

Transport Administration Amendment (Transport Entities) Bill 2017

Second Reading

Mr SCOT MacDONALD (21:08): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech into Hansard.

Leave granted.

Introduction

The Berejiklian-Barilaro Government is currently delivering more than \$40 billion of transport projects for the people of this great State.

This investment ensures an efficient, safe and technologically advanced transport future for our great State.

In the 2015-16 budget, the Government committed to the introduction of a Transport Asset Holding Entity [TAHE] to manage the State's portfolio of transport assets better and more commercially.

This bill delivers on that previous commitment through the introduction of amendments to the Transport Administration Act.

Proposal

We are committed to delivering the best infrastructure in the country for the people of New South Wales. The creation of a TAHE as a dedicated transport asset manager under the bill is another important step in that commitment.

To be able to deliver this record infrastructure program, we need to have our back office working as efficiently as possible.

The bill will establish new arrangements for transport asset management in New South Wales that reflect both modern governance and financial practices.

It achieves this mainly by amending the Transport Administration Act to support the consolidation of transport asset ownership and development of TAHE by:

- optimising the existing transport asset base, to enable a more effective, efficient and commercial approach to the management of transport assets, particularly property;
- allowing transport operating entities to focus on their core functions of operating transport services and delivering improved customer service; and delivering on capital and recurrent budget targets.

The bill before the House is another vital step towards realising the vision for a truly coherent transport service through a more robust and modern asset management framework.

The assets that TAHE will manage will include rail tracks, trains, stations and land. Its responsibilities will span the full range of financial management of those assets.

The creation of a dedicated asset holding entity, operating on commercial principles set out by the State Owned Corporation Act, will provide an efficient base from which we can optimise transport service outcomes for the NSW community.

Background

This bill is the continuation of the Government's ongoing work to manage the State's transport asset as efficiently as possible, in accordance with best practice financial management.

By way of background—as part of the November 2011 public transport reforms, a new operating model was established for the provision of government transport services within New South Wales.

These reforms established Transport for NSW [TfNSW] to be responsible for delivery of transport services.

In addition, in 2012 RailCorp was reformed and Sydney Trains and NSW Trains were established as government-owned operators to deliver services under contract to TfNSW and drive customer service improvements.

The Australian Bureau of Statistics [ABS] undertook a preliminary review of the rail sector following the establishment of the new operating model which separated RailCorp's operations and asset ownership in 2012.

An interim ruling was obtained to maintain the current classification until 31 December 2014.

However, the ABS indicated that the current classification was unlikely to continue beyond 1 July 2015 because it would be unlikely to meet the classification criteria for a public non-financial company under the updated General Finance Statistics [GFS] manual.

Under the GFS manual the ABS sets the criteria, definition and guidance for how all entities should be classified for all government agencies nationally.

Entities can be classified as General Government, Public Non-Financial Entities and Public Financial Entities.

These classification rules define how we produce our public financial reporting.

NSW Treasury, in consultation with the ABS and Transport, then developed the Transport Asset Holding Entity [TAHE] operating model.

In accordance with the General Finance Statistics classification, the ABS has classified TAHE as a commercial Public Non-Financial corporation.

The GFS framework applies to all State governments, and the ABS independently determines which sector a government entity belongs to.

The Government first flagged its intention to create a TAHE in the 2013-14 Half-Yearly Review, and announced the initiative more formally as part of the 2015-16 budget.

In addition to benefits from the consolidation of transport asset ownership and development in TAHE, the model maintains the previous sectoral classification of RailCorp as a public non-financial corporation, ensuring consistency of treatment with Victoria and Queensland.

Introduction of the Bill

I will now speak to the key features of this legislation.

The bill adopts a staged approach to amending Transport Administration Act to establish TAHE.

The first stage of the reforms, contained in schedule 1 to the bill, formally constitutes Sydney Trains, NSW Trains and a new Residual Transport Corporation as standalone entities under the Act.

Transport assets that will eventually be owned by TAHE will be held by or transferred to RailCorp, and amendments in schedule 1 will give RailCorp additional functions in relation to these assets.

It is in schedule 2 of the bill that we find the major structural reform being proposed by the Government.

Schedule 2 will change the name and constitution of RailCorp so that it converts to a statutory state-owned corporation [SOC] by the name of the Transport Asset Holding Entity.

Benefits of Transition/Staged Approach

Before the new SOC can be established, however, it will be necessary to commence a staged process of transitioning to the future state.

Members will be aware that RailCorp is currently a statutory corporation, established under the Transport Administration Act.

It is charged not only with the delivery of passenger train services to the people of New South Wales, under section 6 of that Act, but also with holding, managing and maintaining rail assets vested in it.

During the transition to the new SOC arrangements set out in this bill, the Government has determined that RailCorp should have the capacity to manage and maintain all transport assets for the State on an interim basis.

The process of consolidating assets in RailCorp will take some time.

For that reason, the bill also inserts section 6A of the Transport Administration Act to expand the asset-related functions of RailCorp.

Clause 12 of the bill will allow RailCorp to develop those transport assets in the interim, while it holds them.

The proposed asset management focus of RailCorp before it is converted into a SOC is consistent with the present division of asset management and passenger service delivery functions in NSW.

Passenger rail services are no longer provided directly by RailCorp, but rather by Sydney Trains and NSW Trains.

These two service providers were created by regulation as subsidiary corporations of RailCorp in 2012.

Previously these services were delivered directly by RailCorp under the CityRail and CountryLink brands.

RailCorp's chief focus is already on being an infrastructure and asset-holder.

The vesting of additional transport assets in RailCorp as phase one of its transition to being a SOC is a sensible and cost-effective way to manage the conversion process.

During this transition, the Government will identify independent board members for the new SOC and draft and consult on the TAHE's proposed operating licence. The Secretary of Transport will be a member of the independent board.

The operating licence mechanism—which is a common and effective regulatory approach for SOCs—is established in schedule 2 of the bill.

New sections 13 to 18 of the Transport Administration Act will be inserted to provide for a process for granting and regulating the TAHE's operating licence.

Schedule 1—Phase 1

The bill will consolidate ownership within one entity—in two distinct phases as already highlighted—rather than simply relying on the fragmentation of asset management and development across multiple entities, as exists today.

In schedule 1, Sydney Trains and NSW Trains will be formally constituted under the Transport Administration Act 1988 as new standalone entities.

Item 68 of schedule 1 of the bill will also insert a new schedule 9 to the Transport Administration Act to establish a Residual Transport Corporation, which will oversee the orderly wind-up of any residual activities of transport agencies.

Under clause 6 of schedule 9, this organisation will be managed and controlled by the Transport Secretary or such other person appointed by the Minister.

It will provide a streamlined way for the State to manage any assets and liabilities that are no longer required for the delivery of transport services in New South Wales, rather than the piecemeal approach that has existed to date.

Schedule 1 will also broaden RailCorp's current functions to transport services, rather than just passenger rail, and transport assets.

There will be no change to the provision of passenger rail services by the operators. It is these services that keep our people, and therefore our economy, moving.

Schedule 2—Phase 2

In schedule 2, the conversion of RailCorp into a SOC is a logical next step towards a more robust framework for transport in New South Wales and better financial outcomes for New South Wales taxpayers.

There are many benefits of separating service delivery functions from asset owner functions. Across the world, governments are expected to operate in a way that reflects best industry practice.

This is often described as governments being more "commercial".

While many people welcome that description, it can raise queries about how unprofitable but important services can continue to be delivered to our community.

It is worth reflecting, therefore, what "being more commercial" means when it comes to the management and development of transport assets.

At its core, being commercial in the management of public transport assets means being more transparent about the way the State funds and accounts for these activities. It means having greater clarity—for taxpayers and for the State—over what is being paid for, and what the cost is.

Commerciality means having a structure in place that properly accounts for the costs of recurrent services and capital expenditure and provides an identifiable return to the taxpayers on their massive investment in infrastructure.

To do this in the transport context, this Government believes that we need to have a clear delineation between a publicly owned asset holder and the State as a direct service provider.

This means the State's financial arrangements will be structured in a way that promotes the Government's long-term capacity to deliver critical services such as public transport, hospitals and schools.

We need a structure that allows a State government to budget for investment in infrastructure in a way that is properly and reasonably adapted for modern financial practices.

The Government has been working hard, in consultation with the Australian Bureau of Statistics, to bring forward a proposal that will meet those standards and provide stability in the State's budgeting processes.

We are confident that the bill before the House will achieve that stability by creating a framework in which the State's transport assets can be managed and developed in the public interest, but consistently with modern commercial expectations.

The proposed SOC status of TAHE will provide the necessary distance from day-to-day central government control to demonstrate its assets are being managed commercially.

Clause 11 of schedule 2 to the bill sets out in detail the functions that are required to complement the central asset-holding function of TAHE. These include constructing and developing the transport assets vested in it.

Issue 1: Staff and Fares

Nothing in this bill will change staff employment arrangements in Sydney Trains or NSW Trains.

Nothing in this bill will change the framework for setting public transport fares as this will remain to be determined by Transport for NSW.

The bill before the House will simply continue the separation between service and asset-owning entities that was commenced in 2012 with the creation of Sydney Trains and NSW Trains as subsidiary corporations.

Issue 2: Safety

Sydney Trains and NSW Trains will continue to take responsibility for safety relating to the core operational assets.

Sydney Trains and NSW Trains are authorised under the bill to maintain rail infrastructure, carriages, engines, plant machinery or equipment.

This makes it clear that even when assets are owned by TAHE, Sydney Trains and NSW Trains as asset custodians and operators assume responsibility for safely maintaining assets.

The proposed model therefore delivers the safety benefits of vertical integration in relation to core operational assets.

It will also ensure that Sydney Trains and NSW Trains meet their principal objective, under proposed new section 36A and 37A respectively, of delivering "safe, reliable railway passenger services in an efficient, effective and financially responsible manner".

There are numerous other ways in which passenger safety is protected under the proposed new framework.

The first of those is that the Transport Secretary not only retains his direction powers over Sydney Trains and NSW Trains, but that he also takes a seat on the board of the TAHE.

This ensures a co-ordinated approach to safety discussions across the sector.

The second significant safety protection is that the TAHE will need to comply with the terms of an operating licence issued by the Minister for Transport and Infrastructure.

The operating licence will set out terms dealing with, among other things, safety integrity, compliance with integration of transport modes, and compliance with network and asset standard requirements issued by Transport for NSW.

An operating licence is an effective tool as it allows Government to respond to new circumstances when necessary, such as when new safety issues emerge.

The third significant safety protection is that, like all SOCs, the portfolio Minister—being the Minister for Transport and Infrastructure in this case—will be able to issue a binding direction to the board to take certain identified actions in the public interest.

This is a significant power for use in exceptional circumstances only. It is also important to note that there is now a national rail safety regulator and a new national rail safety law.

Closing Statement

New South Wales has been and will continue to be a strong supporter of those national reforms.

This is a time of unprecedented expansion, improvement and renewal for our public transport infrastructure.

The New South Wales Government is growing a future transport system that is the envy of others and a source of great pride for us all. But to do that, we need to have a strong back office structure based on industry best practice.

This bill is a sensible way of unlocking the vast potential of transport assets owned by a multitude of State agencies and a vital step towards delivering on the Government's Future Transport Plan for the whole NSW community.

I commend the bill to the House.