

File reference: 04835 - 2

Rob Sharp
Secretary, Transport for NSW

Tuesday 10 August 2021

Dear Mr Sharp *Rob*

This letter is to inform you that the Minister for Transport and Roads has sought advice from the Office of Transport Safety Investigations (OTSI) on the effectiveness of mitigations put in place to manage potential conflicts that could arise between the Transport Asset Holding Entity of New South Wales (TAHE) commercial imperatives and the adequacy of funding for safety and asset management. The Minister has requested advice by 30 September 2021. The scope of advice requested is outlined at Attachment A.

The OTSI is an independent statutory body. Its CEO, the Chief Investigator, is appointed by the Governor of NSW, on the recommendation of the NSW Minister for Transport and Roads. The Chief Investigator reports directly to the NSW Minister for Transport and Roads. While OTSI works in collaboration with the NSW Government transport cluster, it is not a division of Transport for NSW (TfNSW).

To ensure your interests are represented, I invite you to nominate a point of contact through which our communications will be made. Please advise your representative's contact details by 17 August 2021.

In the first instance, I am seeking information related to questions in Attachment A. This includes for example documents describing TAHE's safety governance arrangements, relevant Board operations, and any agreements between TAHE and TfNSW or transport operators for the execution of safety and asset management accountabilities including key operational documents outlining how arrangements work in practice.

I look forward to your cooperation as we undertake this review and seek to contribute to the improvement of safety on the NSW transport network.

Yours sincerely

Dr Natalie E Pelham
CEO & Chief Investigator

Document tendered by
<i>Mr Rob Sharp</i>
Received by
<i>Sarah Dunn</i>
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Resolved to publish Yes / No

ATTACHMENT A

The scope of advice to review TAHE safety governance arrangements implemented to manage potential risks to safety from competing priorities between TAHE's commercial imperatives and adequacy of funding for safety and asset management includes:

1. **Legislative and governance arrangements for safety accountabilities – are they clear for each party?**
 - a) Are legislated accountabilities for safety (TAA, WHS and RSNL¹) clear for the parties (TAHE, TfNSW, Sydney Trains (ST), NSW Trains (NSWT) and Country Rail Network Rail Infrastructure Manager (CRN RIM))? Are they fit for purpose? Do they align with conditions set out in the Operating Licence?
 - b) Do the governance arrangements reflect these safety accountabilities? How do they impact TAHE? If arrangements are unclear, do the proposed mitigations serve to clarify them?
 - c) Does each party have the authority and resources to effectively discharge their safety duties? What due diligence arrangements are in place? How are shared duties acquitted?
2. **Safety Management System – How do the parties discharge their accountabilities?**
 - a) How are the proposed arrangements implemented daily in operations between TAHE, TfNSW, and transport operators? At the organisation level, what systems and processes will staff need to be aware of and follow? How is application of the 'shared' management system ensured/assured?
 - b) What communication arrangements are in place between the parties for making decisions on maintenance and investment funding, safety and performance levels and for ensuring they are applied in practice?
3. **Decision-making in relation to asset management (investment (capex), maintenance and procurement?**
Impact of funding decisions on asset condition – how is funding determined to balance asset performance and safety to ensure asset condition over time?
 - a) How are these decisions made?
 - b) Who establishes long term asset management strategy?
 - c) Who establishes annual asset management plans?
 - d) What is the status of the TfNSW assurance gating process?
 - e) Will TAHE prepare assurance reports? If not, who does? Will TAHE approve or accept assurance reports? On what basis or advice?
4. **Effectiveness of proposed mitigations**
 - a) How effective are each of the proposed mitigations in managing the potential conflicts in practice?

¹Transport Administration Act 1988 (TAA), Work Health and Safety Act 2011 (WHS), Rail Safety National Law 2013 (RNSL)