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**Lyon, Brendan**

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**From:** Michael Pratt < >  
**Sent:** Thursday, 5:12 PM  
**To:** Lyon, Brendan; San Midha; Linke, David; Heathcote, David; Low, Paul; Hunter, James (Sydney)  
**Cc:** San Midha  
**Subject:** RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

To the Senior Partners on this email, you obviously have a partner who refuses to take counsel and is out of control. As you are aware we engaged KPMG (Heather Watson) earlier this year to provide fiscal and accounting advice that is now concluded in support of the TAFE work. That work provides the basis for Treasury advice. I expect you to take action.  
Mike

**Michael Pratt AM | Secretary**

52 Martin Place, Sydney (enter via 127 Phillip Street)  
GPO Box 5469, Sydney NSW 2001  
T:  
E: [Treasury.nsw.gov.au](mailto:Treasury.nsw.gov.au)  
EA: 11

*Courier deliveries to:*  
NSW Treasury by DPX plus Pty Ltd  
Unit 7, 44-44 Phillip Street, Alexandria NSW 2015



**From:** Lyon, Brendan < >  
**Sent:** Thursday, 19 November 2020 5:03 PM  
**To:** Michael Pratt < >; San Midha < >; Linke, David < >; Heathcote, David < >; Low, Paul < >; James Hunter (Contact) <j >  
**Cc:** San Midha < >  
**Subject:** Re: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Mike - I'm sick of being bullied by you.

Grow up or tell the truth. Up to you.

Brendan Lyon  
Partner  
Infrastructure & Projects Group  
KPMG

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**From:** Michael Pratt < >  
**Sent:** Thursday, November 19, 2020 17:01  
**To:** San Midha; Lyon, Brendan; Linke, David; Heathcote, David; Low, Paul; Hunter, James (Sydney)  
**Cc:** San Midha  
**Subject:** RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Brendan,

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**Lyon, Brendan**

**From:** Lyon, Brendan  
**Sent:** Thursday, 19 November 2020 5:03 PM  
**To:** Michael Pratt; San Midha; Linke, David; Heathcote, David; Low, Paul; Hunter, James (Sydney)  
**Cc:** San Midha  
**Subject:** Re: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

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 Infrastructure & Projects Group  
 KPMG




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**To:** San Midha; Lyon, Brendan; Linke, David; Heathcote, David; Low, Paul; Hunter, James (Sydney)  
**Cc:** San Midha  
**Subject:** RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Brendan,  
 This needs your urgent attention. You either correct the errors or remove all references to Treasury's model which is not for you to comment upon. Please revert asap as this matter needs urgent resolution.

**Michael Pratt AM | Secretary**

52 Martin Place, Sydney (enter via 127 Phillip Street)  
 GPO Box 5469, Sydney NSW 2001

[Treasury.nsw.gov.au](http://Treasury.nsw.gov.au)



Treasury

Courier deliveries to:  
 NSW Treasury, Level 14, 127 Phillip Street  
 Unit 1, 34-44 Denpy Street, Alexandria NSW 2015

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**From:** San Midha  
**Sent:** Thursday, 19 November 2020 4:55 PM  
**To:** Lyon, Brendan ; Linke, David ; Heathcote, David  
 Low, Paul > ; James Hunter (Contact) >  
**Cc:** Michael Pratt  
**Subject:** RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Dear Brendan,

I refer to my email and letter dated 11<sup>th</sup> Nov:

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**Lyon, Brendan**

---

**From:** San Midha <  
**Sent:** Thursday, 19 November 2020 4:55 PM  
**To:** Lyon, Brendan; Linke, David; Heathcote, David; Low, Paul; Hunter, James (Sydney)  
**Cc:** Michael Pratt  
**Subject:** RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Brendan,

I refer to my email and letter dated 11<sup>th</sup> Nov:

I still await a reply to my letter and confirmation on corrections to your report or removing incorrect references to Treasury's Model.

Regards



Treasury

**San Midha | Deputy Secretary**  
Policy and Budget Group

52 Martin Place, Sydney (enter via 127 Phillip Street)  
GPO Box 5469, Sydney NSW 2001

[Treasury.nsw.gov.au](http://Treasury.nsw.gov.au)

Courier deliveries to:  
NSW Treasury, c/- Decipha Pty Ltd  
Unit 2, 38-44 Doody Street, Alexandria NSW 2015

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**From:** San Midha  
**Sent:** Wednesday, 11 November 2020 6:57 PM  
**To:** Lyon, Brendan >; Linke, David >; Heathcote, David >; Low, Paul >; James Hunter (Contact) <  
**Cc:** Michael Pratt  
**Subject:** RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Dear Brendan,

See attached letter.

Regards

## Lyon, Brendan

---

**From:** Michael Pratt  
**Sent:** Thursday, 19 November 2020 5:01 PM  
**To:** San Midha; Lyon, Brendan; Linke, David; Heathcote, David; Low, Paul; Hunter, James (Sydney)  
**Cc:** San Midha  
**Subject:** RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

263

Brendan,

This needs your urgent attention. You either correct the errors or remove all references to Treasury's model which is not for you to comment upon. Please revert asap as this matter needs urgent resolution.

**Michael Pratt AM | Secretary**

52 Martin Place, Sydney (enter via 127 Phillip Street)  
GPO Box 5469, Sydney NSW 2001

| [Treasury.nsw.gov.au](https://treasury.nsw.gov.au)



Treasury

Courier deliveries to:  
NSW Treasury, c/- Decipha Pty Ltd  
Unit 2, 38-44 Doody Street, Alexandria NSW 2015

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**From:** San Midha <  
**Sent:** Thursday, 19 November 2020 4:55 PM  
**To:** Lyon, Brendan ; Linke, David ; Heathcote, David  
; Low, Paul James Hunter (Contact)  
**Cc:** Michael Pratt <  
**Subject:** RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Dear Brendan,

I refer to my email and letter dated 11<sup>th</sup> Nov:

I still await a reply to my letter and confirmation on corrections to your report or removing incorrect references to Treasury's Model.

Regards



Treasury

**San Midha | Deputy Secretary**  
Policy and Budget Group

52 Martin Place, Sydney (enter via 127 Phillip Street)  
GPO Box 5469, Sydney NSW 2001

| [Treasury.nsw.gov.au](https://treasury.nsw.gov.au)

Courier deliveries to:  
NSW Treasury, c/- Decipha Pty Ltd

## Lyon, Brendan

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**From:** Fiona Trussell  
**Sent:** Sunday, 15 November 2020 4:03 PM  
**To:** Lyon, Brendan; Rodd Staples  
**Cc:** Heathcote, David; Low, Paul  
**Subject:** RE: CABINET IN CONFIDENCE - REQUESTED RESPONSE FROM KPMG ON TREASURY'S COMMUNICATIONS

Thank you Brendan for providing clarification on the matters raised in correspondence from NSW Treasury.

I have no queries.

Please can you now arrange for this to be formally communicated to Rodd from David.

Regards  
Fiona

Fiona Trussell  
A/Deputy Secretary Corporate Services  
Transport for NSW

Executive Support Officer

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Transport  
for NSW

**From:** Lyon, Brendan  
**Sent:** Friday, 13 November 2020 6:55 PM  
**To:** Rodd Staples >; Fiona Trussell  
**Cc:** Heathcote, David < >; Low, Paul  
**Subject:** CABINET IN CONFIDENCE - REQUESTED RESPONSE FROM KPMG ON TREASURY'S COMMUNICATIONS  
**Importance:** High

Dear Secretary,

**RE: Your letter received from NSW Treasury and the related letter received by KPMG**

As requested, we are writing to clarify a range of matters arising from the recent correspondence from the NSW Treasury to you; and related correspondence to KPMG.

**Key points:**

- KPMG's work for TfNSW has been delivered precisely in line with our scope with you – which responds precisely to Cabinet's request of TfNSW in the June cabinet submission;
- Our work has been subject to detailed review and validation in all respects and is provided as a KPMG branded deliverable and financial model;
- We reject Treasury's assertion of 'multiple errors' but do note the divergence between Treasury's beneficial assumptions and those deemed by us to be reasonable to construct a financial model;

## **Lyon, Brendan**

---

**From:** Lyon, Brendan  
**Sent:** Friday, 13 November 2020 6:55 PM  
**To:** Rodd Staples; Fiona Trussell  
**Cc:** Heathcote, David; Low, Paul  
**Subject:** CABINET IN CONFIDENCE - REQUESTED RESPONSE FROM KPMG ON TREASURY'S COMMUNICATIONS

**Importance:** High

Dear Secretary,

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**RE: Your letter received from NSW Treasury and the related letter received by KPMG**

As requested, we are writing to clarify a range of matters arising from the recent correspondence from the NSW Treasury to you; and related correspondence to KPMG.

### Key points:

- KPMG's work for TfNSW has been delivered precisely in line with our scope with you – which responds precisely to Cabinet's request of TfNSW in the June cabinet submission;
- Our work has been subject to detailed review and validation in all respects and is provided as a KPMG branded deliverable and financial model;
- We reject Treasury's assertion of 'multiple errors' but do note the divergence between Treasury's beneficial assumptions and those deemed by us to be reasonable to construct a financial model;
- For clarity, we have not provided any fiscal or accounting advice, but note the reality that TAHE's costs pose fiscal costs, which have been modelled; and
- KPMG's separate work referred to by Treasury should not be used to construct an alternative financial outcome, as noted in the limitations in that work and the relevant discussion below.

### Treasury assertions and our response:

Noting the breadth of the comments, we have elected to respond to each section of Treasury's letter to you in turn, provide relevant clarity or correction, as required.

### Treasury letter:

*"In preparing our joint response to C2020-0372, Treasury recognises the role of Transport to advise Cabinet on the TAHE operating licence and implementation safely and effectively. I appreciate receiving confirmation of this in your commissioned report TAHE Long Term Operating Model Assessment."*

### KPMG response:

The Treasury letter repeats assertions that it is beyond KPMG's scope of work to consider issues beyond the operating licence and safe implementation.

We note that the June cabinet submission stated:

**s1 v) Request** that the TAHE operating model return to Cabinet in October 2020, with an assessment of safety, operational, financial and fiscal risks and impacts for decision.

**S1 vi) Note** there are a number of key issues and risks to be resolved including:

- a) *A safe, efficient and detailed TAHE operating model.*
- b) *The form, function and effect of operating licenses, Statement of Corporate Intent and business rules on TAHE's board; transport operations; and the finalisation of the desired accounting treatment.*
- c) *A detailed TAHE financial model outlining financial and fiscal impacts.*
- d) *A robust assessment of TAHE's impact on broader transport services, including customer and safety outcomes.*

We note section 1 also saw Cabinet note that KPMG was to undertake this assessment for TfNSW.

Section 2 sees Cabinet request TfNSW to return to Cabinet with a detailed financial model, which is the subject of our scope:

*2.1.4.2 The financial impacts of the policy are not yet fully understood and are now subject to detailed modelling and assessment by TfNSW.*

Noting the Treasury Secretary's request, you can confirm that the long-term operating model report does not contemplate both safety and the operating license; but seeks to respond completely to Cabinet's request and our scope of work.

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**Treasury letter:**

*"As Treasury has noted in previous correspondence and meetings, advice to Cabinet on how TAHE meets the government's fiscal objectives is the responsibility and prerogative of NSW Treasury."*

**KPMG comment:**

No particular comment.

**Treasury letter:**

*"Mr Lyon's report does not address accounting considerations and consequently cannot be taken as fiscal advice."*

**KPMG response:**

Our engagement does not include accounting or fiscal advice; but the detailed KPMG financial model has been developed deliberately to quantify the financial impacts of TAHE's long-term operating model.

As above, Cabinet's specifically noted that;

*The financial impacts of the policy are not yet fully understood and are now subject to detailed modelling and assessment by TfNSW.*

The KPMG TAHE financial model represents that detailed modelling requested by Cabinet to understand the costs of TAHE as it moves into operations.

**Treasury letter:**

*"In addition it contains a number of hypothetical scenarios which are based on suppositions regarding decisions not yet taken. These include but are not limited to:*

- *Conflating the treatment of assets for equity with the treatment of assets for dividends*
- *Assuming rates of return which do not reflect the shareholders' expectations*
- *Ascribing liabilities associated with the operators to TAHE*
- *Asserting depreciation costs to the state budget when an approach has not been agreed*

- *Assuming an approach to access pricing which inflates the impact*

**KPMG response:**

25)

We note that Treasury officers provided direct input into the development of the model and the approach to develop reasonable assumptions including areas now in dispute (including required return, asset base and regulatory bounds of access pricing).

Treasury subsequently requested increasingly beneficial changes, to address the poorer than expected financial impacts.

These are noted in KPMG's memo to you; and is reflected in the detailed change logs that we have appended to our report to Cabinet.

**Treasury letter:**

*"We do not see value in expending further time addressing these persistent errors.*

**KPMG response:**

KPMG does not accept Treasury's assertion of 'persistent errors'.

NSW Treasury have not advised of any errors in the financial model; and accept the safe long-term operating model.

As noted, Treasury have repeatedly requested that we accept their changing financial assumptions to improve the modelled results.

We note but do not accept Treasury's requests to remove key aspects of the report, including the modelling results – noting that they respond precisely to our scope and to Cabinet's request of TfNSW for a transparent and detailed assessment of TAHE.

**Treasury letter:**

*"In the absence of Mr Lyon amending his report and deleting all references to Treasury and Fiscal advice (and we have requested him to do so) we will provide fiscal advice to accompany the Submission that supports our forward estimates."*

**KPMG response:**

KPMG's advice to Cabinet does not provide fiscal advice.

As requested by Cabinet and required by our contract with you, we do provide detailed financial modelling based on Treasury's preferred assumptions; and what we consider to be reasonable assumptions noting Cabinet's TAHE objectives.

Noting TAHE's heavy reliance on funding originating from the NSW budget via CSOs, this logically sees an impact on the budget, which has been modelled and quantified as per Cabinet's request.

KPMG stands by our modelling of financial impacts.

**Treasury letter:**

*These fiscal issues have been addressed by KPMG Finance and Accounting Partner Heather Watson in her report. We have determined preliminary approaches to each of these challenges which inform the FIS table.*

**KPMG response:**

Ms Watson's separate advice should not be used to provide an alternative financial outcome, because it does not model TAHE's future financial impacts or have regard to TAHE's long-term operating model.



We understand Ms Watson's work was seeking to provide an accounting view of Treasury's assumptions for the FIS table. We note Treasury's letter asserts a conflict between Ms Watson's advice and the work undertaken for Cabinet; and note that there is a review of Ms Watson's work to identify and address any conflict. David Heathcote will respond to you on that issue, once it is fully clarified.

While that review is detailed and ongoing, we confirm that our work for TfNSW is an output of KPMG and designed specifically to inform Cabinet's request of you.

Our work has been subject to the highest levels of scrutiny; and the Firm stands behind our work for TfNSW and Cabinet in all respects.

Yours sincerely,

**Brendan Lyon**  
Engagement Partner

**David Heathcoat**  
National Managing Partner

Brendan Lyon | Partner

Deal Advisory - Infrastructure & Projects  
International Towers  
300 Barangaroo Avenue  
Sydney NSW 2000 Australia

250

[kpmg.com.au](http://kpmg.com.au)





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Mr Brendan Lyon  
KPMG  
Via email

Dear Mr Lyon,

Regarding the report back to Cabinet C2020-0372 –Establishment of the Transport Asset Holding Entity (TAHE) – Cabinet, 1 June 2020

Thank you for providing a copy of your report to Transport for NSW *TAHE Long Term Operating Model Assessment*. Treasury is pleased to receive confirmation that TAHE can be established safely and effectively.

As Treasury has noted in previous correspondence and meetings, advice to Cabinet on how TAHE meets the government's fiscal objectives is the responsibility and prerogative of NSW Treasury. I note this document's focus seems to have moved from its early drafts focus on Operational and Safety considerations to a preponderance around fiscal matters which is Treasury's role to address on behalf of the NSW Government.

I note that you have a section referring to Treasury's fiscal model. As you are aware from many emails and conferences with the Treasury TAHE team, and as you acknowledge in the report, Treasury does not agree with your assumptions and conclusions regarding the fiscal, budget and commercial impacts of TAHE. While you are entitled to make your own assumptions and scenarios for your client, we disagree with your references to Treasury's model and request that you remove all references to relying on Treasury's advice.

Importantly your report does not address accounting considerations, it cannot be taken as fiscal advice for our purposes. In addition, it contains a number of hypothetical scenarios which are based on suppositions regarding decisions not yet taken. These include but are not limited to:

- Conflating the treatment of assets for equity with the treatment of assets for dividends
- Assuming rates of return which do not reflect the shareholders' expectations
- Ascribing liabilities associated with the operators to TAHE
- Asserting depreciation costs to the state budget when an approach has not been agreed
- Assuming an approach to access pricing which inflates the impact

Treasury will provide fiscal advice to Cabinet that supports our forward estimates. We have determined preliminary approaches to each of these challenges which inform the FIS table. In forming these views, Treasury experts in accounting policy have been supported by KPMG accounting specialists. I'm sure you acknowledge the expertise KPMG Accounting Partner Ms Watson and her team bring to these

considerations, we are therefore comfortable with the advice provided and do not require unsolicited advice from another part of KPMG.

Please confirm that you will remove all reference to Treasury's model.

Yours sincerely

ZYG

San Midha  
Deputy Secretary

11/11/2020

CC: Michael Pratt, Secretary NSW Treasury

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**Lyon, Brendan**

MI

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**From:** Lyon, Brendan  
**Sent:** Thursday, 24 September 2020 9:23 AM  
**To:** Heathcote, David; Linke, David; Low, Paul  
**Subject:** Update

That the reason treasury went mental appears to be that mike Pratt was indeed told it was a high priority for him to fix take in the meeting with the premier.

I'm told premier was not negative on transport - or me - we were not even raised - but rather, I understand she raised questions about treasury's professionalism.

Shortly after was when Pratt and then James sent his email.

Second, Rodd is emailing San today to reject an integrated report. Rather he will advise San to advise through the process with the take steer co.

○ He wants us to deliver our work as contracted.

The will happily circulate a draft outline but not until there's some clarity from treasury on maintenance as we cannot answer the brief til then.

Happy to chat if needed.

Regards to all.

Brendan Lyon  
Partner  
Infrastructure & Projects Group  
KPMG

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**Lyon, Brendan**

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**From:** Lyon, Brendan  
**Sent:** Sunday, 13 September 2020 7:57 PM  
**To:** Hunter, James (Sydney)  
**Cc:** Linke, David; Low, Paul  
**Subject:** FW: TAHE

This is unacceptable James.

David will ring you now – but this will need to be corrected by you – or I will do it.

This must not happen again.

Regards

Brendan

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**From:** Hunter, James (Sydney) < >  
**Sent:** Sunday, 13 September 2020 7:33 PM  
**To:** San Midha < >; Low, Paul < >  
**Cc:** Lyon, Brendan < >  
**Subject:** TAHE

Hi San,

Good to speak late Friday pm.

As discussed, I have now spoken with Paul who is rescheduling other priorities so he is able to fully support Brendan over the next 4 weeks, and if necessary longer, as we work closely with Transport, TAHE and Treasury to finalise the TAHE Op Model and associated review and reports. Paul is our national head of Infrastructure, Healthcare and Government (IGH) and has been a partner for 10 years, based in QLD – and previously held senior roles at Transurban, and was Associate Director General and Deputy Director General in the QLD Government. <https://www.linkedin.com/in/paul-low-13301635/>. Paul is well known to Tim Reardon and has been EQCR for 2 months and is across the TAHE issues.

encourage you to connect on Monday.

Paul (

San (

I also spoke with Mike this evening, and discussed as we did on Friday, the necessity for a well-defined, collaborative approach to discuss, agree and document all the outstanding aspects of the Cabinet Decision dated Monday, 1 June 2020 C2020-0372 Establishment of the Transport Asset Holding Entity and specifically (iv) a-d.

I also indicated Andy King will be continuing to support Heather in all her TAHE work; and Paul support Brendan. He was appreciative.

I am in 52MP all day tomorrow with TSR and Taskforce meetings; please call or drop down to 26 if you wished to discuss further,

Regards James

**Cabinet-In-Confidence**  
James Hunter | Partner KPMG  
NSW Treasury

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## **Lyon, Brendan**

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**From:** Hunter, James (Sydney)  
**Sent:** Sunday, 13 September 2020 7:47 PM  
**To:** Lyon, Brendan; Low, Paul; Watson, Heather; King, Andrew (AUS); Heathcote, David; Yates, Andrew J; Linke, David; Lucas, Joel; Davim, Catia  
**Cc:**  
**Subject:** TAHE | Cabinet-In-Confidence  
**Attachments:** TAHE

To the COGC,  
*Not for wider distribution*

We deferred last Friday's COGC with several matters outstanding and the need for a full COGC to be in attendance. will confirm the dates for this week coming and next week.

I know Brendan ran a number of TAHE Operating Model debrief sessions late last week; with Paul in attendance of some as well.

○ was working in Treasury on Thursday, and had face to face meetings with San, and Mike – further discussions with San on Friday, and Mike called this evening as well.

I have also spoken with Joel, David, Andrew and Paul on Friday and over the weekend.

This note outlines summary of key feedback, and recommended steps I have discussed and agreed with David, Paul, and with Mike and San.

### 1. Premier meeting

- On Friday a meeting with the Premier, Treasurer, Secretary of DPC (Tim Reardon) and Secretary of Treasury (Mike Pratt) attending.
- TAHE was discussed. Everyone was well across the challenges but also imperative.
- The Premier was unequivocal that TAHE will go ahead, as was Tim - both wanted to accelerate work including the ERC Sub.
- *This isn't a surprise – we have always expected strong endorsement and resolve to proceed with Government Policy to implement TAHE.*

### 2. Approach to finalise ERC Submission and TAHE Operating Model

- Mike indicated Bruce Morgan (TAHE Chair) and the TAHE Board will be more involved in the weeks ahead
- I indicated we needed to change the approach of TfNSW leading and writing – and others reviewing and criticising File Notes and Reports.
- San had also agreed he would discuss this with Fiona and Anne – San has just sent me a text indicating he wants to discuss this tomorrow am; I am in TSY 52MP so will be f2f.
- Mike also agreed we needed to change the approach – and will discuss with San.
- This is positive. I indicated it was not helpful for Brendan to be holding the pen on these documents, running consultations, and then having all parties criticise. We need everyone to agree section by section, and have working groups on each – with joint leads. This approach will be defined and shared this week.
- Depending on which ERC date confirmed (suggest it will be end third week not beginning second week Oct) we have limited time to draft, finalise and submit through TSY/DPC processes.

### 3. KPMG involvement.

- I reinforced to both San and Mike this evening we have the most knowledgeable and experienced team involved in TAHE.

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- However, we have discussed further last week, and agreed with San that we would provide further second partner support.
  - I explained EQCR to both San and Mike – they were not aware of this. I indicated we would have two partners assisting Treasury, and 2 assisting TfNSW / TAHE Op Model work, effective immediately.
  - Both were fully in favour of this.
  - This means that Paul will support Brendan in all meetings with TAHE and TfNSW, from Monday.
  - I will leave it for you both to discuss tonight / tomorrow am, which meetings – and confirm schedules.
  - Paul – San has also asked I introduce you by email – which I have done, and attached.
4. I have also attached the COGC Framework for resolution of commercial conflicts, as a timely reminder of the 20 protocols we have discussed and are operating within.
- Major issues should be escalated through EQCRs to COGC as quickly as possible, and if necessary meetings convened to discuss and resolve.
  - The COGC purpose is not to be reviewing and providing sign off on technical operating model or accounting standard matters. These roles are the accountability of the specialist partners and the EQCRs we have in place on specific programs of work.

Any questions with these notes, please call me.

Regards James

**Cabinet-In-Confidence**

**James Hunter** | Partner KPMG

*NSW Treasury*

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**Lyon, Brendan**

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**From:** Lyon, Brendan  
**Sent:** Sunday, 13 September 2020 8:20 PM  
**To:** Heathcote, David; Linke, David; Low, Paul  
**Subject:** FW: Preliminary view on TAHE Business Rules filenote  
  
**Importance:** High

FYI –

**From:** Lyon, Brendan  
**Sent:** Sunday, 13 September 2020 3:27 PM  
**To:** Michael Pratt ; San Midha  
**Cc:** Rodd Staples < >; bruce morgan  
Low, Paul  
**Subject:** RE: Preliminary view on TAHE Business Rules filenote  
**Importance:** High

Thanks Mike and nice to hear from you – albeit on an increasingly unpleasant matter.

I do not agree that San’s email is a good summary; and told him as much – whereupon he noted he’d not actually read the file note.

Whoever suggested to you that it questioned where or not TAHE should exist or operate is wrong. Moreover, we have sought to allocate TAHE all the powers it needs to meet the accounting tests.

The draft file note does precisely as you say – identifies and cures problems. It is a key input to an agreed operating model and it needs calm reflection and response so it can be finalised for Cabinet. As Bruce would be aware, the ConOps is the basis for the safety opinion that is needed to give the TAHE board comfort about their level of criminal safety liabilities – and a key input to the discussions with ONRSR – as well as the basis for agreement on an operating model pre-cabinet.

As with other points over the past few months, some of your people thought calls to complain to my Partners about a supposed lack of professionalism was an appropriate response. I understand there’s a lot riding on TAHE for all involved; but this is not a helpful or professional way to respond to a thorough draft.

Interestingly, by late Friday the tone from TAHE and Treasury officers toward the draft file note had changed quite markedly; with only minor edits suggested.

Mike – I think it would be good to get together in person to discuss TAHE - I will send a formal meeting request to your EA tomorrow.

I would also appreciate if you and Bruce would communicate to your relevant staff to maintain appropriate professional courtesies toward me and my team in meetings; and to respond professionally to drafts related to the Cabinet process.

This is a complex job – but it’s being made harder, not easier, by TAHE and Treasury at the moment. Thankyou again for responding – and I regret that I could not be more positive on such a warm spring day.

Regards to all

Brendan



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**From:** Michael Pratt < >  
**Sent:** Sunday, 13 September 2020 2:17 PM  
**To:** Lyon, Brendan ; San Midha  
**Cc:** Rodd Staples ; bruce morgan ; Low, Paul  
**Subject:** RE: Preliminary view on TAHE Business Rules filenote

Brendan,  
San's note is a good summary of the issues here.  
Our collective responsibility, Treasury, Transport & the TAHE Board coming out of the ERC July approval is to return to ERC in October with an agreed operating model. This is not about whether we do or do not progress TAHE – We are!  
Where there are concerns they need to be flagged and mitigants/appropriate actions agreed.  
We need your focus to be on addressing the above.  
Thanks Mike

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**From:** Lyon, Brendan < >  
**Sent:** Thursday, 10 September 2020 4:39 PM  
**To:** San Midha < >  
**Cc:** Michael Pratt < > ; Rodd Staples < > ; bruce morgan < > ; Low, Paul < >

**Subject:** RE: Preliminary view on TAHE Business Rules filenote  
**Importance:** High

Dear San, (and Mike and Bruce and Rodd);

Thanks for your email.

As noted in my cover email last night this draft file note was sent on a very limited basis – and explicitly contemplated that Treasury, TAHE and TfNSW would all have changes.

I was hoping that this time there might be a more integrated process – but there's a lot of anxiety and stress about TAHE and it makes it much harder to resolve well.

Perhaps it might be time for you me and Mike to chat as I feel there's concern where there should be cooperation – we are working harder than you might appreciate to fix a range of problems with how TAHE works.

In the meantime, regards to each of you.

Brendan

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**From:** San Midha < >  
**Sent:** Thursday, 10 September 2020 4:01 PM  
**To:** Lyon, Brendan < >  
**Cc:** Michael Pratt < > ; Rodd Staples < > ; bruce morgan < >  
**Subject:** Preliminary view on TAHE Business Rules filenote

Brendan,

I'm writing to share our preliminary feedback on the draft you shared last night. We will develop a more complete response once we have had time to fully review and discuss it with TAHE.

**Lyon, Brendan**

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**From:** Low, Paul  
**Sent:** Sunday, 13 September 2020 7:20 PM  
**To:** Lyon, Brendan; Linke, David  
**Subject:** RE: TAHE accounting paper

Thanks Brendan – their advice was pretty conclusive.

Regards

**Paul Low**  
National Leader – Infrastructure, Government and Healthcare

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**From:** Lyon, Brendan ·  
**Sent:** Sunday, 13 September 2020 5:25 PM  
**To:** Low, Paul ; Linke, David ·  
**Subject:** FW: TAHE accounting paper

Hi David;

Paul also FYI –

This is PwC's advice saying TAHE did not work.

We tracked it down on Friday 😊

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**From:** Peter Perdikos · >  
**Sent:** Friday, 11 September 2020 11:41 AM  
**To:** Lyon, Brendan ; Hudson, Nick ·  
**Subject:** FW: TAHE accounting paper

Brendan, Nick

Advice from PwC earlier this year as discussed.

Thanks  
P

**From:** Erica Birchall (AU)  
**Sent:** Sunday, 9 February 2020 11:49 PM  
**To:** Bobby Li · ; Peter Perdikos  
**Cc:** Judie Mae Montegrico · ; Sean Osborn · ;

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## Lyon, Brendan

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**From:** Lyon, Brendan  
**Sent:** Thursday, 10 September 2020 2:25 PM  
**To:** Linke, David; Low, Paul; Heathcote, David  
**Subject:** NSW Cabinet & Commercial in Confidence - The Takenista hit squads are coming!

Hi David1&2.0 and Paul.

As forecast a few weeks ago, the Takenista hit squads are resuming – and they're trying the same crap as last time.

I have had calls from the following:

1) Anne Hayes A/CEO TAHE

As well as:

- Rodd Staples (Secretary)
- Fiona Trussell (Dep Sec)
- Peter Perdikos (TAHE project lead TfNSW)

Anne:

- Emotional and stressed – bit of a strange response really.
- Saying we'd gone 'beyond our scope' and identifying problems isn't our job (!)
- Said that the ConOps was different to what she'd 'told us' –
- I advised that while we consult, we apply professional judgement based on inputs across Treasury and TAHE as well as TfNSW
- I pushed back respectfully but firmly and told her we are doing our job and she should input through the process going to Cabinet in a week and a half
- I also asked her to ensure that we are all professional and calm in working through the issue
- We have a 2 hour meeting from 3pm with TAHE, Treasury and TfNSW

Rodd Staples:

- Had a call from Anne this morning accusing him of scheming against her/TAHE
- Warned me that TAHE and particularly, the most exposed Treasury official are starting to 'play the man' on him – and on me.
- I reassured him that the Firm is supportive of me and not to worry

Fiona Trussell:

- Had Anne on the phone last night, also reported her being highly emotional
- Is very pleased with our work
- Was deeply annoyed at TAHE/Treasury ongoing behaviours
- Apologised for the pressure that's on us – checked I was ok.
- Checked the Firm is supportive this time – I reassured her it is.

Peter Perdikos:

- Noted that I am being targeted by all the guilty parties again like last time;
- Rang to make sure I was ok

### What does this mean:

I need you to support me firmly and with great vigour internally. Everyone got to have their fun with me last time – this time I really need KPMG to be unyielding in the face of ongoing professional and personal attacks on me – internal and external.

Big bets have big consequences for those who make them.

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I didn't make any bets on TAHE – so please help to make sure the pressure and consequences don't fall to me this time 😊

Thanks – feel free to call to chat about any of the above but thought I'd give you an update.

Brendan

## Lyon, Brendan

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**From:** Lyon, Brendan  
**Sent:** Saturday, 25 July 2020 6:59 PM  
**To:** Linke, David  
**Cc:** Low, Paul  
**Subject:** FW: TAHE [DLM=Sensitive:NSW-Government]

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**Importance:** High

Dear David and Paul,

Below is the latest email from the Audit Office.

This points to a further deterioration in the likelihood of KPMG's accounting advice passing audit – suggesting an even higher level of reputational risk for the Firm.

Heather Watson has a copy of the NSWAO email – which I know because she led the discussion on it at the 1:30pm meeting of officials that form the TAHE steering committee.

This email questions the fundamental legitimacy of TAHE's accounting premise – and requires all outstanding KPMG accounting advice to be furnished by 31 July.

Heather advised the 1:30pm TAHE steering group meeting of the email – but argued that it was 'low risk' – that 'we were always expecting questions'

The responsible Treasury officials – San Midha and Cass Wilkinson were also present and appeared highly agitated, but agreed that it was 'low risk'

San suggested not responding to the Audit Office at all – a position Heather and Cass agreed with.

A long-term Treasury officer – Sean Osborn – who oversees the NSWAO relationship provided very strong advice to the contrary.

He suggested that the email was a very clear indication that the NSWAO appear to view 'this as the year to tell the truth on TAHE' or similar words.

He further ventured a view that not responding would likely see rapid action by the NSWAO to reclassify or qualify the state's accounts.

As with all matters relevant – I have been made aware by Transport – not by KPMG colleagues.

Despite this, I remain incredulous that this has not been immediately flagged by the COFA partners with COCG and in turn - at the highest levels of the Firm - noting the very high level of risk to KPMG's reputation and commercial interests.

I believe this requires urgent attention – including resolution of the apparent rogue nature of the CFOA engagement.

Cheers

Brendan