



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 6

## Privatisation of bus services

Report 18

September 2022

6



Portfolio Committee No. 6 – Transport

# **Privatisation of bus services**

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Report no. 18.**

Privatisation of bus services

“September 2022”.

Chair: Ms Abigail Boyd, MLC



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## Terms of reference

1. That Portfolio Committee No. 6 inquire into the privatisation of bus services via the Sydney Metropolitan Bus Contracts, and in particular:
  - (a) the modelling, rationale and process of privatising bus services,
  - (b) the impact on the commuting public through the loss of bus stops and services,
  - (c) the economic, social, safety, employment and environmental implications of bus privatisation,
  - (d) the transition to an electric bus fleet and supporting infrastructure,
  - (e) the impact of bus privatisation on worker pay and conditions, and
  - (f) any other relevant matter.
2. That the committee report by 1 October 2022.

The terms of reference were self-referred by the committee on 4 February 2022.<sup>1</sup>

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<sup>1</sup> *Minutes*, NSW Legislative Council, 22 February 2022, p 2964.

## Committee details

### Committee members

<b>Ms Abigail Boyd MLC</b>	The Greens	<i>Chair</i>
<b>The Hon Mark Buttigieg MLC<sup>1</sup></b>	Australian Labor Party	<i>Deputy Chair</i>
<b>The Hon Mark Banasiak MLC<sup>2</sup></b>	Shooters, Fishers and Farmers Party	
<b>The Hon Wes Fang MLC<sup>3</sup></b>	The Nationals	
<b>The Hon Shayne Mallard MLC<sup>4</sup></b>	Liberal Party	
<b>The Hon Daniel Mookhey MLC</b>	Australian Labour Party	
<b>The Hon Chris Rath MLC<sup>5</sup></b>	Liberal Party	

- 1 The Hon Mark Buttigieg MLC substituted for the Hon John Graham MLC from 4 April 2022 for the duration of the inquiry. The Hon Mark Buttigieg MLC was elected Deputy Chair for the duration of the inquiry on 2 May 2022.
- 2 The Hon Mark Banasiak MLC was on a leave of absence for the duration of this inquiry.
- 3 The Hon Wes Fang MLC replaced the Hon Lou Amato MLC as a substantive member of the committee from 1 March 2022.
- 4 The Hon Shayne Mallard MLC replaced the Hon Scott Farlow MLC as a substantive member of the committee from 29 March 2022.
- 5 The Hon Chris Rath MLC replaced the Hon Don Harwin MLC as a substantive member of the committee from 29 March 2022. The Hon Don Harwin MLC was a substantive member of the committee to 22 March 2022.

### Contact details

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Liz Clark, Senior Council Officer

Gareth Perkins, Administration Officer

Madeleine Foley, Director

## Chair's foreword

Public transport is a public good. Its value extends beyond its direct profitability, and goes to the heart of what we value in our society. The people of New South Wales deserve accessible, affordable and reliable public bus services. They have a right to expect that the NSW Government will deliver this public service not just to make a profit, but because it's the right thing for government to do – to empower community mobility and equity.

Private bus operators have a long history in New South Wales. In fact, bus services in some metropolitan and regional communities have only ever, or for many decades, been privately operated. Most companies are family owned and operated, are embedded in their community and responsive to its needs. Those private bus services were not the focus of this inquiry.

This inquiry has taken a critical lens to the transfer of bus services in metropolitan and outer-metropolitan Sydney from the State Transit Authority to private bus operators, most of which are large and multinational companies.

The community anger and frustration at the degradation of services is palpable. It is clear to us that the NSW Government's decision to privatise these bus services has been nothing short of a disaster.

Of course, the government would have us believe that there has been no privatisation, and that the approach to contracting out to private operators is a franchising model distinct from privatisation. The committee, and the public, disagreed.

The Government is no longer in competition with the private sector as it no longer has the public sector staff and expertise to run bus services. The NSW Government is also further removed in terms of its accountability to passengers, and some private operators are using their own assets, such as depots, leaving the NSW Government short of assets if a contract were to be cancelled. Accordingly, the committee has found that these bus services have in fact been privatised.

As is always the case when we privatise public services, it's the public who loses out the most to short term political thinking from a government seeking to reduce budget expenditure by transacting with a private company motivated by profit.

In the instance of bus services in New South Wales, the realisation of the NSW Government's objective to cut operational costs, and the private operators' objective to make a profit, has come at the expense of effective and reliable bus services for the public, and fair and equitable working conditions for bus drivers. These impacts have been acutely felt in areas that in recent years have transitioned from public to private hands: Sydney's Eastern Suburbs, North Shore, Northwest, Northern Beaches and Inner West, and in Newcastle.

In these areas, bus services have been cut dramatically. Fewer bus stops and buses operating less frequently with reduced coverage creates difficulties for the public to access essential public infrastructure and services. The impact is exacerbated for the more vulnerable cohorts of the community who rely heavily on high quality and efficient bus services for their mobility and quality of life.

The pressure the NSW Government places on private operators to keep costs low, combined with private bus operators' profit motive, is also creating reduced, and sometimes unsafe, working conditions. In addition, there is disparity among the industry in terms of pay and conditions, with a race-to-the-

bottom mentality taking hold across private operators. Even more of a concern is that some private operators are using industrial instruments to create a two-tiered workforce by paying some of their drivers less to do the same work.

There is a strong case for bus services to revert to government operation. Critically, privatisation will only become harder to unwind as asset ownership is increasingly transferred to private hands. The committee calls on the NSW Government to consider taking action to bring public bus services in the four recently privatised Contract Regions in metropolitan Sydney which were formerly operated by the State Transit Authority, as well as bus services delivered under the integrated public service contract for Newcastle, back into the operation, control and ownership of the NSW Government.

In the meantime, several significant changes should be made to Transport for NSW's bus privatisation model. These include introducing contractual safeguards to protect and maintain local and less patronised bus routes, improving community and stakeholder consultation and complaints and feedback mechanisms, increasing transparency of contracts, and ensuring competitive tendering practices do not directly or indirectly preference larger or multinational corporations over smaller, local private operators.

Turning to the bus industry workforce, the NSW Government must lead, in partnership with relevant unions, the introduction of contractually protected, industry-wide minimum pay and employment conditions. Competitive tendering for bus services contracts must respect these conditions and protect the 'same work, same pay' principle. If bus drivers' pay and conditions do not improve, bus drivers may seek employment with operators that offer better conditions, or worse, they may leave the industry altogether. It is incumbent on the NSW Government to implement measures to avoid any shortage or understaffing of bus drivers.

Another key area of inquiry was the progress in transitioning to a zero emissions bus fleet in NSW. While progress has been made towards this aim, the transition must be accelerated. The NSW Government must take the initiative to procure zero emissions buses and charging infrastructure, and support private operators through leading and funding the rollout of the government-owned zero emissions bus assets. It is up to the NSW Government to ensure that the transition to zero emissions buses prioritises strengthening the diversity of bus operators in the market and does not favour larger and multinational companies.

Finally, the committee thanks all those who took the time to share their views through submissions and oral evidence. The high level of engagement with the inquiry by individual community members clearly demonstrated to the committee the impact of these issues on people's everyday lives. I also wish to acknowledge and thank my committee colleagues for their thoughtful contributions to the inquiry and to everyone who worked away behind the scenes to make this inquiry possible.

I commend this report to the House.



Ms Abigail Boyd MLC

**Committee Chair**

# Findings

**Finding 1****16**

The recent privatisation of bus services has not resulted in any real market competition because the competition occurs only at the tender phase after which time the market for a particular area is monopolised albeit regulated. This creates a potential situation where the market can be characterised as more of an oligopoly than a free market and in those circumstances does not result in the best service for the travelling public. Under public ownership the benefits of such monopoly control can be passed on directly to the public through low fares and increased service provision and direct accountability.

**Finding 2****39**

The privatisation of bus services in New South Wales has created an incentive for private companies to sacrifice the needs of more vulnerable people in order to cut costs while still appealing to a wide enough user base to meet their contractual obligations.

**Finding 3****39**

The privatisation of bus services in Sydney and Newcastle have resulted in more limited service delivery, higher costs for passengers and worse pay and conditions for bus drivers.

**Finding 4****39**

Recent changes to bus services in Sydney and Newcastle, including location of stops, frequency of services and changes to routes, have at times occurred without comprehensive community consultation.

**Finding 5****39**

There are instances where private operations have been an obvious success such as on the Central Coast where the operator Red Bus Services is driven not just by profit but also by customer and staff satisfaction. This correlates with the smaller based family ownership and control structure of the company and their historical connection with that community.

**Finding 6****63**

The recent privatisation of bus services in NSW has resulted in a two-tier class of workers whereby the wages and conditions of some bus drivers working on exactly the same buses and routes as their colleagues are paid less and have worse conditions because they are employed by the private operator under a separate industrial instrument.

## Recommendations

### Recommendation 1

40

That the NSW Government give consideration to taking action to revert bus services to being publicly-owned-and-operated for:

- bus services in the four recently privatised Contract Regions in metropolitan Sydney (Contract Regions 6, 7, 8 and 9) that were previously operated by the State Transit Authority
- bus services delivered under the integrated public service contract for Newcastle.

### Recommendation 2

42

That the NSW Government implement the following changes to its contracts and processes to engage private bus operators, with the objective of ensuring fair competition in the market, and that every community in NSW has access to bus services to and from essential public infrastructure and services:

- key performance indicators in contracts must include targets connected to the level and quality of service to avoid rationalisation and reduction in services to meet patronage and on-time running targets
- key performance indicators and other key contractual provisions, such as disability accessibility requirements and incentive payments and abatement provisions, must be disclosed and publicly available
- Transport for NSW should give consideration to maintaining or improving the breadth of coverage as part of the criteria for assessing a private operator's proposal to deliver a service
- meaningful and comprehensive consultation must be mandatory before network and services changes are implemented, both when proposed by a private bus operator and by Transport for NSW, and responses from the public and Transport for NSW's decisions must be made public
- the process set out by private operators to receive complaints and feedback from the community must be widely advertised and easily accessible across various platforms of communication
- complaint avenues should be consistently monitored by private operators who must regularly relay complaints received to Transport for NSW, and responses from the public and Transport for NSW's decisions must be made public
- provision should be made for an escalation process for customers who are dissatisfied with the complaint process via the private operator. The escalation process should include direct access to Transport for NSW
- performance against key performance indicators relating to service delivery and customer satisfaction must be actively monitored and private bus operators penalised via abatement clauses for failure to maintain adequate service provision
- competitive tendering practices and processes should not directly or indirectly preference larger or multinational corporations over smaller, local private operators.

### Recommendation 3

42

That the NSW Government must ensure that every community in NSW has access to reliable and accessible bus services to and from essential public infrastructure and services.

- Recommendation 4** **63**  
 That the NSW Government in partnership with relevant unions, stakeholders and private bus operators, introduce a requirement for an industry-wide enterprise agreement which is applied to the bus industry throughout New South Wales and are inserted into contracts and are considered central to the competitive tender process.
- Recommendation 5** **63**  
 That the NSW Government, in partnership with relevant unions, stakeholders and private bus operators, introduce industry-wide minimum pay and employment conditions which are applied to the bus industry throughout NSW and are inserted into contracts and are considered central to the competitive tender process.
- Recommendation 6** **64**  
 That the NSW Government ensure that the competitive tender process for the delivery of bus services across New South Wales prioritises the maintenance of adequate levels of service delivery to the community, preserves and upholds high employment standards and protects the principle of 'same work, same pay' both across the industry and within a Contract Region.
- Recommendation 7** **64**  
 That the NSW Government ensure adequate staffing and sufficient retention rates are maintained to support quality service delivery, with appropriate penalties for non-compliance with key performance indicators that may result from understaffing.
- Recommendation 8** **74**  
 That the NSW Government accelerate the transition to zero emissions buses in New South Wales and provide the required leadership and support regarding procurement and funding to the industry so as to retain a diversity of operators and sufficient competition in the market.
- Recommendation 9** **74**  
 That the NSW Government ensure that through its contractual or other arrangements with private bus operators it:
- retains ownership of all zero emissions buses and related infrastructure, including charging infrastructure
  - prevents private operators gaining an entrenched advantage for future contracts through ownership of zero emissions bus assets.
- Recommendation 10** **74**  
 That the NSW Government consult with key stakeholders, including local councils and advocacy groups, to ensure that zero emissions bus programs are fit for purpose in each Contract Region across New South Wales.
- Recommendation 11** **75**  
 That the NSW Government work with industry partners to develop suitable training programs and accreditation for zero emissions bus operators and maintenance staff.

## Conduct of inquiry

The terms of reference for the inquiry were self-referred to the committee on 4 February 2022.

The committee received 413 submissions and 3 supplementary submissions.

The committee received 1,697 responses from individual participants to an online questionnaire.

The committee held three public hearings at Parliament House on 2 May 2022, 3 May 2022 and 31 May 2022.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents, correspondence and answers to questions on notice.

# Chapter 1 Introduction

This chapter sets out the background to the delivery of bus services in New South Wales. It first discusses the division of bus services across Sydney into different contract regions and the various private bus operators across Sydney contracted to deliver services. This is followed by a brief history of the role private bus operators have had over time in delivering services in the New South Wales. It then details key changes between 2005 and recent years to the way bus services are delivered and the development of private bus operators in the market.

The chapter then turns to the model for private bus operators' delivery of bus services in New South Wales, noting the contractual arrangements such as key performance indicators and remuneration. It then outlines the rationale and benefits of privatised bus services. The chapter concludes with a brief discussion on the differing views on whether the model to engage private bus operators to deliver bus services is a form of privatisation or a franchising approach.

## Private operators' delivery of bus services in New South Wales

- 1.1** This section sets out the arrangements for private bus operators delivering public bus services in Sydney metropolitan and outer metropolitan areas. It then outlines the role of the NSW Government and private bus operators in delivering public bus services in New South Wales and how this has changed over time.

### Contract Regions and bus operators

- 1.2** All bus services in the Sydney metropolitan and outer metropolitan areas are currently operated by private bus companies. The Sydney metropolitan area is divided into 14 geographical contract regions within which private bus companies have been awarded contracts to deliver public bus services.<sup>2</sup> The bus Contract Regions, the suburbs within those regions and the private bus operators contracted to deliver services are set out below in Table 1 and represented on the map at Figure 1.

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<sup>2</sup> Submission 258, Transport for NSW, p 3.

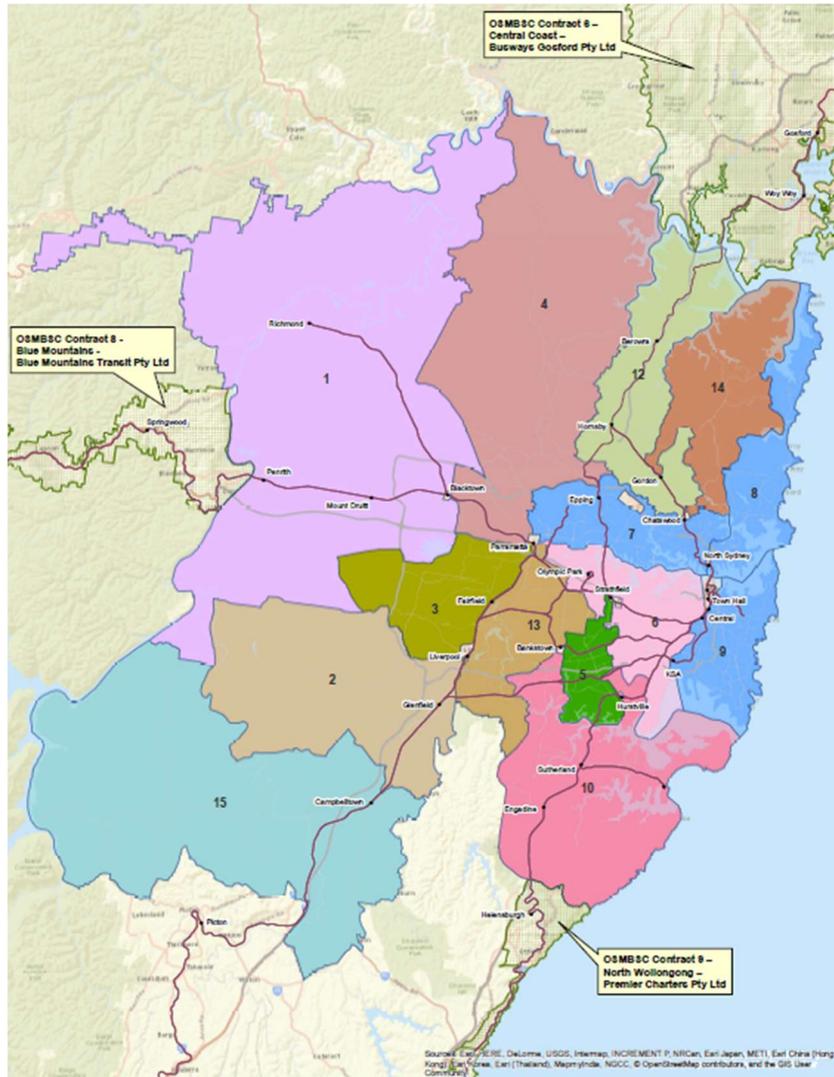
**Table 1 Sydney Metropolitan Bus Service Contracts**

Region	Operator	Suburbs	Region	Operator	Suburbs
1	Busways Blacktown	Blacktown, Mt Druitt, Penrith	8	Keolis Downer Northern Beaches	Northern Beaches (Wakehurst, Manly, North Shore)
2	Interline (Ingleburn Bus Services)	Liverpool, Bringelly, Leppington, Edmondson Park, Glenfield, Minto, Campbelltown	9	Transdev John Holland	Eastern Suburbs (Bondi, Kingsford, Maroubra, Randwick, Coogee)
3	Transit Systems (NSW) Liverpool	Fairfield (Parramatta, Blacktown, Hills, Hornsby)	10 <sup>3</sup>	Transdev NSW South	Sutherland, Menai, Tarn Point, Miranda
4	Hillsbus CDC (ComfortDelGro Australia)	Hills (Parramatta, Blacktown Hills, Hornsby)	12	Transdev NSW	Chatswood, Gordon, Hornsby, Berowra
5	Punchbowl Bus Company	Bankstown/Canterbury (Punchbowl, Bankstown, Canterbury, Hurstville)	13	Transdev NSW South	Bankstown LGA (Bankstown, Parramatta, Liverpool)
6	Transit Systems West	Inner West, CBD, Rockdale, Canterbury, Burwood, Kogarah, Sydney Airport, Campsie	14	Forest Coach Lines (ComfortDelGro Australia)	Northern Beaches
7	Busways North West	North Shore and West (Chatswood, Epping, Macquarie Park, Ryde, Lane Cove, Willoughby)	15	Busabout (Neville's Bus Company)	Campbelltown

Source: Submission 258, *Transport for NSW*, p 4; Submission 5, *Transport Workers' Union of New South Wales*, pp 4-5.

<sup>3</sup> Region 11 was absorbed into Region 10 in 2009: Submission 5, *Transport Workers' Union of New South Wales*, p 4.

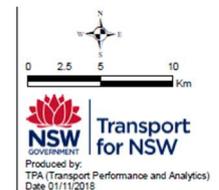
Figure 1 Sydney Metropolitan Bus Service Contracts



Sydney Metropolitan Bus Service Contracts (SMBSC) - November 2018

<span style="display:inline-block; width:15px; height:15px; background-color: #E6E6FA; border: 1px solid black;"></span> Contract 1 - Busways Blacktown Pty Ltd	<span style="display:inline-block; width:15px; height:15px; background-color: #FFB6C1; border: 1px solid black;"></span> Contract 6 - Transit Systems West	<span style="display:inline-block; width:15px; height:15px; background-color: #D2B48C; border: 1px solid black;"></span> Contract 14 - Forest Coach Lines Pty Ltd
<span style="display:inline-block; width:15px; height:15px; background-color: #D2B48C; border: 1px solid black;"></span> Contract 2 - Ingleburn Bus Services Pty Ltd (Trading as Interline)	<span style="display:inline-block; width:15px; height:15px; background-color: #ADD8E6; border: 1px solid black;"></span> Contracts 7 - 9 - State Transit Authority of NSW	<span style="display:inline-block; width:15px; height:15px; background-color: #ADD8E6; border: 1px solid black;"></span> Contract 15 - Neville's Bus Service Pty Ltd (Trading as Busabout)
<span style="display:inline-block; width:15px; height:15px; background-color: #9ACD32; border: 1px solid black;"></span> Contract 3 - Transit (NSW) Liverpool Pty Ltd	<span style="display:inline-block; width:15px; height:15px; background-color: #FF69B4; border: 1px solid black;"></span> Contract 10 - Transdev NSW South Pty Ltd	<span style="display:inline-block; width:15px; height:15px; border: 1px solid black; border-radius: 50%;"></span> Major Train Stations
<span style="display:inline-block; width:15px; height:15px; background-color: #C08080; border: 1px solid black;"></span> Contract 4 - Hillsbus Co Pty Ltd	<span style="display:inline-block; width:15px; height:15px; background-color: #90EE90; border: 1px solid black;"></span> Contract 12 - Transdev NSW Pty Ltd	<span style="display:inline-block; width:15px; height:15px; border-bottom: 1px solid grey;"></span> Main Road
<span style="display:inline-block; width:15px; height:15px; background-color: #008000; border: 1px solid black;"></span> Contract 5 - Punchbowl Bus Company Pty Ltd	<span style="display:inline-block; width:15px; height:15px; background-color: #D2B48C; border: 1px solid black;"></span> Contract 13 - Transdev NSW South Pty Ltd (Plano 17 of 10)	<span style="display:inline-block; width:15px; height:15px; border-bottom: 1px solid red;"></span> CityRail Network

Source: Submission 5, Transport Workers' Union of New South Wales, Annexure A.



1.3

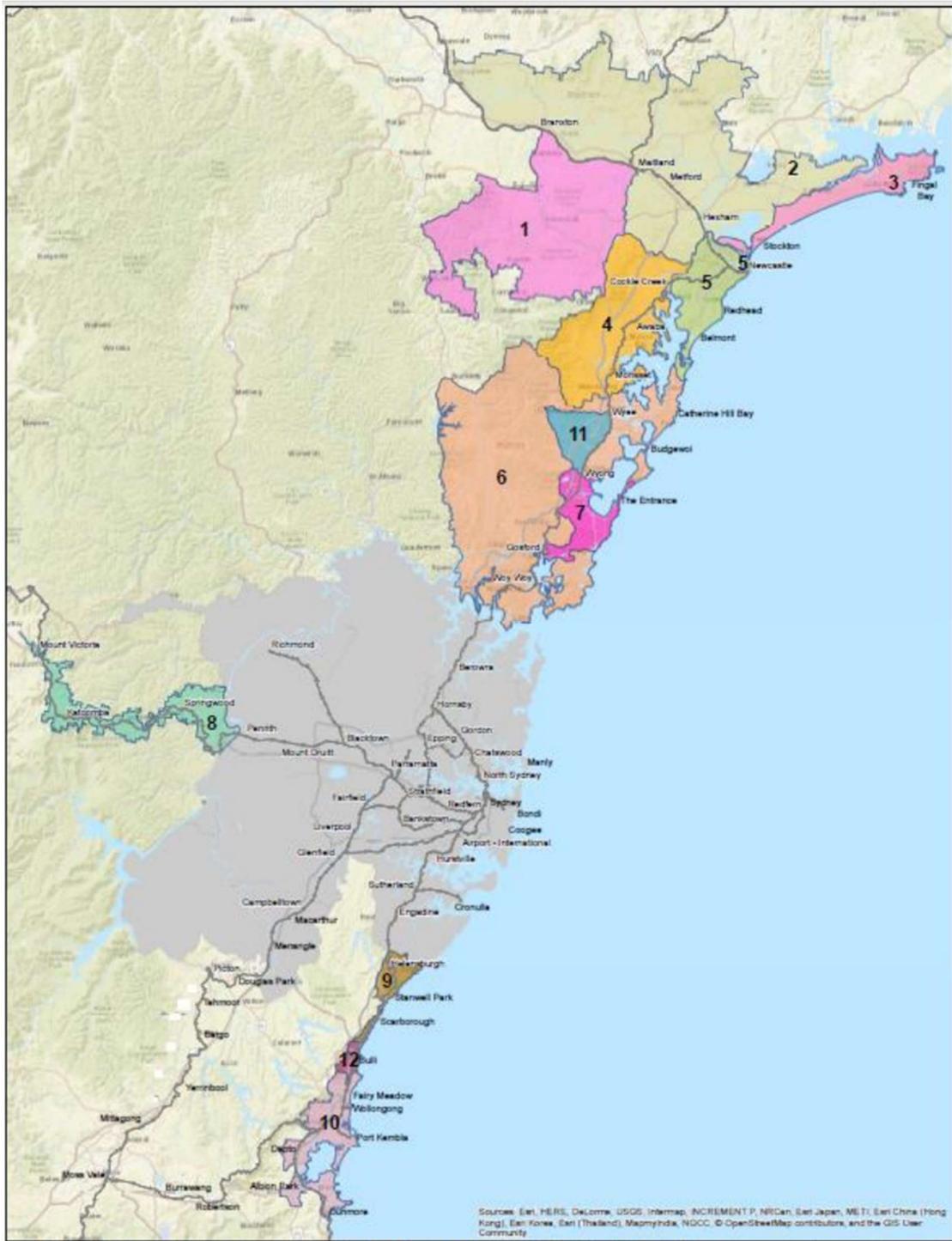
As noted in Figure 1, there are also contracts with private bus operators to deliver bus services in the outer Sydney metropolitan area. The regions included in the Outer Sydney Metropolitan Bus Service Contracts (OSMBSC) include the Hunter region, the Central Coast, Illawarra, and Blue Mountains. The bus Contract Regions and the areas they cover, and the private bus operators contracted to deliver services are set out below in Table 2 and represented on the map at Figure 2.

**Table 2 Outer Sydney Metropolitan Bus Service Contracts**

<b>Region</b>	<b>Operator</b>	<b>Area</b>
1	Rover Coaches	Cessnock, Kurri Kurri
2	Hunter Valley Buses (ComfortDelGro Australia)	Maitland, Raymond Terrace
3	Port Stephens Coaches	Port Stephens
4	Hunter Valley Buses (ComfortDelGro Australia)	Toronto, Wyec, Morisset
6	Busways Gosford	Central Coast
7	Red Bus Services	Gosford, The Entrance
8	Blue Mountains Transit (ComfortDelGro Australia)	Blue Mountains
9	Premier Charters	North Wollongong
10	Premier Illawarra	
11	Hunter Valley Buses (ComfortDelGro Australia)	Wyong
12	Seapost (Dions Bus Services)	Bulli

Source: NSW Government, eTendering – Contracts Register OMBSC001- OMBSC012 (19 August 2021), <https://www.tenders.nsw.gov.au/?event=public.home>.

**Figure 2 Outer Sydney Metropolitan Bus Service Contracts**



Source: Independent Pricing and Regulatory Tribunal New South Wales, *Maximum Fares for Rural and Regional Bus Services 1 January 2021 to 31 December 2025 (2020)*, p 12.

### Characteristics of private bus operators

- 1.4 When it comes to the company profiles of the private bus operators in New South Wales, the operators' business characteristics vary widely in size, experience, and history.
- 1.5 Several of the private operators with a single Outer Sydney Metropolitan Bus Service Contract are local, family-run companies that have been delivering bus services in their respective communities for many decades, in areas where there has never been a publicly operated bus service. Examples include Red Bus Service, Rover Coaches, Port Stephens Coaches and Dion's Bus Service.<sup>4</sup> Regarding the operators in Outer Contract Regions 9 and 10, these are family-owned businesses who operate under the Premier Transport Group Company, a parent company that operates a network of services between southern New South Wales and northern Queensland.<sup>5</sup>
- 1.6 In addition, some of the Sydney Metropolitan Bus Service Contracts have been held by family-owned and run bus operators for several decades, including Interline Bus Services in Metropolitan Contract Region 2, Punchbowl Bus Service in Metropolitan Contract Region 5 and Busabout in Metropolitan Contract Region 15.<sup>6</sup> Further, Busways is an 80-year-old family business and Australia's largest private bus operator that holds three bus services contracts –for Metropolitan Contract Regions 1 and 7 and Outer Metropolitan Contract 6.<sup>7</sup>
- 1.7 In contrast, Keolis Downer is a large company that provides services across Australia. Keolis Downer is a joint venture formed in 2009 between Keolis, an international public transport operator, and Downer which is a provider of integrated services in Australia and New Zealand. Keolis Downer has held the contract for the integrated public service contract for Newcastle since 2017, which was its first contract in New South Wales, and operates bus services in Metropolitan Contract Region 8. In that Region, Keolis Downer operates three bus depots with 418 buses and 950 employees.<sup>8</sup> It also operates the tram network in Melbourne, the light rail network on the Gold Coast, the Adelaide Metro train services and buses in New South Wales, Western Australia, South Australia and Queensland.<sup>9</sup>
- 1.8 Looking to companies with an international presence, a major operator in the bus services industry is ComfortDelGro Cabcharge. A public company based in Singapore, ComfortDelGro is one of the largest land transport companies in the world with a global workforce. In 2005, it entered the Australian market when it, along with Cabcharge, acquired the businesses and assets of the largest bus operator in New South Wales – Westbus Group. ComfortDelGro Cabcharge

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<sup>4</sup> Evidence, Ms Leanne Griffiths, Manager, Business Services, Red Bus Services, 31 May 2022, p 22; Rover Coaches, *About Us*, <https://www.rovercoaches.com.au/site/our-history>; Port Stephens Coaches, *About Us*, <https://www.pascoaches.com.au/about/>; Dion's Bus Service, *About Dion's Bus Service*, <https://dions.com.au/about/>.

<sup>5</sup> Premier Motor Service, *Transport Group*, <https://www.premierms.com.au/PMS/pages/about-us/transport-group/>.

<sup>6</sup> Interline Bus Services, *About*, <https://interlinebus.com.au/about/>; Punchbowl Bus Service, *About Us*, <https://www.punchbowlbus.com.au/about-us>; Busabout, *About Us*, <https://www.busabout.com.au/about-us/>.

<sup>7</sup> Evidence, Mr Byron Rowe, Managing Director, Busways Group, 31 May 2022, p 11.

<sup>8</sup> Answers to supplementary questions, Mr David Franks, Chief Executive Officer, Keolis Downer, 28 June 2022, p 1.

<sup>9</sup> Submission 413, Keolis Downer, pp 2-3.

currently operates bus services in Metropolitan Contract Region 4 through its subsidiary Hillsbus, in Metropolitan Contract Region 6 through its subsidiary Forest Coach Lines, in Outer Contract Regions 2, 4 and 11 through its subsidiary Hunter Valley Buses and in Outer Contract Region 8 through its subsidiary Blue Mountains Transit. It also operates bus services in Queanbeyan and Canberra, Broken Hill and Victoria.<sup>10</sup>

- 1.9** There are several other multinational operators in New South Wales. Transit Systems entered the Australian market in 2012 and operates bus services in Metropolitan Contract Regions 3 and 6. Transit System operates 830 buses in Sydney with 1,861 staff.<sup>11</sup> It also operates in Queensland, Western Australia, South Australia, Victoria, and the Northern Territory. Its sister company, Tower Transit, operates bus services in Singapore and London.<sup>12</sup> Transit Systems Group is a subsidiary of Kelsian Group Limited, Australia's largest tourism and marine transport company.<sup>13</sup>
- 1.10** Lastly, Transdev is a large international public transport operator with a presence in 17 countries. Providing public bus services in Sydney since early 2000s, its subsidiaries Transdev NSW and Transdev NSW South respectively operate bus services in Metropolitan Contract Regions 10, 12 and 13, all of which are subsidiaries of Transdev Australasia. The joint venture between Transdev and John Holland (Transdev John Holland) operates bus services in Metropolitan Contract Region 9.<sup>14</sup> Transdev Sydney, a different subsidiary, operates Sydney's Inner West Light Rail and CBD and South East Light Rail.<sup>15</sup>
- 1.11** As demonstrated in Table 1, more Metropolitan Contract Regions are operated by larger national and multinational companies, as opposed to smaller, local operators. Bus services in Regions 6, 7, 8 and 9 together constitute 75 per cent of daily bus services in Sydney.<sup>16</sup> These Regions are currently operated by larger national or multinational companies – Transit Systems, Busways, Keolis Downer and Transdev John Holland. Of the remaining ten Contract Regions in metropolitan Sydney, Busways and Transit Systems each operate a further Contract Region (1 and 3 respectively) and Transdev operates a further three Contract Regions (10, 12 and 13). Another large multinational operator, ComfortDelGro Australia, operates two Contract Regions (4 and 14). Therefore, there are three Contract Regions (2, 5 and 15) operated by smaller, family-owned and run bus operators.

<sup>10</sup> CDC NSW, *Company Profile*, <https://permaseal.com.au/company-profile>.

<sup>11</sup> Answers to supplementary questions, Transit Systems, 27 June 2022, p 1.

<sup>12</sup> Answers to supplementary questions, Transit Systems, 27 June 2022, p 1.

<sup>13</sup> Transit Systems, *About – Overview*, <https://www.transitsystems.com.au/about-overview>.

<sup>14</sup> Transdev, *Bus services in Sydney*, <https://www.transdev.com.au/solutions/bus-services-in-sydney/>; Transdev, *Welcome to Transdev John Holland*, <https://www.transdev.com.au/welcome-to-transdev-john-holland/>.

<sup>15</sup> Transdev, *Transdev Sydney Light Rail*, <https://www.transdev.com.au/solutions/transdev-sydney-light-rail/>.

<sup>16</sup> Evidence, Mr Matt Threlkeld, Executive Director, BusNSW, 2 May 2022, p 18; Submission 7, Tram and Bus Division, Tram and Bus Union of NSW, p 1; Evidence, Ms Daniela Fontana, Chief Executive, State Transit Authority, 3 May 2022, p 44.

### Recent history of bus service delivery

- 1.12** Historically, bus services in metropolitan and outer metropolitan Sydney have been operated by a combination of the NSW Government's bus company State Transit Authority and private bus operators.<sup>17</sup> A review into bus services in the Greater Sydney metropolitan area in 2004 led to significant changes to the way metropolitan bus services were delivered.<sup>18</sup> In 2004-2005, the number of Contract Regions was reduced from 87 to 15, and legislative changes amended the contract term for private bus operators to eight years, introduced performance and reporting requirements and removed automatic contract renewal for private bus operators.<sup>19</sup> Of the 15 Contract Regions, 11 were serviced by private bus operators, with the State Transit Authority delivering bus services in Regions 6, 7, 8 and 9, which as noted above are four core Contract Regions and together constitute 75 per cent of daily bus services in Sydney.<sup>20</sup>
- 1.13** Prior to 2011, private bus operators entered into contracts with the NSW Government following direct negotiations. This changed in 2012 with the introduction of competitive tendering. At that time, eight Contract Regions with privately operated bus services were put out to tender which resulted in contracts being awarded to the existing operators in six Contract Regions and the contracts for two Contract Regions awarded to new operators. The private operators of two other regions directly negotiated with the NSW Government and thus were not put out for tender. A subsequent tendering round in 2013 saw contracts held by multiple operators in a single region awarded to just one of the existing operators. At the conclusion of these tender rounds, the number of private bus companies with contracts in the Sydney metropolitan area dropped from thirteen to eight. Contract Regions 6, 7, 8 and 9, operated by the State Transit Authority, were not included in these tender rounds.<sup>21</sup>
- 1.14** In 2017, the operation of light rail, bus and ferry services in Newcastle moved from the State Transit Authority to private operator Keolis Downer which was awarded the Newcastle Integrated Service Contract (formerly Outer Sydney Metropolitan Bus Service Contract Region 5) after a competitive tender process.<sup>22</sup> The next Contract Region operated by the State Transit Authority to be put out for tender was Contract Region 6 in Sydney's Inner West, the contract for which was awarded to private bus operator Transit Systems from July 2018.<sup>23</sup>
- 1.15** The NSW Government announced in October 2019 that the next round of competitive tendering for all 14 of the Sydney Metropolitan Bus Service Contracts would include the three remaining Contract Regions which were operated by the State Transit Authority, that being Regions 7, 8 and 9. Those contract regions were the first put out to tender.<sup>24</sup>

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<sup>17</sup> Submission 258, Transport for NSW, p 3.

<sup>18</sup> Submission 2, BusNSW, p 2, citing Barrie Unsworth, *Review of bus services in New South Wales – Final Report* (2004).

<sup>19</sup> Submission 2, BusNSW, p 2.

<sup>20</sup> Evidence, Mr Threlkeld, 2 May 2022, p 18; Submission 7, Tram and Bus Division, Tram and Bus Union of NSW, p 1; Evidence, Ms Fontana, 3 May 2022, p 44.

<sup>21</sup> Submission 2, BusNSW, p 2; Submission 5, Transport Workers' Union of New South Wales, pp 4-5.

<sup>22</sup> Submission 2, BusNSW, p 2.

<sup>23</sup> Submission 2, BusNSW, p 2.

<sup>24</sup> See, for example, Submission 2, BusNSW, p 3; Submission 5, Transport Workers' Union of New South Wales, p 5; Submission 13, Unions NSW, p 3.

- 1.16** Transport for NSW's submission to the inquiry noted some key steps in the competitive tender process for Contract Regions 7 to 9, which commenced in December 2019:
- industry briefings and market sounding process with stakeholders
  - development of Transport for NSW procurement strategy and tender requirements, including Transport for NSW's strategic directions and governance needs, requirements under the NSW Government's Procurement Policy Framework and Transport cluster's procurement accreditation
  - release of each Contract Region as separate tenders in a staggered fashion
  - assessment of several offers received for each Contract Region by subject matters experts from the Transport cluster and other NSW Government departments
  - engagement of external legal and financial advisors in the evaluation and subsequent negotiation of the final contracts.<sup>25</sup>
- 1.17** Transport for NSW's submission added that the probity principles of transparency and fairness governed the tender process, and independent probity advisers supported the procurement process. The process was also subject to the NSW Government's Recurrent Expenditure Assurance Framework, including three independent reviews as required under the framework. Additionally, Transport for NSW noted that during the tender period, updates were provided to the State Transit Authority workforce.<sup>26</sup>
- 1.18** The contract for Region 7 was awarded to Keolis Downer in May 2021, the contract for Region 8 was awarded to Busways in July 2021 and the contract for Region 9 to Transdev and John Holland in November 2021. The remaining ten Sydney metropolitan regions will be put out to tender between January and September 2022, and operators may submit bids to consolidate regions.<sup>27</sup>
- 1.19** Unlike the Sydney Metropolitan Bus Service Contracts, the Outer Sydney Metropolitan Bus Service Contracts are directly negotiated with private bus operators in each of the Contract Regions. Direct negotiations were entered into by Transport for NSW and the existing operators for 11 contracts in 2020-2021.<sup>28</sup>
- 1.20** However, the NSW Government decided to undertake a competitive tendering process for some Outer Sydney Metropolitan Bus Service Contracts rather than direct negotiation with the existing private operator. Ms Leanne Griffiths, Business Services Manager at Red Bus Services, informed the committee that Contract Regions 6 and 7, the two Central Coast Regions, 'are up for tender'. She explained that the tender process for Contract Region 6, the region in which Red Bus Services have operated public buses for over 80 years, commenced in July 2021, was

<sup>25</sup> Submission 258, Transport for NSW, p 6.

<sup>26</sup> Submission 258, Transport for NSW, pp 6-7.

<sup>27</sup> See, for example, Submission 2, BusNSW, p 3; Submission 5, Transport Workers' Union of New South Wales, p 5; Submission 13, Unions NSW, p 3.

<sup>28</sup> Infrastructure Partnerships Australia, *Outer Sydney Metropolitan Bus Contracts*, Australia and New Zealand Infrastructure Pipeline, <https://infrastructurepipeline.org/project/outer-metropolitan-bus-contracts-nsw>.

paused in November 2021, and will recommence once the tenders for the ten Sydney Metropolitan Contract Regions are completed.<sup>29</sup>

## **Model for private operators' delivery of bus services in New South Wales**

**1.21** This section discusses the model and contractual arrangements for the delivery of bus services in New South Wales. This section briefly sets out differing views on whether the model is a form of franchising or privatisation. This issue is raised early on in this report as it determines the terminology used throughout the report.

### **Key features of model**

**1.22** Transport for NSW's submission noted the following features of the contractual relationship between Transport for NSW and private bus operators.

- Transport for NSW retains ownership of existing assets, such as bus fleets and depots, that were owned by the State Transit Authority, and which are leased to private bus operators for the duration of their service contracts.
- Transport for NSW is responsible for network design and controls the routes, timetables and bus stop locations across the entire bus network. Private bus operators may not alter timetables, remove bus stops or change routes.
- The Independent Pricing and Regulatory Tribunal determines bus fares and Transport for NSW operates the fare collection methods, including Opal and contactless payments.
- Transport for NSW sets performance standards and monitors performance to ensure service quality, which can be enforced as a civil penalty under the *Passenger Transport Act 2014*.
- The contract term for private bus operators is eight years from service commencement and Transport for NSW has a right to terminate the contract after five years on the grounds of failure to meet performance benchmarks.
- The NSW Government retains the revenue from the operation of bus services.<sup>30</sup>

**1.23** On the matter of asset ownership, in particular bus depots, the committee was advised that Transit Systems, the private operator for Contract Regions 3 and 6, operates four depots owned by the NSW Government and two privately owned depots.<sup>31</sup>

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<sup>29</sup> Evidence, Ms Griffiths, 31 May 2022, pp 27-28.

<sup>30</sup> Submission 258, Transport for NSW, pp 3-4; Evidence, Mr Howard Collins, Chief Operations Officer, Transport for NSW, 3 May 2022, p 31. See also Submission 2, BusNSW, p 1.

<sup>31</sup> Answers to supplementary questions, Transit Systems, 27 June 2022, p 7.

### Key performance indicators

- 1.24** The contracts for the provision of public bus services between Transport for NSW and private bus operators include key performance indicators.<sup>32</sup> Examples of key performance indicators noted by inquiry stakeholders include punctuality and publishing of on-time running results, accessibility and safety standards, customer complaints, response times, overall customer satisfaction, and employment outcomes such as diversity and inclusion.<sup>33</sup> Red Bus Service noted that although key performance indicators vary across Contract Regions, the key service performance indicator common in all contracts is a punctuality rate of 95 per cent of trips, requiring private operators to achieve 95 per cent on-time running for all bus services in a Contract Region.
- 1.25** In the Transport for NSW template for Sydney Metropolitan Bus Service Contracts, the key performance indicator schedule includes performance measures relating to network effectiveness, service reliability (punctuality, cancelled and incomplete trips, and accessible bus services), service quality and customer satisfaction (customer satisfaction and complaints, overcrowding on buses, passenger information, and bus presentation), safety and bus maintenance, revenue protection, incident management, reporting to Transport for NSW, data maintenance, patronage growth and on-time implementation of projects.<sup>34</sup>

### Remuneration, incentive payments and abatement

- 1.26** BusNSW, the peak body for the New South Wales private bus and coach industry, explained in its submission that gross cost contracts are used by Transport for NSW for private bus operators. Gross cost contracts were introduced as part of the 2005 reforms and are the most commonly used contract model in Australia for bus services.<sup>35</sup> In summary, a gross cost contract transfers operational cost risks from government to the operator, with government retaining the revenue risks.<sup>36</sup>
- 1.27** Transport for NSW's submission stated that a contract with a private bus operator provides that the operator is paid for the agreed services that have been delivered via a monthly fee which 'is adjusted by abatements or performance payments dependent on actual performance against contract key performance indicators'.<sup>37</sup>
- 1.28** When asked about how the monthly payment with any incentive payments or abatements is assessed, Mr John King, President of BusNSW, explained that private bus operators provide

<sup>32</sup> Submission 2, BusNSW, p 5.

<sup>33</sup> See, for example, Submission 2, BusNSW, p 5; Submission 413, Keolis Downer, p 4; Evidence, Mr Collins, Chief Operations Officer, Transport for NSW, 3 May 2022, p 33.

<sup>34</sup> Transport for NSW, *Bus contracts*, <https://www.transport.nsw.gov.au/operations/buses-and-coaches/bus-contracts>.

<sup>35</sup> See, for example, Submission 2, BusNSW, p 2; Submission 411, Tourism and Transport Forum Australia, Attachment 1, p 11.

<sup>36</sup> Submission 411, Tourism and Transport Forum Australia, Attachment 1, p 11.

<sup>37</sup> Submission 258, Transport for NSW, p 3.

data to Transport for NSW each month, to which contractually agreed formulas are applied to determine the operators' performance against key performance indicators for that month.<sup>38</sup>

- 1.29** With respect to establishing the monthly fee paid to operators, Mr King explained the process to establish a bid for a contract:

You work out your bus hours, your kilometres, your overhead costs, your fleet requirements and then you will put that into a bucket, as such—we will call it that—and we then negotiate that with benchmarking and/or conversation and that comes up with a dollar, and that is what you would then agree to if you are the successful person to move that particular contract into your environment.<sup>39</sup>

- 1.30** The monthly fee to the operator can be adjusted during the life of the contract if changes to services occur, as explained by Mr Matt Threlkeld, Executive Director of BusNSW:

... If there is a change to services during the contract, there are service variation rates within the contract. If the Government requires changes that add service levels and therefore kilometres and hours, then there would be an adjustment of the payment to the operator; and, likewise, if there is a reduction in services, then there would also be an adjustment to the total payment.<sup>40</sup>

- 1.31** As noted above, gross cost contracts often include payment incentive regimes in addition to the operators' minimum service standards, for example, revenue sharing or patronage incentives.<sup>41</sup> With respect to performance payments for private bus operators in NSW, BusNSW informed the committee that 'incentive payments on patronage growth in the sense of number of passengers carried' formed part of older contracts, whereas newer contracts include other types of payment incentives, such as on-time running, tracking of vehicles, and meeting other targets within the contract, which would drive a higher revenue.<sup>42</sup>

- 1.32** In answers to questions on notice, BusNSW clarified that there are no incentive payment clauses for private bus operators with contracts for Regions 1-5, 10 and 12-15. Of the Sydney Metropolitan Bus Service Contracts, a patronage incentive payment exists only in Contract Region 6 in the contract with private bus operator Transit Systems, whereby the operator submits to Transport for NSW each month the total number of fare paying passengers travelling on the services and Transport for NSW pays Transit Systems a sum for each fare paying passenger. BusNSW advised that the contracts for Regions 7, 8 and 9 are not publicly available and therefore it could not identify whether those contracts include incentive payments.<sup>43</sup> Additionally, Keolis Downer noted that their contract for Newcastle bus services includes a nominal capped patronage incentive, equating to 0.09 per cent of revenue.<sup>44</sup>

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<sup>38</sup> Evidence, Mr John King, President, BusNSW, 2 May 2022, p 14.

<sup>39</sup> Evidence, Mr King, 2 May 2022, p 13.

<sup>40</sup> Evidence, Mr Threlkeld, 2 May 2022, p 13.

<sup>41</sup> See, for example, Answers to supplementary questions, 27 June 2022, p 9; Submission 411, Tourism and Transport Forum Australia, Attachment 1, p 11.

<sup>42</sup> Evidence, Mr King, 2 May 2022, pp 13-14.

<sup>43</sup> Answers to questions on notice, Mr Matt Threlkeld, Executive Director, BusNSW, 27 May 2022, p 2.

<sup>44</sup> Answers to questions on notice, Mr Mark Dunlop, Managing Director, Keolis Downer Northern Beaches, 28 June 2022, p 1.

**1.33** On the other hand, failure to meet key performance indicator targets can result in abatement, that is, a deduction in the monthly fee that is paid to the private bus operator by Transport for NSW.<sup>45</sup> If the data provided by the operator demonstrates that a target of a key performance indicator has not been satisfied, a financial penalty based on a percentage of the operator's revenue applies, in accordance with the terms of the contract.<sup>46</sup> As noted above, failures to meet key performance indicator targets can also lead to the termination of the contract.<sup>47</sup> As explained by Keolis Downer, failure to meet the specific key performance indicators of on-time running, cancelled trips and customer satisfaction can lead to 'KPI Default and Contract Termination'.<sup>48</sup>

## Evidence on rationale and benefits of privatisation

**1.34** According to Transport for NSW's submission to the inquiry, the rationale for its contract model is to leverage experience from private industry while maintaining controls to ensure quality outcomes for commuters.<sup>49</sup> A number of benefits of contracting out the delivery of bus services to private operators were identified by Transport for NSW, BusNSW and private bus operators who participated in the inquiry.

**1.35** The savings in operational costs were highlighted as a key benefit, with Transport for NSW noting in its submission that moving the Contract Regions serviced by the State Transit Authority to private operators resulted in \$75 million in savings in Contract Region 7, over \$100 million in savings in Contract Region 8 and over \$200 million in Contract Region 9.<sup>50</sup> BusNSW also highlighted the cost savings, indicating that moving from a public to private operator can lead to unit cost savings of 20 to 55 per cent because efficiencies can be gained in staff productivity, greater labour flexibility, improved asset utilisation, and efficient and leaner procurement and management structures.<sup>51</sup>

**1.36** Other key benefits of bus services delivered by private operators under the current arrangements were identified by stakeholders.

- Service delivery can be tailored to the area, such as multiple service types including high-capacity routes and on-demand travel.
- Private bus operators bring a high degree of expertise and innovation, and often learnings from other jurisdictions, particularly in new and evolving technologies, such as electric buses.

<sup>45</sup> See, for example, Submission 2, BusNSW, p 6; Evidence, Mr Collins, 3 May 2022, p 32.

<sup>46</sup> See, for example, Evidence, Mr Threlkeld, 2 May 2022, p 17; Submission 413, Keolis Downer, p 4.

<sup>47</sup> See, for example, Submission 2, BusNSW, p 5; Evidence, Mr Collins, 3 May 2022, p 32.

<sup>48</sup> Answers to supplementary questions, Mr David Franks, Chief Executive Officer, Keolis Downer, 28 June 2022, p 3.

<sup>49</sup> Submission 258, Transport for NSW, p 3.

<sup>50</sup> Submission 258, Transport for NSW, pp 7-8.

<sup>51</sup> Submission 2, BusNSW, p 6. See also Evidence, Mr Rowe, 31 May 2022, p 15.

- Positive social outcomes can result from the career opportunities offered by private operators for the communities which they service and local relationships can be fostered through community engagement and partnerships.<sup>52</sup>

**1.37** The extent to which inquiry participants agreed with the rationale for privatising bus services and considered that privatised bus services for metropolitan and outer metropolitan Sydney realise the purported benefits is discussed throughout the following chapters.

## Franchising or privatisation?

**1.38** Central to this inquiry were the differing stakeholder views on whether the model to engage private bus operators to deliver public bus services is a form of privatisation, or instead a franchising approach.

**1.39** By virtue of the nature of the arrangement between Transport for NSW and private bus operators, Transport for NSW was adamant that its model of contracting private bus operators to deliver bus services was a form of franchising, rather than privatisation.<sup>53</sup> Mr Howard Collins, Chief Operations Officer at Transport for NSW, stated at the hearing that "Transport for NSW has not privatised its buses".<sup>54</sup> From the viewpoint of Transport for NSW, this model of franchising is different to privatisation as it 'leverages experience from private industry, whilst maintaining Government controls to ensure outcomes for commuters aren't compromised'.<sup>55</sup>

**1.40** Mr Collins emphasised that bus assets, depots, routes and bus stops remain in the control of the NSW Government:

... [I]t is important to understand that existing assets are not sold. The existing bus fleet and depots in the regions previously operated by STA remain owned by New South Wales government and are provided under a lease agreement to the private operators for the duration of those service contracts.<sup>56</sup>

**1.41** Ms Julie Walton, Convenor, Action for Public Transport (NSW), observed that the New South Wales model adopts learnings from the Victorian model to the extent that unlike in Victoria, private bus operators do not own bus assets and depots. This means that if a different bus operator took over the delivery of services, the assets and depots would remain in control of the NSW Government and could be leased to a new operator.<sup>57</sup>

**1.42** Along similar lines, BusNSW held the view that the model used by Transport for NSW 'is part-privatisation of government-operated services and would be better described as "franchising"'.<sup>58</sup> Keolis Downer also submitted that the model used by Transport for NSW 'is best described as

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<sup>52</sup> See, for example, Submission 258, Transport for NSW, pp 3 and 12; Submission 413, Keolis Downer, p 6; Evidence, Ms Griffiths, 31 May 2022, p 26; Evidence, Mr Christian Porter, Chief Commercial Officer, Keolis Downer, 31 May 2022, pp 22 and 29.

<sup>53</sup> Submission 258, Transport for NSW, p 3.

<sup>54</sup> Evidence, Mr Collins, 3 May 2022, p 31.

<sup>55</sup> Submission 258, Transport for NSW, p 3.

<sup>56</sup> Evidence, Mr Collins, 3 May 2022, p 31.

<sup>57</sup> Evidence, Ms Julie Walton, Convenor, Action for Public Transport (NSW), 3 May 2022, p 4.

<sup>58</sup> Submission 2, BusNSW, p 1.

a franchising model whereby Keolis Downer operates bus services under a contract with the Government'.<sup>59</sup>

- 1.43** Conversely, other inquiry participants, including the Tram and Bus Division of the Rail, Tram and Bus Union of NSW, the Transport Workers' Union of New South Wales and Unions NSW viewed the model used by Transport for NSW to contract with private bus operators for the delivery of public bus services to be a form of privatisation.<sup>60</sup> Mr Thomas Costa, Assistant Secretary, Unions NSW, contended that regardless of whichever term is used to describe the model, the approach is one of privatisation:

There is a private operator that is responsible for these operations who is not beholden to the policies and practices of government, like we see with other operations of public services, and that is something that cannot be described in any other way. You can use words like "franchising" and other things, but that is, in essence, the privatisation of a public service.<sup>61</sup>

## Committee comment

- 1.44** The committee acknowledges the viewpoint of the NSW Government, BusNSW and the private bus operators who participated in this inquiry that franchising, rather than privatisation, best describes the model of public bus services being delivered by the private sector. However, the committee agrees with the view of other inquiry participants that this model is fundamentally a form of privatisation and therefore refers to it as such in this report.
- 1.45** The NSW Government has chosen to deprive itself of the immediate capacity to run these services publicly – it no longer has public sector staff and expertise to run these services and is no longer in competition with the private sector for the provision of the services. The Government is also now one step removed from the end user of bus services in terms of its accountability for the provision of those services. Finally, in some cases, private operators are using their own assets (e.g., depots), which leaves the Government short of assets if the contract is cancelled. Ultimately, the operation of bus services has been outsourced by the Government and that is a form of privatisation.
- 1.46** The Government's rationale for the privatisation of bus services is that by putting bus routes out to tender it would create a competitive tension resulting in lower prices and better service to the community. The evidence from recent tenders suggests otherwise. Firstly, under this model competitive tension is only introduced at the tendering stage, beyond that point service areas are monopolised by the private operator who wins the contract with no competition for patrons within that area. Secondly the privatisation has resulted in larger multinational companies effectively controlling a disproportionately large percentage of total bus routes throughout New South Wales giving them a high market concentration. In effect the privatisation structure created by the government is conducive to increased market domination

<sup>59</sup> Submission 413, Keolis Downer, p 4.

<sup>60</sup> See, for example, Evidence, Mr Thomas Costa, Assistant Secretary, Unions NSW, 2 May 2022, pp 23-24; Evidence, Mr David Babineau, Divisional Secretary, Tram and Bus Division, Rail, Tram and Bus Union of NSW, 2 May 2022, p 23; Submission 5, Transport Workers' Union of New South Wales, p 5; Submission 6, Inner West Council, p 3; Submission 406, Waverley Council, p 3.

<sup>61</sup> Evidence, Mr Costa, 2 May 2022, p 24.

by a handful of multinationals who can leverage their size and balance sheet to eventually squeeze out smaller operators. This is hardly a competitive market and explains the evidence of falling levels of service in most areas.

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### **Finding 1**

The recent privatisation of bus services has not resulted in any real market competition because the competition occurs only at the tender phase after which time the market for a particular area is monopolised albeit regulated. This creates a potential situation where the market can be characterised as more of an oligopoly than a free market and in those circumstances does not result in the best service for the travelling public. Under public ownership the benefits of such monopoly control can be passed on directly to the public through low fares and increased service provision and direct accountability.

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## Chapter 2 Impact on bus service delivery

This chapter discusses stakeholders' views on the features of bus service privatisation that are seen to impact the level, quality and accessibility of bus services. This is followed by a region-by-region discussion on the particular changes to the bus network in recent years which have led to community criticism and pushback, in particular stakeholders' views on the role that privatisation has played in changes to service delivery.

### Process to make network changes

**2.1** Changes to all bus routes across Sydney and the regions are planned and approved by Transport for NSW. The types of changes can include adjustment of existing bus routes, removal of existing routes and introduction of new bus routes. As to the reasons for why changes to service delivery may occur, Transport for NSW noted the following reasons:

- to support customer access to new transport modes, such as the Sydney Metro, CBD and South East Light rail and the Parramatta Light Rail
- to reflect changes in travel demand and long-term transport strategies
- to provide or improve services in locations where new residential and employment growth is occurring, such as Sydney's Northwest and Southwest.<sup>62</sup>

**2.2** Private bus operators may submit proposals to Transport for NSW to make changes to routes and timetables through a Bus Service Alteration Request.<sup>63</sup> Requests for proposed changes may relate to, for example, growth associated with changes to demographics or reflect requests from customers to improve convenience or safety.<sup>64</sup>

**2.3** Commenting on the frequency of requests from private bus operators for service changes, Ms Daniela Fontana, Chief Executive Officer, State Transit Authority, stated that 'it is a very common thing for private operators to put forward proposals and changes to Transport for NSW'.<sup>65</sup> At the hearing, Mr Christian Porter, Chief Commercial Officer at Keolis Downer, explained that in the context of finite resources, they use proprietary tools and consult with stakeholders to undertake network analysis and review customer feedback to present ideas to Transport to NSW about where 'services could be best placed'.<sup>66</sup> Similarly, Ms Leanne Griffiths, Business Services Manager at Red Bus Services, informed the committee that it often reviews its data and gives Transport for NSW ideas on changes.<sup>67</sup>

<sup>62</sup> Submission 258, Transport for NSW, p 9.

<sup>63</sup> Submission 258, Transport for NSW, p 9; Evidence, Mr Matt Threlkeld, Executive Director, BusNSW, 2 May 2022, p 13.

<sup>64</sup> Submission 2, BusNSW, p 5.

<sup>65</sup> Evidence, Ms Daniela Fontana, Chief Executive, State Transit Authority, 3 May 2022, p 42.

<sup>66</sup> Evidence, Mr Christian Porter, Chief Commercial Officer, Keolis Downer, 31 May 2022, pp 22 and 26.

<sup>67</sup> Evidence, Ms Leanne Griffiths, Manager, Business Services, Red Bus Services, 31 May 2022, pp 26-27.

- 2.4** On a related matter, with respect to bus stops, it is generally the responsibility of the relevant local council's traffic committee to approve bus stop locations. While local councils are responsible for the provision of and changes to existing bus stops, approval from Transport for NSW and the private bus operator must be obtained.<sup>68</sup>
- 2.5** Stakeholders provided general observations and recommendations on the improvements that could be made to this process. Relating to the approval rate of requests for service changes from private operators, Mr Matt Threlkeld, Executive Director at BusNSW, stated that there is anecdotal evidence that 'it can be quite difficult to have a [Bus Service Alteration Request] approved at times'.<sup>69</sup> According to BusNSW, the contracted private bus operator in each region is best placed to understand ways to improve services within its area of operation, however, there is limited support or incentive for operators to recommend service changes. BusNSW recommended 'a more transparent method of assessing bus service alterations, including consideration of non-monetary benefits and other benefits to customers'.<sup>70</sup> Making a similar point, the City of Sydney called for contracts to have a level of flexibility to ensure networks can respond to changes, such as new developments of interchange opportunities.<sup>71</sup>
- 2.6** Transport for NSW commented that customer and stakeholder feedback inform any network changes. However, the level and nature of consultation with stakeholders and the community was criticised by several stakeholders, including the Tram and Bus Division of the Rail, Tram and Bus Union of NSW:

Another issue of this administrative distance is that day-to-day alteration of services offer no opportunity for genuine feedback. It is quite a normal occurrence for passengers to turn up to their bus stop and find an A4 notice in a plastic sleeve telling them that services are changing, or their bus stop is being closed or moved and to call TfNSW to provide feedback. There is no instance where that feedback has had any impact in changing the planned outcome unless coupled with negative publicity such as in Newcastle or the Northern Beaches. While it is not feasible to consult in depth about every network change, there remains a fundamental gap in communication and accountability that could be met with something more constructive than casual disregard and dead-ending feedback.<sup>72</sup>

- 2.7** The next section details criticism from inquiry participants on community and stakeholder consultation and engagement with respect to changes to bus networks specific to each Contract Region.

## **Key concerns about the impacts on bus network and services delivery**

- 2.8** This section presents inquiry participants' concerns with privatisation generally, namely the issues stemming from private bus operators balancing the profit motive and the public interest, and concerns around a diminution in accountability and transparency. It then discusses

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<sup>68</sup> Submission 258, for NSW, p 11.

<sup>69</sup> Evidence, Mr Threlkeld, 2 May 2022, p 20.

<sup>70</sup> Submission 2, BusNSW, pp 4-5.

<sup>71</sup> Submission 18, City of Sydney, p 2.

<sup>72</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 5.

stakeholders' views on some features of the current privatisation model that influence service delivery.

### **Profit motive and public interest**

- 2.9** Several inquiry participants did not support the concept of a private company operating important public services like buses because they said profit is often prioritised over serving the public.
- 2.10** In opposing the recent privatisation of bus services in Sydney's Eastern Suburbs, the Mayor of Waverley Council, Councillor Paula Masselos, stated that the Council 'strongly objects to the public purse being used to subsidise commercial operations that are geared to making a profit rather than fulfilling a social contract, which is what our public utilities are meant to provide'.<sup>73</sup> In a similar fashion, the Tram and Bus Division of the Rail, Tram and Bus Union of NSW stated that 'a public service must provide a public service, not a for-profit approximation of its former self'.<sup>74</sup> The Inner West Council also opposed the recent privatisation of bus services because of the 'potential to cause detrimental impact on public transport patronage' and 'potential to diminish the effectiveness and true integration of a transport network'.<sup>75</sup>
- 2.11** Expressed in a different fashion, Mr Matt Thistlethwaite, the Federal Member for Kingsford Smith, commented on what he views as the public's expectations of the NSW Government in the provision of public services:
- I think that Australians pay taxes because they expect decent public services, particularly health, education and public transport services. They are the three basic human rights that people expect from a decent government. We can say, based on the interactions that we have had with our constituents, that people are worse off when it comes to public transport because of these decisions.<sup>76</sup>
- 2.12** Also reflecting on governments' responsibility to provide accessible and reliable public transport, Dr Marjorie O'Neill, Member for Coogee in the New South Wales Legislative Assembly, commented:
- Government has a responsibility to individuals and business to ensure that public transport is available to efficiently move people to the places they need to be. Such a fundamentally important aspect of community life cannot be left to the private sector and the whims of the market economy. Access to affordable and reliable public transport is a fundamental right of all individuals and a critical pillar of a fair and just society.<sup>77</sup>
- 2.13** A key concern expressed during the inquiry about privatisation was the negative impact on service delivery by way of a reduction and rationalisation of services. Mr Ron Hoenig, Member for Heffron in the New South Wales Legislative Assembly, considered that privatising bus

<sup>73</sup> Evidence, Councillor Paula Masselos, Mayor, Waverley Council, 31 May 2022, p 2.

<sup>74</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 6.

<sup>75</sup> Submission 6, Inner West Council, p 3.

<sup>76</sup> Evidence, Mr Matt Thistlethwaite, Member for Kingsford Smith, House of Representatives, Parliament of Australia., 2 May 2022, pp 54-55 and 67.

<sup>77</sup> Submission 131, Dr Marjorie O'Neill MP, Member for Coogee, p 1.

services results in a diminution in the level, quality and accessibility of services because profitability is private bus operators' primary objective.<sup>78</sup> In his view, the privatisation of bus services has an inherent difficulty in that the delivery of high-quality bus services is incompatible with commercial feasibility.<sup>79</sup> This is because, as highlighted by Randwick City Council, private operators may have to prioritise profitable routes and discontinue or reduce services that have less patronage and therefore do not generate the same revenues.<sup>80</sup>

- 2.14** Other local councils also commented on this issue. Ku-ring-gai Council noted that the profit motive may result in unprofitable routes being reduced or removed and an increased frequency of direct services to key destinations, such as town centres and light rail and rail stations, to increase patronage and reduce travel time, thus improving profitability.<sup>81</sup>
- 2.15** In addition, the Transport Workers' Union stated that when competitive tendering becomes a feature of an industry that was previously a public service, quality and safety will ultimately degrade as profits are put before people.<sup>82</sup>
- 2.16** Conversely, BusNSW expressed that it 'is not aware of any direct correlation between "privatisation" and a loss of bus stops and services'. It highlighted that reviews of the networks in each Contract Region occasionally occur from which changes to routes, service frequency, coverage, connections and bus stops may occur.<sup>83</sup>
- 2.17** One of the private bus operators that participated in the inquiry, Red Bus Services, which operates in the Gosford and The Entrance regions of the Central Coast, argued that other measures harness profitability rather than removing or modifying routes:
- The pressure does not include the need to incrementally reduce and rationalise services or routes to stay competitive as the routes are determined by Transport for NSW and the contract price is calculated on kilometres and hours. There is no saving to the operator to change the timetable. The savings to an operator is by reducing the layover, repositioning, back to depot sign on and finishing times, which we call dead running. Creating an efficient network is how an operator makes money not the timetable.<sup>84</sup>
- 2.18** Commenting on the overall profitability of bus services contracts, Mr Porter, Chief Operating Officer at Keolis Downer, the private bus operator in Region 8 and in Newcastle, emphasised that the delivery of quality and efficient bus services assists it to win future contracts, which he stated are more lucrative than what it gets from the operational contract itself.<sup>85</sup>
- 2.19** Stakeholders' concerns about diminished services as a result of cancelling and modifying less profitable routes across Sydney are discussed later in this chapter.

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<sup>78</sup> Submission 99, Mr Ron Hoenig MP, Member for Heffron, p 1.

<sup>79</sup> Evidence, Dr Marjorie O'Neill MP, Member for Coogee, Legislative Assembly, Parliament of New South Wales, 2 May 2022, p 63.

<sup>80</sup> Submission 14, Randwick City Council, p 1.

<sup>81</sup> Submission 19, Ku-ring-gai Council, p 1.

<sup>82</sup> Submission 5, Transport Workers' Union of New South Wales, p 6.

<sup>83</sup> Submission 2, BusNSW, p 4.

<sup>84</sup> Answers to supplementary questions, Ms Leanne Griffiths, Manager, Business Services, Red Bus Services, 28 June 2022, p 2.

<sup>85</sup> Evidence, Mr Porter, 31 May 2022, p 31.

### Reduced accountability and transparency

- 2.20** Stakeholders expressed concerns about the public accountability of the NSW Government and private bus operators in the delivery of bus services and concerns around the transparency of contract terms.
- 2.21** Some inquiry participants, including Mr David Babineau, Divisional Secretary of the Tram and Bus Division of the Rail, Tram and Bus Union of NSW, considered that under a privatisation model there is diminished accountability for the delivery of bus services.<sup>86</sup> For example, Willoughby Progress Association contended that when bus services were operated by the NSW Government, there was a higher level of accountability via mechanisms such as the NSW Parliament and through the public's representations to elected representatives and ministers. According to the Association, when bus services move to private operators, these avenues become less effective. The Association also contended that contracts with private bus operators lack transparency with respect to how the public interest in quality and level of service is protected.<sup>87</sup>
- 2.22** There was some discussion about the public's ability to hold operators and the NSW Government to account by making their frustrations about bus services known and heard. With respect to providing feedback and lodging complaints with Transport for NSW, Dr O'Neill MP commented on the changes to the over the phone service provided by Transport for NSW whereby speaking to a person at the other end of the line has been replaced with an automated message redirecting callers to a webpage.<sup>88</sup>
- 2.23** On the topic of complaints, Busways, one of the private bus operators that participated in the inquiry, informed the committee that it is a contractual requirement of all private operators to have information on how to make a complaint or request and provide feedback in their passenger relations plans which, in the case of Busways, is published on their website.<sup>89</sup>
- 2.24** Looking at the transparency of contracts, the Inner West Council's submission contended that the public perception of private sector bus services contracts is that they lack transparency, which could be improved by enhanced communication and consultation with the public and greater accessibility to bus services data.<sup>90</sup>
- 2.25** On the impact of privatisation on disability inclusion, the Physical Disability Council of New South Wales expressed some concerns. The Council informed the committee that while Transport for NSW is committed to and obliged under legal mechanisms to meet disability inclusion requirements, these obligations do not extend to private bus operators. Ms Hayley Stone, Senior Policy Officer at the Physical Disability Council of NSW, advised that private operators are not bound by Transport for NSW's Disability Inclusion Action Plan 2018-2022

<sup>86</sup> Evidence, Mr David Babineau, Divisional Secretary, Tram and Bus Division, Rail, Tram and Bus Union of NSW, 2 May 2022, p 43; Submission 6, Inner West Council, p 5.

<sup>87</sup> Submission 3, Willoughby Federation of Progress Associations, p 1.

<sup>88</sup> Submission 4, Physical Disability Council of New South Wales, pp 1-2.

<sup>89</sup> Answers to supplementary questions, Mr Byron Rowe, Managing Director, Busways, 6 July 2022, pp 4-5. See also Answers to supplementary questions, Transit Systems, 27 June 2022, p 9.

<sup>90</sup> Submission 6, Inner West Council, p 5.

and it is difficult to understand what obligations are contractually placed on private operators due to a lack of transparency with contracts.<sup>91</sup>

### **Contracts prioritise on-time running over service coverage**

- 2.26** Some features of the bus services privatisation model were identified by stakeholders to negatively impact the quality and level of services, in particular the requirement placed on private bus operators to maintain 'on time' running. Some inquiry participants asserted that operators may reduce their services in order to meet key performance indicators for on-time running in their service contracts.
- 2.27** As mentioned in chapter 1, on-time running is a key performance indicator in Sydney Metropolitan Bus Service Contracts. The on-time running condition requires private operators to achieve 95 per cent on-time running for all bus services in a Contract Region.<sup>92</sup> Waverley Council expressed concern that a 95 per cent requirement for reliability of services is higher than previous contractual requirements. Waverley Council contended that this high bar placed on private bus operators has a perverse impact on breadth and level of service because operators are encouraged to reduce services in order to meet this key performance indicator.<sup>93</sup> Expanding on this point, Waverley Council explained that the 'on-time running' requirement will incrementally result in a reduction in the number of buses serving a daily route, a reduction in the number of indirect services and removal of bus stops.<sup>94</sup>
- 2.28** Waverley Council referred to data showing that both Contract Regions 6 and 9 have a long-term trend of on-time running below 95 per cent, with the exception of the COVID-19 pandemic, where patronage and general road traffic decreased.<sup>95</sup>
- 2.29** Waverley Council said that the requirement for on-time running should apply to 'frequent' routes which are typically direct and on arterial roads but is less appropriate for 'local' routes which are indirect and disperse into local roads. This is because local routes which provide a breath of coverage should not be required to perform at the same reliability as those high frequency routes on arterial roads.<sup>96</sup>
- 2.30** Additionally, Waverley Council recommended that when a private bus operator proposes a service change to Transport for NSW, the proposal should be assessed against a requirement that the private bus operator maintain or improve the breadth of coverage. The Council further recommended that the community have the opportunity to comment on service change proposals from private operators before Transport for NSW makes a decision on the request, and that responses from the public and Transport for NSW's decisions be made public. In its view, these two changes to the process for requesting changes to the bus network could prevent

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<sup>91</sup> Evidence, Ms Hayley Stone, Senior Policy Officer, Physical Disability Council of NSW, 3 May 2022, p 2.

<sup>92</sup> Submission 406, Waverley Council, p 5.

<sup>93</sup> Submission 406, Waverley Council, p 5.

<sup>94</sup> Answers to supplementary questions, Waverley Council, 30 June 2022, p 1.

<sup>95</sup> Submission 406, Waverley Council, p 5.

<sup>96</sup> Submission 406, Waverley Council, p 6.

private bus operators from reducing scope of services in order to meet performance and budget constraints, and bring heightened transparency and accountability to the process.<sup>97</sup>

- 2.31** Other local councils expressed similar views. Mr Ken Welsh, Team Leader of Strategic Transport Planning at Inner West Council, argued that there should be targets connected to the level and quality of service rather than just simply patronage and on-time running targets.<sup>98</sup> Ku-ring-gai Council contended that it is unlikely that the on-time running requirement would lead to service improvements. This is because delays are often caused by congestion and measures such as bus priority at key congestion points and upgrades to bus interchanges would go further to improve reliability of bus services.<sup>99</sup>
- 2.32** A community member who gave evidence at a hearing, Mr Ken Wilson, observed a similar trend in the operation of bus services on the North Shore. In his view, the current criteria for assessing bus operators' performance as set out in the contracts places an over-reliance on the on-time running requirement and lacks targets for the connectivity, level and quality of service.<sup>100</sup>

### **Competitive tendering practices tend to favour large bus operators**

- 2.33** Some stakeholders expressed disquiet around the tendency for competitive tendering practices to favour multi-national and multi-modal operators over smaller family-operated bus services. They noted that since the introduction of competitive tendering, there has been an emergence of transnational corporations in the Australian bus services market, such as ComfortDelGro, Transdev and Transit Systems.<sup>101</sup>
- 2.34** Local family-run operators like Busways and Red Bus Services welcomed competition in the market as it 'drives innovation, improvements, and ultimately better customer outcomes' and requires a continuous investment in improvement and innovation.<sup>102</sup> Nonetheless, Busways and Red Bus Services recognised that the emergence of international competitors can place pressure on local operators, as they have a limited capacity to compete with economy of scale.<sup>103</sup>
- 2.35** The size, experience, location and history of the private bus operating company was considered to have relevance to its operational approach and ethos to delivering public bus services. Local bus companies told the committee that local operators bring particular benefits. For example, Red Bus Services highlighted that it is a family-operated bus company which has operated on the Central Coast for over 80 years. Its mission has been to be the 'operator of choice and

<sup>97</sup> Answers to supplementary questions, Waverley Council, 30 June 2022, p 2.

<sup>98</sup> Evidence, Mr Ken Welsh, Team Leader, Strategic Transport Planning, Inner West Council, 3 May 2022, p 14.

<sup>99</sup> Submission 19, Ku-ring-gai Council, p 1.

<sup>100</sup> Evidence, Mr Ken Wilson, Private citizen, 3 May 2022, p 17.

<sup>101</sup> Submission 5, Transport Workers' Union, p 6.

<sup>102</sup> Answers to supplementary questions, Ms Leanne Griffiths, Manager, Business Services, Red Bus Services, 28 June 2022, pp 2-3; Answers to supplementary questions, Mr Byron Rowe, Managing Director, Busways, 6 July 2022, p 2.

<sup>103</sup> Answers to supplementary questions, Ms Leanne Griffiths, Manager, Business Services, Red Bus Services, 28 June 2022, p 3; Answers to supplementary questions, Mr Byron Rowe, Managing Director, Busways, 6 July 2022, p 2.

employer of choice', a value which has been harnessed 'by living in the community, collaborating with government and treating every employee as a member of the family'.<sup>104</sup>

**2.36** Busways highlighted that although it is smaller than the large multi-national, multi-modal operators and is a family operator business, it is the largest of the privately owned bus operators in Australia. It noted that these business characteristics create the following advantages:

- decision-making and problem solving is 'unencumbered, flexible and fast'
- company owners and key decision makers are accessible to NSW Government and the contract managers thanks to its transparent and local organisational structure
- there is a singular focus on passenger bus services and therefore a specialisation in understanding local needs, challenges and opportunities
- a long-term view is taken to investment and provisioning, benefiting Australian businesses, supplies and local industry
- the company takes a values-based approach to employee and community relations, with 'legacy and reputation perhaps having a different meaning' than it does to other operators.<sup>105</sup>

**2.37** Transport Workers' Union of NSW expressed concern that, in its view, Transport for NSW has a preference to award contracts to national or multinational operations. Its submission observed that after the first round of competitive tendering in 2012 and 2013, the majority of operators who lost their contracts at that time were smaller, family-operated companies which were replaced by larger national or multinational companies.<sup>106</sup> Further, the Union drew attention to the fact that Transport for NSW has indicated that for the 2022 tender process for the remaining Sydney Metropolitan Bus Service Contracts, bids from operators can combine certain Contract Regions. The Union was concerned about the combination of certain Contract Regions bundled together because three of the four combinations involved a smaller, local bus operator. The Union saw this as a 'clear sign from the New South Wales Coalition Government that their preference is for larger, national and multinational operators such as CDC, Transit Systems and Transdev to take over the operation of contracts currently held by smaller operators'.<sup>107</sup>

**2.38** Red Bus Services explained that this approach places pressure on smaller operators to find a bidding partner to provide the required equity to bid on their current Contract Region but also the neighbouring region, in accordance with the amalgamations that Transport for NSW are seeking.<sup>108</sup> In the view of Ms Leanne Griffiths, 'the desire of Transport for NSW to amalgamate bus contracts can only be the right decision if it will provide better customer outcomes for those communities, not because it will reduce costs in the initial round of tendering'.<sup>109</sup>

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<sup>104</sup> Evidence, Ms Griffiths, 31 May 2022, pp 27-28.

<sup>105</sup> Answers to supplementary questions, Mr Byron Rowe, Managing Director, Busways, 6 July 2022, p 4.

<sup>106</sup> Submission 5, Transport Workers' Union of NSW, pp 4-6.

<sup>107</sup> Submission 5, Transport Workers' Union of NSW, pp 4-6.

<sup>108</sup> Evidence, Ms Griffiths, 31 May 2022, p 22.

<sup>109</sup> Evidence, Ms Griffiths, 31 May 2022, p 22.

**2.39** Another development in competitive tendering practices which could place smaller, family-operated businesses at risk of being pushed out of the market is that there are two Outer Sydney Metropolitan Bus Service Contracts which Transport for NSW has decided to open to competitive tender despite having historically directly negotiated with the private operator. The operators of these two Contract Regions are two Australian, family-operated businesses – Busways and Red Bus Services.<sup>110</sup>

## **Bus network changes across Sydney's metropolitan and outer metropolitan areas**

**2.40** This section begins with an overview of general community concerns with bus service delivery as raised by respondents to the online questionnaire conducted by the committee. Next, the section sets out recent changes to bus services and networks in the three recently privatised Sydney Metropolitan Contract Regions servicing Sydney's Eastern Suburbs, Northwest and North Shore and Inner West areas. It then looks at the changes in Newcastle and the Central Coast. For each of these Contract Regions, stakeholders' views on the impacts of key changes, the role of privatisation in prompting these changes, and the level of community consultation and engagement, are discussed.

### **Community views on service delivery changes**

**2.41** As part of this inquiry, the committee supplemented the submission process by conducting an online questionnaire to encourage public participation in the inquiry.

**2.42** Out of the 1,697 responses to the online questionnaire, the vast majority of participants (1,196 participants) selected that they reside in Metropolitan Sydney. There were 1,269 participants (or 75 per cent) who either 'dissatisfied' or 'very dissatisfied' with the current bus services, while 19 per cent of respondents were 'satisfied' or 'very satisfied' with services. Some key themes arising from participants' reasons for their dissatisfaction included:

- there has been a reduction in bus services, particularly outside of peak hour, and in areas also serviced by the light rail, such as in Sydney's Eastern Suburbs
- direct services have been cancelled, which has forced passengers to transfer between buses or modes of transport to complete their journey, creating safety and accessibility concerns
- changes to bus routes have reduced accessibility to essential services, such as healthcare, as well as social and leisure activities.<sup>111</sup>

**2.43** In addition, 1,270 participants (or 82 per cent) believe themselves to be more reliant on cars as a result of the service delivery changes in their region.<sup>112</sup>

<sup>110</sup> Evidence, Ms Griffiths, 31 May 2022, p 27.

<sup>111</sup> Portfolio Committee No 6 – Transport, Report on the Online Questionnaire, *Inquiry into the Privatisation of Bus Services*, pp 2-6.

<sup>112</sup> Portfolio Committee No 6 – Transport, Report on the Online Questionnaire, *Inquiry into the Privatisation of Bus Services*, p 8.

## Changes across Metropolitan Contract Regions 7, 8 and 9

- 2.44** Transport for NSW's submission noted the recent 'Network 2020' program introduced changes to bus services in Contract Regions 7, 8 and 9. The objectives of the program were to maximise benefits for those using buses 'while managing inevitable changes to some existing customers' journeys'. Transport for NSW stated that some bus routes were divided to improve reliability and better reflect travel patterns and demand. Other routes were shortened and some direct city services were removed to reduce duplication. There were also bus routes which were consolidated to provide a more attractive overall service. Transport for NSW recognised that as a result of these changes, some customers are required to transfer between services, buses no longer service some streets and some customers' nearest bus stop may be a further distance.<sup>113</sup>
- 2.45** Transport for NSW added that the Network 2020 project delivered the 'All Day Frequent Network' routes in Contract Regions 7, 8 and 9 which operate every 10 minutes or better during the day for 12 continuous hours and at most every 20 minutes in the early morning and late night, seven days a week.<sup>114</sup>

## Metropolitan Contract Region 9 – Sydney's Eastern Suburbs

### *Network changes and impact on the community*

- 2.46** The majority of submissions received from individual community members, approximately 320 out of 413 submissions, were about the changes to the bus network in the Eastern Suburbs and the impacts of privatisation.<sup>115</sup> In addition, a high proportion of responses to the online questionnaire identified themselves as residents of the Eastern Suburbs.<sup>116</sup>
- 2.47** The importance of effective bus services in the Eastern and South-Eastern Suburbs was highlighted by Waverley Council. The Council advised that 'Contract Region 9 has the highest patronage of any region in the Sydney Bus network', that being 21 per cent of the total trips across the network. Highly functional bus services were described by Waverley Council to be 'fundamental' to the liveability of Waverley and the Eastern Suburbs generally, characterised by high density living, low car ownership and significant cultural and recreational destinations.<sup>117</sup> Adding to this point, Waverley Council highlighted that buses are a necessary part of the transport network as neighbourhoods cannot support higher levels of car ownership due to spatial constraints and high density living.<sup>118</sup>
- 2.48** With respect to the bus network changes in Contract Region 9, Transport for NSW noted that the changes introduced on 5 December 2021 saw a loss of 28 bus stops, with a dedicated school service continuing to service nine of these stops. On the matter of timing, Transport for NSW noted that the changes were implemented prior to the transition of Contract Region 9 from the

<sup>113</sup> Submission 258, Transport for NSW, pp 9-10. See also Submission 413, Keolis Downer, p 3.

<sup>114</sup> Submission 258, Transport for NSW, p 10.

<sup>115</sup> See, for example, Submission 50; Mr Tim Waldock; Submission 91, Ms Gae Robinson; Submission 181, Name Suppressed.

<sup>116</sup> Portfolio Committee No 6 – Transport, Report on the Online Questionnaire, *Inquiry into the Privatisation of Bus Services*, p 2.

<sup>117</sup> Submission 406, Waverley Council, p 1; Evidence, Councillor Masselos, 31 May 2022, p 2.

<sup>118</sup> Submission 406, Waverley Council, p 2.

State Transit Authority to private bus operator Transdev John Holland, which commenced its contract in April 2022.<sup>119</sup>

- 2.49** Both Randwick City Council and Waverley Council opposed the privatisation of bus services in Contract Region 6, as did the elected representatives Mr Ron Hoenig MP, Dr Marjorie O'Neill MP, Mr Michael Daley MP and Mr Matt Thistlethwaite MP because of the diminution in the level, accessibility and quality of bus services and the impact it has had on the communities they represent.<sup>120</sup> These stakeholders highlighted the negative feedback they have received from their communities about the network changes and emphasised that there have been coordinated efforts through rallies and petitions to express their concerns about the changes.<sup>121</sup>
- 2.50** Randwick City Council recommended that the privatisation of bus services in Contract Region 9 be reconsidered and Waverley Council called for the operation of bus services in Contract Region 9 to be returned to the NSW Government from the private operator.<sup>122</sup> Mr Clint Yabuka, Manager Sustainable Transport at Waverley Council, explained that changes to bus services have been progressively implemented since a 2018 review into bus services in Contract Region 9 and the Council has been campaigning to save their buses since then.<sup>123</sup>
- 2.51** A total of 34 bus routes which operated in or adjacent to Waverley have been cancelled since 2018, with 10 routes cancelled in 2018 and 24 routes cancelled in December 2021.<sup>124</sup> In the Waverley Council area, there were six direct routes from Bondi Beach to Bondi Junction removed in 2018, with other routes modified, and a further eight direct routes removed in 2021. A key change in Waverley, and one of major concern to the Council, was the consolidation of six routes into two routes along the Bronte Road corridor. While the Council explained that there were minimal changes outside of the Bronte Road corridor, the impact of consolidating routes along Bondi Road and Bronte Road is significant because there are fewer bus services operating that reach fewer destinations. In the view of Mr Yabuka, 'the public benefit has been diminished because people cannot reach the destinations that they used to be able to reach via those bus services'.<sup>125</sup>
- 2.52** Another concern raised by the Mayor of Waverley Council, Councillor Paula Masselos, was that bus routes which previously went directly to Sydney CBD now go to the Bondi Junction Interchange, which is problematic as it increases travel time, requires a change of transport mode and results in a dangerously busy interchange hub.<sup>126</sup>

<sup>119</sup> Submission 258, Transport for NSW, p 11.

<sup>120</sup> Submission 131, Dr Marjorie O'Neill MP, Member for Coogee, p 3; Submission 99, Mr Ron Hoenig MP, Member for Heffron, pp 1-2; Evidence, Mr Michael Daley, Member for Maroubra, Legislative Assembly, Parliament of New South Wales, 2 May 2022, p 55; Evidence, Mr Thistlethwaite MP, 2 May 2022, p 54.

<sup>121</sup> Submission 14, Randwick City Council, p 1; Evidence, Mr Daley MP, 2 May 2022, p 58; Evidence, Dr Marjorie O'Neill MP, 2 May 2022, p 57.

<sup>122</sup> Evidence, Councillor Masselos, 31 May 2022, p 2; Submission 14, Randwick City Council, p 4.

<sup>123</sup> Evidence, Mr Clint Yabuka, Manager Sustainable Transport, Waverley Council, 31 May 2022, p 3.

<sup>124</sup> Answers to questions on notice, Waverley Council, 30 June 2022, p 1. See also Evidence, Councillor Dylan Parker, Mayor, Randwick City Council, 2 May 2022, p 45.

<sup>125</sup> Submission 406, Waverley Council, p 3; Evidence, Mr Yabuka, 31 May 2022, p 4.

<sup>126</sup> Evidence, Councillor Masselos, 31 May 2022, p 3.

**2.53** Randwick City Council noted there were 25 bus routes removed and 23 bus routes modified, despite these routes being, as described by Mayor Dylan Parker, 'much loved and well patronised by the community'.<sup>127</sup> The impact of these changes is that there is reduced access for the commuting public along those removed or modified routes, reduced frequency and directness of services to Sydney CBD, decreased frequency of local routes, and many services now require interchange between buses, or from a bus to the light rail.<sup>128</sup> With respect to bus stops, Dr Marjorie O'Neill, Member for Coogee, informed the committee that an estimated 50 bus stops have been removed from in or around the Coogee area.<sup>129</sup>

**2.54** Giving more detail on these network changes, Mayor Parker characterised the impact of moving from a 'direct' service to a 'shuttle' service:

The experience to date of the new network has been particularly patchy. For large chunks of the community, what they are finding is that, for areas which are not tied to the major bus routes, they are more infrequent. As well, the changes in the actual routes mean that they are effectively shuttle services to the main nodes, rather than having a direct, reliable service into the city.<sup>130</sup>

**2.55** Inquiry participants provided the following examples of removed or modified bus routes which they considered to be particularly troublesome for the community.

- With respect to buses from Coogee to Sydney CBD, the well patronised bus routes 372 and 377 were removed. Additionally, bus route 373 now terminates at Museum Station rather than Circular Quay, meaning a longer walk to the Eye Hospital on Macquarie Street, and there are also long wait times between services in the evenings.<sup>131</sup>
- Bus routes 400 and 400N from the Prince of Wales Hospital through Eastgardens to Sydney Airport were removed, withdrawing the only direct bus routes for that community to the Airport and Hospital.<sup>132</sup>
- There are fewer options between Coogee and Maroubra to Bondi Junction as the 314, 316 and 317 were discontinued.<sup>133</sup>

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<sup>127</sup> Submission 406, Waverley Council, p 3,

<sup>128</sup> Submission 14, Randwick City Council, p 3; Evidence, Councillor Parker, 2 May 2022, p 45.

<sup>129</sup> Evidence, Dr Marjorie O'Neill MP, 2 May 2022, p 59.

<sup>130</sup> Evidence, Councillor Parker, 2 May 2022, p 47.

<sup>131</sup> See, for example, Submission 131, Dr Marjorie O'Neill MP, p 2; Submission 91, Gae Robinson, pp 2-3.

<sup>132</sup> Evidence, Mr Thistlethwaite MP, 2 May 2022, pp 54-55 and 61.

<sup>133</sup> Submission 91, Gae Robinson, pp 2-3.

**2.56** Some impacts of the network changes on the commuting public noted by key stakeholders from the area included:

- Increased commuting time due to longer distances to nearest bus stop, direct routes having been split and time added due to the introduction of an interchange or longer distance between services.
- Greater challenges for the commuting public to access health care, get to and from work, go shopping and visit family and friends, with a disproportionate impact on the elderly and persons with mobility difficulties.
- More cars on the road which leads to increased congestion, longer travel times and less available parking.
- There has been greater difficulty experienced by city workers to commute to Sydney CBD to return to working from the office.<sup>134</sup>

***Impacts of the light rail and privatisation***

**2.57** Several inquiry participants, including Waverley Council and Randwick City Council and local elected representatives, expressed the view that the reasons behind the network changes in Contract Region 9 were twofold: to increase the patronage on the light rail and to prepare the network for privatisation.<sup>135</sup>

**2.58** On the first point, these inquiry participants pointed to how the network changed to favour patronage on the light rail. For example, Dr Marjorie O'Neill, Member for Coogee, contended that the NSW Government has removed bus routes to reduce duplication of the light rail network.<sup>136</sup> In addition, according to the Mayor of Randwick City Council, to achieve patronage of the light rail, the most efficient way to encourage passengers to interchange from a bus to the light rail was to terminate the bus route at the light rail stop rather than continue it any further. In his view, the 'flavour' of the bus changes was to require interchanging.<sup>137</sup>

**2.59** Some reasons for which these stakeholders did not support changes to the bus network to create a modal shift from bus to light rail light included:

- the light rail does not take passengers as close to their destination as the respective bus routes previously did
- the light rail is a less efficient, slower service
- the need to change from a bus to the light rail increases travel time to destinations and introduces accessibility issues for persons with mobility difficulties

<sup>134</sup> Submission 14, Randwick City Council, pp 1-2; Submission 406, Waverley Council, pp 3-4; Evidence, Mr Daley MP, 2 May 2022, p 55 and 59; Evidence, Mr Thistlethwaite MP, 2 May 2022, pp 54 and 60; Submission 131, Dr Marjorie O'Neill MP, p 3; Evidence, Ms Gae Robinson, Private citizen, 2 May 2022, p 8.

<sup>135</sup> See, for example, Submission 131, Dr Marjorie O'Neill MP, p 2; Evidence, Dr Marjorie O'Neill MP, 2 May 2022, pp 54-55; Evidence, Councillor Parker, 2 May 2022, p 48; Submission 406, Waverley Council, p 3; Evidence, Mr Daley MP, 2 May 2022, p 55.

<sup>136</sup> Evidence, Dr Marjorie O'Neill MP, 2 May 2022, p 58.

<sup>137</sup> Evidence, Councillor Parker, 2 May 2022, p 48.

- the light rail can experience operational issues and delays
- there is a lack of coordination between buses arriving at the Randwick Junction light rail interchange and the light rail timetable.<sup>138</sup>

- 2.60** A key criticism which was commonly made by these stakeholders was that these changes came as a surprise to the community. Mayor of Randwick City Council, Councillor Dylan Parker, said that approximately 10 to 13 bus routes were slated for removal in the Environmental Impact Statement for the light rail, which is significantly less than the number of bus routes eventually removed. He added that the community was never advised about the extent to which the light rail was intended to substitute bus services.<sup>139</sup> Waverley Council also commented that the NSW Government consulted with the Council and the community on changes to the bus network once the light rail was operational but not during the planning and construction phases.<sup>140</sup>
- 2.61** Making a similar observation, Mr Matt Thistlethwaite, Federal member for Kingsford Smith, informed the committee that during the planning and construction stages of the light rail, there was correspondence from the NSW Government which could not confirm the impact of the light rail on bus services, but shortly after the light rail became operational several of the bus routes which the community did not want to lose were cut.<sup>141</sup>
- 2.62** BusNSW was also of the view that the network changes in Contract Region 9 'are based around connection to other transport modes, rather than any changes associated with "privatisation"'. In its view, there does not appear to be 'any direct correlation between "privatisation" and a loss of bus stops and services'.<sup>142</sup>
- 2.63** Conversely, as noted above, several inquiry participants held an opposing view that there is a direct link between the recent privatisation of Contract Region 9 and what they consider a diminution in level and quality of bus services in the area. A central criticism expressed during the inquiry was that certain Contract Regions, including Region 9, experienced a reduction and rationalisation of bus services prior to moving from the State Transit Authority to a private operator. As noted in chapter 1, in April 2022 the private bus operator Transdev John Holland commenced as the operator for Contract Region 9.
- 2.64** The Mayor of Waverley Council contended that changes to bus routes and stops since 2017 were in preparation for privatisation.<sup>143</sup> The Mayor of Randwick City Council agreed that the changes implemented in December 2021 were to increase the attractiveness of the contract to the private sector.<sup>144</sup> In the case of bus routes removed from the Waverley Council area, the

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<sup>138</sup> Submission 131, Dr Marjorie O'Neill MP, p 2; Submission 91, Gae Robinson, p 3; Evidence, Ms Robinson, 2 May 2022, pp 7-8; Evidence, Mr Thistlethwaite MP, 2 May 2022 p 54; Evidence, Mr Michael Daley MP, 2 May 2022, p 59; Evidence, Dr Marjorie O'Neill MP, 2 May 2022, p 62; Evidence, Ms Serena Ovens, Chief Executive Officer, Physical Disability Council of NSW, 3 May 2022, p 4; Evidence, Councillor Masselos, 31 May 2022, p 3.

<sup>139</sup> Evidence, Councillor Parker, 2 May 2022, p 52.

<sup>140</sup> Answers to supplementary questions, Waverley Council, 30 June 2022, p 1.

<sup>141</sup> Evidence, Mr Thistlethwaite MP, 2 May 2022, p 61.

<sup>142</sup> Submission 2, BusNSW, p 4.

<sup>143</sup> Evidence, Councillor Masselos, 31 May 2022, p 3.

<sup>144</sup> Evidence, Councillor Parker, 2 May 2022, p 48.

Mayor argued that the result of removing several routes is that the less patronised, and therefore the less profitable routes, were removed and only the profitable routes remain.<sup>145</sup>

- 2.65** A further motivation for making changes prior to privatisation pointed out by the Tram and Bus Division of the Rail, Tram and Bus Union of NSW was that it removes the need for changes to be made once a private operator commences a contract. This therefore avoids negative feedback from the commuting public. In its view, this operates 'to shield the reputation of the incoming operator'.<sup>146</sup> The Union contended that Transport for NSW implemented this approach after the negative feedback on privatisation from the Newcastle community in response to the service changes that Transport for NSW directed the private operator to make shortly after they commenced operations (see below for discussion on the Newcastle area).<sup>147</sup>
- 2.66** Mr Howard Collins, Chief Operations Officer at Transport for NSW, contended that changes to the network which reduced the length of certain bus routes were driven by efficiency gains rather than being connected to the privatisation process.<sup>148</sup> Ms Fontana added that shorter routes are more reliable than longer routes, pointing to bus route 400 as being one of the most unreliable routes in NSW. She argued that, therefore, the introduction of shorter routes enables greater efficiency in the network.<sup>149</sup>
- 2.67** Both Waverley Council and Randwick City Council also expressed apprehension about the future of bus services in Contract Region 9 since private bus operator, Transdev John Holland, commenced its contract in April 2022. Waverley Council referenced the privatisation of Contract Region 6 in Sydney's Inner West (discussed below) and the consequential reduction in service provision. The Council argued that the likely outcome of privatising Contract Region 9 is that the objective of route rationalisation will impact local routes and limited frequency routes, and will reduce the number of services and the number of bus stops. The Council asserted that it would have a detrimental and potentially disastrous long-term impact on the lives of residents and the liveability of neighbourhoods.<sup>150</sup> Similarly, the Mayor of Randwick City Council contended that in light of the experience of other privatised regions, specifically Contract Region 6, there is concern about the decline in bus service provision which may be experienced into the future with private operators.<sup>151</sup>

### *Lack of community consultation*

- 2.68** A common criticism heard during the inquiry was that the level of consultation and engagement with the community and its stakeholders, particularly local councils and elected representatives, was inadequate prior to the recent network changes, as well as once the changes had been implemented.
- 2.69** Inquiry participants referred to the draft plan and final consultation report from Transport for NSW regarding the network changes. The Mayor of Randwick City Council expressed

<sup>145</sup> Evidence, Councillor Masselos, 31 May 2022, p 3.

<sup>146</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 2.

<sup>147</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 2.

<sup>148</sup> Evidence, Mr Howard Collins, Chief Operations Officer, Transport for NSW, 3 May 2022, p 33.

<sup>149</sup> Evidence, Ms Daniela Fontana, Chief Executive, State Transit Authority, 3 May 2022, p 33.

<sup>150</sup> Submission 406, Waverley Council, pp 3-6.

<sup>151</sup> Evidence, Councillor Parker, 2 May 2022, p 45; Submission 14, Randwick City Council, p 3.

dissatisfaction with the process, stating that 'calling the consultation cursory would be a very complementary description of the exercise which was undertaken'.<sup>152</sup> He explained that a draft report was released for comment and received thousands of submissions from the community expressing concern and opposition to the changes. A final consultation report followed which included discussion on general themes and feedback but only included a few specific pieces of feedback in words from the community.<sup>153</sup>

**2.70** According to Mr Daley MP, the consultation undertaken by Transport for NSW was 'a farce'. This is because the bus routes which were stopped in December 2021 had been slated for removal in a confidential NSW Government document leaked by a whistleblower. As such, according to Mr Daley MP, the decision had already been made to remove these services from the network regardless of feedback from the community. On this issue, Dr O'Neill MP expressed her disappointment in the fact that the community and the elected representatives in the area learned of the proposed changes to the bus services through the aforementioned leaked document, rather than formal consultation or announcement from the NSW Government.<sup>154</sup>

**2.71** In a similar fashion, Waverley Council criticised the lack of consultation with the community prior to changes being implemented. The Mayor highlighted that meaningful consultation is important to understand the community's actual transport needs and trends and by extension the extent to which they are impacted by certain proposed changes. Without this, changes have been made that do not serve the community and their needs.<sup>155</sup> The Mayor also commented on attempts to engage with the new private operator, noting that Transdev John Holland did not attend the Waverley Traffic Committee on the two occasions they were invited.<sup>156</sup>

## **Metropolitan Contract Regions 7 and 8 – Sydney's North Shore, Northwest and Northern Beaches**

### ***Network changes and impact on community***

**2.72** As noted in chapter 1, bus services in the Northwest and Lower North Shore (Metropolitan Contract Region 7) moved from the State Transit Authority to private operator Busways in January 2022 and bus services on the Northern Beaches (Metropolitan Contract Region 8) moved from the State Transit Authority to private operator Keolis Downer in October 2021.<sup>157</sup>

**2.73** A range of changes to the bus network in Contract Region 8 occurred in December 2020. In the view of Willoughby City Council, while some changes improved services, several changes resulted in diminution of services. These included the removal of several direct services to the Royal North Shore Hospital and direct services between East Chatswood and Castle Cove to the Northern Beaches, in particular the Northern Beaches Hospital. The Council engaged with Transport for NSW and the Minister for Transport to advise on the impact of these changes on the community, in particular on the elderly and less mobile passengers accessing health care, yet

<sup>152</sup> Evidence, Councillor Parker, 2 May 2022, p 47.

<sup>153</sup> Evidence, Councillor Parker, 2 May 2022, p 46.

<sup>154</sup> Evidence, Dr Marjorie O'Neill MP, 2 May 2022, p 57.

<sup>155</sup> Evidence, Councillor Masselos, 31 May 2022, p 7.

<sup>156</sup> Evidence, Councillor Masselos, 31 May 2022, p 5.

<sup>157</sup> Submission 9, Willoughby City Council, p 4.

no modifications were made to the network changes.<sup>158</sup> A dozen submissions were received from community members in the North Shore, Northwest and Northern Beaches areas detailing how the network changes and privatisation have impacted them.<sup>159</sup>

- 2.74** Changes to bus services were announced for Contract Region 7 in January 2021. One of the key alterations was the reduction of services along Willoughby Road, thus limiting the interchange options for commuters before crossing the Sydney Harbour Bridge and entering Sydney CBD. Other changes included the loss of direct services to destinations in the Eastern Suburbs such as St Vincent's Hospital and Moore Park. In addition, there are also only two direct services to the region's beaches.<sup>160</sup>
- 2.75** A key issue with bus services for the Willoughby area beyond the negative impacts from these tranches of changes include the Chatswood bus interchange being over capacity with no room to expand. Another issue identified was the lack of off-peak services despite there being the data to demonstrate the recent cultural shift to working more frequently from home means more people are commuting at different hours of the day outside peak times.<sup>161</sup>
- 2.76** Contract Region 7 also includes Sydney's Northwest region. The City of Parramatta Council made a submission to the inquiry detailing the two key changes to bus services in the West region which fall within the City of Parramatta boundary. First, one year after bus route 526 was privatised as part of the Contract Region 6, which went from Burwood to Rhodes shopping centre, it scored the lowest experience rating for reliability and on-time running of all bus services in the peninsula area. In addition, the express bus service M52 between Parramatta and Sydney CBD was cancelled and replaced with an all-stop service which has a changed endpoint in the Sydney CBD.<sup>162</sup>
- 2.77** The City of Parramatta Council said that the alterations were not in the best interests of its community. The Council noted that it requested a meeting with the Minister for Transport and Transport for NSW asking for assurances about service level and quality. The Council added that there was no community consultation before the cancellation of the M52 service.<sup>163</sup>

### ***Impacts of privatisation***

- 2.78** On the question of the extent to which recent privatisation has led to poorer bus services, the position of Willoughby City Council was that these service changes 'were generally unrelated to the tender process for Regions 7 and 8 which occurred throughout 2020 and 2021'.<sup>164</sup> However, the Council contended that the current service levels for the area are insufficient to meet the needs of residents. Moreover, the Council expressed concern that there has been no effective planning to make changes to services in light of new infrastructure and planned growth for the area, such as the growth hub of Frenchs Forest, the Sydney Metro City and Southwest and the

<sup>158</sup> Submission 9, Willoughby City Council, p 4.

<sup>159</sup> See, for example, Submission 58, Mr Ken Wilson; Submission 151, Mr Peter Bower; Submission 256, Name Suppressed.

<sup>160</sup> Submission 9, Willoughby City Council, p 4. See also Evidence, Mr Wilson, 2 May 2022, pp 4-5.

<sup>161</sup> Submission 9, Willoughby City Council, pp 4-5.

<sup>162</sup> Submission 15, City of Parramatta Council, pp 1-2.

<sup>163</sup> Submission 15, City of Parramatta Council, pp 1-2.

<sup>164</sup> Submission 9, Willoughby City Council, p 5.

planned B-Line link between Chatswood and Dee Why. The Council asserted that the recent privatisation of Contract Regions 7 and 8 is an opportunity to improve services and called for more routes and services to be provided in all regions, as opposed to a reduction in services for cost efficiencies to the detriment of service quality.<sup>165</sup>

- 2.79** Taking a different approach, Mosman Council's submission made two requests of Transport for NSW. The first was that Transport for NSW adopt a formal consultation process to obtain residents' feedback on privatisation of bus services, and secondly, that Transport for NSW give assurances that service levels would not diminish and fares would not increase as a result of privatisation.<sup>166</sup>
- 2.80** The operators of Contract Regions 7 and 8 participated in the inquiry. When Keolis Downer, the private operator in Contract Region 8, was asked whether it lobbies the NSW Government to make changes to bus services that are in its interests as a for-profit entity, the response was that it 'works with Transport for NSW to deliver the best outcome for our customers through the efficient use of resources available'. It added that the proposals it makes for changes to service delivery, of which there have been three submitted to Transport for NSW, 'are intended to improve services for the majority of the travelling public'.<sup>167</sup>

#### ***Lack of community consultation***

- 2.81** In terms of the consultation with local councils prior to these changes, Willoughby City Council highlighted that the changes were implemented 'without any significant consultation with Councillors, Council officers or the community' and recommended that any future changes must follow meaningful community consultation.<sup>168</sup> Similarly, Mosman Council suggested that any future changes to services must be subject to comprehensive and genuine community consultation.<sup>169</sup>
- 2.82** Regarding ongoing stakeholder and community engagement, Mr Porter advised that he and the Managing Director of Keolis Downer Northern Beaches meet with councils for one hour every fortnight which allows them to 'understand all of the urban activation that is happening across the city and where we can put our services to better suit what the council initiatives are'.<sup>170</sup> Furthermore, Keolis Downer's submission stated that it has a team of customer services operators who assist with disruptions and wayfinding, hold pop-up information sessions across the network and hold consultation sessions for communication between passengers and the Keolis Downer management team.<sup>171</sup>

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<sup>165</sup> Submission 9, Willoughby City Council, p 5.

<sup>166</sup> Submission 12, Mosman Council, p 1.

<sup>167</sup> Answers to supplementary questions, Mr David Franks, Chief Executive Officer, Keolis Downer, 28 June 2022, pp 2-3.

<sup>168</sup> Submission 9, Willoughby City Council, p 6.

<sup>169</sup> Submission 12, Mosman Council, p 1. See also See also Evidence, Mr Wilson, 2 May 2022, p 6.

<sup>170</sup> Evidence, Mr Porter, 31 May 2022, p 23.

<sup>171</sup> Submission 413, Keolis Downer, p 3.

### Metropolitan Contract Region 6 – Sydney's Inner West

- 2.83** Metropolitan Contract Region 6 moved from the State Transit Authority to private operator Transit Systems in July 2018. Transit Systems informed the committee of following ways it has improved bus services and met community expectations in Contract Region 6:
- adding trips and new bus stop locations to the network
  - customer satisfaction as reported in the Transport for NSW March 2021 survey was 93 percent, an increase of 8 per cent
  - a 40 per cent decline in the number of customer complaints since 1 July 2018
  - a consistent improvement in on-time running and reliability.<sup>172</sup>
- 2.84** In terms of the reasons for poor service delivery outcomes in Contract Region 6 prior to it being privatised, the Tram and Bus Division of the Rail, Tram and Bus Union of NSW expressed a strong view that there has been a 'cynical politicisation of an essential service' in the instance of Contract Region 6. The Union stated that the State Transit Authority's request in 2014 for additional funding of \$5 million to address network issues was refused. The Union argued that this was a NSW Government strategy to increase delays, and consequently passenger complaints, and impact the State Transit Authority's performance against key targets. The Union summarised this process as 'prioritising the future ideology based position to the detriment of the general public and end users at the time'.<sup>173</sup>
- 2.85** Offering a different view to Transit Systems in terms of how the network has changed since it took over operations, the Inner West Council noted that subsequent to Transit Systems' operation of the bus services, on-time running dropped from 93.5 per cent to 90.5 per cent for the period of January to April 2019, and the number of bus stops on key routes was reduced by 20 to 30 per cent. Regarding the negative outcomes created by having less bus stops along a route, the Inner West Council noted that this increases risk and safety hazards to pedestrians, in particular for persons with disabilities, or with wheelchairs or prams, and can reduce the attractiveness of using a bus due to the distance to the bus stop and waiting in long queues.<sup>174</sup>
- 2.86** Similar to local councils in other Contract Regions, the Inner West Council expressed concern about service accessibility and performance when operated by the private sector. In its view, the private operators' objective to maintain a profit margin can lead to removal of less patronised routes because it is more profitable to run fewer buses at or near capacity than more buses with fewer passengers. One example of rationalisation noted by the Inner West Council is the truncation of bus route 370 which now runs from Coogee to Sydney University and no longer provides residents of Leichhardt and Annandale a direct route to Sydney University, Newtown, Moore Park, Randwick and Coogee.<sup>175</sup>
- 2.87** The other factors which the Inner West Council identified as being at play are that private operators have a limited ability to make direct changes to bus services and, moreover, they may be discouraged to introduce additional services ahead of a growing population due to short-

<sup>172</sup> Evidence, Mr Jamie Sinclair, Managing Director NSW, Transit Systems, 31 May 2022, p 11.

<sup>173</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 5.

<sup>174</sup> Submission 6, Inner West Council, pp 4-6.

<sup>175</sup> Submission 6, Inner West Council, p 10.

term lack of viability. The Council was concerned that growth for the Inner West area, projected to be a 70 per cent population increase by 2041 in key growth nodes, may not be adequately forecast in the contract with Transit Systems.<sup>176</sup>

- 2.88** The Inner West Council also emphasised that changes to the bus network have a significant impact because residents of the Inner West area have a heavy reliance on bus services. Some reasons for this include that almost 20 per cent of the Inner West population has reported requiring assistance in their day-to-day lives, and separately that a high percentage of households do not own cars.<sup>177</sup> About ten individuals from the Inner West area also made submissions to the inquiry highlighting the effects of privatisation and network changes on their lives.<sup>178</sup>

### **Newcastle and Outer Metropolitan Contract Region 7 – Central Coast**

- 2.89** Regarding the privatisation of bus services in Newcastle, as noted in chapter 1 the operation of all bus, tram and ferry services moved from the State Transit Authority to Keolis Downer in 2017.
- 2.90** Three elected representatives from the Newcastle area participated in the inquiry: Ms Yasmin Catley, Member for Swansea, Mr Tim Crakanthorp, Member for Newcastle, and Ms Jodie Harrison, Member for Charlestown. All three informed the committee of the significant volume of negative feedback from their constituents about the impact that the changes to bus services have had on their communities.<sup>179</sup> The committee was told that direct routes to Charlestown, Newcastle CBD and the Morisset train station were removed and services to key destinations such as Charlestown, Newcastle and the John Hunter Hospital take longer and require more changes between bus services. In addition, bus route 350 which helped transport students directly to several schools was removed and students are now required to make multiple bus changes.<sup>180</sup>
- 2.91** Ms Jodie Harrison MP highlighted some of the concerns her office received after privatisation occurred and changes to the network were made:

In the aftermath of these changes, my office was inundated by complaints of late buses, missed connections, longer waiting times, stranded school children, and even of elderly people and people with disabilities missing medical appointments and losing social connections because they could no longer rely on public transport.<sup>181</sup>

- 2.92** In addition to those changes, in June 2019 bus routes 41, 43 and 48 which serviced 13 suburbs were changed from hourly services to two-hourly services in non-peak times, with these routes

<sup>176</sup> Submission 6, Inner West Council, pp 5-6.

<sup>177</sup> Submission 6, Inner West Council, p 6; Evidence, Mr Welsh, 3 May 2022, p 15.

<sup>178</sup> See, for example, Submission 199, Name Suppressed; Submission 261, Name Suppressed; Submission 271; Name Suppressed.

<sup>179</sup> Submission 59, Ms Yasmin Catley MP, Member for Swansea, p 1; Submission 65, Ms Jodie Harrison MP, Member for Charlestown, p 1; Submission 100, Mr Tim Crakanthorp MP, Member for Newcastle, p 1.

<sup>180</sup> Submission 59, Ms Yasmin Catley MP, Member for Swansea, p 1.

<sup>181</sup> Submission 65, Ms Jodie Harrison MP, Member for Charlestown, p 1. See also Submission 100, Mr Tim Crakanthorp MP, Member for Newcastle, p 1.

providing the only direct route between certain suburbs. Responding to concerns about reduction in routes, Keolis Downer's submission and evidence at a hearing emphasised the benefits of its On-Demand bus service.<sup>182</sup> The On-Demand service allows passengers to book a bus which arrives at passengers' homes or an easy to access location and transports them to a local transport hub or landmark. The On-Demand buses differ to the normal bus fleet (mostly mini-buses) and bookings are made through a mobile application or over the phone.<sup>183</sup>

**2.93** However, Ms Catley MP noted that six bus services were removed from the electorate and replaced with four On-Demand buses, which provides a more limited service.<sup>184</sup> Ms Harrison MP explained that the On-Demand service ceases at 4pm on weekdays. Additionally, the service drops passengers at nearby bus stops to connect to a fixed-route service to get to their destination, and the arrival time and location of pick-up can vary which can leave passengers stranded if they do not have the mobile phone application to view the location of the bus in real-time.<sup>185</sup>

**2.94** Ms Harrison MP held the view that, on balance, the changes since privatisation have disproportionately impacted more vulnerable community members:

While I am not suggesting that all of the changes to the network brought about by the private provider were negative, the experience of the Charlestown electorate indicates that the reality of a private provider being given control of a service like public transport creates a perverse incentive to improve services by sacrificing those needed by a smaller but more vulnerable cohort in order to cut costs while still appealing to a wide enough user base.<sup>186</sup>

**2.95** These inquiry participants also condemned the lack of genuine consultation with the community prior to privatisation and the changes. Ms Catley MP noted that consultation with the school community and disability services in her electorate of Swansea was particularly necessary as the changes have caused significant challenges with accessibility to those services.<sup>187</sup> Mr Crakanthorp, Member for Newcastle, argued that the community made their views known but they were not heard by NSW Government:

In terms of consultation, there was not enough but it was superficial. I mean, the pushback and the communication back to the government of the day was in August. We had massive rallies. We got over 20,000 signatures, we had a debate in Parliament. We absolutely represented it as well as we could. It was a white hot issue. The Government did not listen ... Their pleas were totally ignored.<sup>188</sup>

<sup>182</sup> Submission 413, Keolis Downer, p 3.

<sup>183</sup> Transport for NSW, *On Demand public transport*, <https://transportnsw.info/travel-info/ways-to-get-around/on-demand>.

<sup>184</sup> Evidence, Ms Yasmin Catley MP, Member for Swansea, Legislative Assembly, Parliament of New South Wales, 3 May 2022, p 22.

<sup>185</sup> Submission 65, Ms Jodie Harrison MP, Member for Charlestown, p 3.

<sup>186</sup> Submission 65, Ms Jodie Harrison MP, Member for Charlestown, p 3. See also Submission 100, Mr Tim Crakanthorp MP, Member for Newcastle, p 1.

<sup>187</sup> Evidence, Ms Yasmin Catley MP, 3 May 2022, p 21.

<sup>188</sup> Evidence, Mr Tim Crakanthorp, Member for Newcastle, Legislative Assembly, Parliament of New South Wales, 3 May 2022, p 22.

- 2.96** Looking beyond Newcastle to the Central Coast, bus services in Gosford and The Entrance are provided by Red Bus Services (Outer Metropolitan Contract Region 7). Red Bus Services has been the bus operator in the area for 80 years. When asked at the hearing about the difference in negative feedback from the Newcastle community on the change to a private operator, and the consistently positive feedback from the community about Red Bus Services, Mr Porter, Chief Operating Officer at Keolis Downer, responded that Newcastle is a challenging city to provide efficient and effective services because of the way it is shaped, the varied destinations people want to go and the traffic conditions.<sup>189</sup>
- 2.97** With respect to satisfaction with the services it delivers, Red Bus Services highlighted that its satisfaction index in the last passenger survey was 98 per, with the bus industry average being 93 per cent.<sup>190</sup> At a hearing, Ms Leanne Griffiths emphasised that in their reviews of the network, breadth of service and accessibility to key services is taken into consideration:
- ... when we do network reviews, we listen to the community and we ask them what they actually would like. You can't always please all community members, but you do your best and you look at what type of community members require it the most as well. So you take into consideration that there are people out there who require our services to get to hospitals, shopping centres and universities.<sup>191</sup>

## Committee comment

- 2.98** The committee shares the concern of numerous inquiry participants that the delivery of a public service such as buses by the private sector is inherently problematic. Private operators, in particular large and multi-national companies, need to make a profit which can come at the expense of the community they are meant to serve.
- 2.99** The committee acknowledges the positive outcomes that have been achieved under historical contract tenders in areas such as the Central Coast where the private operator Red Bus Services operates. Red Bus Services appears to have struck an ideal balance between profitability, service delivery and driver satisfaction by taking a holistic approach to their service whereby they measure their success on all these metrics rather than just maximising profit.
- 2.100** Many communities have been significantly impacted by recent widescale cuts to bus services across Sydney and by the movement of public bus services from the hands of the State Transit Authority to private operators. The evidence before us demonstrates that communities across Sydney, and up to the Newcastle area, are experiencing common frustrations: fewer bus stops and buses which operate less frequently with reduced coverage. These cuts have happened not only since privatisation but in the lead up to the transfer of services.
- 2.101** The committee finds it unacceptable that changes to bus networks have made access to key services like schools, hospitals, places of employment, airports and other services more difficult when so much of the community, particularly the more vulnerable cohorts, rely heavily on high quality and efficient bus services for their mobility and quality of life.

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<sup>189</sup> Evidence, Mr Porter, 31 May 2022, p 32.

<sup>190</sup> Answers to supplementary questions, Ms Leanne Griffiths, Manager, Business Services, Red Bus Services, 28 June 2022, p 3.

<sup>191</sup> Evidence, Ms Griffiths, 31 May 2022, pp 26-27.

- 2.102** It is difficult for the committee to accept the proposition that many of the service and network changes are not related to privatisation because they were planned for and implemented prior to the regions in question being privatised. It is our view that these changes were made to increase the profitability of the contracts for the private sector to the detriment of the public interest.
- 2.103** Privatisation has generally resulted in poor outcomes for the community and a weakened public transport system. It will only become harder to unwind as asset ownership is increasingly transferred to private hands. The committee calls on the NSW Government to take action to bring public bus services in the four recently privatised Contract Regions in metropolitan Sydney which were formerly operated by the State Transit Authority back into the operation, control and ownership of the NSW Government. This case is only strengthened by the impacts of privatisation on the bus industry workforce, which are discussed in the next chapter.

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**Finding 2**

The privatisation of bus services in New South Wales has created an incentive for private companies to sacrifice the needs of more vulnerable people in order to cut costs while still appealing to a wide enough user base to meet their contractual obligations.

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**Finding 3**

The privatisation of bus services in Sydney and Newcastle have resulted in more limited service delivery, higher costs for passengers and worse pay and conditions for bus drivers.

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**Finding 4**

Changes to bus services in Sydney and Newcastle, including location of stops, frequency of services and changes to routes, have at times occurred without comprehensive community consultation.

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**Finding 5**

There are instances where private operations have been an obvious success such as on the Central Coast where the operator Red Bus Services is driven not just by profit but also by customer and staff satisfaction. This correlates with the smaller based family ownership and control structure of the company and their historical connection with that community.

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**Recommendation 1**

That the NSW Government give consideration to taking action to revert bus services to being publicly-owned-and-operated for:

- bus services in the four recently privatised Contract Regions in metropolitan Sydney (Contract Regions 6, 7, 8 and 9) that were previously operated by the State Transit Authority
  - bus services delivered under the integrated public service contract for Newcastle.
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- 2.104** In the meantime, the committee urges the following changes be entrenched in Transport for NSW's bus privatisation model.
- 2.105** Transport for NSW must ensure that with the emergence of multi-national and multi-modal operators who have the benefit of economies of scale, smaller local and family-run private bus operators are not pushed out of the market. Further, Transport for NSW must ensure that every community in NSW has access to reliable and accessible bus services to and from essential public infrastructure and services.
- 2.106** We believe these objectives can be achieved through modification to the contracts and processes employed by Transport for NSW to engage private operators. The key performance indicators must include targets connected to the level and quality of service rather than just patronage and on-time running targets. This will add a layer of protection for local and sometimes less patronised routes which are essential in serving the community. In addition, the committee agrees with the suggestion that as part of Transport for NSW's criteria for assessing a private operator's proposal for a network or service change, there should be a requirement that the private bus operator maintain or improve the breadth of coverage.
- 2.107** Further, community and stakeholder consultation and relationship building requires improvement. Meaningful and comprehensive community consultation should be mandatory before changes to services and networks are implemented, both when proposed by a private bus operator and by Transport for NSW.
- 2.108** In addition, the process set out by private operators to receive complaints and feedback from the community must be widely advertised and easily accessible across various platforms of communication. These complaints avenues should be consistently monitored by private operators who should be obliged to regularly relay the number and nature of complaints received to Transport for NSW for oversight purposes.
- 2.109** Evidence suggested that customers had no real recourse for complaints which were not attended to in a satisfactory fashion or not attended to at all. This issue should be addressed by Transport for NSW taking ultimate responsibility for the accountability of private operators to the public.
- 2.110** The inclusion of requirements regarding community complaints and feedback mechanisms will not be effective without proper enforcement. It is critical that NSW Government and Transport for NSW actively ensure that key performance indicators relating to service delivery and customer satisfaction are being met and operators are penalised via abatement clauses for failure to maintain adequate service provision.

- 2.111** With respect to ongoing engagement, the committee was disappointed to hear that some private bus operators have not attended local council Traffic Committee meetings. We strongly encourage private bus operators to do so. The importance of this community engagement is highlighted by the essential place that local governments have in transport planning and community engagement.
- 2.112** The committee was also troubled by the lack of transparency regarding the key performance indicators in the contracts between private operators and Transport for NSW. While Transport for NSW's webpage includes a template contract, we were unable to uncover the specific key performance indicators and other contractual arrangements for each operator and Contract Region. Just over a dozen private bus operators were invited by the committee to make a submission and appear at a public hearing. The four operators that accepted the invitation to appear did inform the committee of certain contractual provisions and arrangements. However, this was the extent to which we were able to ascertain information about the specifics of their contracts. We believe there is no valid reason preventing the disclosure and publication of key performance indicators and other key contractual provisions, such as disability accessibility requirements, incentive payments and abatement.
- 2.113** Lastly, competitive tendering practices and processes should not directly or indirectly preference larger or multinational corporations over smaller, local private operators who have a demonstrated record of delivering the services with a focus on their community's interests over a profit motive.

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**Recommendation 2**

That the NSW Government implement the following changes to its contracts and processes to engage private bus operators, with the objective of ensuring fair competition in the market, and that every community in NSW has access to bus services to and from essential public infrastructure and services:

- key performance indicators in contracts must include targets connected to the level and quality of service to avoid rationalisation and reduction in services to meet patronage and on-time running targets
  - key performance indicators and other key contractual provisions, such as disability accessibility requirements and incentive payments and abatement provisions, must be disclosed and publicly available
  - Transport for NSW should give consideration to maintaining or improving the breadth of coverage as part of the criteria for assessing a private operator's proposal to deliver a service
  - meaningful and comprehensive consultation must be mandatory before network and services changes are implemented, both when proposed by a private bus operator and by Transport for NSW, and responses from the public and Transport for NSW's decisions must be made public
  - the process set out by private operators to receive complaints and feedback from the community must be widely advertised and easily accessible across various platforms of communication
  - complaint avenues should be consistently monitored by private operators who must regularly relay complaints received to Transport for NSW, and responses from the public and Transport for NSW's decisions must be made public
  - provision should be made for an escalation process for customers who are dissatisfied with the complaint process via the private operator. The escalation process should include direct access to Transport for NSW
  - performance against key performance indicators relating to service delivery and customer satisfaction must be actively monitored and private bus operators penalised via abatement clauses for failure to maintain adequate service provision
  - competitive tendering practices and processes should not directly or indirectly preference larger or multinational corporations over smaller, local private operators.
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**Recommendation 3**

That the NSW Government must ensure that every community in NSW has access to reliable and accessible bus services to and from essential public infrastructure and services.

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## Chapter 3 Impacts on the bus industry workforce

This chapter considers the impacts of privatisation and competitive tendering on the bus industry workforce. First, it sets out the industrial relations framework for public sector bus drivers and other staff and the process for transitioning that workforce to the private sector. It considers the effectiveness of the protections that aim to ensure the wages and working conditions that existed under public sector employment are preserved by private bus operators. The focus of the chapter then turns to stakeholders' concerns regarding the extent to which competitive tendering, which is a key characteristic of the privatisation model for bus services in New South Wales, has led to a degradation of employment conditions for bus drivers. The chapter also includes a case study on the private bus operator Transit Systems to highlight issues relating to its employment arrangements.

### Industrial relations framework for workforce transition to the private sector

- 3.1** This section sets out the industrial relations framework and its instruments that govern the bus industry workforce, and in particular the framework supporting the transition of public service employees from the State Transit Authority to private bus operators.
- 3.2** In Contract Regions where the State Transit Authority operated public bus services, the industrial relations for bus drivers and other staff were governed by copied state awards which had transitioned into the federal industrial relations system with the introduction of the federal Fair Work system. The employment conditions of the State Transit Authority's workforce were determined by the:
- State Transit Authority Bus Operations Enterprise (State) Award 2021 (Bus Operations Award)
  - State Transit Authority Senior and Salaried Officers' Enterprise (State) Award 2021 (Senior and Salaried Award)
  - State Transit Authority Bus Engineering and Maintenance Enterprise (State) Award 2020 (engineering and Maintenance Award).<sup>192</sup>
- 3.3** For the Contract Regions where the operation of bus services has transferred from the State Transit Authority to private bus operators, Transport for NSW's submission noted that there is a framework governing the transition of wages and workplace conditions for bus drivers and other staff. First, the Transfer of Business Rules under the *Fair Work Act 2009* (Cth) transferred the three abovementioned state awards to the private bus operators' workforces as 'copied state awards'. Pursuant to the Transfer of Business rules, these awards will remain in operation for up to five years but can be replaced prior to this by negotiating new enterprise agreements with employees.<sup>193</sup>
- 3.4** In addition to the transfer of the copied state awards under the *Fair Work Act 2009* (Cth), private bus operators are required to enter into a legally enforceable Transitional Agreement with Transport for NSW which sets out the employment arrangements for the transition of

<sup>192</sup> Submission 5, Transport Workers' Union of New South Wales, p 6; Submission 258, Transport for NSW, p 16. See also Evidence, Mr Matt Threlkeld, Executive Director, BusNSW, 2 May 2022, p 15.

<sup>193</sup> Submission 258, Transport for NSW, pp 16 and 19.

employees covered by an award, like the STA Award, to the private bus operator, including terms and conditions of employment and the transfer process. Transport for NSW stated that the Transitional Agreements go further than the Fair Work Transfer of Business Rules 'by providing additional protections and requiring private bus operators to recognise a wider range of entitlements and arrangements'.<sup>194</sup>

### **Bus drivers and other operational staff**

**3.5** Transport for NSW noted that the entitlements and arrangements pursuant to the Transitional Agreement for operational employees, such as bus drivers, maintenance staff and operational senior and salaried officers (including permanent, temporary and casual employees) include:

- offer of employment with the private operator in the same position, at the same location without changes to grade, rate of pay or form of employment, to all operational employees, under the same award terms and conditions
- an employment guarantee period during which employees cannot be made redundant, or the award terms and conditions be varied, unless by agreement
- recognition of service and transfer of accrued leave, purchased leave arrangements, and superannuation arrangements, including defined benefits schemes and novated leases
- the employee travel pass, entitling employees to travel free on the Opal network, for three and a half years after transition, and family holiday passes and free travel for employees and immediate family on certain interstate rail services, for three years after transition
- the transfer of certain people policies and procedures for a period of six months.<sup>195</sup>

**3.6** To elaborate on two of these points, the employment guarantee period is 18 months for employees in Contract Region 6 and two years for employees in Contract Regions 7, 8 and 9.<sup>196</sup> Secondly, concerning policies and procedures, Transport for NSW's submission noted that there were a collection of leave entitlements and conditions that formed part of State Transit Authority policy and procedures which were incorporated into awards prior to Contract Regions 7, 8 and 9 transitioning to private operators, including but not limited to concurrent parental leave, stillbirth/miscarriage/death of a child leave, domestic violence leave, altruistic surrogacy leave, out of home care leave and military leave. Other policies incorporated into the awards included payment for Saturday public holidays and an additional week of annual leave for shift workers.<sup>197</sup>

**3.7** Transport for NSW's submission noted the number of former State Transit Authority employees who accepted offers of employment with private bus operators.

- Contract Region 6: Four operational employees did not accept employment and sought redeployment, and more than 1180 accepted.

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<sup>194</sup> Submission 258, Transport for NSW, p 16.

<sup>195</sup> Submission 258, Transport for NSW, pp 16-17.

<sup>196</sup> Submission 258, Transport for NSW, p 17.

<sup>197</sup> Submission 258, Transport for NSW, pp 19-20. See also Submission 2, BusNSW, pp 9-10.

- Region 7: 17 operational employees did not accept employment and sought redeployment, and more than 940 accepted.
- Contract Region 8: Four operational employees did not accept employment and sought redeployment, and more than 880 accepted.<sup>198</sup>

**3.8** Regarding Contract Region Nine, at the time of writing the submission to the inquiry, Transport for NSW was unaware of how many operational staff would seek redeployment as the private operator was yet to commence operations.<sup>199</sup>

**3.9** State Transit Authority permanent staff who did not accept an offer from the respective private bus operator — and remain employed by the State Transit Authority once the private operator commences operations — are declared excess staff. In accordance with the NSW Government’s Managing Excess Employees Policy, these employees can apply for a priority assessment for vacancies across the New South Wales public sector. These employees are not eligible for redundancy as they declined an offer of comparable employment.<sup>200</sup>

#### **Non-operational corporate staff**

**3.10** The situation and framework differ for transitioning non-operational employees from the State Transit Authority to private operators. This applies to employees delivering corporate functions that supported State Transit Authority services and who fall under the Senior and Salaried Officers Award. Transport for NSW’s submission stated that for Contract Regions 7, 8 and 9, the respective private bus operators were required to identify non-operational vacancies in their organisation and provide Transport for NSW with potential matching of roles with non-operational senior and salaried State Transit Authority roles before going to market. Private bus operators must interview the State Transit Authority employee if there is a match and if the employee is offered the role, they receive the same transfer arrangements as operational staff, including award coverage, employment guarantee and continuity of service.<sup>201</sup>

**3.11** A redundancy is not payable if an employee does not apply for a matched role or where offered a matched role does not accept it. State Transit Authority staff who are not matched with a private bus operator or do not find other suitable employment will exit under the Managing Excess Employees Policy. No redundancy is payable where comparable employment in the NSW Government sector is offered, but not accepted.<sup>202</sup>

**3.12** Non-operational employees are also given support in finding ongoing employment across the public sector pursuant to the NSW Government’s Sector Placement Strategy under the NSW Government’s policy on the Transfer of Government Sector services or functions to the Non-Government Sector.<sup>203</sup>

<sup>198</sup> Submission 258, Transport for NSW, p 17.

<sup>199</sup> Submission 258, Transport for NSW, p 17.

<sup>200</sup> Submission 258, Transport for NSW, pp 17-18.

<sup>201</sup> Submission 258, Transport for NSW, p 18.

<sup>202</sup> Submission 258, Transport for NSW, p 18.

<sup>203</sup> Submission 258, Transport for NSW, p 18.

## Impact of privatisation on the bus industry workforce

**3.13** Stakeholders highlighted that the model to privatise bus services in New South Wales, with the key characteristic being competitive tendering, has a negative impact on the bus industry workforce in two major ways: wages and working conditions. This section will first discuss stakeholders' concerns about the downward pressure that competitive tendering places on operators and which leads to a degradation of working conditions and wages. The following sections then consider the ways in which conditions and pay have worsened, with issues relating to wages and a two-tiered workforce demonstrated by a case study concerning the private bus operator Transit Systems in Contract Region 6.

### Impact of competitive tendering on workforce wages and conditions

**3.14** The Transport Workers' Union of New South Wales, along with other unions, emphasised the impacts of competitive tendering within the context of privatised bus services.<sup>204</sup> The Union contended that prior to competitive tendering, many private bus operators 'enjoyed relatively stable industrial relations environments and have had the carpet pulled from under them as a result of competitive tendering'.<sup>205</sup> It added that 'competitive tendering has decimated the industry standards that employees and unions alike have advocated and worked to establish for many decades'.<sup>206</sup> In the view of the Union, privatisation and competitive tendering have created a situation where there is disparity in the industry regarding employment terms and conditions as some private bus operators have retained provisions of the awards that applied to State Transit Authority employees in their enterprise agreements, while other operators have 'severely undercut rates of pay, allowances and conditions'.<sup>207</sup>

**3.15** Expanding on this point, the Transport Workers' Union of NSW argued that competitive tendering places downward pressure on private bus operators to degrade workers' wages and conditions so as to offer a competitive price for services:

The very nature of competitive tendering facilitates a degradation of employment conditions for those engaged by private companies. In order for tenders made by private bus operators to be viable, they are required to offer the lowest possible price and over-promise on service delivery key point indicators that can be met to ensure competitiveness against other companies tendering for the same work.

Where a private bus company does secure a contract, they continue to put downwards pressure on workers by undercutting their pay and conditions to maximise the company's profit margin.<sup>208</sup>

**3.16** In the view of Transport Workers' Union of NSW, in order for private bus operators to bid and offer services at the lowest price, the changes they must make to their operation go beyond the service and network changes that were discussed in chapter 2. The Union contended that in

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<sup>204</sup> Submission 5, Transport Workers' Union of New South Wales, p 6; Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, pp 3-5; Submission 13, Unions NSW, p 3.

<sup>205</sup> Submission 5, Transport Workers' Union of New South Wales, p 6.

<sup>206</sup> Submission 5, Transport Workers' Union of New South Wales, p 15.

<sup>207</sup> Submission 5, Transport Workers' Union of New South Wales, p 9.

<sup>208</sup> Submission 5, Transport Workers' Union of New South Wales, p 6.

some circumstances operators must also cut bus drivers' wages and require drivers to operate at unsafe staffing levels, for unsafe periods of time, and in accordance with unreasonable timetables, which can lead drivers to engage in unsafe road practices and cut corners with maintaining buses.<sup>209</sup>

- 3.17** The Tram and Bus Division of the Rail, Tram and Bus Union of NSW expressed a similar view, highlighting the important role that unions and industrial action have played in protecting bus drivers' industrial rights:

For over 3 years, workers and unions have been trying to fix a situation where the government deliberately forced employees into having their lives reduced to the quantum of a business overhead. The company remains committed to its original vision of cheaper employees no matter the human cost and further industrial action and service disruptions are inevitable. In all cases of privatisation, it has fallen to unions to fight to make good the government commitment to workers that no one will be worse off.<sup>210</sup>

- 3.18** Similarly, Unions NSW contended that despite assurances, the NSW Government has not effectively protected workers from deteriorating working conditions:

Given the appalling 'race to the bottom' that has taken place, with a dramatic and concerning deterioration of employment conditions including significant disparities in take-home pay, it is clear that the STA and Transport for New South Wales, despite their assurances, either never intended or did not possess sufficient willpower to ensure the proper protection of employees' conditions and pay.<sup>211</sup>

- 3.19** The Transport Workers' Union of NSW emphasised that competitive tendering affects labour conditions so significantly because the single largest cost component of a tender is labour costs.<sup>212</sup> Ms Leanne Griffiths, Business Manager at Red Bus Services, noted that 50 to 60 per of the costs for a tender are wages. Therefore, if a tender from a certain provider is lower than the market rate, it is likely that the bus drivers are paid at a lower rate or have different working conditions, which not only impacts employees but also the customer service outcomes.<sup>213</sup>

- 3.20** The Transport Workers' Union of New South Wales highlighted in its evidence to the inquiry the results from a report it commissioned that looked at the experience of bus drivers and industry wide issues. The Union emphasised that from the 3,000 survey responses from bus drivers across New South Wales received between December 2018 and February 2019, the respondees commonly attributed the decreasing safety of the industry to privatisation and the competitive tendering process.

- 3.21** With respect to bus drivers' perspectives obtained in the survey on the impact that privatisation has had on the industry, the Union highlighted that:

- 73 per cent of respondents believed that competitive tendering compromises passenger safety

<sup>209</sup> Submission 5, Transport Workers' Union of New South Wales, pp 7 and 14.

<sup>210</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 4.

<sup>211</sup> Submission 13, Unions NSW, p 3.

<sup>212</sup> Submission 5, Transport Workers' Union of New South Wales, p 9.

<sup>213</sup> Evidence, Ms Leanne Griffiths, Business Manager, Red Bus Services, 31 May 2022, pp 28-29.

- 74 per cent of respondents believed that the competitive tendering process has left the bus industry in a worse state
- 88 per cent of respondents believed that the pressure they faced in carrying out their duties was a result of the downward pressure placed on private bus operators by the New South Wales Government, which flows on to drivers.<sup>214</sup>

**3.22** A bus driver formerly employed by the State Transit Authority emphasised how his feelings towards his working life have changed since bus services were privatised:

One of the reasons I chose to work for the STA is because they treated their workforce more as people than how people are often treated in private enterprise.

...

This exercise by the current government is a kick in the guts to a dedicated and hard working group of people who have shown their loyalty to the people of this state, especially over the last two years during the COVID pandemic.<sup>215</sup>

**3.23** Some stakeholders drew attention to staff shortages as a result of privatisation. One submission stated that the shortage of bus drivers across Contract Regions formerly operated by State Transit as well as those contracted to private operators has been compounded since privatisation.<sup>216</sup> Another submission noted that a number of bus drivers in Contract Region 7 have left employment with private operator Busways due to working conditions, in particular the uncertainty surrounding their roster and the challenges this causes in their personal lives. The submitter added that this has led to a shortage of bus drivers in the region.<sup>217</sup> In addition, a submitter also emphasised that under the transitional arrangements noted above, bus drivers will eventually lose their pass granting them free public transport which ultimately adds to their cost of living. The submitter was concerned that the added cost of travelling to and from work on public transport has caused drivers to find work closer to home, resulting in staffing shortages and service cancellations.<sup>218</sup>

### **Working conditions**

**3.24** The unions who participated in this inquiry emphasised that bus drivers' working conditions have worsened as a result of privatisation, compromising the safety and wellbeing of both drivers and the public. The Transport Workers' Union of NSW noted some key issues as expressed by bus drivers and published in its survey results:

- 67 per cent of survey respondents believed that unachievable timetables and inadequately resourced routes put drivers under pressure to drive unsafely

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<sup>214</sup> Submission 5, Transport Workers' Union of New South Wales, pp 7-8.

<sup>215</sup> Submission 346, Name Suppressed, p 1.

<sup>216</sup> Submission 348, Name Suppressed, p 1.

<sup>217</sup> Submission 352, Name Suppressed, p 1.

<sup>218</sup> Submission 348, Name Suppressed, p 1.

- in order to meet unrealistic timetables and servicing requirements, 39 per cent of survey respondents felt pressure to skip breaks, 26 per cent omitted pre-inspection of vehicles, 25 per cent drove quickly and 19 per cent broke the law
- several health issues were attributed to inadequate breaks, including 30 per cent of survey respondents noting back, neck and muscle pain, 26 per cent noting bladder, prostate or bowel issues, and 15 per cent reporting fatigue, tiredness and feeling run down, among other health concerns.

**3.25** With respect to the challenges faced by bus drivers during their shifts, Mr Bill Pagalis, a bus driver at Transit Systems West in Contract Region 6, informed the committee that often there are no facilities available to bus drivers when on their scheduled breaks, including bathroom facilities or the ability to heat up a meal. Mr Pagalis noted with concern that he has needed to ask shop owners to use their facilities or has used the facilities at retail stores like Bunnings.<sup>219</sup>

**3.26** Responding to questions on these issues, Transit Systems stated that bus schedules and drivers' meal breaks are rostered to comply with the relevant enterprise agreement or copied state award. Further, it noted that no bus drivers are allocated meal breaks at times or places where there is no access to toilet facilities and are provided with walking time to the closest facilities.<sup>220</sup>

**3.27** In addition, BusNSW provided some context as to the legal framework underpinning this change to break locations. BusNSW observed that 'the main difference between private and public bus operators is around operational requirements and scheduling efficiency'. It went on to explain that the State Transit Authority awards allowed drivers to return to the depot for their meal break and be paid for that time travelling to the depot. However, the enterprise agreements with private bus operators have greater flexibility in allocating meal break locations for drivers so as to enable efficient scheduling and minimising 'dead running'.<sup>221</sup>

**3.28** Another private bus operator who participated in the inquiry, Red Bus Services on the Central Coast, reflected on the conditions for bus drivers working for other private operators. Red Bus Services was asked about the reasons for which there has been an influx of drivers seeking to work for Red Bus Services. In response, Red Bus Services highlighted that one of the reasons former State Transit Authority bus drivers have chosen to work for Red Bus Services is because of the changed working conditions they have experienced since moving from public to private employment.<sup>222</sup>

## Wages

**3.29** Two issues are discussed in this section. First, stakeholders expressed concern about the annual increases to bus drivers' wages pursuant to enterprise bargaining agreements with bus operators who recently took over operations in Contract Regions formerly operated by the State Transit Authority. Secondly, several inquiry participants critiqued the framework implemented by some

<sup>219</sup> Evidence, Mr Bill Pagalis, Bus driver, Transit Systems West Services, 2 May 2022, p 23. See also Mr Richard Olsen, State Secretary, Transport Workers' Union of New South Wales, 2 May 2022, p 21.

<sup>220</sup> Answers to supplementary questions, Transit Systems, 27 June 2022, pp 2-3.

<sup>221</sup> Submission 2, BusNSW, p 10.

<sup>222</sup> Answers to supplementary questions, Ms Leanne Griffiths, Manager, Business Services, Red Bus Services, 28 June 2022, p 1.

private bus operators which creates a two-tier workforce where employees of the one company have different wages and working conditions for performing the same work. This is followed by a case study on Transit Systems. While there is room for improvement in employment conditions across the industry, the case study on Transit Systems intends to illustrate some of these issues, as well as draw out some of the specific challenges relating to its employment arrangements as highlighted by inquiry participants.

### *Annual wage increases*

- 3.30** Some stakeholders criticised the contractual arrangements between Transport for NSW and private bus operators for limiting wage increases for bus drivers.
- 3.31** As noted above, three copied state awards applied to the State Transit Authority workforce prior to those Contract Regions being privatised. Transport for NSW noted that ahead of Transit Systems commencing operations in Contract Region 6, the three awards applying to State Transit Authority employees included wage increases between January 2018 and January 2020. Ahead of Contract Regions 7, 8 and 9 being privatised, a new Bus Operations Award and new Senior and Salaried Award came into effect in June 2021 and expires in December 2022. Those awards provide wage increases of 0.3 per cent from January 2021 and 2.5 per cent from January 2022 (excluding superannuation). The Engineering and Maintenance Award includes a 2.5 per cent increase from April 2020, 2.15 per cent from April 2021 and 2.04 per cent from April 2022 (excluding superannuation). That award expires in March 2023.<sup>223</sup>
- 3.32** Mr Matt Threlkeld, Executive Director at BusNSW, explained that the contract between Transport for NSW and private bus operators provides for wage indexation for bus drivers in line with the Wage Price Index.<sup>224</sup> The Wage Price Index is an index of movement of wage levels in comparative industries that is maintained by Transport for NSW. For the bus industry in New South Wales, the index is currently set by the ABS *Labour Price Index, Total Hourly rates of Pay (excluding bonuses), Private and Public: Transport, postal and warehousing (A26034698T)*.<sup>225</sup>
- 3.33** The Wage Price Index is 'calculated through the sampling of a target population of business by either state, sector or industry and comparing the valuation of the work completed in comparison to rates paid'. This differs to the Consumer Price Index, which 'is calculated by grouping expenditure classes and calculating the price changes of each item for the previous quarter to come to an aggregate inflation rate'.<sup>226</sup>
- 3.34** As a result of this contractual arrangement between private operators and Transport for NSW, the Transport Workers' Union of NSW noted that some enterprise agreements between private operators and employees include guaranteed wage increases in accordance with the Wage Price Index rather than the Consumer Price Index. The Union was critical of this method of calculation for wage increases because it leads to substantial financial disparity for bus drivers across the industry and wages do not keep pace with the cost of living. The Union highlighted the difference between the Wage Price Index and the Consumer Price Index in recent times.

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<sup>223</sup> Submission 258, Transport for NSW, pp 18-19.

<sup>224</sup> Evidence, Mr Threlkeld, 2 May 2022, p 15.

<sup>225</sup> Submission 5, Transport Workers' Union of New South Wales, p 11.

<sup>226</sup> Submission 5, Transport Workers' Union of New South Wales, pp 11-12.

It noted that in the 12 months prior to December 2021, the Consumer Price Index increased by 3.5 per cent, whereas the Wage Price Index increased by 2.3 per cent.<sup>227</sup>

**3.35** In addition to these issues, the Union noted that there is also a lack of transparency as to how the Wage Price Index figures are calculated each year:

Further, WPI data collected for the classification of transport, postal and warehousing does not appear to account specifically for the bus industry, meaning an indexation figure is paid to drivers with little to no transparency as to how that figure and data is reached or whether it is a true reflection of the industry the drivers service.<sup>228</sup>

**3.36** The Transport Workers' Union of NSW highlighted that Transit Systems already uses the Wage Price Index to set wage increases for bus drivers in Contract Region 6. Further, the Union noted that in the course of ongoing enterprise bargaining negotiations with other private bus operators, it has become apparent that these other operators are seeking to 'alter their method of increasing wages from set rates or [Consumer Price Index] to [Wage Price Index] as Transit Systems has'.<sup>229</sup>

**3.37** In terms of whether the industrial relations framework places any limits on wage increases, Transport for NSW noted that although its contracts with private bus operators include wage indexation in accordance with the Wage Price Index, unions and private bus operators can negotiate wages and conditions that exceed those values.<sup>230</sup> For example, Ms Griffiths from Red Bus Services noted that its enterprise agreement with bus drivers provides for a guaranteed minimum wage increase of 2 per cent for 2021, 2022 and 2023 even if the Wage Price Index is below 2 per cent.<sup>231</sup>

**3.38** On this point, Mr Threlkeld commented on the position of private bus operators who increase wages at rates above the Wage Price Index. He noted that if a private bus operator negotiates wages in an enterprise agreement which are higher than the Wage Price Index, the operator would need to absorb that cost, therefore coming out of the operator's margin.<sup>232</sup>

**3.39** In addition, some stakeholders commented on the rate of indexation in the Wage Price Index compared to the cost of living. Mr Christian Porter, Chief Operating Office at Keolis Downer, and Mr John King, President, BusNSW, noted the tension between the Wage Price Index and inflation, with Mr Porter noting that the 'current cost-of-living pressures are pushing expectations much higher than [Wage Price Index]'.<sup>233</sup>

**3.40** With the objective of contextualising the wage increases guaranteed under copied state awards within the industry, Transport for NSW provided a comparison of wage increases in the awards that transferred with State Transit Authority employees and wage increases in the private sector as guaranteed by enterprise agreements. In its view, 'private sector wages outcomes have

<sup>227</sup> Submission 5, Transport Workers' Union of New South Wales, p 12.

<sup>228</sup> Submission 5, Transport Workers' Union of New South Wales, pp 11-12.

<sup>229</sup> Submission 5, Transport Workers' Union of New South Wales, p 12.

<sup>230</sup> Submission 258, Transport for NSW, p 21.

<sup>231</sup> Evidence, Ms Griffiths, 31 May 2022, p 29.

<sup>232</sup> Evidence, Mr Threlkeld, 2 May 2022, p 15.

<sup>233</sup> Evidence, Mr John King, President, BusNSW, 2 May 2022, p 16; Evidence, Mr Christian Porter, Chief Operating Officer, 31 May 2022, p 25.

continued to be similar or to exceed those in the public sector'.<sup>234</sup> These figures are represented below in Table 3.

**Table 3 Greater Sydney private bus operators wage increases 2017 to 2022**

Current instrument	2017	2018	2019	2020	2021	2022
Superannuation guarantee	9.5	9.5	9.5	9.5	10	10.5
Wage Price Index	2	1.7	2.5	2.1	1.5	2.0
State Transit Authority Bus Operations Enterprise (State) Award 2021	2.5	2.5	2.5	2.5	0.3	2.04
State Transit Authority Senior and Salaried Officers' Enterprise (State) Award 2021	2.5	2.5	2.5	2.5	0.3	2.04
State Transit Authority Bus Engineering and Maintenance Enterprise (State) Award 2020	2.5 (Jan)	2.5 (Jan)	2.5 (Jan)	2.5 (April)	2.15 (April)	2.05 (April)
Busabout and the Transport Workers' Union of Australia Fair Work Agreement 2018	2.65	-	3.00 (Jan) 3.00 (July)	3.00 (July)	Enterprise agreement bargaining underway	Enterprise agreement under negotiation
Busways Group, Transport Workers' Union of Australia WU and Drivers Enterprise Agreement 2018 (July)	2.65	2.00 (May)	3.00	3.00	Enterprise agreement under negotiation	Enterprise agreement under negotiation
Busways Group, Transport Workers' Union of Australia and Drivers Enterprise Agreement 2020 (Greenfields) (July)	N/A	N/A	N/A	N/A	2.5	2.5
Busways Driver/Mentor Enterprise Agreement 2021 (July) <sup>235</sup>	N/A	N/A	N/A	N/A	N/A	Wage Price Index
CDC Dural Depot Drivers Agreement 2018 (July)	-	2.75 <sup>236</sup>	3.0	2.75 <sup>237</sup>	Enterprise agreement under negotiation	Enterprise agreement under negotiation
CDC and TWU Drivers Agreement 2018 (July)	2.65	2.75 <sup>238</sup>	3.00	2.75 <sup>239</sup>	Enterprise agreement	Enterprise agreement

<sup>234</sup> Submission 258, Transport for NSW, p 22.

<sup>235</sup> Busways Driver/Mentor Enterprise Agreement 2021: New enterprise agreement from 1 November 2021. One-off Bonus Payment of \$2,000 paid on approval of the enterprise agreement by the Fair Work Commission.

<sup>236</sup> Plus 0.25 per cent additional superannuation contributions on all hours worked.

<sup>237</sup> Plus 0.25 per cent additional superannuation contributions on all hours worked.

<sup>238</sup> Plus 0.25 per cent additional superannuation contributions on all hours worked.

<sup>239</sup> Plus 0.25 per cent additional superannuation contributions on all hours worked.

Current instrument	2017	2018	2019	2020	2021	2022
					under negotiation	under negotiation
DC NSW Engineering Enterprise Agreement 2021 (Jan)	2.5	2.25 (average)	2.25 (average)	2.25(average)	2.01 (minimum)	2.00
Forest Coach Lines Passenger Vehicle Drivers Enterprise Agreement 2019 (July)	3.0	3.0	2.75	2.75	3.00	-
Interline Bus Service and Transport Workers' Union of Australia Fair Work Agreement 2018 Agreement (July)	2.65	2.75	2.75	3.00	Enterprise agreement under negotiation	Enterprise agreement under negotiation
Keolis Downer Northern Beaches Pty Ltd "KDNB Bus Operations Enterprise Agreement 2021	N/A	N/A	N/A	N/A	N/A	2.04
Transdev NSW Bus Enterprise Agreement 2018-2021 (July) <sup>240</sup>	3.00	2.65	2.75	3.00	Enterprise agreement under negotiation	Enterprise agreement under negotiation
Transit Systems West Services Engineering and Maintenance Enterprise Agreement 2021 (Jan)	N/A	Copied state award	Copied state award	Copied state award	Copied state award	2.5
Transit (NSW) Services, Transport Workers' Union and Bus Drivers Enterprise Agreement 2017 (July)	Wage Price Index	Wage Price Index	Wage Price Index	Wage Price Index	Enterprise agreement under negotiation	Enterprise agreement under negotiation
Transit (NSW) Services Engineering Staff Agreement 2021 (Jan)	2.5	2.5	2.5	-	2.5 <sup>241</sup>	2.5

Source: Submission 258, *Transport for NSW*, pp 22-23.

### ***Two-tier workforce***

**3.41** Another central issue raised in the context of workplace wages and conditions was what some inquiry participants described as private operators creating a 'two-tier workforce' for bus drivers. That is, one cohort of bus drivers who were employed by the State Transit Authority and transitioned to the private operator along with their copied state award receive better pay and conditions compared to drivers who were employed directly by the private bus operator. The corporate structure which enables this disparity is that one entity engages employees

<sup>240</sup> Transdev NSW Agreement: Wage Price Index for Sydney as determined by the Australian Bureau of Statistics between the March quarters. Where the Wage Price Index was greater than the prescribed increases in this enterprise agreement for 2017, 2019 and 2020, the Wage Price Index was to apply as the wage increase. All enterprise agreement prescribed increases were higher than the corresponding Wage Price Index increase.

<sup>241</sup> Transit (NSW) Services Engineering Staff Agreement 2021: A one-off Agreement Payment Amount of \$1,400 was paid on approval by the Fair Work Commission in 2021.

transitioning from the State Transit Authority, and another legal entity engages new employees under a separate enterprise agreement.<sup>242</sup>

**3.42** The position of Transport for NSW on this issue is that private bus operators should have 'the same enterprise agreement covering all employees performing the same work within the same region'. To achieve consistency in workers' terms and conditions within a company, Transport for NSW noted its contracts with private bus operators for Contract Regions 7, 8 and 9 include a Special Purpose Vehicle provision requiring that a single entity must be the 'employer for all dedicated and operational staff, regardless of whether they are former STA employees or employees hired after the transition'. Transport for NSW stated that private bus operators are increasingly moving to having a single enterprise agreement across all workers, including those who are new and those who have transferred from the State Transit Authority.<sup>243</sup>

**3.43** The Transport Workers' Union of NSW explained that despite Transport for NSW requiring the legal entity which is the successful tenderer to be the legal entity that directly employs staff, there have been circumstances where a contract has been awarded to a corporate entity which has then used two corporate entities to engage employees.<sup>244</sup> Unions NSW argued that the objective of competition led to some employees retaining their protections under the award while others 'have had their condition gutted by private operators'.<sup>245</sup>

**3.44** From the few private bus operators that participated in the inquiry, two of the operators have implemented an approach where there is more than one industrial instrument applying to the workforce in the same Contract Region. First, Mr Byron Rowe, Managing Director at Busways, stated that the Busways tender for Contract Region 7 proposed that two separate agreements be used to engage employees but Busways as a legal entity is the direct employer of all employees. Mr Rowe stated that part of the rationale to taking this approach was to increase efficiency for the company:

... the STA award has many, many highly inefficient conditions, and those conditions are not standard across the private industry. In many cases, those conditions are not actually benefiting those workers in any way. Our approach was that the existing STA workforce would transition across on their copied State award and, of course, retain all of their terms and conditions, and any new employees would be employed on a different agreement which enabled us to schedule the services more efficiently.<sup>246</sup>

**3.45** Mr Greg Balkin, Chief Operating Officer at Transit Systems, made a similar observation:

There are a lot of inefficiencies in the State Transit operational profile. There are conditions in there that are not seen anywhere else in New South Wales in the private sector, like five weeks' annual leave, ADOs [additional days off] and the like.<sup>247</sup>

**3.46** On the issue of Busways using two separate agreements for employees in Contract Region 7, the Tram and Bus Division of the Rail, Tram and Bus Union of NSW noted that Busways made

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<sup>242</sup> Submission 5, Transport Workers' Union of New South Wales, p 9.

<sup>243</sup> Submission 258, Transport for NSW, p 21.

<sup>244</sup> Submission 5, Transport Workers' Union of New South Wales, pp 9-10.

<sup>245</sup> Submission 13, Unions NSW, pp 3-4.

<sup>246</sup> Evidence, Mr Byron Rowe, Managing Director, Busways, 31 May 2022, p 21.

<sup>247</sup> Evidence, Mr Greg Balkin, Chief Operating Officer, Transit Systems, 31 May 2022, p 19.

a successful application for a Greenfield Agreement once awarded the contract but prior to commencing operations in Contract Region 7. A Greenfield Agreement is an agreement negotiated between a union and employer which does not yet have employees. In the view of the Union, this '[set] up the framework for a two-tiered workplace'.<sup>248</sup> The Union appealed this agreement to the Fair Work Commission and the matter is currently with the Full Court of the Federal Court of Australia with an outcome pending. The Union added that Busways subsequently engaged less than ten employees through an enterprise agreement prior to commencing operations in Contract Region 6. This agreement applied to only these few new bus drivers because the transfer of the award conditions and entitlements for those employees coming from the State Transit Authority did not occur until Busways commenced its operations. The Union stated that in the instance that the Greenfield Agreement is invalidated by the Federal Court of Australia, the enterprise agreement 'acts as a back up' to establish a two-tiered workforce.<sup>249</sup>

## Case study: Transit Systems – Contract Region 6

- 3.47** Some stakeholders criticised the approach of Transit Systems to the employment of bus drivers. The following case study on Transit Systems illustrates issues with the employment of bus drivers by private operators not only by Transit Systems but across the industry.

### Issues regarding wages and wage increases

- 3.48** Some stakeholders took issue with wage levels and increases for bus drivers at Transit Systems. Mr Richard Olsen, the State Secretary of the Transport Workers' Union of NSW, argued that Transit Systems was successful in the tender process with respect to Contract Region 6 because it pays below the market rate and therefore could put forward an attractive tender.<sup>250</sup>
- 3.49** For example, the Transport Workers' Union of NSW commented that there is a five to seven per cent gap in pay received by Transit Systems' bus drivers compared to bus drivers at other private operators.<sup>251</sup> The Union argued that a primary factor contributing to this pay gap is that bus drivers at Transit Systems receive wage increases in line with the Wage Price Index rather than the Consumer Price Index.<sup>252</sup>
- 3.50** Another issue that came up in the inquiry was the underpayment of wages. Reference was made to the Federal Court of Australia case involving the Australian Rail, Tram and Bus Industry Union and Transit Systems, which commenced in November 2021. This case focused on whether Transit Systems underpaid its workers by virtue of not implementing and paying annual

<sup>248</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 4.

<sup>249</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 4.

<sup>250</sup> Evidence, Mr Richard Olsen, State Secretary, Transport Workers' Union of New South Wales, 2 May 2022, p 28.

<sup>251</sup> Submission 5, Transport Workers' Union of New South Wales, p 11; Evidence, Mr Olsen, 2 May 2022, p 42.

<sup>252</sup> Submission 5, Transport Workers' Union of New South Wales, p 11.

wage increases in accordance with the Fair Work Commission's annual wage variation determinations.<sup>253</sup>

**3.51** Specifically, Judge Rares held that 754 employees had been underpaid by failure of Transit Systems to apply the increase in the 2020-2021 Fair Work Commission's annual wage review determination to the wages paid under the copied state award as set out in the declaration made on 2 December 2021, which should have been paid from the first full payment period on or after 1 July 2021. Transit Systems' contraventions of failing to pay wages at the increased rate occurred for four pay periods (27 July 2021, 10 August 2021, 24 August 2021 and on 7 September 2021). The total quantum of underpayment for the 754 affected employees was in total in the order of about \$500,000.

**3.52** In addition to ordering that affected employees be back paid, Judge Rares held that Transit Systems be fined \$181,000 for its four contraventions, in particular the last two contraventions, for the following reasons:

Transit Systems took a deliberate stance to ignore or postpone fulfilling its existing legal obligations in respect of its large workforce. It did so in order, initially, to ascertain whether it was entitled to take a different position, but from 6 August 2021, it acted to avoid immediately honouring its legal obligations so as to see if it could exploit the industrial situation to its advantage. Such conduct by an employer is unacceptable and must be attended by an appropriately severe penalty.<sup>254</sup>

**3.53** This matter is now before the Fair Work Commission as Transit Systems made an application that the Commission should vary or revoke its 2018-2019 and 2019-2020 annual wage review determinations so far as they applied to the Senior and Salaried Officers Award.<sup>255</sup>

**3.54** The position of Transit Systems concerning these issues, as well as the status of the matter, was explained by Mr Balkin at a hearing:

We have done a detailed audit of what the underpayment values are. But we really do struggle with what we believe is double dipping, where a certain employment group of people can receive two lots of wage adjustments in one year, one under their annual wage review and another one under the instrument that we have in region 6. We are working through that now. We hope to have some work going on with the Fair Work Commission to understand whether that was the intent. I am sure it wasn't the intent, that people would be getting two lots of pay rises in one year. That is currently with the Fair Work Commission. We will wait for their decision and based on that decision it will go back to Judge Rares and he will make a decision on what payments should be made, if any.

...

We regret that it has taken four pay periods to pay them and we do regret that. This is the first time it has ever happened to us—as far as this set of circumstances. We regret

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<sup>253</sup> Evidence, Mr David Babineau, Divisional Secretary, Tram and Bus Division, Rail, Tram and Bus Union of NSW, 2 May 2022, p 38.

<sup>254</sup> *Australian Rail, Tram and Bus Industry Union v Transit Systems West Services Pty Ltd (No 2)* [2022] FCA 389 [44]. See also Evidence, Mr Babineau, 2 May 2022, p 38.

<sup>255</sup> *Australian Rail, Tram and Bus Industry Union v Transit Systems West Services Pty Ltd (No 2)* [2022] FCA 389 [49]-[51].

it. We made that very clear in the Federal Court. I think that Judge Rares also accepted that they are very unusual sets of circumstances to deal with.<sup>256</sup>

### **'Two-tiered' workforce**

- 3.55** A key concern of stakeholders was that bus drivers at Transit Systems are paid differently and have different working conditions despite performing the same work.
- 3.56** Transit Systems West Pty Ltd was the successful tenderer for Contract Region 6. Transit Systems West is the employer of the State Transit Authority employees who transferred to the private operator after privatisation ('legacy drivers'). A different legal entity, Transit Systems (NSW) Pty Ltd, employed any new driver that was employed after the contract had been awarded ('non-legacy drivers').<sup>257</sup>
- 3.57** The Transport Workers' Union of NSW and other unions argued that Transit Systems used this corporate structure to enable the creation of two different sets of terms and conditions of employment for its bus drivers, including two different rates of pay, operation of two separate rosters and different employment conditions and entitlements.<sup>258</sup>
- 3.58** The Transport Workers' Union of NSW added that due to the corporate structure used by Transit Systems, the non-legacy bus drivers receiving less pay for the same work did not have available to them a legal remedy through the Fair Work Commission to seek equal pay and conditions to their colleagues who transferred from the State Transit Authority.<sup>259</sup>
- 3.59** There were differing views expressed from the unions, Transit Systems and Transport for NSW as to the extent of the disparity between bus drivers' pay and conditions, as well as the reasons for which Transit Systems implemented this corporate structure and the level of responsibility that lies with Transport for NSW to prevent arrangements of this nature.

### ***Impact on bus drivers' pay and conditions***

- 3.60** Several disparities were noted between Transit Systems' legacy and non-legacy bus drivers, including:
- a \$2.90 variance in the standard hourly rate in favour of legacy drivers
  - the penalty rates for legacy drivers attach to their hourly rate, whereas non-legacy drivers receive a shift allowance of \$16

<sup>256</sup> Evidence, Mr Balkin, 31 May 2022, pp 12 and 13.

<sup>257</sup> Submission 5, Transport Workers' Union of New South Wales, pp 9-10. See also Submission 2, BusNSW, p 10; Evidence, Mr Babineau, 2 May 2022, p 43.

<sup>258</sup> Evidence, Mr Olsen, 2 May 2022, p 22; Evidence, Mr Babineau, 2 May 2022, pp 34-35; Submission 13, Unions NSW, p 3.

<sup>259</sup> Submission 5, Transport Workers' Union of New South Wales, pp 9-10.

- legacy drivers receive 15 per cent loading on their entire shift when finishing after 8pm, whereas non-legacy drivers get penalty rates only after midnight and only on those hours worked after midnight.<sup>260</sup>

**3.61** The Tram and Bus Division, Rail, Tram and Bus Union of NSW, along with some bus drivers who made individual submissions to the inquiry, highlighted some inequalities in working conditions for non-legacy drivers compared to legacy drivers, including:

- 13 hour broken shifts as opposed to 12 hour broken shifts
- no toilet breaks rostered into their schedules between trips, compared to six-to-eight-minute breaks on most routes
- four weeks annual leave rather than five weeks.<sup>261</sup>

**3.62** In addition, two Transit Systems bus drivers, one a legacy driver and the other non-legacy, informed the committee at a hearing about the issues they have experienced. Mr Mario Denis, a legacy driver, said that he was dropped from the roster and his shifts given to non-legacy drivers 'because they are cheaper to run'.<sup>262</sup> Mr Babineau added that Mr Denis and others have been placed on a 'displaced roster' meaning that they have been removed from the permanent roster and receive the 'fallout work' which means work hours are constantly changing. Mr Babineau described this as 'effectively being rostered out of a job'.<sup>263</sup> Mr Pagalis, a non-legacy driver, spoke about the difficulty in working longer shifts, with limited or no breaks. These challenges are then compounded by the fact that he is being paid less than his legacy driver colleagues for doing the same work.<sup>264</sup>

**3.63** In addition, Mr Sam Tierney, a Transit Systems bus driver formerly employed by the State Transit Authority, made a submission to the inquiry that emphasised the decline in morale among drivers, stating that '[p]rivatisation has led we the workers to no longer feel but rather know, that we are valued less than the furniture, mere expendable "units". Costs are cut at our expense'.<sup>265</sup>

**3.64** In responding to these concerns, Mr Balkin from Transit Systems stated that despite non-legacy drivers being paid a lesser hourly rate of pay, there are other provisions within that driver cohort's enterprise agreement which actually increase take-home pay, such as penalty rates and the \$16 driver-conductor allowance.<sup>266</sup>

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<sup>260</sup> Submission 5, Transport Workers' Union of New South Wales, p 11; Evidence, Mr Pagalis, 2 May 2022, p 26.

<sup>261</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 4; Submission 79, Sam Tierney, pp 1-2; Submission 363, Name Suppressed, p 1.

<sup>262</sup> Mr Mario Denis, Bus Operator, Tram and Bus Division, Rail, Tram and Bus Union of NSW, 2 May 2022, p 21. See also Submission 79, Sam Tierney, p 1; Submission 383, Name Suppressed.

<sup>263</sup> Evidence, Mr Babineau, 2 May 2022, pp 34-35.

<sup>264</sup> Evidence, Mr Pagalis, 2 May 2022, p 23.

<sup>265</sup> Submission 79, Sam Tierney, pp 1-2. See also Submission 363, Name Suppressed, p 1.

<sup>266</sup> Evidence, Mr Rowe, 31 May 2022, p 21; Evidence, Mr Balkin, 31 May 2022, p 19.

*Stakeholders' views on the rationale for two Transit Systems' entities*

- 3.65** The Transport Workers' Union of NSW, among other stakeholders, contended that Transit Systems' approach of having two companies to engage employees was intended to 'circumvent and evade the contractual requirement that the successful tenderer ... must also be the legal entity that directly employs the bus drivers'.<sup>267</sup> The Transport Workers' Union of New South Wales contended that the rationale for Transport for New South Wales requiring that the private bus operator who is awarded a bus services contract must be the entity that employs bus drivers was to ensure that the terms and conditions from employment by the State Transit Authority carried over to being employed in the private sector.<sup>268</sup>
- 3.66** The Tram and Bus Division of the Rail, Tram and Bus Union of NSW contended that Transport for NSW introduced a Special Vehicle Clause in its contracts with private bus operators after it was presented with evidence of the financial disadvantage experienced by bus drivers in Contract Region 6. However, in the Union's view, this provision requiring the legal entity who is awarded the contract to be the entity which engages employees has limited practical effect.
- 3.67** The Union explained what it considered to be the object of the Special Vehicle Clause. That is, this provision was designed to stop the employment of staff prior to the commencement of an operator's contract, which is the point at which the pay and conditions is guaranteed by the award transfers and applies to the employees that moved from the State Transit Authority to the private operator. The Union noted that it raised concerns that while the inclusion of a contractual provision of this nature '[discourages] the introduction of another industrial instrument through intent, it does nothing to stop it from happening in several industrial scenarios'. The Union added that this concern was raised with Transport for NSW but no further changes were made to the contractual provision.<sup>269</sup>
- 3.68** On the question as to why two legal entities were used to engage employees, Transit Systems informed the committee that it was to allow them to onboard and train bus drivers before commencing operations in Contract Region 6 on 1 July 2018. Transit Systems explained that when it was awarded the contract, the State Transit Authority was short about 200 bus drivers. Therefore, Transit Systems was required to fill the shortfall.
- 3.69** However, when Transit Systems submitted its tender for Contract Region 6 and when it signed the contract in February 2018, it was unaware of the bus driver shortage issue. The challenge this presented was that the terms and conditions of the award applicable to State Transit Authority employees were not available for use by Transit Systems West before 1 July 2018 when the award obligations transferred with the State Transit Authority employees. To overcome this challenge and fill the shortfall of bus drivers ahead of the contract commencing, the separate legal entity Transit Systems (NSW), which operates bus services in Contract Region 3, was used to employ new bus drivers in accordance with the terms and conditions under an existing enterprise agreement.<sup>270</sup>

<sup>267</sup> Submission 5, Transport Workers' Union of New South Wales, pp 9-10. See also Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, pp 3-4; Submission 13, Unions NSW, pp 3-4.

<sup>268</sup> Submission 5, Transport Workers' Union of New South Wales, p 10.

<sup>269</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 3.

<sup>270</sup> Answers to questions on notice, Transit Systems, 27 June 2022, p 1.

- 3.70** In addition, Transport for NSW supported the assertion that the circumstances as set out by Transit Systems are the reasons underpinning Transit Systems' approach of having different industrial instruments for legacy and non-legacy drivers.<sup>271</sup>

*The role of Transport for NSW*

- 3.71** Further, Transit Systems informed the committee that historically when responding to government tenders, it had indicated in the tender that the service contract would be held by one entity and the employees would be held by a separate entity.<sup>272</sup> Transit Systems added that Transport for NSW 'has not attempted to enforce tendering requirements upon Transit Systems whereby the tendering entity has to also be the employing entity'.<sup>273</sup>
- 3.72** In addition, Transit Systems stated that in July 2020 it discussed with Transport for NSW the effect of having two industrial instruments applying to bus drivers in Contract Region 6. At this point, Transit Systems informed Transport for NSW that it is not the only private bus operator with two instruments and highlighted that 'the tenders ask tenderers to address how they will manage employees doing the same work in the same region covered by different agreements'.<sup>274</sup>
- 3.73** Some stakeholders criticised Transport for NSW for allowing Transit Systems to employ its bus drivers under two different legal entities and frameworks.<sup>275</sup> For example, the Transport Workers' Union of New South Wales stated that 'despite these terms allegedly being provided in the contracts, the NSW Coalition Government has shown willful blindness and disinterest by not auditing or enforcing these provisions, essentially rendering the protections purported to be in the contracts as useless'.<sup>276</sup>
- 3.74** Mr Olsen commented that all bus drivers at Transit Systems should have the same terms and conditions, and that '[Transit Systems] and the State Government should not have been allowed to engineer a situation where they can contract out of that industrial instrument and involve a new instrument, which carries lesser terms and conditions'.<sup>277</sup>
- 3.75** The Tram and Bus Division of the Rail, Tram and Bus Union of NSW also reflected on the actions of Transit Systems and Transport for NSW's decision to award them a contract despite being aware of their intended employment strategy:

While all operators have proven to be nuanced in their strategic approach to managing the new contracts, none have been as mercenary or adversarial to their workforce as Transit Systems Pty Ltd (and their many related bodies corporate). We should remember that the company was hand-picked by the government with full knowledge of the business plan they were delivering their staff into.<sup>278</sup>

<sup>271</sup> Evidence, Mr Howard Collins, Chief Operations Officer, Transport for NSW, 3 May 2022, p 40.

<sup>272</sup> Answers to questions on notice, Transit Systems, 27 June 2022, p 1.

<sup>273</sup> Answers to supplementary questions, Transit Systems, 27 June 2022, p 5.

<sup>274</sup> Answers to supplementary questions, Transit Systems, 27 June 2022, p 3.

<sup>275</sup> Submission 5, Transport Workers' Union of New South Wales, p 10; Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, pp 3-4; Submission 13, Unions NSW, p 3.

<sup>276</sup> Submission 5, Transport Workers' Union of New South Wales, p 10.

<sup>277</sup> Evidence, Mr Olsen, 2 May 2022, p 29.

<sup>278</sup> Submission 7, Tram and Bus Division, Rail, Tram and Bus Union of NSW, p 2.

## Equal pay and conditions in the context of current enterprise agreements

- 3.76** Stakeholders raised the current enterprise agreement negotiations between unions on behalf of bus drivers and private bus operators, with particular emphasis on the template enterprise agreement recently agreed to by key industry stakeholders.
- 3.77** Transport for NSW indicated that a number of private bus operators are in wage negotiations with unions for enterprise agreements that expired in mid-2021.<sup>279</sup> With respect to current enterprise agreement negotiations, the Transport Workers' Union of NSW advised that as at 31 March 2022, it was involved as a bargaining representative negotiating for its members employed at Busways, Interline Bus Services, Transit Systems NSW and Transit Systems West, ComfortDelGro Cabcharge and Transdev NSW.<sup>280</sup>
- 3.78** The length of the negotiations was highlighted by some stakeholders, noting that in some cases, enterprise agreement negotiations have been taking place for 18 months, which is half the life of the agreement itself.<sup>281</sup>
- 3.79** The Transport Workers' Union of NSW advised that together with the Tram and Bus Division of the Rail, Tram and Bus Union of NSW, it has worked with BusNSW and private bus operators to establish a template enterprise agreement with the objective of establishing consistent industry standards and working conditions. Through consultation and negotiations, the Unions and BusNSW were able to establish an agreement which '[deals] with the overarching concerns of peak groups to ensure there were some industry minimum standards, which were predominately based on the terms of the Award'. It added that it also consulted and negotiated with specific private operators in order to include bargaining terms that were tailored to particular companies' workforces and local considerations.<sup>282</sup>
- 3.80** The Transport Workers' Union of NSW emphasised the outcome of this template agreement was that it 'allowed parties to work cooperatively and meet organisational goals, whilst allowing the TWU to ensure parity between bus drivers operating throughout New South Wales'.<sup>283</sup> The Union added that in the enterprise agreement negotiations for bus drivers in Contract Region 3, Transit Systems did not endorse the template agreement.<sup>284</sup>
- 3.81** When asked about the template agreement at a hearing, Mr Balkin stated that Transit Systems has been working through a process with the Transport Workers' Union of NSW and the Tram and Bus Division of the Rail, Tram and Bus Union of NSW. He advised that Transit Systems does not consider that some of the conditions which applied to State Transit Authority drivers should be replicated across the industry.<sup>285</sup>

<sup>279</sup> Submission 258, Transport for NSW, p 22.

<sup>280</sup> Submission 5, Transport Workers' Union of New South Wales, p 9.

<sup>281</sup> Evidence, Mr Olsen, 2 May 2022, p 29.

<sup>282</sup> Submission 5, Transport Workers' Union of NSW, p 10; Evidence, Mr Olsen, 2 May 2022, p 28.

<sup>283</sup> Submission 5, Transport Workers' Union of NSW, p 10.

<sup>284</sup> Submission 5, Transport Workers' Union of NSW, p 10.

<sup>285</sup> Evidence, Mr Balkin, 31 May 2022, p 19.

## Committee comment

- 3.82** Not only has the privatisation of public bus services resulted in poor outcomes for the community and a weakened public transport system, the impact on bus drivers and other employees has been significant. The committee reiterates its previous recommendation that the NSW Government give consideration to reverting bus services in the four recently privatised Contract Regions in metropolitan Sydney (Contract Regions 6, 7, 8 and 9) that were previously operated by the State Transit Authority, as well as bus services delivered under the integrated public service contract for Newcastle, to being publicly-owned-and-operated bus services.
- 3.83** The committee notes the general economic hardship experienced across the community at the time of writing this report, in particular stagnant wage growth and increasingly high levels of inflation. Bus drivers' wages are falling far behind the increasing cost of living. The committee considers that wage increases in accordance with the Wage Price Index are insufficient and cause undue financial hardship. One way to improve this situation for bus drivers and other industry staff is to have enterprise agreements that provide for wage indexation at least in accordance with the Consumer Price Index. This should be factored into the contracts between private bus operators and Transport for NSW.
- 3.84** The committee was also concerned to learn about the disparity between bus drivers employed by different operators, and even more so about the evidence of a two-tiered workforce within some companies. The so-called protections put in place by the NSW Government to ensure parity of pay and working conditions when public sector employees transferred to private bus operators have proven to be inadequate. Private bus operators have circumvented the requirements to maintain working conditions and entitlements in line with the public sector awards and have created a two-tiered workforce. Moreover, when these protections have been disregarded by operators, Transport for NSW has been unwilling to enforce these provisions to ensure the 'same work, same pay' principle is respected.
- 3.85** The committee recognises the achievement of key industry stakeholders in establishing a template enterprise agreement and applauds the relevant parties for coming to the table to agree on minimum consistent standards. We believe this is a positive step away from the race-to-the-bottom mentality that has plagued the industry in recent years. We encourage private bus operators to endorse and agree to the template enterprise agreement.
- 3.86** Moreover, the NSW Government has a key role to play in improving the working conditions and pay of bus drivers and other industry staff given that contracts are awarded through a competitive tender process. This process should be improved so that the focus of a tender is not on how much must be expended by the NSW Government for a particular service, but rather on how the tenderer proposes to maintain adequate levels of service delivery to the community, preserve and uphold high employment standards and protect the principle of 'same work, same pay' both across the industry and within a Contract Region.
- 3.87** To that end, we recommend that the NSW Government, in partnership with relevant unions, stakeholders and private bus operators, establish an industry-wide set of minimum pay and employment conditions for the bus industry throughout New South Wales which are inserted into the tender process.
- 3.88** The committee notes that at time of writing most operators have signed an industry-wide enterprise agreement with the relevant unions which will rectify the identified disparities

between wages and conditions across bus drivers. We are of the view that this should be a mandatory requirement for all private operators via a provision in the associated contracts.

**3.89** Further, we recognise that the profit objective of private bus operators places significant pressures on bus drivers. We were troubled by their working conditions, in particular that bus drivers are pressured to work long shifts with minimal breaks and have limited access to facilities. It was concerning to us that the experience of bus drivers who participated in this inquiry was that they are being asked to meet unreasonable and unrealistic timetables and often feel overburdened and pressured to make unsafe choices for themselves or passengers. Compounding these poor conditions are the stresses placed on drivers to keep buses servicing the community during the COVID-19 pandemic.

**3.90** If bus drivers' pay and conditions do not improve, bus drivers may seek employment with operators that offer better conditions, or leave the industry altogether. This was illustrated by the evidence from bus drivers that the working conditions under privatisation have worsened the existing driver shortage across the industry. Moreover, the evidence suggests that staff shortages may be more severe in Contract Regions that recently moved from the State Transit Authority to private hands as bus drivers are seeking employment with private bus operators that appear to have better employment practices. The NSW Government must ensure that all private bus operators are adequately staffed to ensure retention and avoid New South Wales' busiest bus areas experiencing a shortage of drivers, or shortages across the industry in general.

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### **Finding 6**

The recent privatisation of bus services in NSW has resulted in a two-tier class of workers whereby the wages and conditions of some bus drivers working on exactly the same buses and routes as their colleagues are paid less and have worse conditions because they are employed by the private operator under a separate industrial instrument.

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### **Recommendation 4**

That the NSW Government in partnership with relevant unions, stakeholders and private bus operators, introduce a requirement for an industry-wide enterprise agreement which is applied to the bus industry throughout New South Wales and are inserted into contracts and are considered central to the competitive tender process.

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### **Recommendation 5**

That the NSW Government, in partnership with relevant unions, stakeholders and private bus operators, introduce industry-wide minimum pay and employment conditions which are applied to the bus industry throughout NSW and are inserted into contracts and are considered central to the competitive tender process.

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**Recommendation 6**

That the NSW Government ensure that the competitive tender process for the delivery of bus services across New South Wales prioritises the maintenance of adequate levels of service delivery to the community, preserves and upholds high employment standards and protects the principle of 'same work, same pay' both across the industry and within a Contract Region.

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**Recommendation 7**

That the NSW Government ensure adequate staffing and sufficient retention rates are maintained to support quality service delivery, with appropriate penalties for non-compliance with key performance indicators that may result from understaffing.

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## Chapter 4 Transition to zero emissions buses

This chapter focuses on the benefits of, and concerns around, zero emissions buses. It also reviews how the roll-out of zero emissions buses is working in practice, providing an overview of current trials. Finally, the chapter considers zero emissions buses and related infrastructure in the context of privatisation, particularly in relation to contracts agreed by the NSW Government and the private operators.

### Recent policy developments

- 4.1** The NSW Government has committed to reaching net zero greenhouse gas emissions by 2050 and acknowledged the important role that reducing public transport emissions will play in reaching this goal.<sup>286</sup>
- 4.2** In September 2020 the Legislative Assembly of New South Wales Committee on Transport and Infrastructure tabled its report into zero emissions buses in regional and metropolitan public transport networks in New South Wales. The inquiry considered the benefits of zero emissions buses as well as the challenges in transitioning the fleet. The report made a range of recommendations, including:
- development of a comprehensive transition plan including clear objectives and timeframes
  - consideration of contracts, funding of infrastructure and bus procurement in the transition plan
  - appropriate training for drivers
  - an audit of bus depots with a focus on assessing each in view of suitable charging infrastructure
  - identification of renewable energy sources to power the fleet
  - delivery of a service that considers the needs of passengers with disability
  - seeking opportunities for local manufacture of zero emissions buses.<sup>287</sup>
- 4.3** The committee recommended that the transition plan be supported by trials to inform the strategic framework, and that a staged and gradual rollout would ensure a smooth transition.<sup>288</sup>
- 4.4** Following the committee's report, in August 2021, Transport for NSW published the Zero Emission Bus Transition Strategy which sets out a transition timeline, stating that: "The first two years of the transition (2021-22 calendar years) will focus on short term replacement

<sup>286</sup> Transport for NSW, *Zero Emission Bus Transition Strategy*, <https://www.transport.nsw.gov.au/system/files/media/documents/2021/zero-emission-bus-transition-strategy.pdf>, p 3.

<sup>287</sup> Committee on Transport and Infrastructure, NSW Legislative Assembly, *Electric buses in regional and metropolitan public transport networks in NSW* (2021), pp vi-vii.

<sup>288</sup> Committee on Transport and Infrastructure, NSW Legislative Assembly, *Electric buses in regional and metropolitan public transport networks in NSW* (2021), pp 6-8.

opportunities ... while building industry readiness for an increased take up of vehicles from 2023'.<sup>289</sup>

4.5 In its submission to this inquiry, Transport for NSW reiterated its commitment to transition to an electric bus fleet and highlighted that the Zero Emissions Buses Project has commenced, and a strategic business case is being developed which assesses options for:

- Prioritisation and timelines for transition to zero emissions buses across NSW
- Technology (electric power, hydrogen power, charging, fuelling and other options)
- Delivery and financing strategies
- Local content and investment opportunities
- Existing fleet disposal approach.<sup>290</sup>

## Benefits and challenges of zero emissions buses

4.6 The committee received evidence on the various benefits and challenges of zero emissions buses. It should be noted that all key stakeholders, including the NSW Government and private operators, are supportive of the transition to an electric fleet.<sup>291</sup> Further, responses in the committee's online questionnaire demonstrated that the community is also supportive of the transition.<sup>292</sup>

### Benefits

4.7 The most obvious benefit of zero emissions buses is that which headlines the Zero Emissions Bus Transition Strategy – the significant contribution to reaching net zero emissions. The Strategy emphasises that zero emissions buses, particularly those that utilise renewable energy sources, have much lower emissions in comparison to diesel buses currently in service. This is because, as the Strategy depicts in the image below, the emissions associated with diesel buses are not only the tailpipe emissions, but also emissions that result from energy production and from the supply chain of manufacture and disposal of assets.<sup>293</sup>

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<sup>289</sup> Transport for NSW, *Zero Emission Bus Transition Strategy*, <https://www.transport.nsw.gov.au/system/files/media/documents/2021/zero-emission-bus-transition-strategy.pdf>, p 3.

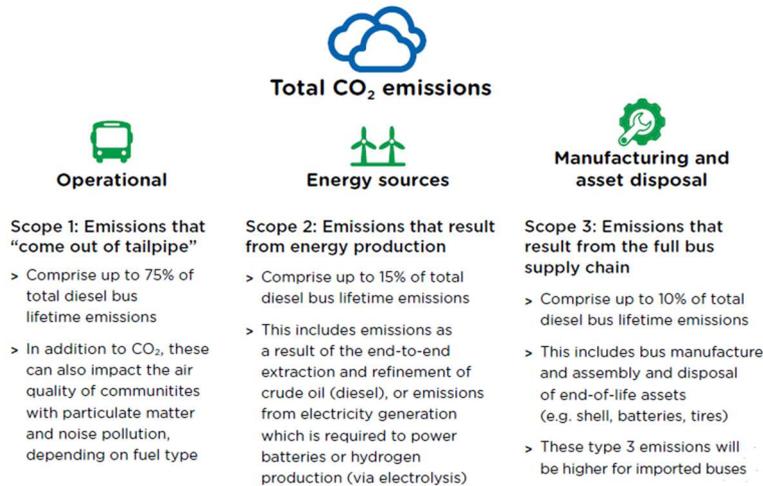
<sup>290</sup> Submission 258, Transport for NSW, p 14.

<sup>291</sup> See, for example, Submission 258, Transport for NSW, p 14; Submission 2, BusNSW p 7; Submission 18, City of Sydney, p 3; Evidence, Mr Jamie Sinclair, Managing Director, Transit Systems, 31 May 2022, p 11.

<sup>292</sup> Portfolio Committee No 6 – Transport, Report on the Online Questionnaire, *Inquiry into the Privatisation of Bus Services*, p 9.

<sup>293</sup> Transport for NSW, *Zero Emission Bus Transition Strategy*, <https://www.transport.nsw.gov.au/system/files/media/documents/2021/zero-emission-bus-transition-strategy.pdf>, p 8.

**Table 4 Emissions from diesel buses**



Source: Transport for NSW, *Zero Emission Bus Transition Strategy*, <https://www.transport.nsw.gov.au/system/files/media/documents/2021/zero-emission-bus-transition-strategy.pdf>, p 8.

**4.8** In terms of the costs associated with purchasing zero emissions buses, the Legislative Assembly report found that while the initial cost of purchasing zero emissions buses and related charging infrastructure is higher, the operating and maintenance costs are lower over the lifetime of the assets when compared to diesel buses.<sup>294</sup> Also related to economic benefits, the transition will create investment and jobs in New South Wales, evidence of which will be discussed in more detail later in this chapter.

**4.9** The transition to zero emissions buses will also result in reduced air and noise pollution, particularly in urban environments where service frequency is high. Responses to the online questionnaire indicated that this benefit is highly valued by the wider community.<sup>295</sup>

**4.10** BusNSW contended that these merits could also contribute to an uptake in service use:

The cleaner and quieter vehicles provided by this technology create more liveable communities and better health outcomes for the population. They also have the potential to improve public perceptions of bus travel and thereby grow public transport patronage.<sup>296</sup>

**Challenges**

**4.11** Inquiry participants expressed views that a range of challenges must be navigated in order for the transition to zero emissions buses to proceed smoothly. Stakeholders identified potential difficulties around selecting and installing suitable charging infrastructure, accessing reliable and

<sup>294</sup> Committee on Transport and Infrastructure, NSW Legislative Assembly, *Electric buses in regional and metropolitan public transport networks in NSW* (2021), p 5.

<sup>295</sup> Portfolio Committee No 6 – Transport, Report on the Online Questionnaire, *Inquiry into the Privatisation of Bus Services*, p 9.

<sup>296</sup> Submission 2, BusNSW, p 7.

cost effective energy, and developing and delivering training for drivers and maintenance workers.

**4.12** A key challenge is that buses require specific charging infrastructure. Inquiry participants noted that identifying and installing suitable equipment can be difficult, particularly in depots located in Metropolitan Sydney that have limited available space for such infrastructure.

**4.13** The SMART Infrastructure Facility at the University of Wollongong, which is a research institution dedicated to helping governments and businesses apply a scientific approach to infrastructure planning, proposed in its submission that Transport for NSW should develop a masterplan on the deployment of charging infrastructure across New South Wales rather than having individual private bus operators build their own charging and refuelling facilities.<sup>297</sup>

**4.14** Taking a different view, the private bus operator Keolis Downer asserted that private operators can access innovative technologies to optimise their fleet, and therefore supported an approach whereby decisions around infrastructure, planning and installation are left to each operator. Providing an example of this, Mr Christian Porter described Keolis Downer's solution to installing charging infrastructure despite the lack of space at the Northern Beaches depots:

There's no view to grow the bus depots. So in that regard we had to leverage the global innovation we had available to us to come up with a model that was slightly different from what's being done in other depots. Our solution there, to deal with the space constraint, is a pantograph charging solution that allows buses to charge faster and, essentially, get a quicker ramp-up on the number of buses that we can bring into that network.<sup>298</sup>

**4.15** BusNSW also supported an approach that involves private bus operators taking a leading role in selecting and procuring zero emissions bus technology and infrastructure, submitting that 'bus network reviews will need to be completed in order to establish what zero emission buses and charging technology is best suited to the respective routes, timetables, driver/vehicle shifts and operating environment.'<sup>299</sup>

**4.16** Once suitable charging infrastructure is in place, the next challenge of operating the electric fleet is managing the energy demands. BusNSW emphasised the importance of operators having access to reliable, cost effective energy sources. The submission also raised the potential issue of increases to energy costs, suggesting that a suitable indexation mechanism should be included in contracts to ensure providers have access to reasonably priced energy.<sup>300</sup> Also commenting on the necessity of accessible energy sources, the SMART Infrastructure Facility emphasised that 'it is very important to integrate charging/refuelling activities with existing electrical grid and hydrogen supply network, and negotiate discount price with electricity/hydrogen suppliers'.<sup>301</sup>

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<sup>297</sup> Submission 10, SMART Infrastructure Facility, University of Wollongong, p 5.

<sup>298</sup> Evidence, Mr Christian Porter, Chief Commercial Officer, Keolis Downer, 31 May 2022, p 29.

<sup>299</sup> Submission 2, BusNSW, pp 7 and 9.

<sup>300</sup> Submission 2, BusNSW, p 9.

<sup>301</sup> Submission 10, SMART Infrastructure Facility, University of Wollongong, p 5.

- 4.17** The Legislative Assembly report also examined this issue, recommending that Transport for NSW identify ways to power zero emissions buses with renewable, zero emissions energy, proposing solutions such as installing solar panels in depots where possible.<sup>302</sup>
- 4.18** Another challenge observed by BusNSW was the required training associated with zero emissions buses, both for operators and maintenance staff. In its submission, BusNSW identified the need for accredited training qualifications in areas such as:
- safe handling of high voltage systems
  - operation of zero emissions buses
  - work health and safety practice for zero emissions buses.<sup>303</sup>
- 4.19** BusNSW expanded on this point by drawing attention to its development of a new nationally recognised unit of competency training relating to the operation of battery buses and coaches.<sup>304</sup>

### **Private operators participating in trials and rollout of zero emissions buses**

- 4.20** The committee received evidence of several trials of zero emissions buses conducted in different regions in New South Wales, as well as certain private bus operators who have introduced zero emission buses into their fleet.
- 4.21** The Legislative Assembly report referred to two trials that were already in progress in Leichardt and Nowra which were providing valuable operational data from different operating environments, to assist in future planning.<sup>305</sup> With respect to this trial, the Legislative Assembly report went on to describe the Leichardt trial conducted by Transit Systems in Contract Region 6 as promising. It found that the zero emissions buses were exceeding expectations, with batteries charging in less than 2.5 hours then returning to the depot with between 40-50 per cent charge after operating for between 12-16 hours.<sup>306</sup>
- 4.22** The Leichardt trial was also discussed in this inquiry. At the hearings, Transport for NSW and Transit Systems gave further detail on the nature of the joint venture, including on the financial arrangements for the relevant assets, which will be discussed later in this chapter.<sup>307</sup> Transport for NSW also announced a collaboration with Transit Systems for the procurement of zero emissions buses. The project will involve the acquisition of 79 electric buses which will be deployed to the Kingsgrove depot. It is intended that the project will in time see the depot become fully electrified.<sup>308</sup>

<sup>302</sup> Committee on Transport and Infrastructure, NSW Legislative Assembly, *Electric buses in regional and metropolitan public transport networks in NSW* (2021), pp 22-23.

<sup>303</sup> Submission 2, BusNSW, p 7.

<sup>304</sup> Submission 2, BusNSW, p 7.

<sup>305</sup> Committee on Transport and Infrastructure, NSW Legislative Assembly, *Electric buses in regional and metropolitan public transport networks in NSW* (2021), pp iv and 21-22.

<sup>306</sup> Committee on Transport and Infrastructure, NSW Legislative Assembly, *Electric buses in regional and metropolitan public transport networks in NSW* (2021), p 21.

<sup>307</sup> Evidence, Mr Howard Collins, Chief Operations Officer, Transport for NSW, 3 May 2022, pp 34-35. Evidence, Mr Jamie Sinclair, Managing Director NSW, Transit Systems, 31 May 2022, p 11.

<sup>308</sup> Submission 258, Transport for NSW, p 15.

- 4.23** Moving to the Nowra trial, in its submission, the SMART Infrastructure Facility confirmed that it had been invited to work with the Premier Transport Group on the Nowra trial referred to in the Legislative Assembly report.<sup>309</sup>
- 4.24** In addition to the trials of electric buses in Leichardt and Nowra, the SMART Infrastructure Facility also described a trial of hydrogen powered electric buses in the Central Coast area, conducted by Red Bus Services and endorsed by Transport for NSW.<sup>310</sup> Results of the trial were not available at the time the SMART Infrastructure Facility submission was prepared, and the committee did not hear further evidence from the Red Bus Services representative at the hearing. In answers to questions on notice, Red Bus Services described the uncertain position the organisation finds itself in, given that it has been awarded the hydrogen trial while also receiving advice that its contract would not be renewed and will be subject to a tendering process.<sup>311</sup>
- 4.25** The committee received evidence that Keolis Downer is currently working with Transport for NSW to introduce 125 electric buses into service on the Northern Beaches over the next seven years.<sup>312</sup>
- 4.26** To contextualise the staggered approach to the trials and rollout of zero emissions buses, the Zero Emissions Bus Transition Strategy points out the importance of considering the unique needs of each region in rolling out the transition, stating:
- The transition approach needs to cater for the diverse range of geographies and operating requirements which buses currently serve across NSW. Further, the transition needs to consider the local operating environment including road conditions, vehicle operating speeds, weather and environmental factors as well as the ability for infrastructure to support the selected Zero Emissions Bus technology.<sup>313</sup>
- 4.27** To the point of the importance of tailoring zero emissions bus technology to diverse operating environments, the SMART Infrastructure Facility emphasised the importance of conducting comprehensive trials under a range of circumstances to ensure that fit for purpose programs are rolled out.<sup>314</sup>

## **Procurement, funding and ownership of assets and infrastructure**

- 4.28** Evidence on zero emissions buses and infrastructure focused on the roles and responsibilities that the NSW Government and private operators currently have in asset procurement, funding and ownership and whether these arrangements require modification for the roll out of zero emissions buses.

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<sup>309</sup> Submission 10, SMART Infrastructure Facility, University of Wollongong, p 2.

<sup>310</sup> Submission 10, SMART Infrastructure Facility, University of Wollongong, p 2.

<sup>311</sup> Answers to supplementary questions, Ms Leanne Griffiths, Manager, Business Services, Red Bus Services, 28 June 2022, pp 2-3.

<sup>312</sup> Evidence, Mr Porter, 31 May 2022, p 22 and 29.

<sup>313</sup> Transport for NSW, *Zero Emission Bus Transition Strategy*, <https://www.transport.nsw.gov.au/system/files/media/documents/2021/zero-emission-bus-transition-strategy.pdf>, p 15.

<sup>314</sup> Submission 10, SMART Infrastructure Facility, University of Wollongong, p 2.

- 4.29** The Legislative Assembly report recommended that Transport for NSW's transition plan should include details about the funding and procurement of zero emissions buses and infrastructure upgrades. The report stated that a planned and coordinated approach to the transition would provide clarity about which parties are responsible for funding, building and maintaining assets.<sup>315</sup> The Zero Emissions Bus Transition Strategy states that 'future re-contracting activities will focus on developing a contractual foundation which is fit for purpose for large scale zero emissions bus operations.'<sup>316</sup>
- 4.30** Looking beyond the Strategy to implementation, the Transport for NSW submission advised that the current phase of implementing the Zero Emissions Buses Project includes preparation of a business case for the procurement of assets, stating that 'during deployment, the project will procure new zero emissions buses and ensure depots are converted, and suitable infrastructure and systems are installed.'<sup>317</sup>
- 4.31** With respect to whether the NSW Government or private bus operators are funding and procuring zero emissions buses and infrastructure, Mr Matt Threlkeld, Executive Director of BusNSW, explained that funding and procurement arrangements are being negotiated on a contract-by-contract basis between Transport for NSW and private bus operators:

The main focus at this stage has been on the Sydney metropolitan area and mainly in regard to the regions that were previously operated by the State Transit Authority, although we have seen that some of the private operators in the Sydney metro have commenced procurement of electric buses. That has been supported by Transport for NSW in terms of providing the funding for those vehicles, and that has obviously required some changes to depots in regard to providing infrastructure and charging equipment to support those electric buses. My understanding is that there has been a negotiation between the private operator and Transport for NSW in regard to funding that is required to be able to set up depots for those vehicles that are now in service.<sup>318</sup>

- 4.32** Further to this, Mr Howard Collins, Chief Operations Officer, Transport for NSW, advised the committee that asset procurement is underway. When asked whether the NSW Government or the private operators are purchasing the zero emissions buses, Mr Collins responded that both arrangements were occurring:

There are all sorts of leaseback and long-term arrangements. But at the end of the day the former STA areas will remain transferable and part of the Government asset. One of the reasons why we have done that is to ensure that, if contracts change for any reason and we need to renew it with another organisation, what we do not want to do is end up not having the bus depot or the vehicles to transfer to the next operator. That is really important.<sup>319</sup>

<sup>315</sup> Committee on Transport and Infrastructure, NSW Legislative Assembly, *Electric buses in regional and metropolitan public transport networks in NSW* (2021), p vi.

<sup>316</sup> Transport for NSW, *Zero Emission Bus Transition Strategy*, <https://www.transport.nsw.gov.au/system/files/media/documents/2021/zero-emission-bus-transition-strategy.pdf>, p 19.

<sup>317</sup> Submission 258, Transport for NSW, p 14.

<sup>318</sup> Evidence, Mr Matt Threlkeld, Executive Director, BusNSW, 2 May 2022, p 11.

<sup>319</sup> Evidence, Mr Collins, 3 May 2022, pp 31 and 34-35.

**4.33** BusNSW gave similar evidence at the hearing, indicating industry familiarity with the funding proposal. Mr Matt Threlkeld asserted that, under all contracts negotiated between Transport for NSW and operators of former State Transit Authority depots, the government will retain ownership of assets. In response to the suggestion that contractual arrangement could lead to zero emissions buses and required infrastructure being owned by private operators, as opposed to the current model where assets and infrastructure remain owned and controlled by NSW Government, Mr Threlkeld disagreed:

No. There is no change to the model. It is the Government's intent to either own that asset in terms of paying for it or, if it is paid for by the operator up-front and then funded over 15 years by government, the Government would still have full control over that asset and, should there be a change of operator, the Government has a right to require the incumbent operator to transfer that asset to a successor operator ... We understand that the charging infrastructure would be the same.<sup>320</sup>

**4.34** Nonetheless, Bus NSW's submission made some suggestions to improve the process and model employed with respect to rolling out zero emissions buses and required infrastructure. First, it highlighted that 'close engagement with industry is critical to providing sustainable infrastructure and bus operations.'<sup>321</sup> Secondly, BusNSW suggested that a reimagination of the business model may be required when it comes to zero emissions buses:

Government may need to consider a new business model to operate electric buses where the partnership role and risk are clearly quantified. Bus operators will require assistance to make changes to operational practices including refuelling, maintenance, fleet and parts compatibility, and meeting new regulatory and compliance regimes.<sup>322</sup>

## Opportunity for local assembly and manufacture

**4.35** The transition to zero emissions buses presents an opportunity for local assembly and manufacture of zero emissions buses and charging infrastructure. The Legislative Assembly report found that 'NSW has the skills and capability to create new business and employment opportunities in the manufacture of zero emissions buses.'<sup>323</sup>

**4.36** The Zero Emissions Bus Transition Strategy states that 'this transition will also boost the development of local skills and capabilities in zero emissions technologies and we are committed to ensuring that the broader NSW economy benefits from increases in investment, jobs and advances in technology.'<sup>324</sup>

**4.37** Transport for NSW stated in its submission that the Zero Emissions Bus project will focus on local opportunities for assembly and manufacturing. Further to this, the Minister for Transport announced that Transport for NSW in collaboration with Transit Systems, would procure 79

<sup>320</sup> Evidence, Mr Threlkeld, 2 May 2022, pp 11-12. See also Submission 2, BusNSW, p 9.

<sup>321</sup> Submission 2, BusNSW, p 9.

<sup>322</sup> Submission 2, BusNSW, p 8.

<sup>323</sup> Committee on Transport and Infrastructure, NSW Legislative Assembly, *Electric buses in regional and metropolitan public transport networks in NSW* (2021), pp 36-38.

<sup>324</sup> Transport for NSW, *Zero Emission Bus Transition Strategy*, <https://www.transport.nsw.gov.au/system/files/media/documents/2021/zero-emission-bus-transition-strategy.pdf>, p 3.

locally manufactured electric buses.<sup>325</sup> At the hearing, Mr Howard Collins provided an update on this initiative, stating that Custom Denning had commenced manufacture of the electric buses in Western Sydney.<sup>326</sup>

- 4.38** In welcoming the transition to zero emissions buses, Liverpool City Council emphasised that it would like to work with NSW Government to develop local manufacturing capacity for electric vehicles and associated accessory industries in the Liverpool local government area.<sup>327</sup>

## Committee comment

- 4.39** The committee is encouraged by the apparent progress in the early stages of implementation of the Zero Emissions Bus Strategy and welcomes the success of the trials conducted so far. The trials highlight the importance of taking into account the unique needs of each region and depot when preparing individual transition plans. In saying that, we believe there can and should be a much faster transition to a 100 per cent zero emissions bus fleet.
- 4.40** Regardless of whether or not a Contract Region has been privatised, the committee believes that it is important that NSW Government retain ownership and control of all bus assets and infrastructure, including zero emissions buses and required charging infrastructure. We believe that now – the early stages of the transition to zero emissions buses – is the optimal opportunity to establish comprehensive ownership arrangements of zero emissions buses and infrastructure. This is important to prevent a situation where one operator can gain an entrenched advantage going forward by virtue of owning zero emissions bus assets.
- 4.41** The committee notes that it is important that the NSW Government continue to play a key role in funding and maintaining the transition to zero emissions buses. Firstly, this will avoid the risk of becoming reliant of the innovation of private operators for transition to progress, and secondly avoid the risk of smaller operators facing diminished opportunity to participate in the transition.
- 4.42** This rollout should be sped up while ensuring that the electrification strategy does not see a decrease in the diversity of private bus operators delivering services in NSW. That is, the NSW Government must ensure that adequate financial and other support is provided for existing private bus operators in the market who may not be on an equal playing field with larger companies who, with the benefit of economies of scale, can offer procurement and financing options and solutions for zero emissions buses and required infrastructure. Without such measures, we are concerned that the Zero Emissions Bus Transition Strategy and Project could encourage a further domination by a few larger, national or multi-national, profit driven operators.
- 4.43** With respect to the actual arrangements for financing and procuring assets and equipment, from the evidence received it is not clear as to current industry practices in that regard and the role that Transport for NSW is playing. Moreover, the evidence we did receive related to contracts, asset management and ownership arrangements between Transport for NSW and private operators who have recently taken over operations from the State Transit Authority. It has not

<sup>325</sup> Submission 258, Transport for NSW, pp 14-15.

<sup>326</sup> Evidence, Mr Collins, 3 May 2022, p 35.

<sup>327</sup> Submission 17, Liverpool City Council, p 3.

been made clear to us how the arrangements for the transition to a zero emissions bus fleet will work in Contract Regions that have always, or for a longer time, been serviced by private operators.

- 4.44** In addition, contract provisions for zero emissions buses and related infrastructure should include key performance indicators which encourage take up, reward innovation, and promote opportunities for all operators to participate in the transition.
- 4.45** The committee also recommends that careful consideration continue to be given to the unique needs of each region (whether Metropolitan Sydney or regional New South Wales). This should include selection of the most suitable assets as well as identification of opportunities to utilise renewable energy sources to power the assets.
- 4.46** The committee has previously expressed concerns around the impact of privatisation on disability inclusion, specifically that private operators are under no obligation to meet Transport for NSW's disability inclusion requirements. Despite there not being a great deal of evidence received on disability access to zero emissions buses, we see that disability inclusion must be central to the framework in transitioning to zero emissions buses. To achieve such outcomes, it is essential that the NSW Government consult with key stakeholders, including local councils as well as advocacy groups, to ensure that zero emissions bus programs are fit for purpose in each Contract Region.
- 4.47** Lastly, the committee sees it as necessary to ensure that as part of the electrification of the bus fleet across New South Wales, bus drivers and other operational staff are upskilled and adequately trained in operating and maintaining zero emissions buses and infrastructure.

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### **Recommendation 8**

That the NSW Government accelerate the transition to zero emissions buses in New South Wales and provide the required leadership and support regarding procurement and funding to the industry so as to retain a diversity of operators and sufficient competition in the market.

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### **Recommendation 9**

That the NSW Government ensure that through its contractual or other arrangements with private bus operators it:

- retains ownership of all zero emissions buses and related infrastructure, including charging infrastructure
  - prevents private operators gaining an entrenched advantage for future contracts through ownership of zero emissions bus assets.
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### **Recommendation 10**

That the NSW Government consult with key stakeholders, including local councils and advocacy groups, to ensure that zero emissions bus programs are fit for purpose in each Contract Region across New South Wales.

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**Recommendation 11**

That the NSW Government work with industry partners to develop suitable training programs and accreditation for zero emissions bus operators and maintenance staff.

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# Appendix 1 Minutes

## Minutes no. 53

Friday 4 February 2022  
Portfolio Committee No. 6 – Transport and Customer Service  
Via Webex at 10.03 am

### 1. Members present

Ms Boyd, *Chair*  
Mr Banasiak, *Deputy Chair*  
Mr Amato  
Mr Farlow  
Mr Graham  
Mr Harwin  
Mr Mookhey

### 2. Correspondence

Committee noted the following items of correspondence:

#### ***Received:***

- 16 December 2021 – Letter from Mr Graham, Ms Boyd and Mr Mookhey requesting a meeting of Portfolio Committee No. 6 to consider a proposed self-reference into the privatisation of bus services.

### 3. Consideration of terms of reference

The Chair tabled the letter proposing the following self-reference:

#### **Privatisation of bus services**

1. That Portfolio Committee No. 6 inquiry into the privatisation of bus services via the Sydney Metropolitan Bus Contracts, and in particular:
  - (g) the modelling, rationale and process of privatising bus services,
  - (h) the impact on the commuting public through the loss of bus stops and services,
  - (i) the economic, social, safety, employment and environmental implications of bus privatisation
  - (j) the transition to an electric bus fleet and supporting infrastructure,
  - (k) the impact of bus privatisation on worker pay and conditions, and
  - (l) any other relevant matter.
2. That the committee report by 1 October 2022.

Resolved, on the motion of Mr Graham: That the committee adopt the terms of reference.

### 4. Conduct of the inquiry into the privatisation of bus services

#### ***Closing date for submissions***

Resolved, on the motion of Mr Graham: That the closing date for submissions be 31 March 2022.

***Stakeholder list***

Resolved, on the motion of Mr Graham: That:

- the secretariat circulate to members the Chairs' proposed list of stakeholders to be invited to make written submissions, and that members being given two days to amend the list or nominate additional stakeholders
- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

***Online questionnaire***

Resolved, on the motion of Mr Harwin: That the committee use an online questionnaire to capture individuals' views, and that the draft questions be circulated to the committee for comment, with a meeting on request from any committee member if there is disagreement on the questions.

***Online questionnaire report***

Resolved, on the motion of Mr Harwin: That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:

- only responses from NSW participants will be analysed in the report
- the committee authorises the secretariat to publish the questionnaire report on the inquiry website unless any member raises an objection to publication via email
- individual responses be kept confidential on tabling.

***Advertising***

The committee noted that all inquiries are advertised via Twitter, Facebook, stakeholder letters and a media release distributed to all media outlets in New South Wales.

***Hearing dates***

Resolved, on the motion of Mr Banasiak: That two hearings be held at the end of April/May, with dates to be determined by the Chair after consultation with members regarding their availability.

**5. Adjournment**

The committee adjourned at 10.14 am until Monday, 14 February 2022 (Road tolling hearing).

Rhia Victorino  
**Committee Clerk**

**Minutes no. 56**

Tuesday 1 March 2022  
Portfolio Committee No. 6 - Transport and Customer Service  
Macquarie Room, Parliament House, Sydney, at 9.15 am

**6. Members present**

Ms Boyd, *Chair* (to 5pm)  
Mr Banasiak, *Deputy Chair*  
Mr Farlow

Mr Graham  
 Mr Harwin  
 Mr Mookhey (from 9.26 am)  
 Ms Sharpe (*participating* from 11.12 am-11.40 am)

**7. Apologies**

**8. Previous minutes**

Resolved, on the motion of Mr Farlow: That draft minutes no. 55 be confirmed.

**9. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 24 February 2022 - Email from Mr Dan Rubenach, Office of the Hon. Rob Stokes MP, confirming the Minister's availability to attend the hearing and nominating departmental witnesses
- 24 February 2022 - Email from Mr Dom Bondar, Office of the Hon David Elliott MP, confirming the Minister's attendance at the hearing and nominating departmental witnesses
- 25 February 2022 - Email from Mr David Tricca, Office of the Hon Natalie Ward MLC, confirming the Minister's attendance at the hearing and nominating departmental witnesses

***Sent***

- 23 February 2022 - Email from the secretariat, to the Hon Natalie Ward MLC, Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence, issuing witness invitations for the Budget Estimates 2021-2022 additional hearings
- 23 February 2022 - Email from the secretariat, to the Hon David Elliott MP, Minister for Transport, and Minister for Veterans, issuing witness invitations for the Budget Estimates 2021-2022 additional hearings
- 23 February 2022 - Email from the secretariat, to the Hon Rob Stokes MP, Minister for Infrastructure, Minister for Cities, and Minister for Active Transport, issuing witness invitations for the Budget Estimates 2021-2022 additional hearings
- 23 February 2022 - Email from the secretariat, to the Hon Sam Faraway MLC, Minister for Regional Transport and Roads, issuing witness invitations for the Budget Estimates 2021-2022 additional hearings

**10. Leave of absence of a committee member**

Resolved, on the motion of Mr Harwin: That the committee grant Mr Banasiak leave of absence for the duration of both the inquiry into road tolling regimes and the inquiry into the privatisation of bus services.

**11. Inquiry into Budget Estimates 2021-2022 – supplementary hearings**

***Order for examination of portfolios***

*The committee noted that under the Budget Estimates 2021-2022 resolution each portfolio, except The Legislature, be examined concurrently by Opposition and Crossbench members only, from 9.30 am to 11.00 am, and from 11.15 am to 12.45 pm, then from 2.00 pm to 3.30 pm, and from 3.45 pm to 5.15 pm, with 15 minutes reserved for Government questions at the end of the morning and afternoon sessions, if required.*

***Public hearing: Metropolitan Roads, Women's Safety and the Prevention of Domestic and Sexual Violence***

Departmental witnesses were admitted.  
Minister Ward MLC was admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters. The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

The Chair also reminded Mr Rob Sharp, Mr Howard Collins, Ms Megan Bourke-O'Neill, Ms Camilla Drover, Mr Bernard Carlon, and Mr Joost de Kock, that they did not need to be sworn, as they have been sworn at another Budget Estimates hearing for the same committee.

The following witnesses were sworn:

- Mr Michael Tidball, Secretary, Department of Communities and Justice
- Ms Anne Campbell, Acting Deputy Secretary, Strategy Policy and Commissioning, Department of Communities and Justice
- Mr Paul McKnight, Deputy Secretary, Law Reform and Legal Services, Department of Communities and Justice
- Mr Peter Dunphy, Acting Deputy Secretary, Safety Environment and Regulation, Transport for NSW

The Chair declared the proposed expenditure for the portfolios of Metropolitan Roads, Women's Safety and the Prevention of Domestic and Sexual Violence open for examination.

The Minister and departmental witnesses were examined by the committee.

The Minister withdrew at 12.45 pm.

Mr Mookhey tendered the following document:

- Document - Infrastructure NSW – Final Business Case Summary : F6 Extension – Stage 1 – June 2018

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 5.14 pm.

### ***Tendered documents***

*Resolved, on the motion of Mr Farlow: That the committee accept and publish the following documents tendered during the Metropolitan Roads, Women's Safety and the Prevention of Domestic and Sexual Violence hearing held on Tuesday 1 March 2022:*

- Infrastructure NSW – Final Business Case Summary : F6 Extension – Stage 1 – June 2018, tendered by Mr Mookhey

## **12. Adjournment**

The committee adjourned at 5.18 pm, until 9.15 am, Friday 4 March 2022, Macquarie Room, Budget Estimates hearing — Transport, Veterans

Peta Leemen  
**Committee Clerk**

## Minutes no. 61

Monday 2 May 2022

Portfolio Committee No. 6 – Transport

Macquarie Room, Parliament House, Sydney, 9.34 am

### 13. Members present

Ms Boyd, *Chair*

Mr Buttigieg

Mr Fang

Mr Mallard (*via videoconference until 11.15am*)

Mr Mookhey (*from 9.41 am*)

### 14. Apologies

Mr Banasiak, *Deputy Chair*

Mr Rath

### 15. Draft minutes

Resolved, on the motion of Mr Mookhey: That draft minutes nos 48, 49, 50 and 51 be confirmed.

### 16. Correspondence

Committee to note the following items of correspondence:

#### ***Received:***

- 23 February 2022 – Email from Mr Sam Sanathesan, Mosman Council, to secretariat, requesting an extension to provide a submission to the inquiry into privatisation of bus services
- 25 February 2022 – Email from Mr Michael Jollon, Parramatta Council, to secretariat, requesting an extension to provide a submission to the inquiry into privatisation of bus services
- 11 March 2022 – Email from Ms Alison Goodwin, Research Officer, Health Services Union, to secretariat, advising that the Health Services Union will not be making a submission to the inquiry
- 23 March 2022 – Email from Mr Cameron Hamilton, Head of Government and Stakeholder Relations, Transgrid, to secretariat, advising that Transgrid will not be making a submission to the inquiry
- 28 March 2022 – Email from Ms Sophia Nasser, Unions NSW, to secretariat, requesting an extension to provide a submission to the inquiry into privatisation of bus services
- 29 March 2022 – Email from Mr Reza Ahmed, Randwick Council, to secretariat, requesting an extension to provide a submission to the inquiry into privatisation of bus services
- 4 April 2022 – Email from the office of Mr Buttigieg, to secretariat, to secretariat, advising substitution of Mr Graham for Mr Buttigieg for the inquiry into privatisation of bus services
- 22 April 2022 – Email from Ms Jill Robinson, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Email from Mr Bo Du, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 23 April 2022 – Email from Mr Michael Berg, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 26 April 2022 – Email from Mr Patrick Doumani, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 3 May 2022

- 27 April 2022 – Email from Mr Michael Jollon, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 3 May 2022
- 28 April 2022 – Email from Mr Charles Wiafe, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 3 May 2022

***Sent:***

- 22 April 2022 – Letter from Chair to Mr Hoenig MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Letter from Chair to Mr Matt Thistlethwaite MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Letter from Chair to Mr Michael Daley MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Letter from Chair to Ms Marjorie O'Neill MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 22 April 2022 – Letter from Chair to Mr Tim Crackanthorp MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 3 May 2022
- 22 April 2022 – Letter from Chair to Ms Jodie Harrison MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 3 May 2022
- 22 April 2022 – Letter from Chair to Ms Yasmin Catley MP, Witness invitation to public hearing for inquiry into the privatisation of bus services on 3 May 2022

**17. Inquiry into privatisation of bus services*****Public submissions***

*The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 1a, 2-34, 36-76, 78-113, 115-150, 153-160, 162-178, 258, 271, 411 and 412.*

***Name suppressed submissions***

*The committee noted that the following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 35, 77, 114, 152, 180-200, 202-257, 259-266, 268-270, 272-283, 285-309, 311-362, 364-365, 367-369, 371-384 and 392.*

*Resolved, on the motion of Mr Fang: That the committee keep submission author names confidential, as per the request of the author, in submission nos. 35, 77, 114, 152, 180-200, 202-257, 259-266, 268-270, 272-283, 285-309, 311-365, 367-369, 371-384 and 392.*

***Partially confidential submissions***

*Resolved, on the motion of Mr Fang: That the committee authorise the publication of submission nos. 151 and 363, with the exception of identifying and/ or sensitive information as highlighted, which are to remain confidential, as per the recommendation of the secretariat.*

***Confidential submissions***

*Resolved, on the motion of Mr Buttigieg: That the committee keep submission nos. 161, 179, 201, 284, 310, 366, 370, 385-391, 393-410 confidential, as per the request of the author, as they contain identifying and/ or sensitive information.*

*Resolved, on the motion of Mr Buttigieg: That the committee keep submission no. 267 confidential, as per the recommendation of the secretariat, as the author is a minor.*

### ***Online questionnaire report***

*The committee noted :*

- *the online questionnaire report was circulated to members on 28 April 2022*
- *as there were no objections to the report's publication, it was published on the committee's webpage in accordance with the committee's resolution on 4 February 2022.*

### ***Election of Deputy Chair for the inquiry***

*The committee noted that at its meeting on 1 March 2022, it resolved to grant Mr Banasiak, Deputy Chair, leave of absence for the duration of both the inquiry into road tolling regimes and the inquiry into the privatisation of bus services.*

*In the absence of a Deputy Chair for the inquiry, the Chair called for nominations for Deputy Chair for the duration of the inquiry into the privatisation of bus services.*

*Mr Fang moved: That Mr Buttigieg be elected Deputy Chair for the duration of the inquiry into the privatisation of bus services.*

*There being no further nominations, the Chair declared Mr Buttigieg elected Deputy Chair for the duration of the inquiry into the privatisation of bus services.*

### ***Allocation of questioning***

*Resolved, on the motion of Mr Fang: That the allocation of questions for the hearings for the inquiry into privatisation of bus services be left in the hands of the Chair.*

### ***Live streaming and recording of hearing***

*Resolved, on the motion of Mr Buttigieg: That the committee authorise publication of the video recordings for all hearings of the inquiry into the privatisation of bus services on the Parliament's YouTube channel.*

### ***Public hearing***

*The committee proceeded to take evidence in public at 9.45 am.*

*Witnesses were admitted.*

*The Chair made an opening statement regarding the broadcasting of proceedings, virtual participation etiquette and other matters.*

*The following witnesses were sworn and examined:*

- *Ms Gae Robinson*
- *Mr Ken Wilson (via videoconference)*

*Mr Wilson tendered the following document:*

- *Document entitled 'Additional information for inquiry from witness Ken Wilson'.*

*The evidence concluded and the witnesses withdrew.*

*The following witnesses were sworn and examined:*

- *Mr Matt Threlkeld, Executive Director, BusNSW*

- Mr John King, President, BusNSW.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Sophia Nasser, Legal/Industrial Officer, Unions NSW
- Mr Thomas Costa, Assistant Secretary, Unions NSW
- Mr David Babineau, Divisional Secretary, Tram and Bus Division, Rail, Tram and Bus Union (NSW Branch)
- Mr Mario Denis, Bus Operator
- Mr Richard Olsen, State Secretary, Transport Workers Union of NSW
- Mr Bill Pagalis, Bus Driver, Transit Systems West Services, Transport Workers Union of NSW.

Mr Mookhey tendered the following document:

- Australian Financial Review article entitled 'Transit underpaid bus drivers \$3.5m as CEO resisted wage rises', dated 19 April 2022.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Cr Dylan Parker, Mayor, Randwick City Council
- Mr Tony Lehmann, Manager Integrated Transport, Randwick City Council
- Mr Kim Woodbury, Chief Operating Officer, City of Sydney Council (via videoconference)

Cr Parker tendered the following documents:

- Randwick Council submission 1 – Land use and transport context
- Randwick Council submission 2 – Summary of not supported bus route changes.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Marjorie O'Neill MP, Member for Coogee
- Mr Michael Daly MP, Member for Maroubra
- Mr Matt Thistlewaite MP, Federal Member for Kingsford Smith

The evidence concluded and the witness withdrew.

The public hearing concluded at 3.48 pm

### ***Tendered documents***

*Resolved, on the motion of Mr Mookhey: That the committee accept and publish the following documents tendered during the public hearing for the Privatisation of bus services inquiry on Monday 2 May 2022:*

- Document entitled 'Additional information for inquiry from witness Ken Wilson', tabled by Mr Ken Wilson
- Australian Financial Review article entitled 'Transit underpaid bus drivers \$3.5m as CEO resisted wage rises', dated 19 April 2022, tabled by Mr Mookhey
- Randwick Council submission 1 – Land use and transport context, tabled by Cr Parker
- Randwick Council submission 2 – Summary of not supported bus route changes, tabled by Cr Parker.

**18. Inquiry into road tolling regimes**

Resolved, on motion of Mr Mookhey: That the committee write to:

- Transurban in regards to its answers to questions taken on notice during the hearing for the road tolling regimes inquiry on 14 February 2022 noting:
  - Transurban can provide material to the committee on a confidential basis
  - That the committee will also write to Transport for NSW requesting:
    - the questions highlighted by Transurban in its answers to questions on notice that should be directed to Transport for NSW
    - information relating to Transurban which the committee sought in its questions to Transurban.
- Transport for NSW requesting:
  - responses to the questions highlighted by Transurban in its answers to questions on notice that should be directed to Transport for NSW
  - information relating to Transurban which the committee sought in its questions to Transurban.

**19. Adjournment**

The committee adjourned at 3.51 pm, until Tuesday 3 May 2022, Macquarie Room – Inquiry into privatisation of bus services.

Emily Treeby  
Committee Clerk

**Minutes no. 62**

Tuesday 3 May 2022  
Portfolio Committee No. 6 – Transport  
Macquarie Room, Parliament House, Sydney, 10.00 am

**20. Members present**

Ms Boyd, *Chair (until 11.30 am, from 1.47 pm)*  
Mr Buttigieg, *Deputy Chair (from 10.01 am)*  
Mr D'Adam (*substituting from 1.47 pm*)  
Mr Fang  
Mr Mallard (*from 11.04 am*)  
Mr Moselmane (*substituting until 12.47 pm*)  
Mr Rath

**21. Apologies**

Mr Banasiak

**22. Inquiry into privatisation of bus services*****Public hearing***

The committee proceeded to take evidence in public.

Witnesses were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, virtual participation etiquette and other matters.

The following witnesses were sworn and examined:

- Ms Serena Ovens, Chief Executive Officer, Physical Disability Council of NSW
- Ms Hayley Stone, Senior Policy Officer, Physical Disability Council of NSW
- Ms Julie Walton, Convener, Action for Public Transport (NSW)

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Ken Welsh, Team Leader Transport Planning, Inner West Council (via videoconference)

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Tim Crackanthorp MP, Member for Newcastle (via videoconference)
- Ms Jodie Harrison MP, Member for Charlestown (via videoconference)
- Ms Yasmin Catley MP, Member for Swansea

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Howard Collins, Chief Operations Officer Greater Sydney, Transport for NSW
- Ms Daniela Fontana, Chief Executive, State Transit Authority

Mr Buttigieg tendered the following document:

- Document entitled 'Employee information kit, Contract 6 bus services, Transition arrangements 2018', prepared by Transport for NSW.

The evidence concluded and the witness withdrew.

The public hearing concluded at 2.50 pm

### ***Tendered documents***

- Resolved, on the motion of Mr Buttigieg: That the committee accept and publish the following documents tendered during the public hearing for the Privatisation of bus services inquiry on Tuesday 3 May 2022:
- Document entitled 'Employee information kit, Contract 6 bus services, Transition arrangements 2018', prepared by Transport for NSW, tabled by Mr Buttigieg.

## **23. Adjournment**

The committee adjourned at 2.54 pm, until Friday 27 May 2022, Room 814/815, Inquiry into acquisition of land in relation to major transport projects.

Emily Treeby  
**Committee Clerk**

## Minutes no. 66

Tuesday 31 May 2022

Portfolio Committee No. 6 – Transport

Room 814/815, Parliament House, Sydney, 9.25 am

### 24. Members present

Ms Boyd, *Chair* (from 9.28 am)

Mr Buttigieg, *Deputy Chair*

Mr Fang

Mr Mallard (from 11.30 am)

Mr Rath

Mr Searle (substituting for Mr Mookhey, via videoconference)

### 25. Apologies

Mr Banasiak

### 26. Draft minutes

Resolved, on the motion of Mr Rath: That draft minutes nos. 61 and 62 be confirmed.

### 27. Correspondence

The committee noted the following items of correspondence:

#### ***Received:***

- 28 April 2022 – Email from Monica Abboud, Office of the Lord Mayor, to secretariat, regarding Lord Mayor's apologies for public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 29 April 2022 – Email from Omar Rodriguez, Office of Ron Hoenig MP, Member for Heffron, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 2 May 2022
- 2 May 2022 – Email from Ciahn Pertzelt, Office of the Hon. Mark Buttigieg MLC, Opposition Whip in the Legislative Council, to secretariat, regarding substitution of Mr Mookhey MLC for Mr D'Adam MLC and Mr Moselmane MLC for public hearing on 3 May 2022
- 9 May 2022 – Email from Clint Yabuka, Manager Strategic Transport, Waverley Council, to secretariat, regarding request to change the publication status of their submission to the inquiry into the privatisation of bus services to public
- 17 May 2022 – Email from Joanna McCarthy, Director Corporate Affairs Australasia, Transdev, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 31 May 2022
- 18 May 2022 – Email from Ben Straney, Managing Director, Maianbar Bundeena Bus Service, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 31 May 2022
- 20 May 2022 – Email from Joe Oliveri, Manager/Director, Interline Bus Services, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 31 May 2022
- 23 May 2022 – Email from Customer Service Busabout, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 31 May 2022

- 24 May 2022 – Email from Ravinder Singh, General Manager, Planning & Performance, Hillsbus, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 31 May 2022
- 24 May 2022 – Email from Alex Murray, General Manager, Punchbowl Bus Company, to secretariat, declining invitation to give evidence at public hearing for inquiry into the privatisation of bus services on 31 May 2022.

## 28. Inquiry into privatisation of bus services

### ***Public submission***

Resolved, on the motion of Mr Searle: That the committee authorise the publication of submission no. 406.

### ***Allocation of questioning***

Resolved, on the motion of Mr Rath: That the allocation of questions for the hearing for the inquiry into privatisation of bus services be left in the hands of the Chair.

### ***Public hearing***

The committee proceeded to take evidence in public.

Witnesses were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, virtual participation etiquette and other matters.

The following witnesses were sworn and examined:

- Clr Paula Masselos, Mayor, Waverley Council
- Mr Clint Yabuka, Manager Sustainable Transport, Waverley Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Byron Rowe, Managing Director, Busways Group
- Mr Greg Balkin, Chief Operating Officer, Transit Systems (via videoconference)
- Mr Jamie Sinclair, Managing Director NSW, Transit Systems (via videoconference)

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Christian Porter, Chief Commercial Officer, Keolis Downer
- Mr Mark Dunlop, Managing Director, Keolis Downer Northern Beaches
- Ms Leanne Griffiths, Manager, Business Services, Red Bus Services

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.31 pm

## 29. Report tabling

The committee noted the intention to table the committee report by Friday 23 September 2022.

## 30. Adjournment

The committee adjourned at 12.31 pm, *sine die*.

Emily Treeby  
**Committee Clerk**

## Draft minutes no. 74

Friday 16 September 2022  
 Portfolio Committee No. 6 - Transport  
 Room 1043, Parliament House, Sydney, 10.03 am

### 31. Members

Ms Boyd, *Chair*  
 Mr Buttigieg, *Deputy Chair*  
 Mr Fang  
 Mr Mallard (*via videoconference*)  
 Mr Mookhey  
 Mr Rath

### 32. Apologies

Mr Banasiak

### 33. Previous minutes

Resolved, on the motion of Mr Mookhey: That draft minutes nos. 68 and 69 be confirmed.

### 34. Correspondence

The committee noted the following items of correspondence:

#### *Received*

- 3 June 2022 – Email from Chook Zipper to secretariat, contribution to the inquiry into the privatisation of bus services, with attachments.
- 28 July 2022 – Email from Matthew Bahrami to secretariat, contribution to the inquiry into the privatisation of bus services.

### 35. Inquiry into the privatisation of bus services

#### *Answers to questions on notice and supplementary questions*

*The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:*

- additional information - Ms Julianna Walton, Action for Public Transport NSW - 6 May 2022
- additional information - Ms Julianna Walton, Action for Public Transport NSW - 6 May 2022
- additional information - Ms Julianna Walton, Action for Public Transport NSW – 7 May 2022
- answers to questions on notice - Dr Marjorie O'Neill MP - 6 May and 27 May 2022
- answers to questions on notice - Mr Kim Woodbury, City of Sydney - 23 May 2022
- answers to questions on notice - Transport for NSW - 26 May 2022
- answers to questions on notice - Mr Matt Threlkeld, BusNSW - 27 May 2022
- additional information - Mr Ken Wilson - 27 May 2022
- answers to questions on notice and supplementary questions from Transit Systems, received on 27 June 2022
- answers to questions supplementary questions from Red Bus Services, received on 28 June 2022
- answers to questions on notice and supplementary questions from Keolis Downer, received on 28 June 2022
- answers to questions on notice and supplementary questions from Waverley Council, received on 30 June 2022

- answers to supplementary questions from Busways, received on 6 July 2022

### ***Consideration of Chair's draft report***

*The Chair submitted her draft report, entitled 'Privatisation of bus services', which, having been previously circulated, was taken as being read.*

Resolved, on the motion of Mr Buttigieg: That paragraph 1.7 be amended by inserting: 'In that Region, Keolis Downer operates three bus depots with 418 buses and 950 employees.

[FOOTNOTE: Answers to supplementary questions, Mr David Franks, Chief Executive Officer, Keolis Downer, 28 June 2022, p 1.]' after 'Metropolitan Contract Region 8'.

Resolved, on the motion of Mr Buttigieg: That paragraph 1.9 be amended by inserting: 'Transit System operates 830 buses in Sydney with 1,861 staff. [FOOTNOTE: Answers to supplementary questions, Transit Systems, 27 June 2022, p 1.] It also operates in' after 'Metropolitan Contract Regions 3 and 6'.

Resolved, on the motion of Mr Buttigieg: That the following new paragraph be inserted after paragraph 1.10:

'As demonstrated in Table 1, more Metropolitan Contract Regions are operated by larger national or multinational companies, as opposed to smaller, local operators. Bus services in Regions 6, 7, 8 and 9 together constitute 75 per cent of daily bus services in Sydney [FOOTNOTE: Evidence, Mr Matt Threlkeld, Executive Director, BusNSW, 2 May 2022, p 18; Submission 7, Tram and Bus Division, Tram and Bus Union of NSW, p 1; Evidence, Ms Daniela Fontana, Chief Executive, State Transit Authority, 3 May 2022, p 44.]. These Regions are currently operated by larger national or multinational companies – Transit Systems, Busways, Keolis Downer and Transdev John Holland. Of the remaining ten Contract Regions in metropolitan Sydney, Busways and Transit Systems each operate a further Contract Region (1 and 3 respectively) and Transdev operates a further three Contract Regions (10, 12 and 13). Another large multinational operator, ComfortDelGro Australia, operates two Contract Regions (4 and 14). Therefore, there are three Contract Regions (2, 5 and 15) operated by smaller, family-owned and run bus operators'.

Resolved, on the motion of Mr Buttigieg: That paragraph 1.11 be amended by inserting 'as noted above' before 'are four core Contract Regions'.

Mr Rath moved: That paragraph 1.44 be omitted.

Question put.

The Committee divided.

Ayes: Mr Fang, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Buttigieg, Mr Mookhey

Question resolved in the negative on the casting vote of the Chair.

Resolved, on the motion of Mr Mookhey: That paragraph 1.44 be amended by omitting the words 'New South Wales has a privatised bus service because private operators are not beholden to the policies and practices of government. Further the Government has deprived' and inserting instead 'The NSW Government has chosen to deprive'.

Mr Buttigieg moved: That the following new paragraph be inserted after paragraph 1.44:

'The Government's rationale for the privatisation of bus services is that by putting bus routes out to tender it would create a competitive tension resulting in lower prices and better service to the community. The evidence from recent tenders suggests otherwise. Firstly, under this model

competitive tension is only introduced at the tendering stage, beyond that point service areas are monopolised by the private operator who wins the contract with no competition for patrons within that area. Secondly the privatisation has resulted in larger multinational companies effectively controlling a disproportionately large percentage of total bus routes throughout New South Wales giving them a high market concentration. In effect the privatisation structure created by the government is conducive to increased market domination by a handful of multinationals who can leverage their size and balance sheet to eventually squeeze out smaller operators. This is hardly a competitive market and explains the evidence of falling levels of service in most areas.'

That the following new finding be inserted after paragraph 1.44:

'The recent privatisation of bus services has not resulted in any real market competition because the competition occurs only at the tender phase after which time the market for a particular area is monopolised albeit regulated. This creates a potential situation where the market can be characterised as more of an oligopoly than a free market and in those circumstances does not result in the best service for the travelling public. Under public ownership the benefits of such monopoly control can be passed on directly to the public through low fares and increased service provision and direct accountability.'

Question put.

The Committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Mr Mookhey

Noes: Mr Fang, Mr Mallard, Mr Rath

Question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Buttigieg: That the following new paragraph be inserted after paragraph 2.98:

'The committee acknowledges the positive outcomes that have been achieved under historical contract tenders in areas such as the Central Coast where the private operator Red Bus Services operates. Red Bus Services appears to have struck an ideal balance between profitability, service delivery and driver satisfaction by taking a holistic approach to their service whereby they measure their success on all these metrics rather than just maximising profit.'

Resolved, on the motion of Mr Buttigieg: That paragraph 2.102 be amended by inserting 'generally' after 'Privatisation has'.

Resolved, on the motion of Mr Rath: That Finding 3 be amended by:

- omitting 'In most cases,' before 'changes to'
- omitting 'and genuine' before 'community consultation'
- inserting 'at times' before 'have occurred'.

Mr Rath moved the following amendments in globo:

- That Findings 1 and 2 be omitted.
- That Recommendations 1, 4, 5 and 8 be omitted.

Question put.

The Committee divided.

Ayes: Mr Fang, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Buttigieg, Mr Mookhey

Question resolved in the negative on the casting vote of the Chair.

Resolved, on the motion of Mr Buttigieg: That the following new finding be inserted after Finding 3:

'Finding 5: There are instances where private operations have been an obvious success such as on the Central Coast where the operator Red Bus Services is driven not just by profit but also by customer and staff satisfaction. This correlates with the smaller based family ownership and control structure of the company and their historical connection with that community.'

Resolved, on the motion of Mr Buttigieg: That Recommendation 1 be amended by omitting 'take' and inserting instead 'give consideration to taking'

Resolved, on the motion of Mr Buttigieg: That the following new paragraph be inserted after paragraph 2.107:

'Evidence suggested that customers had no real recourse for complaints which were not attended to in a satisfactory fashion or not attended to at all. This issue should be addressed by Transport for NSW taking ultimate responsibility for the accountability of private operators to the public.'

Resolved, on the motion of Mr Buttigieg: That Recommendation 2 be amended by inserting new dot point 6: 'Provision should be made for an escalation process for customers who are dissatisfied with the complaint process via the private operator. The escalation process should include direct access to Transport for NSW.'

Resolved, on the motion of Mr Buttigieg: That paragraph 3.82 be amended by omitting 'revert' and inserting instead 'give consideration to reverting'.

Mr Buttigieg moved: That the following new paragraph be inserted after paragraph 3.87:

'The committee notes that at time of writing most operators have signed an industry-wide enterprise agreement with the relevant unions which will rectify the identified disparities between wages and conditions across bus drivers. We are of the view that this should be a mandatory requirement for all private operators via a provision in the associated contracts.'

Question put.

The Committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Mr Mookhey

Noes: Mr Fang, Mr Mallard, Mr Rath

Question resolved in the affirmative on the casting vote of the Chair.

Mr Rath moved: That paragraph 3.89 be omitted.

Question put.

The Committee divided.

Ayes: Mr Fang, Mr Mallard, Mr Rath

Noes: Ms Boyd, Mr Buttigieg, Mr Mookhey

Question resolved in the negative on the casting vote of the Chair.

Mr Buttigieg moved: That the following new finding be inserted after paragraph 3.89:

'The recent privatisation of bus services in New South Wales has resulted in a two-tier class of workers whereby the wages and conditions of some bus drivers working on exactly the same buses

and routes as their colleagues are paid less and have worse conditions because they are employed by the private operator under a separate industrial instrument.'

Question put.

The Committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Mr Mookhey

Noes: Mr Fang, Mr Mallard, Mr Rath

Question resolved in the affirmative on the casting vote of the Chair.

Mr Buttigieg moved: That the following new recommendation be inserted after Recommendation 4:

'That the NSW Government in partnership with relevant unions, stakeholders and private bus operators, introduce a requirement for an industry-wide enterprise agreement which is applied to the bus industry throughout New South Wales and are inserted into contracts and are considered central to the competitive tender process.'

Question put.

The Committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Mr Mookhey

Noes: Mr Fang, Mr Mallard, Mr Rath

Question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Mookhey: That Recommendation 2 be amended by:

- omitting 'the private bus operator must be required to maintain or improve' and inserting instead 'Transport for NSW should give consideration to maintaining or improving'
- omitting 'Transport for NSW for a network or service change' and inserting instead 'deliver a service'.

Resolved, on the motion of Mr Rath: That Recommendation 6 be amended by inserting 'sufficient' before 'retention rates'.

Mr Buttigieg moved: The draft report as amended be the report of the committee and that the committee present the report to the House.

Question put.

The Committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Mr Mookhey

Noes: Mr Fang, Mr Mallard, Mr Rath

Question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Buttigieg: That:

- The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, responses to the online questionnaire, summary report of the online questionnaire and correspondence relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished attachments to submissions and individual responses to the online questionnaire be kept confidential by the committee;

- Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- Dissenting statements be provided to the secretariat by 4.00 pm Monday 19 September 2022;
- The secretariat is tabling the report at 10.45 am on Tuesday 20 September 2022;
- The Chair is to hold a press conference at 11.30 am on Tuesday 20 September 2022.

**36. Adjournment**

The committee adjourned at 10.45 am. *Sine die*.

Emily Treeby  
**Committee Clerk**

## Appendix 2 Submissions

No.	Author
1	Action for Public Transport (NSW) Inc.
1a	Action for Public Transport (NSW) Inc.
2	BusNSW
3	Willoughby Federation of Progress Associations
4	Physical Disability Council of NSW
5	Transport Workers' Union of New South Wales
6	Inner West Council
7	Tram and Bus Division, Rail, Tram and Bus Union of NSW
8	Optical Illusions (Optical retail)
9	Willoughby City Council
10	SMART Infrastructure Facility, University of Wollongong
11	City of Newcastle
12	Mosman Municipal Council
13	Unions NSW
14	Randwick City Council
15	City of Parramatta Council
16	Federation of Parents and Citizens Associations of New South Wales
17	Liverpool City Council
18	City of Sydney
19	Ku-ring-gai Council
20	Ms Jennifer Parsonage
21	Ms Charity Haynes
22	Ms Leanne Bergan
23	Mrs Toni Henry
24	Mr Harrison Lo
25	Mr Stefan Tan
26	Mr John Selkrig
27	Mr Antoni Krasnodebski
28	Mr Robyn Gilbert
29	Ms Viki Altas
30	Lyndall Katz
31	Mr Peter Moran

<b>No.</b>	<b>Author</b>
32	Mrs Heidi Smith
33	Mrs Catherine Hawkins
34	Mr Sarp Tortum
35	Name suppressed
36	Mr Mark Jacobs
37	Mrs Eve Smith
38	Ms Deborah Ehrlich
39	Mrs Vivienne Tyrrell
40	Charmene Britton
41	Ms Helen Catelotti
42	Ms Christine Ricketts
43	Mr Hamish Macarthur
44	Mrs Elizabeth Morris
45	Mr Adam Krslovic
46	Ms Jenny Shaw
47	Ms Anna Clugston
48	Ms Karen Heycox
49	Dr Shilo McClean
50	Mr Tim Waldock
51	Ms Rosemary King
52	Mr Mark England
53	Mrs Melisa Mustafa
54	Ms Penelope Nelson
55	Mrs Lia Mortimer
56	Miss Margaret Harte
57	Mr Stuart Coppock
58	Mr Ken Wilson
59	Ms Yasmin Catley MP, Member for Swansea
60	Mr Kevin Eadie
60a	Mr Kevin Eadie
61	Mrs Amandine Thevenot
62	Ms Linda Avramides
63	Dr Chris Tremonti
64	Mrs Maria Moran
65	Ms Jodie Harrison MP, Member for Charlestown

<b>No.</b>	<b>Author</b>
66	Ms Gabrielle Dickmeis
67	Miss Natasha Pavlovic
68	Ms Fiona Andry
69	Ms Lucy Bloom
70	Grant Donohue
71	Dr Dorothea Sophia
72	Ms Lesley Falvey
73	Mr Ross Langford-Brown
74	Miss Tanja Frugtniet
75	Mr Justin Jos Poonjatt
76	Mrs Jennifer Prescott
77	Name suppressed
78	Ms Melissa Rogers
79	Sam Tierney
80	Robin O'Donoghue
81	Mr Aidan Gibson
82	Mr Gary Mcgregor
83	Mr Daniel Smuskowitz
84	Mrs Elizabeth Szpitalak
85	Miss Rachel Strong
86	Mrs Sally Riordan
87	Ms Maria Retallack
88	Ms Jenny Gordon
89	Mr Chris Drage
90	Mr Craig McDonald
91	Ms Gae Robinson
92	Jerry Frenkel
93	Mr Robert Worthington
94	Mrs Mel Nicholls
95	Ms Claire Bettington
96	Mr Arthur Johnson
97	Dr Chloe Mason
98	Simon Bartlett and Lesley Spicer
99	Mr Ron Hoenig MP, Member for Heffron
100	Mr Tim Crakanthorp MP, Member for Newcastle

<b>No.</b>	<b>Author</b>
101	Ms Jaime Bohm
102	Miss Reece Jae Noldart
103	Ms Jill Robinson
104	Ms Belinda Hoare
105	Mr Richard Horton
106	Miss Gabrielle Mills
107	Mr Michael Berg
108	Mrs Susan Moore
109	Mrs Phyllis Doyle
110	Mrs Tara Cuthbert
111	Mrs Noela Woodward
112	Mr Rod Eckels
113	Mr Stephen Fitts
114	Name suppressed
115	Mr Fulin Yan
116	Mrs Catherine Roche
117	Mr Scott Maddox
118	Dr Sarah Crowe
119	Mr Denis Coombes
120	Mrs Jiva Vassilevska
121	Mrs Shirley Webster
122	Ms Glen Bennett
123	Ms Nehama Werner
124	Mr Philip Tyacke
125	Ms Victoria Dore
126	Mrs Nga Nguyen
127	Mr Brian Toland
128	Sarah Baldwin
129	Ms Kathleen Phillips
130	Ms Joanne McNamara
131	Dr Marjorie O'Neill MP, Member for Coogee
132	Dr Phyllis Sakinofsky
133	Ms Paula Masselos
134	Mr Nicholas Gray
135	Miss Bridget Kain

<b>No.</b>	<b>Author</b>
136	Ms Maria Bradley
137	Ms Hilary Brown
138	Ms Jennifer Thomas
139	Mr Laurence Harb
140	Mrs Rhonda Salter
141	Mr Peter Cassidy
142	Ms Marian McIntosh
143	Mr George Robra
144	Mr Charles Agius
145	Mr David Clarence
146	Mrs Lola Sharp
147	Mr Evan Moraitis
148	Ms Jane Burns
149	Mr George Sternfeld
150	Ms Lucy Vinski
151	Mr Peter Bower
152	Name suppressed
153	Dr Margaret Bradstock
154	Mr Raymond Pleasant
155	Ms Jane Burns
156	Mr Gary Francis John Wall
157	Ms Anne Shackman
158	Dr Anne Ring
159	Mr Benjamin Cronshaw
160	Mrs Jiva Vassilevska
161	Confidential
162	Mr Ian Findley
163	Ms Litsa Nossar
164	Ms Rhonda Williams
165	Professor John Snowdon
166	Ms Mary Teteris
167	Ms Anne Robinson
168	Mrs Doffy White
169	Ms Christine Ryan
170	Mr Thomas Serhon

<b>No.</b>	<b>Author</b>
171	Ms Marian McIntosh
172	Janey Alderman
173	Miss Joy Singh
174	Brenda Saunders
175	Ms Madeline Whitby
176	Ms Mary-Jane Field
177	Mr Durjay Thapa
178	Mr Greg Walsh
179	Confidential
180	Name suppressed
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384	Name suppressed
385	Confidential
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389	Confidential
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402	Confidential
403	Confidential
404	Confidential
405	Confidential
406	Waverley Council
407	Confidential
408	Confidential
409	Confidential
410	Confidential
411	Tourism and Transport Forum Australia
412	Sonia Kolar
413	Keolis Downer

## Appendix 3 Witnesses at hearings

Date	Name	Position and Organisation
Monday 2 May 2022	Ms Gae Robinson	Individual
	Mr Ken Wilson	Individual ( <i>via videoconference</i> )
	Mr John King	President, BusNSW
	Mr Matt Threlkeld	Executive Director, BusNSW
	Mr Thomas Costa	Assistant Secretary, Unions NSW
	Ms Sophia Nasser	Legal/Industrial Officer, Unions NSW
	Mr Richard Olsen	State Secretary, Transport Workers' Union of New South Wales
	Mr Bill Pagalis	Bus Driver, Transit Systems West Services, Transport Workers' Union of New South Wales
	Mr David Babineau	Divisional Secretary, Tram and Bus Division, Rail, Tram and Bus Union of NSW
	Mr Mario Denis	Bus Operator, Tram and Bus Division, Rail, Tram and Bus Union of NSW
	Cr Dylan Parker	Mayor, Randwick City Council
	Mr Tony Lehmann	Manager Integrated Transport, Randwick City Council
	Mr Kim Woodbury	Chief Operating Officer, City of Sydney ( <i>via videoconference</i> )
	Dr Marjorie O'Neill MP	Member for Coogee
Mr Michael Daley MP	Member for Maroubra	
Mr Matt Thistlethwaite MP	Member for Kingsford Smith	
Tuesday 3 May 2022	Ms Serena Ovens	Chief Executive Officer, Physical Disability Council of NSW
	Ms Hayley Stone	Senior Policy Officer, Physical Disability Council of NSW

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
	Ms Julie Walton	Convenor, Action for Public Transport (NSW)
	Mr Ken Welsh	Inner West Council ( <i>via videoconference</i> )
	Mr Tim Crakanthorp MP	Member for Newcastle ( <i>via videoconference</i> )
	Ms Jodie Harrison MP	Member for Charlestown ( <i>via videoconference</i> )
	Ms Yasmin Catley MP	Member for Swansea
	Mr Howard Collins	Chief Operations Officer, Transport for NSW
	Ms Daniela Fontana	Chief Executive, State Transit Authority
<b>Tuesday 31 May 2022</b>	Clr Paula Masselos	Mayor, Waverley Council
	Mr Clint Yabuka	Manager Sustainable Transport, Waverley Council
	Mr Jamie Sinclair	Managing Director NSW, Transit Systems ( <i>via videoconference</i> )
	Mr Greg Balkin	Chief Operating Officer, Transit Systems ( <i>via videoconference</i> )
	Mr Byron Rowe	Managing Director, Busways Group
	Mr Christian Porter	Chief Commercial Officer, Keolis Downer
	Mr Mark Dunlop	Managing Director, Keolis Downer Northern Beaches
	Ms Leanne Griffiths	Manager, Business Services, Red Bus Services

## Appendix 4 Dissenting statement

**The Hon Chris Rath MLC, Liberal Party**  
**The Hon Shayne Mallard MLC, Liberal Party**  
**The Hon Wes Fang MLC, The Nationals**

The Government members indicated below and comprising a minority of the membership of Portfolio Committee 6 – Transport, which is dominated by a Labor and Green Opposition majority, lodge the following dissenting statement for the Inquiry ‘Privatisation of bus services’.

Overall, this report is a political document. It will be used by the Opposition for their baseless political and media strategy to attack the Government in the lead up to the election. The Opposition need to determine whether they stand by this report’s reckless recommendation to rip up contracts with private bus providers. The Government Members of this Committee would expect this kind of nationalisation from the Greens, but such socialism and sovereign risk is hardly befitting of an alternate government. The Opposition also need to justify and explain their long history of privatisation when they were last in government.

New South Wales has always had effectively efficient customer-centric privately owned and operated buses. This report therefore is looking at only a small number of protected zones in the entire state which were previously government owned and operated. Despite the Committee being presented with several submissions which detail the correct labelling for the operational changes to the bus network as ‘franchising’, the Committee is arbitrarily committed to use the misleading term of ‘privatisation’ due to political expediency.

Unfortunately, dissenting statements are constrained by a word count, but some specific critiques of the report are outlined below.

### **Findings 1 & 2**

*Notion that increased efficiency equates to an erosion of the scope and quality of service delivery is misleading.*

Increases in the efficiency with which the NSW Government delivers a public service is directly in the public’s interest. No evidence presented successfully demonstrates how an incentive to increase operational efficiency inextricably creates agency costs which are materially detrimental to the Government’s ability to provide a world-class public transportation system.

The report states: “[moving] to a private operator can lead to a unit cost savings of 20 to 55 per cent”. These cost savings arise from several key aspects: “staff productivity, labour flexibility, improved asset utilisation, and efficient and leaner procurement and management structures.” The notion that service delivery suffers as a result of cost efficiencies is refuted by the fact that private operators incur significant financial penalties for failure to maintain service KPIs. The contracted operator for a region is paid on a gross cost basis to deliver a predetermined set of routes and frequencies. Simply, the operator takes on the cost risk and the NSW Government takes on the revenue risk. Given contractors have no power over the scope of services, as a corollary, contractors have little to no impact on segmenting a ‘user base’ this finding references.

*Finding has ignored that TfNSW has taken a multi-modal approach to supporting the transportation needs of vulnerable people.*

Given the notion that operators do not have any means to determine the scope of services is firmly established, it is unclear how an incentive for operators to ‘sacrifice the needs of vulnerable people’ arises.

This finding completely fails to account for the NSW Government’s multi-modal approach to ensuring vulnerable people are able to access public transportation. The Committee has also failed to account for the increasing availability of on-demand public transport within Greater Sydney and Newcastle, which offers vulnerable people a safe, accessible, and flexible transportation option.

### **Finding 3**

*Factual evidence supporting finding is deficient and contrary to independently verified evidence.*

The finding asserts that franchised bus services are more limited in service delivery despite evidence reiterating that service design is the responsibility of TfNSW. Timetabling and rationalisation of services are based on commuter need and measured through data, such as Opal Card readings. There is absolutely no causal link between the timing of route and service rationalisation and the ‘regions in question being privatised’. While Region 9 saw recent rationalisation, this was due, in part, to multi modal transport opportunities becoming available and not a result of ‘privatisation’ as the report asserts.

The finding asserts privatisation has resulted in higher costs for passengers, which lacks grounding in evidence presented to the inquiry.

The finding asserts that privatisation has degraded pay and conditions for drivers. This is contrary to the evidence presented and relies heavily on submissions from various unions. *Table 3* (p. 52) clearly demonstrates that in all instruments documented, not one enterprise agreement between bus operators and staff has resulted in a situation where drivers have pay at or below their relevant state award.

Cancellation of services are often the result of shortages of bus drivers due to a highly competitive labour market, the recent lack of immigration and ongoing staff absences as a result of the COVID 19 pandemic. These factors are not the result of ‘privatisation’.

### **Recommendation 1**

*Termination of operational contracts pose a material political and financial risk.*

The early termination of contracts would create a significant risk to the NSW Government’s reputational capital. This would destroy the trust of industry partners, significantly impair the NSW Government’s ability to readily enter into contracts with private entities, and therefore detract from the ability of the NSW Government to attract private-sector investment. This irresponsible recommendation would drastically increase the risk profile of working with the NSW Government.

### **Recommendations 4, 5 & 6**

*Unnecessary and misleading. ‘Same work, same pay’ creates an unreasonable constraint which stifles the ability of operators to optimally attract staff within their respective contract regions.*

Bus operators should have the ability to negotiate enterprise bargaining agreements with employees which reflect an optimal combination of employment conditions for both the employer and employee. The industrial bargaining process should allow for differences in the expectations of employment conditions within various contract regions. Furthermore, the concept of ‘same work, same pay’ is already intrinsically

embedded in the 'Better Off Overall Test' employed by the Fair Work Commission in the approval process for the EBA's of the respective operators.

