



The Hon Andrew Constance MP
Minister for Transport and Roads

Mr David Blunt
Clerk of the Parliaments
Legislative Council
Parliament House
6 Macquarie Street
Sydney NSW 2000

1 June 2020

Dear Mr Blunt

I refer to the resolution of the Legislative Council of 13 May 2020 under Standing Order 52 in relation to the Western Harbour Tunnel and Beaches Link Program (**Order**).

I am advised that no documents are held by Transport for NSW that are covered by the terms of the Order which are lawfully required to be produced.

Notwithstanding that no documents exist within the terms of the Order, the NSW Government has on two occasions sought to negotiate in good faith with Mr John Graham MLC to understand the nature of the information which Mr Graham is seeking and to do its best to accommodate his requests. The offers made by the NSW Government should have gone a long way to satisfying the matters of interest to Mr Graham. Mr Graham was advised that initial cost estimates to voluntarily share information of a similar nature would be about \$250,000. Nevertheless, Mr Graham rejected the NSW Government's offer.

The NSW Government is currently in an active procurement process for the Western Harbour Tunnel and Warringah Freeway Upgrade projects, both of which form part of the Western Harbour Tunnel and Beaches Link Program. The NSW Government has not yet made its formal investment decision into the Beaches Link project. The NSW Government must protect the interests of taxpayers above all else by ensuring that the State obtains value for money in its procurement processes. To release documents concerning those matters to the Legislative Council at this time would jeopardise the NSW Government's commercial position. The NSW Government cannot accept this risk.

Even if the documents which are sought by Mr Graham were covered by the terms of the Order, they are Cabinet documents, and the Legislative Council has no power to require such documents to be produced.

Yours sincerely

The Hon Andrew Constance MP
Minister for Transport and Roads