



# **Transport for NSW**

## **Responses to post-hearing questions**

Public Accountability Committee

Inquiry into the Transport Asset Holding Entity

Hearing Date – 1 October 2021

## QUESTIONS ON NOTICE

**QUESTION:**

**1. The Hon. DANIEL MOOKHEY:** Congratulations on joining, I guess. Deputy Secretary Mares, the first set of questions I would like to ask you is about the genesis of TAHE. But I accept, given that you have been in the role for only a month, you might need to take some of this on notice. I will leave it to you to decide what you are in a position to answer and what you are not in a position to answer, but I will be directing the questions predominantly at you because I believe you are the person from Transport who is probably the most appropriate person of the three witnesses who are here. Was creating TAHE Transport's idea?

**Ms MARES:** Thank you for the question, Mr Mookhey. I really could not answer that. I would have to take that on notice. I do understand that initial sightings of TAHE were in mid-year budget papers and then raised through budget papers. But, yes, I am not sure about the idea as such.

**The Hon. DANIEL MOOKHEY:** Ms Mares, when did Transport start work on TAHE?

**Ms MARES:** My understanding is that when TAHE was announced in 2014-15, work commenced with numerous people across Transport and Treasury on the development of the TAHE model.

**The Hon. DANIEL MOOKHEY:** Is it possible that work started in 2013?

**Ms MARES:** I would have to take that on notice, I am sorry.

**The Hon. DANIEL MOOKHEY:** Sure. Was TAHE created as a joint project between Transport and Treasury?

**Ms MARES:** Again, I would have to take that question on notice to confirm for you. I will see what I can provide.

**ANSWER:**

The NSW Government first flagged its intention to create TAHE in the 2013-14 Half-Yearly Review. It was then further detailed as part of the 2015-16 NSW Budget. Transport for NSW assisted Treasury in the development and implementation of TAHE.

**QUESTION:**

**2. The Hon. DANIEL MOOKHEY:** Sure. In September 2013 did Transport for NSW and NSW Treasury agree to, "Fully investigate structural options, which facilitate efficient and effective budget and accounting treatment and financial reporting of all public transport assets, liabilities and capital expenditure"?

**Ms MARES:** Thanks, Mr Mookhey. As you would appreciate, it is difficult for me to answer that question.

**The Hon. DANIEL MOOKHEY:** Do you wish to take it on notice?

**Ms MARES:** I can take it on notice and see what I can provide to the Committee.

**The Hon. DANIEL MOOKHEY:** Thank you. Because this document states: In September 2013, Transport for NSW (TfNSW) and NSW Treasury agreed to:

Fully investigate structural options, which facilitate efficient and effective budget and accounting treatment and financial reporting of all public transport assets, liabilities and capital expenditure. To be procedurally fair to Transport, I want to put it to you that that is what you agreed to do.

**Ms MARES:** As I mentioned, Mr Mookhey, I will take that on notice and see what can be provided to the Committee.

**ANSWER:**

A range of options were considered in the development of TAHE.

**QUESTION:**

**3. The Hon. JOHN GRAHAM:** Can I just follow up on that document. I thought the important point my colleague was making about the question of who added this further objective, as Mr Mookhey has indicated, the Transport for NSW and Treasury document indicates quite clearly that while it states "Treasury supports this initiative", it was government that added this further objective. Can you shed any further light on that before the Committee makes a finding based on the documents that are in front of it? Was it actually government that imposed that added objective about the budget bottom line?

**Ms MARES:** Thank you, Mr Graham. I have taken that question on notice and I will do my best to provide what I can to the Committee.

**ANSWER:**

Conversion of RailCorp into a State Owned Corporation provides an opportunity to strengthen governance and ensure investment in Transport infrastructure can be delivered and protected into the future as a dedicated asset manager.

Questions relating to fiscal policy are matters for the Treasurer and NSW Treasury.

**QUESTION:**

**4. The CHAIR:** You say that the budget basis, you cannot put that forward as a rationale for TAHE. You then initially said, well, there was a safety rationale for it, and then when you clarified your evidence you said, well, actually, there is a safety risk that you think has been mitigated. If it is not for safety and it is not for a budget purpose, what on earth other purpose that benefits Transport for NSW explains the creation of this entity?

**Ms MARES:** Thanks, Mr Shoebridge. Just a point of clarification. You asked what benefit there was of TAHE to Transport, and that was the response I gave around the assurance of safety. Also, in noting that I cannot currently answer to previous documents or works in 2013 or 2014, I did agree to take those questions on notice and see what can be provided to the Committee as further evidence.

**ANSWER:**

The establishment of TAHE allows for strengthened governance and improved commercial management of transport assets, while continuing to deliver a safe and reliable network.

**QUESTION:**

**5. The Hon. DANIEL MOOKHEY:** Was it the case that in order to allow your organisation and NSW Trains to pay a commercial rate of return to TAHE, the budget needed to provide your organisation and your counterparty an additional \$800 million per year?

**Mr LONGLAND:** Thank you for the question. In terms of the details about payments that are made, they are matters that I would need to take on notice if you were after individual figures in terms of annual access fees. What I can say is that Sydney Trains payments to TAHE for access and licence fees are managed through our existing and normal budget processes with Transport for NSW each year.

**The Hon. DANIEL MOOKHEY:** This year did you receive an additional \$800 million in the budget to pay TAHE? Sorry, I should reclassify it: Did you receive up to \$800 million to pay TAHE, shared with NSW Trains?

**Mr LONGLAND:** Thank you for the question, Mr Mookhey. Sydney Trains did receive an allocation within our annual budget for the payment of access fees for TAHE, yes.

**The Hon. DANIEL MOOKHEY:** How much was that?

**Mr LONGLAND:** Thank you for the follow-up. As I stated earlier, I would need to take that question on notice if you are after a specific figure.

**ANSWER:**

TAHE provides Sydney Trains and NSW TrainLink with access to the rail network and use of heavy rail assets, on a commercial basis. In the financial year 2021-22, access and licence fees payable by Sydney Train and NSW Trainlink are \$437.7 million and \$225 million respectively.

Any charges related to other access agreements are a matter for TAHE and the relevant service provider.

**QUESTION:**

**6. The Hon. DANIEL MOOKHEY:** Mr Longland, as it is a significant amount of public money we are talking about, can you shed any light on the additional appropriation that was given to Sydney Trains this year in order to pay TAHE's rail access fee?

**Mr LONGLAND:** Thank you for the question, Mr Mookhey. I will go back to my previous response that in order to provide you with the answer on the access fee paid to TAHE in financial year in 2021-22, I would need to take that question on notice.

**ANSWER:**

Please refer to the response to Question on Notice 5.

**QUESTION:**

**7. The Hon. DANIEL MOOKHEY:** What do you expect to pay TAHE to access their assets in 2023-24?

**Mr LONGLAND:** I would need to take that question on notice. But what I can say in terms of the forward calculation of assets fees, they are really governed by the valuation of the asset and also by any new assets that are delivered over that period. So the numbers would change year on year depending on those variables.

**ANSWER:**

For the financial year 2023-24, the projected estimate for access and licence fees payable by Sydney Trains and NSW TrainLink is \$547.5 million and \$264 million respectively.

Any charges related to alternative and future access agreements are a matter for TAHE and the relevant service provider.

**QUESTION:**

**8. The Hon. DANIEL MOOKHEY:** To be fair, Mr Hardwick, as Ms Mares just said, this had nothing to do with safety, so I will put that aside. I will ask you to take this on notice, Ms Mares, if you can. Did Transport consent to upwards of 10 to 20 specific document changes by Treasury to this document? If you could take that on notice, that would be helpful.

**Ms MARES:** Thanks, Mr Mookhey. I am happy to take that question on notice and see what we can provide to you.

**The Hon. DANIEL MOOKHEY:** Thank you. By the way, I could not see where Transport had disclosed its decision to hire KPMG on the contract database. On notice, could you provide us where you publicly disclosed this?

**Ms MARES:** Yes. My understanding is it is disclosed, so we will definitely take that on notice and follow up.

**ANSWER:**

Feedback was sought from multiple stakeholders as part of the consultation process to finalise the KPMG Report. KPMG remained accountable for delivery of the Report.

Transport for NSW's engagement of KPMG to provide advice on the TAHE operating model was disclosed on 4 June 2020 on the NSW Government eTendering website.

**QUESTION:**

**9. The Hon. DANIEL MOOKHEY:** On notice as well, can you tell us how they were selected?

**Ms MARES:** I understand it was in line with procurement procedures.

**The Hon. DANIEL MOOKHEY:** Ms Mares, I would be shocked if you said it was not in line with procurement procedures. If you do not mind telling me what specific procurement method was followed, that would be most helpful, given it is \$1 million.

**Ms MARES:** Thank you for the clarification. We will take that on notice and see what we can provide

**ANSWER:**

KPMG was engaged to provide advice to Transport for NSW on fiscal, organisational and operational requirements. The engagement of KPMG met all procurement requirements and guidelines.

**QUESTION:**

**10. The Hon. DANIEL MOOKHEY:** Did Treasury ever communicate, in either writing or verbally, to anyone from Transport that they would withdraw their cooperation from this process as a result of the vehemence of their disagreement with its findings?

**Ms MARES:** Thank you for the clarification. I will take that on notice

**The Hon. DANIEL MOOKHEY:** Did Treasury ever provide Transport a copy of a report produced by Ms Heather Watson of KPMG?

**Ms MARES:** I would have to take that on notice.

**The Hon. DANIEL MOOKHEY:** Did anybody from the Transport cluster ever make contact with anybody from KPMG to ask why that firm was providing competing advice?

**Ms MARES:** Thanks, Mr Mookhey. I am unaware of whether that occurred. I would have to take that on notice.

**ANSWER:**

Transport for NSW and NSW Treasury considered a range of advice in the development and implementation of TAHE, in the normal course of implementing such a significant structural reform. The advice was subject to normal debate and discussion between representatives of both organisations.

Numerous documents prepared by Ms Heather Watson of KPMG were provided to Transport for NSW.

Transport for NSW was in ongoing contact with KPMG during the TAHE development and implementation process in late 2020.

**QUESTION:**

**11. The Hon. DANIEL MOOKHEY:** Ms Mares, can I invite you to clarify that? Are you saying that Transport had no involvement in a meeting that was attended by the Transport secretary at the time?

**Ms MARES:** Thank you for your clarification. No, I am obviously saying I am not aware of that meeting but I am acknowledging that there would have been interactions between those parties.

**The Hon. DANIEL MOOKHEY:** Can you take on notice and provide us whatever information Transport has within its possession as to what the agenda of that meeting was, when that meeting took place and what the outcome was?

**Ms MARES:** Noted. I will take that on notice, Mr Mookhey.

**ANSWER:**

A range of meetings were held to assist finalising the development and implementation of TAHE.

**QUESTION:**

**12. The Hon. DANIEL MOOKHEY:** IPART will complete their first assessment of this in October 2022. Is that correct?

**Mr LONGLAND:** I am not aware of that date.

**The Hon. DANIEL MOOKHEY:** Ms Mares, are you aware of that date?

**Ms MARES:** Are you talking about the TAHE methodology or the Rail Access Undertaking, Mr Mookhey?

**The Hon. DANIEL MOOKHEY:** I am specifically referring to the first compliance undertaking by IPART into the Rail Access Undertaking.

**Ms MARES:** My understanding—and I perhaps will take this on notice to make sure that I am giving you the right factual information—is that that review commenced in April 2021. So I would expect it to be finalised in April 2022. But I will take it on notice to clarify that.

**The Hon. DANIEL MOOKHEY:** Could you, because Treasury in response to budget estimates—and, again, I do not want to breach the Hon. Trevor Khan's rule here, but I want to give you the factual information that I am aware of—said it will be completed in October 2022. That is the answer they gave us on notice.

**Ms MARES:** Let me clarify that, Mr Mookhey.

**ANSWER:**

In mid-2021, IPART formally commenced review of the NSW Rail Access Undertaking. The target completion date is mid to late 2022.

**QUESTION:**

**13. The Hon. DANIEL MOOKHEY:** When was the decision made to extend the time line?

**Ms MARES:** I do not have that at hand. I would have to take that on notice, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Who made the decision to extend the time line?

**Ms MARES:** I will also take that on notice.

**The Hon. DANIEL MOOKHEY:** Did that follow advice by Transport?

**Ms MARES:** I believe—let me see if I have got any information for you on that, if you could give me a moment. Sorry, I do not have that information. I will take that on notice.

**The Hon. DANIEL MOOKHEY:** Was it your understanding that it was Treasury's responsibility to communicate this to the ABS?

**Ms MARES:** As previously stated, I will take that on notice.

**The Hon. DANIEL MOOKHEY:** Did Treasury ever express at any point alarm to anyone in Transport that the establishment of TAHE was running late and, as a result, there was a risk of breaching the undertakings to the ABS?

**Ms MARES:** I am not aware of that.

**The Hon. DANIEL MOOKHEY:** Will you take that on notice?

**Ms MARES:** I will take it on notice, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Did anyone from Treasury at any point ever say to anyone from Transport that if TAHE was failed to establish on time, in accordance with the undertakings provided to the ABS, that there was a real risk of reclassification of TAHE and it is returned to the general government sector, which would cost the budget billions?

**Ms MARES:** Again, I could not answer that. I can say that matters of classification of TAHE are obviously for Treasury and the ABS. In response to that question in particular, I can take that on notice and see if I can find if anyone has got any information on that that would be relevant.

**ANSWER:**

Development and implementation of TAHE was a complex and multi-year program. A range of risks were regularly managed and mitigated.

NSW Treasury was accountable for managing the relationship with the Australian Bureau of Statistics on TAHE related matters.

Questions relating to the classification of TAHE are a matter for the Treasurer and NSW Treasury.

**QUESTION:**

**14. The Hon. DANIEL MOOKHEY:** Sure, but I am asking you to comment more from a leadership perspective. Did the leadership team of Transport ever receive a warning from Mr Perdikos or anyone else that Treasury had raised alarms that as a result of Transport's failures, there was likely risk of breaching undertakings made to ABS?

**Ms MARES:** Thank you for that clarification. I believe I have taken that on notice to see what I can find for the Committee.

**ANSWER:**

The TAHE program had established governance and processes in place that reviewed and managed a range of risks.