

EMISSION FREE MODES OF PUBLIC TRANSPORT

Organisation: Transport Workers' Union of NSW
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Partially
Confidential



**Legislative Assembly Committee on Transport and Infrastructure
Inquiry into Emission Free Modes of Public Transport**

Submission – Transport Workers' Union of New South Wales



Transport Workers' Union of NSW

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Introduction

The Transport Workers' Union of NSW (**the TWU**) welcomes the opportunity to make this submission to the Legislative Assembly Committee on Transport and Infrastructure's Inquiry into Emission Free Modes of Public Transport (**the Inquiry**). As the trade union representing bus drivers employed by private operators in NSW, the TWU has a particular interest in the NSW Government's transition to electric buses. This submission will focus on the work, health and safety (**WHS**) implications for the NSW Government, operators, workers and the general public, with a particular focus on the use of electric buses in Sydney Metropolitan Bus Region 6, operated by Transit Systems Australia (**TSA**).

WHS Issues/Concerns Specific to Electric Buses

As was identified in the [TWU's submission to a previous similar Inquiry](#) held by this Committee in 2019, one of the primary health and safety concerns relating to the operation of electric buses is the lack of awareness from pedestrians and other road users, particularly given the near-silent operation of electric buses. Bus drivers across NSW, and particularly in metropolitan Sydney, are under increasing pressure to meet unrealistic timetabling demands – largely due to the NSW Government's botched privatisation program in which contractors' payments are linked to meeting on-time running targets. This situation already creates unnecessary safety risks, and these risks are only likely to be exacerbated by the transition to near-silent buses which will be more easily missed by pedestrians and other road users.

However, in addition to these safety risks for pedestrians and road users generally, there are also a number of work health and safety risks specific to the use of electric buses that primarily affect the workers employed to drive and maintain these vehicles. These risks include, but are not limited to:

- Electrocutation when plugging vehicles in and/or after being involved in a crash
- Combustion and/or battery explosion
- Chemical leakage from batteries

Each of these represent risks associated with the operation of electric buses that the NSW Government and contract operators have a number of obligations to eliminate and/or control in the conduct of their business.

Overview of WHS Obligations Regarding Electric Buses

Under the *Work Health and Safety Act 2011* (NSW) (**the WHS Act**), both Transport for NSW and individual bus operator companies have a number of duties in relation to workplace health and safety, in the context of the rollout of electric buses. In the context of the WHS Act, Transport for NSW is a person conducting a business or undertaking¹ (**PCBU**), as are the companies operating the contracts².

¹ *Work Health and Safety Act 2011* (NSW) ('WHS Act') ss 5,10

² *Ibid* s 5



This reflects an important principle underpinning the WHS Act; that a PCBU cannot abrogate its safety obligations by contracting out the work³. As such, under the WHS Act both Transport for NSW and the companies operating bus contracts jointly hold duties⁴ to ensure:

- The safety of workers engaged by/caused to be engaged by them, and/or workers whose work is influenced or directed by them⁵
- Provision and maintenance of a safe work environment⁶, safe plant/structures⁷ and safe systems of work⁸
- Provision of any information, training, instruction or supervision necessary⁹
- That fixtures, fittings and plant are without risks to health and safety of any person¹⁰
- Consultation with workers who are affected by the use of electric buses¹¹
- Consultation with elected health and safety representatives¹²

Furthermore, under s 23 of the WHS Act there are a number of duties imposed upon the manufacturers of the electric buses, including ensuring as far as reasonably practicable that the buses are without risks to the health and safety of workers¹³ and providing, to whomever it supplies the buses to, adequate information to ensure the health and safety of workers when using the buses¹⁴.

Compliance with WHS Duties to Date – TSA Region 6

As outlined above, Transport for NSW and bus operators have a number of significant duties in relation to the health and safety of bus drivers in connection with the rollout of electric buses. While the electric bus rollout in Sydney is still in its early stages, there are already significant red flags about the deficiencies in work health and safety procedures relating to the rollout.

In the course of gathering information to assist in the preparation of this submission, the TWU spoke to members employed by TSA at the Leichhardt depot in Region 6, who are involved in operating electric buses. TSA operates the most electric buses of any operator in Sydney, with between 40 and 50 electric buses currently making up part of the TSA fleet. During these conversations it became clear that there is a significant shortcoming in TSA's and Transport for NSW's compliance with their WHS obligations regarding the rollout of electric buses.

³ <https://www.safeworkaustralia.gov.au/doc/whs-duties-contractual-chain-factsheet>

⁴ WHS Act ss 15-16

⁵ Ibid s 19(1)

⁶ Ibid s 19(3)(a)

⁷ Ibid s 19(3)(b)

⁸ Ibid s 19(3)(c)

⁹ Ibid s 19(3)(f)

¹⁰ Ibid s 21(2)

¹¹ Ibid ss 47(1), 49(d)

¹² Ibid s 70

¹³ Ibid s 23 (2)

¹⁴ Ibid s 23(4)



Some of the issues raised by TWU members during these conversations included:

- Drivers being offered little/no specific training on how to operate electric buses, other than the most rudimentary “here’s how you turn it on/off”
- No training on what to do if a driver is involved in a crash while driving an electric bus
- Drivers rarely, but on occasion, being instructed to plug vehicles on to charge despite not being trained in how to do so safely, and this generally being work performed by depot maintenance workers only
- Charging stations in the depot being installed in full exposure to rain and the elements
- Significant potholes and other damage being left inflicted upon the depot as part of the installation of charging stations and not being subsequently rectified, creating hazards for drivers and other workers

On the basis of these conversations and the issues raised, two TWU Officials exercised a right of entry at the TSA Leichhardt depot on 5 July 2022, under s 117 of the WHS Act, on the basis of a suspected contravention of the company’s obligations under the Act. In exercising this right of entry, the TWU sought to inspect copies of the following documents:

- All documents (including but not limited to meeting minutes and correspondence) exhibiting consultation undertaken with current workers relating to the operation of electric buses
- All training materials provided to current workers in relation to the operation of electric buses
- An incident register which provides records of all workplace injuries and WHS incidents involving electric buses over the period of the previous 12 months
- Risks assessments (including a risk matrix) completed by [TSA] with regards to the operation of electric buses
- All documents received by [TSA] from Transport for NSW and/or electric bus manufacturer(s) providing information, training or instruction regarding the safe operation of electric buses

A copy of the full notice of entry is attached at **Annexure A**.

Perhaps unsurprisingly given the conversations with members prior to the exercising of this right of entry, TSA refused and/or was unable to provide the TWU with access to most of the documents sought. In cases where TSA did produce documents, they were almost invariably of a generic nature, with no specific consideration of the Leichhardt depot or the specific work practices of drivers at that depot/across Region 6. The following table provides a summary of the documents that were/were not supplied by TSA in response to the right of entry exercised by TWU Officials:

| Category of documents | TSA response |
|---|----------------------------------|
| All documents (including but not limited to meeting minutes and correspondence) exhibiting consultation undertaken with current workers relating to the operation of electric buses | No such documents were provided. |



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| Category of documents | TSA response |
|--|---|
| All training materials provided to current workers in relation to the operation of electric buses | The only 'training' materials provided by TSA were in the form of generic training materials regarding the operation of buses generally (e.g. as part of initial driver training given regardless of the kind of vehicle being operated) – nothing specific to electric buses. TSA also supplied what were effectively 'user manuals' for the electric vehicles, which appeared to have been produced by the manufacturer(s), although in conversations with TWU Officials the TSA staff indicated that these manuals had not been provided to drivers. |
| An incident register which provides records of all workplace injuries and WHS incidents involving electric buses over the period of the previous 12 months | TSA staff indicated that an incident register existed, but was not able to be inspected by TWU Officials due to issues with the software used to store the register and difficulties in printing a hard-copy. |
| Risks assessments (including a risk matrix) completed by [TSA] with regards to the operation of electric buses | The only risk assessment produced by TSA appeared to be a standard risk assessment produced by the manufacturer(s) of the bus, and as such failed to take into consideration any factors related to the traffic management at the depot or any other aspect of the use of electric buses specific to TSA's operations. |
| All documents received by [TSA] from Transport for NSW and/or electric bus manufacturer(s) providing information, training or instruction regarding the safe operation of electric buses | No documents of this category were provided other than the 'user manual' and 'risk assessment' referenced above which appeared to have been created by the manufacturer(s) of the buses. |

The right of entry also uncovered a number of significant issues specific to the Leichhardt depot caused by the electric bus rollout. Changes to the layout of the depot and its traffic management processes appear to have been made in a very ad-hoc, haphazard manner to accommodate the influx of electric buses. For example, the location in which the charging stations for electric buses have been installed has resulted in buses being parked extremely close together – to the point where drivers are occasionally required to 'shuffle' sideways between their bus and the adjacent bus when exiting a bus.

Additionally, the modifications made to the Leichhardt depot in order to 'retrofit' the electric bus charging stations have caused significant damage to the road surface within the depot, which has largely been unrepaired. TSA staff advised the TWU Officials during their right of entry that they did not intend to perform any rectification work until the full conversion to electric buses at the site was complete. It is clear that the ad-hoc nature of the electric bus rollout is contributing to TSA's reluctance to address this clear health and safety risk, however given the TWU has already received reports of drivers tripping in potholes created because of the electric vehicle charger installation, TSA's refusal to address these issues is grossly inadequate and of significant concern.



[REDACTED]

Need for Transport for NSW to Take Leadership Role

It is abundantly clear from the above examples that the existing systems and processes for managing the WHS implications of the NSW Government's electric bus rollout are woefully inadequate. Given this rollout is expected to drastically accelerate over the remainder of this decade, and will eventually apply to all bus contract operators (not just TSA), the TWU is of the view that Transport for NSW is obligated – both legally and morally – to play the leading role in ensuring the rollout of electric buses adequately addresses the WHS issues identified in this submission (above others).

Specifically, the TWU is of the view that, in consultation with workers, operators and bus manufacturers, Transport for NSW should develop and provide a comprehensive program for managing the WHS risks associated with the electric bus rollout, including but not limited to:

- Comprehensive training packages/materials for all workers involved in the use of electric buses about the **specific** safety issues/risks associated with electric buses compared to regular buses
- Detailed planning with operators (and in consultation with workers) about changes to their depot layout and traffic management plans to accommodate electric buses, including the installation of charging stations

It is simply not good enough for the NSW Government to mandate operators transition to a fully-electric bus fleet in a relatively short time period, while washing their hands of any responsibility for the WHS risks and implications of that transition. The TWU urges the Committee to include comprehensive recommendations in line with the above in its final report resulting from this Inquiry.

¹⁵ Ibid s 118(3)



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NOTICE OF ENTRY UNDER THE WORK HEALTH AND SAFETY ACT 2011 (NSW)

I [REDACTED] representing the Transport Workers' Union of New South Wales (TWU) intend to enter Transit (NSW) Services Pty Ltd, the person conducting a business or undertaking (PCBU) at 230-240 Balmain Road, Leichhardt NSW 2040.

Date of proposed entry: 5 July 2022

Purpose of entry

Section 117 – to inquire into a suspected contravention of the *Work Health and Safety Act 2011* (NSW) (WHS Act).

Details of the suspected contravention to which this notice relates:

After conversations with workers, I suspect the PCBU and Officers of the PCBU is failing to:

- Ensure the provision of information, training, instruction or supervision necessary in relation to the operation of electric buses, as required under s19(3)(f) of the WHS Act.
- Consult with workers who carry out the business or undertaking whose work health and safety are directly affected by the operation of electric buses as required pursuant to s47, s48 and s49 of the WHS Act.
- Consult with other duty holders, namely Transport for NSW as a concurrent PCBU, in relation to this matter as required under s46 of the WHS Act.

Accordingly, I request access to the following documents under s118(1)(d) of the WHS Act:

- All documents (including but not limited to meeting minutes and correspondence) exhibiting consultation undertaken with current workers relating to the operation of electric buses
- All training materials provided to current workers in relation to the operation of electric buses
- An incident register which provides records of all workplace injuries and WHS incidents involving electric buses over the period of the previous 12 months
- Risks assessments (including a risk matrix) completed by the PCBU with regards to the operation of electric buses
- All documents received by the PCBU from Transport for NSW and/or electric bus manufacturer(s) providing information, training or instruction regarding the safe operation of electric buses

I declare that the TWU is entitled to represent the industrial interests of relevant worker(s) at this workplace who are or are eligible to be a member of the TWU. The provision in the union's rules that entitles the union to represent the industrial interests of these worker(s) is Rule 5.

AUSTRALIA'S STRONGEST UNION, GIVING TRANSPORT WORKERS A POWERFUL VOICE SINCE 1888

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59 Princes Highway,
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ANNEXURE A - TWU WHS NOTICE OF ENTRY

I declare that the suspected contravention relates to or affects worker(s) that the TWU is entitled to represent.

Dated: 5 July 2022

[REDACTED]

WHS & Research Official of the Transport Workers Union of NSW

Phone No: [REDACTED]

Email: [REDACTED]@twunsw.org.au

This Notice has been prepared to comply with clauses 27-30 of the *Work Health and Safety Regulation 2017* (NSW).