the wishes of the community as very, very important. I am a public servant, so that is in fact my job. What I am doing is I am sharing really, really early some stuff which is evolving. It is not that we are doing this in the backrooms without engaging with the community; it is just not yet ready to be engaged with the community. But there have been discussions recently between VicRoads and EPA and groups such as MTAG on some of these things, and it is off the back of those conversations which is driving some of this thinking.

There are things that VicRoads, EPA, Maribyrnong City Council and others need to do around giving the community the information they need to understand their environment in and around Francis Street, Yarraville, regardless of these projects. I would go further and I would say that it is those community concerns, the arguments, the understanding and the work that Paul had done around air monitoring in Francis Street which actually build a case and the desire for projects such as the western distributor, so the full intent of this project is to get port vehicles off local roads and onto a much more efficient system. That is a positive.

On the work around air monitoring, as I was describing earlier, we very much want to be in the space of what would be called co-design, so you would have people who know the ins and outs and the detail of what is required, such as Paul, sitting down with the community to understand their needs and expectations and meeting at the happy ground in the middle.

Ms HARTLAND — We are not convinced that the trucks will actually use it if there is a large toll and if there is no truck ban, and the government has not at this stage committed to a truck ban on Francis Street, Somerville Road, Moore Street and Barkly Street. If we do not have that truck ban and trucks are not using it, we are still in exactly the same situation. That is a real problem for the local community, because government will not commit to that next step. So if we still have as many trucks on the road, because they are not going to pay the toll, what do we do then?

Mr FINEGAN — This is why before-and-after air monitoring, if you just go on air quality, will allow you to say whether the benefits of the projects have been assessed. Private motor vehicles also create air pollution, so it is not just trucks. Trucks have a particular issue around particulates and diesel fumes, but cars also create pollution. An inefficient system requires vehicles to stop and start — that is, traffic lights — and that leads to a greater degree of air pollution than an efficient system, which is about free-flowing traffic.

Ms HARTLAND — So I am back to my same question. I know it is probably not one you can answer, but without a truck ban the government could spend all of this money and it does not work, so then what do we do about air monitoring and air health? The other issue would be around venting. Is there any idea at this stage where the vents will be, where they will be physically located?

Dr FERRANDO-MIGUEL — The conversations are still ongoing, and those detailed designs are not yet ready. We have not seen those detailed designs.

Ms HARTLAND — How long off do you think that is?

Dr FERRANDO-MIGUEL — That is up to the proponent.

Ms HARTLAND — Yes, because again a really big concern for the community is where the air vents are going to go and how they are going to impact. If it is the short tunnel, some houses will be about 100 metres from the tunnel. I think that will have a detrimental effect on those people. What is your opinion?

Mr FINEGAN — Without having the detail in front of me, a generic answer would be if the homes are closer to the chimney stack, the chimney will have to be designed so that it has no impact on those homes. It is a bit of a chicken and an egg. The closer the community is to the chimney stack, the higher the order of the design of the chimney stack. That would be a very clear factor into the design and the requirements of EPA.

Ms HARTLAND — So what, then, is the regulation about how close houses are allowed to be to these facilities?

Mr FINEGAN — If you take intensive farming, just to go to a totally different example, we often talk about the marginal cow or the marginal pig. You can have 499 999 chickens and you do not need a buffer, and suddenly you have that 1 chicken and you need a buffer. Buffers and distances are not necessarily the best way to go. What we want to know is what is coming out of the top of the chimney, so we control what is coming out of the top of the chimney and it should not really matter how close or how far you are from that. But of course when you get down into the design and the detail, part of that management would be around the placement of it.

Dr TORRE — It is the whole air quality assessment process and the statutory framework that we do have. In terms of siting ventilation stacks and design, it is about the proponent demonstrating that they meet the policy, so there is quite an involved assessment using dispersion modelling and also assessment at ground level at different receptor sites, taking into account the way that the particles come out. We are in a fortunate position

because we have got two tunnels and we understand how the modelling works, and we have also had some ground proofing with monitoring stations, because we have got the Burnley tunnel and the houses beside the Burnley tunnel when the actual stack and the ventilation stack was done. There was a lot of monitoring and modelling done to verify that. When the tunnel first opened there was a monitoring station located right at the base of the closest house to the Burnley tunnel. The monitoring was done, because with one of the models we were estimating that they were getting some downwash from the actual stack onto the ground, so there was a lot of monitoring done there.

EastLink is another example. It was unusual, in a valley, so you had people living above the stacks, so there was monitoring to do that. All of this technical information feeds into the air quality assessment and the process to work out: are they meeting the ground level concentrations, what are the risks and are the ventilation rates working? On top of that we also got a lot of information about the way the compliance monitoring and the licence limits are, because in part of their licence is continuous monitoring, how are they meeting those licences. By meeting those licences, the ground level concentrations should be in the statutory process and framework that allow for that, to understand those impacts.

So in terms of the stacks, we are in a good position to understand those impacts, I think, from our previous studies, and I think the science is reasonably well developed.

Ms HARTLAND — So you are saying someone could live right next to a stack and there would be no problem.

Dr TORRE — What we do is you go through the process, you do quite an exhaustive air quality risk assessment and you evaluate the risks. What we have been doing in most tunnels is that you verify that later on. You actually do the monitoring and you confirm that, and that is exactly what we did at CityLink.

The CHAIR — Ms Hartland, I am sure you have probably got further questions, but at that point you might be able to put those on notice. I will ask Mr Finn if he has any questions.

Mr FINN — Getting back to the land contamination issue, and particularly the clean-up which will have to occur, what is the estimated cost do you imagine of a clean-up, just a ballpark figure?

Mr FINEGAN — I would not know, Mr Finn, because that would be based on the quantities and the degree of clean-up required.

Mr FINN — When do you think we would know? Would we have some idea before contracts were signed?

Mr FINEGAN — I am a civil engineer by background, and I am sure that there will be people who will know what the quantities are, because that will be a very big component of the cost and design of a project.

Mr FINN — Fair enough. We have seen a bit of excitement in recent times with government departments, as we have heard today, getting involved in the planning for the western distributor and the Premier and government ministers out promoting it — and Transurban promoting it like there is no tomorrow. Do you think that environmental concerns have been taken into consideration in all of this, or is it just a rush to set this project up?

Mr FINEGAN — I do not know what others have considered. The role of the EPA is to make sure that the aspects of the environment we are responsible for will be considered. The best example of that was what Paul was talking about around the air stacks on the tunnel. They will have to go through the EPA's works approval to make sure that they comply with the environmental standards of the state. On a first principles basis, an efficient transport system is better than an inefficient transport system, so the EPA would welcome anything which is about improving the function of the transport network of Victoria.

Mr FINN — Has there been any consideration to this point of those stacks and where they should be and the environmental impacts of them?

Mr FINEGAN — That will be very much in the detail, so the long and short tunnel options and the fact that it is twin-bore tunnels and all of those type of things will be the detail, but the EPA will work with the proponent to understand and make sure that they meet the requirements. But where they actually are, the exact grid point references of them, has not been decided yet.

Mr FINN — Will those criteria have to be met before the contract is signed?

Mr FINEGAN — The commercial arrangements of the projects are concerns for others. What we would say that is the chimney stacks could not operate — that is, be built and then operate — until there is a works approval in place. So the commercial arrangements are for others, and the signing of contracts is nothing I am involved in or would have interest in or know of.

Mr FINN — Just a purely a hypothetical situation: say that a project was being proposed, or was actually going ahead in fact, and no EES was being applied to it but the EPA saw clearly that there was significant environmental impact, what action would you take or could you take at that point to intervene to ensure that that project was abiding by the environmental rules?

Mr FINEGAN — In a generic sense it would depend on the component parts of a project. If any of them required an EPA works approval — that is, they fell under the scheduled premises regs — we would not have to wait for an invitation; we would be very much there and we would have a binary yes/no role on that aspect of the project. The planning and the environmental controls within the EES system and other planning regimes within Victoria are well established. They are run by competent people, and you would hope that people living up to the creed and the code of the Victorian public service code of conduct would do their job and make sure that only the best advice was given.

Mr FINN — Thank you. I mentioned to you earlier that I would raise this — the area out in Ravenhall, with the tip out there and the proposal to quadruple the size of the tip, which both Ms Hartland and I have expressed our very, very strong opposition to. I have met many, many people over an extended period of time who have been very seriously affected by the smell coming from the current tip. In fact it has affected their health. Some have been physically ill as a result of the smell coming from the tip but have not been able to receive any satisfaction at all from the EPA. The people down in Francis Street might be looking up at the people in Caroline Springs and Deer Park and saying, 'Well, if the EPA can't help those people, what hope do they have of helping us as well?'. What would you say to the people of Francis Street if they saw what has happened to the people in the outer west?

Mr FINEGAN — I would happily sit down with the people of Francis Street and explain my understanding of the aspects, so thank you for the question. Odour — odour from landfills and odour from industry premises — is a very, very serious problem, and that is why the EPA puts so much time into it. It is also a very difficult thing to prove under the current regulations and the legislative framework we have and requires an awful lot of work to prove it in a court of law.

We recently had a great success in the Brooklyn precinct against an operator there which was basically thumbing its nose — if you will excuse the pun — at the community. We had a huge success in the courts. That has led to that operator having to pay $200 000 to the community of Hobsons Bay for investment in environmental projects. So we will persist, and that took quite a tenacious approach.

Around the Ravenhall tip, I have met with the community out there. In my very first few weeks in the role I went out there and I heard similar claims as to the EPA not responding, that there were odour complaints and the like. We encourage community to make odour complaints to us — —

Mr FINN — I do not think you have to encourage them.

Mr FINEGAN — No, but we do encourage them. Sometimes people can get frustrated and stop or think it is pointless. It is very important that they make those complaints to us. I explained to the community out in Ravenhall what we do with those complaints. We are not the CFA, we are not the MFB; we cannot respond to all calls. But what we do is we map it, we use science and we build an evidentiary base — so what is the wind direction? What is the complaint? What is the type of odour?

When I was first at the EPA — I have been there just over 16 months — there was another premises out there which was giving rise to odour, so there was a differentiation between the landfill and a composting business. The composting business has moved on, so it is a lot easier to manage it and trace source. But we went through and we mapped it. There was a lot of commentary on social media about odours and about the EPA not listening, so again what I did is I deployed officers to sit out in the Caroline Springs CFA station to do one of two things. When there was a claim on social media as to an odour they were to go on patrol and see if they

could trace that odour. Often there was a mismatch between social media reports of odour and actual odour reports. So we have done that a number of times, where we have had outstationed people into the CFA station at Caroline Springs. I am sure you are aware of where it is and its proximity.

What does that allow us to do? When we get the complaint through our call centre we have people on the ground and we can respond very quickly. Because of the variability in the atmosphere and the wind, the odour can just dissipate, so we are taking it quite seriously. Some people in the community have been very vocal about us ignoring them and not listening to them. I have explained exactly what we are doing and the resources, and I have encouraged them that if they are not satisfied with that to ask the Ombudsman to have a look into it. The Ombudsman has indeed responded to some of those complaints from community, reviewed what the EPA has been doing in respect to those odour reports and is quite satisfied that the EPA is doing what it needs to be doing there.

I do not want to jump at shadows, but our role is to establish facts, and often facts and perceptions and other motives come into some of the reporting. We need to be able to differentiate between those. We will not shy away from holding duty-holders to account on things that we are able to point to and prove. We are very happy to work with community. In fact, as I said earlier, they are our bosses. We must work with them, we listen to them, we encourage them. I know that sometimes the expectation of community and the role of the EPA are mismatched, so we will do what we can to explain our role and work with community so they can understand the expectation that they can have of us. That is how we will work. We do not shy away from it. If people are upset with us, we will sit down with them and talk to them. Some people will listen, some people will take more time to listen and some people we have aggrieved in the past, and we must apologise for that and get on with it. We will build strong working relationships with community, and we will carry on.

To the community of Francis Street I would just say that that is how we operate now and that is how we intend to operate, and we will sit down and talk to them. In a previous life I had some responsibility for what was happening in and around Francis Street, and I spent many a dark night on Francis Street. Again, I am personally committed to getting to the bottom of problems and resolving them and reporting back to community.

The CHAIR — Thank you, gentlemen, for coming along today. As I indicated earlier, there may be some questions that committee members may provide you with on notice to respond to in writing. I want to thank you all very much for your attendance here today and for being forthcoming with our questions.

Mr FINEGAN — Thank you, Chair.

Witnesses withdrew.