

Public Accountability Committee

Transport Asset Holding Entity

TREASURY

Friday, 1 October 2021

RESPONSES TO QUESTIONS ON NOTICE

TRANSCRIPT PAGE	QUESTION
pp. 40-41	<p>The Hon. DANIEL MOOKHEY: Do the ABS criteria for independence require an entity like TAHE to have a majority independent board appointed by the Government who develops a strategy and operations of the organisation and operates within a commercial environment?</p> <p>Ms WILKINSON: That is my understanding, yes.</p> <p>The Hon. DANIEL MOOKHEY: Does it also include that it provides goods or services with customers, who are free to purchase and make that decision based on economically significant prices charged?</p> <p>Ms WILKINSON: Yes, that is the market producer test.</p> <p>The Hon. DANIEL MOOKHEY: Does it also include the criteria that it can distribute surpluses?</p> <p>Ms WILKINSON: Yes, I believe that is correct but I am very happy to take on notice the specifics for you.</p> <p>The Hon. DANIEL MOOKHEY: Please, Ms Wilkinson, that would be helpful. Can you tell me whether or not they are parts of the test and, equally, that it recovers a majority of its costs through sales revenue over a sustained multi-year period?</p> <p>Ms WILKINSON: That is the sort of specific detail that I am not familiar with, so I will endeavour to get you the answer more fully on notice</p>
	<p><u>RESPONSE</u></p> <p>Government Financial Statistics criteria as produced by the ABS can be found here abs-public-sector-unit-classification-decisions</p> <p>PNFC criteria includes:</p> <ul style="list-style-type: none"> • charging economically significant prices for goods and services provided. • recovering a portion of operating costs from sales over a multi-year period. • an owner’s claim on the surpluses from operations which might be paid as a dividend or treated as a return of capital, noting that a business classified as a PNFC does not have to have a primary objective of making a profit.
pp. 41-42	<p>The Hon. DANIEL MOOKHEY: Did you inform the ABS in 2015 or 2016—when I say "you", I mean Treasury—that TAHE would have legislation in place by 1 July 2016, have an independent commercial board from 1 July 2018, and, on that basis, did the ABS allow the classification of non-PNFC status to proceed immediately even though the TAHE had not yet been established?</p> <p>Mr MIDHA: I would have to take those dates on notice, but there were obviously discussions with the ABS on the timing. So the ABS was informed of progress in standing up TAHE as an independent entity. I will need to confirm when that was conveyed to them. I do not remember the exact process there, but there was ongoing conversation between Treasury and the ABS.</p>
	<p><u>RESPONSE</u></p> <p>ABS confirmed RailCorp/TAHE PNFC status will remain in 2015.</p>

	<p>RailCorp was already classified as a PNFC, having received this classification in 2004. Correspondence with the ABS related to TAHE was aimed at ensuring this classification was maintained by the proposed reforms. The ABS takes a long-term view to sector classifications and understands reforms take number of years to implement.</p>
p. 43	<p>The Hon. DANIEL MOOKHEY: Just on that, Mr Midha, are you responsible for liaising with the ABS on this? Mr MIDHA: No, I am not. I think it is the accounting area, so it is not under my [audio malfunction]. The Hon. DANIEL MOOKHEY: On notice, can you nominate the group that does that and which deputy secretary is responsible? Mr MIDHA: Okay. I will come back to you—yes, we will take that on notice.</p>
	<p><u>RESPONSE</u></p> <p>The Accounting Policy team with the Financial & Operations Group is responsible for engagement with ABS on classification matters. This group is led by Stewart Walters, the Chief Financial and Operations Officer.</p>
p. 45-46	<p>Ms ABIGAIL BOYD: Can I just clarify that? We were talking before about the difference between the money coming out as a grant versus the money coming out as an equity injection which, of course, is the whole point of this. Are you positive that prior to 2015-16 the money from the Government to RailCorp did not come out of grants but was in the form of an equity injection? Mr MIDHA: That is my understanding, but I will take that on notice and reconfirm with the accounting team. Ms ABIGAIL BOYD: Thank you. The Hon. DANIEL MOOKHEY: I turn to— Mr MIDHA: Sorry, can I just make another point to clarify my answer? The Hon. DANIEL MOOKHEY: Please, Mr Midha. Mr MIDHA: I will certainly do that, but if it was hitting the bottom line expense—no, I retract that. I will leave that as it is. I will check and come back to you—we will take it on notice and come back and clarify that.</p>
	<p><u>RESPONSE</u></p> <p>Prior to 2015-16, any capital expenditure for RailCorp was funded through grants and impacted the General Government expenses. Following the TAHE program, the ABS approved a transition path for RailCorp to become a commercial State Owned Corporation, and capital funding was provided to RailCorp in the form of equity injections, as Government expects it will get a return from this investment.</p>
pp. 46	<p>Ms WILKINSON: Well, we have funded the operators as much money as they need to pay their bills, but we are confident that the amount of money that we have provided to them will be sufficient for them to pay their bills across the forward estimates. The Hon. DANIEL MOOKHEY: How much money have you provided them to cover their bills insofar as rail access fees and charges go? Ms WILKINSON: We have paid them an amount of money that they sought through the budget process, so it is probably a matter for Transport whether they would break that down but I can take on notice getting back to you with a specific breakdown, if you would like.</p>

	<p><u>RESPONSE</u></p> <p>Sydney Trains already receives \$1.2b in maintenance funding which is considered part of determining the IPART floor calculation. Further access fees are negotiated between TAHE and the operators. In 2021-22 access fees was \$680M which the majority is expected to be invested into Transport infrastructure.</p>
p.47	<p>Ms ABIGAIL BOYD: I will jump in with one question. Perhaps I am stealing your thunder—I hope not, Mr Mookhey—but I will ask this question: If TAHE was no longer a PNFC—so if it became an off-budget sheet entity, effectively, or off-budget entity—what would the impact be on the ratings?</p> <p>The Hon. DANIEL MOOKHEY: The State's credit ratings, I think you mean, Ms Boyd.</p> <p>Ms ABIGAIL BOYD: Correct.</p> <p>Mr MIDHA: So you are saying what would be the impact if over—so there are a couple of assumptions there. You are assuming that at the moment it is treated as a PNFC and not as a SOC, so the equity injections into it will then have to change because there would be either a CAPEX or a grant. So the effect of that would be the budget result and would that impact the credit rating agencies' decision. The credit rating agencies look at a lot of things—certainly the operating result is one of them but much more closely the cash result, so this should not impact that. I cannot guess—I would be guessing here a little bit about how it would impact—but I can take that on notice and come back with a fuller answer. It might affect the metric; it may not. I do not have a clear answer on that.</p>
	<p><u>RESPONSE</u></p> <p>Credit rating agencies look at the state's ability to service its future debt. TAHE is not off-balance sheet, it is part of the Total State Accounts like all other Public Non-Financial Corporations. Equity injections into TAHE will have impact on the State's ability to pay future debt therefore it is accounted for by the credit rating agencies.</p>
p. 47-48	<p>Ms ABIGAIL BOYD: In my previous career I spent a lot of time with rating agency methodology, although, not in relation to governments. I am well aware of the very fine and fancy footwork that needs to occur whenever you are structuring any kind of transaction, whether it is treated in one bucket or another bucket for rating agencies' purposes when they are doing their calculations of ability to repay debt, effectively. It is incredibly fine. Perhaps you can take on notice whether the rating agencies provided advice at any time since the establishment or prior to the establishment of this structure. I would anticipate that they did and that you would have sent it to them for their comment at some point. If you could take on notice any of those discussions between the rating agency and Treasury in relation to the methodology that they would apply here and what the impacts would be, that would be very much appreciated.</p> <p>Mr MIDHA: Sure. I will make two points to clarify that. One, we have briefed them on TAHE and they are comfortable with TAHE, so that has been done and agreed. Yes, we have briefed them on TAHE. Two, the reason for my hesitancy around the impact is because there is no cash impact to government at that stage because the Government is still spending money either as an equity or as a grant, which is why the actual impact to the rating agencies' numbers is hard to quantify. I would have to ask the technical team to have a look at that, but the cash impact has not changed. Normally, if your budget result was impacted by a huge cash movement, then absolutely our ratings would be strongly impacted. I think there is some impact. Whether it is significant or material or small, I do not know at this stage. I could not tell you off hand. I can take that on notice.</p>

	<p>The Hon. DANIEL MOOKHEY: Firstly, Mr Midha, I do understand. I think your point is very persuasive, that they actually do look at the cash position of both the Government and the public non-financial sector as well. That makes a lot of sense to me. When you said you briefed them, when did you brief them?</p> <p>Mr MIDHA: I will have to check with the team. I did not personally go to the TAHE briefing, so I will have to come back to you. I will take that on notice and find the exact dates [disorder] rating agency very often—on a regular basis. I could not tell you which ones. It would have been during the process of setting up TAHE. I can check on that.</p> <p>The Hon. DANIEL MOOKHEY: Did that briefing take place at the request of the rating agency?</p> <p>Mr MIDHA: I will need to check again. I do not think there was a specific TAHE briefing. I think we have briefed them as part of our overall briefing. We keep them up to date on changes to government and progress on major government initiatives, so we would have briefed them on TAHE.</p> <p>The Hon. DANIEL MOOKHEY: I presume that was, what, Moody's, S&P, Fitch?</p> <p>Mr MIDHA: Yes. I think the last time it came up would have been sometime this year.</p> <p>The Hon. DANIEL MOOKHEY: Do you mind providing on notice a date of every time the rating agency has been briefed and which one?</p> <p>Mr MIDHA: Sure, I will take that on notice.</p>
	<p><u>RESPONSE</u></p> <p>The Ratings agencies were briefed on TAHE as a part of the Annual Credit Ratings review which takes place in the month following the delivery of the Budget. The first time both Moody's and S&P were briefed on TAHE was following the 2015-16 Budget, when the TAHE reform program was first announced. Any subsequent updates to TAHE were provided to the Ratings agencies as part of the annual ratings review process.</p> <p>The most recent TAHE briefing was on 13 August 2021 for Moody's and 20 August 2021 for S&P.</p> <p>Both ratings agencies have an understanding of TAHE, and its operations and it has been considered as part of their review of the whole of State credit rating.</p> <p>Credit ratings are unlikely to be impacted because there is no change in cash expenses for the State as a result of the TAHE program.</p>
p. 49	<p>The Hon. DANIEL MOOKHEY: Sure. I am happy to rephrase it. What further benefit do you expect to the budget between financial years 2021 to 2024 as a result of the creation of TAHE?</p> <p>Mr MIDHA: The benefit of the creation of TAHE will be the dividends that they eventually pay back to government. That will depend on their business plan and the dividend projection. I will take that on notice to see whether we have anything in the budget papers.</p>
	<p><u>RESPONSE</u></p> <p>As a dedicated asset manager TAHE can focus on asset recycling and on growth opportunities using existing assets to maximise returns to government through</p>

	dividends and growth in TAHE’s net worth by reinvesting surplus cash back into Transport infrastructure.
p. 49-50	<p>The Hon. DANIEL MOOKHEY: When you costed the impact of TAHE reverting to the public sector, what did your model say the impact was?</p> <p>Mr MIDHA: I will take that on notice and try to understand what numbers are available. But for TAHE to be dissolved, that is a decision for Government. It is currently a SOC, so it would have to be an act of Parliament to dissolve that. That is not something that is current that we are looking at.</p> <p>The Hon. DANIEL MOOKHEY: But you have budgeted it. You have modelled it. You just said you did.</p> <p>Mr MIDHA: Yes, we did that early in the piece.</p> <p>The Hon. DANIEL MOOKHEY: When was the last time you modelled it?</p> <p>Mr MIDHA: Again, I will take that on notice.</p> <p>The Hon. DANIEL MOOKHEY: Did you ever produce a model as to what the budget impact would be if TAHE is reverted between 2021 and 2024 and then a separate number for 2025 and 2030?</p> <p>Mr MIDHA: All the modelling we would have done would have been on behalf of Cabinet work. Again, they would probably be Cabinet-in-confidence, but I will take that on notice and check.</p> <p>The Hon. DANIEL MOOKHEY: Can you turn to the last page of Treasury_Tender_001, the one we were referring to before. Again, I will ask the question, Mr Midha, and I respect whichever way you wish to answer it. The last slide of this presentation states, "Impact of dissolution". The subheading of the slide is: The largest gains are in the next two years. Dissolution puts pressure on funding and is high risk to deliver— which is fair. But that actually does provide those figures, which I think you took on notice. It states here that if TAHE is reverted, the budget impact cumulatively across 2021 to 2024 is \$7.094 billion. It goes on to state that between 2025 and 2030, the impact, if it is reverted, is \$7.5 billion, which means the total for the next 10 years— if TAHE returns to the public sector—is \$14 billion. Does that align with your forecasts and the models that you were putting?</p> <p>Mr MIDHA: I will take that on notice and I will check.</p>
	<p><u>RESPONSE</u></p> <p>TAHE reverting back to the general government sector is not a likely scenario because the Parliament has determined that it should be a state owned corporation</p> <p>The modelling done by Treasury was for cabinet purposes, we have disclosed in the budget the impacts of TAHE as a SOC classified to the PNFC sector and not any hypotheticals.</p>
p. 53	<p>The Hon. DANIEL MOOKHEY: We asked for that document and any correspondence between Treasury and KPMG about this report and other reports and no such correspondence was produced, Mr Midha. Are you in a position to produce that correspondence on notice to us?</p> <p>Mr MIDHA: I will take that on notice.</p> <p>The Hon. DANIEL MOOKHEY: Mr Midha, you said that you contacted the partner in charge. Who was that?</p> <p>Mr MIDHA: I think the partner in charge was Mr Brendan Lyon.</p> <p>The Hon. DANIEL MOOKHEY: How many times did you speak to him?</p> <p>Mr MIDHA: No idea.</p> <p>The Hon. DANIEL MOOKHEY: Was it multiple times?</p> <p>Mr MIDHA: A number of times, yes.</p> <p>The Hon. DANIEL MOOKHEY: On notice, can you provide us any further detail?</p>

	<p>Mr MIDHA: Yes.</p>
	<p><u>RESPONSE</u></p> <p>The discussions between senior members noted above is cabinet in confidence as they were part of cabinet deliberations and/or would reveal a position that a Minister intended to put to Cabinet. KPMG report was not used to model financial impacts due to its limitations.</p>
<p>p. 53</p>	<p>I am asking you if you recollect ever having a conversation with Mr Pratt in which you asked him to contact the partner in charge?</p> <p>Mr MIDHA: Again, not to my recollection. I can check my diary or something else, but not to my recollection.</p> <p>The Hon. DANIEL MOOKHEY: In any leadership meeting that was held by the Treasury executive, did Mr Pratt ever disclose that he made contact with Mr Lyon, to the best of your recollection?</p> <p>Mr MIDHA: I think there was contact. But again, I would have to have a think about it and recollect those moments. That was a while ago.</p> <p>The Hon. DANIEL MOOKHEY: Will you take that on notice?</p> <p>Mr MIDHA: I will take that on notice.</p> <p>The Hon. DANIEL MOOKHEY: Did you ever speak to anybody else in the KPMG leadership about your concerns with this report, Mr Midha?</p> <p>Mr MIDHA: I will take that on notice. We had a fair bit of [disorder] so there is a fair—yes.</p> <p>The Hon. DANIEL MOOKHEY: Sorry, I did not understand the answer.</p> <p>Mr MIDHA: I will take that on notice.</p>
	<p><u>RESPONSE</u></p> <p>The discussions between senior members noted above is cabinet in confidence as they were part of cabinet deliberations and/or would reveal a position that a Minister intended to put to Cabinet. KPMG report was not used to model financial impacts due to its limitations.</p>

p. 54	<p>The Hon. DANIEL MOOKHEY: To the best of your knowledge, did you ever ask Mr Pratt to contact anybody else at KPMG?</p> <p>Mr MIDHA: Again, I will take that on notice. For this particular matter on the particular report, I will take that on notice.</p> <p>The Hon. DANIEL MOOKHEY: Did Mr Pratt ever disclose to you that he had contacted other members of KPMG's leadership to raise concerns with this report?</p> <p>Ms WILKINSON: Mr Mookhey, I think you are asking for details of private conversations and we may need to speak with our general counsel before sharing communications that are other people's emails or conversations. We are certainly happy to give you an answer, but some of it may be private and we will need to seek advice.</p> <p>The Hon. DANIEL MOOKHEY: Ms Wilkinson I can appreciate why that might be your position, but to be fair it is well-established practice that privacy is not necessarily a reason to object to being asked a question here. To be clear, I am not asking you to comment on other people's conversations; I am actually asking Mr Midha to comment on his own conversations. The particular conversation I am asking Mr Midha about is, at any point has Mr Pratt disclosed to you that he made contact with any other members of KPMG's leadership to raise concerns about this report?</p> <p>Mr MIDHA: Again, I will take that on notice.</p>
	<p><u>RESPONSE</u></p> <p>The discussions between senior members noted above is cabinet in confidence as they were part of cabinet deliberations and/or would reveal a position that a Minister intended to put to Cabinet. KPMG report was not used to model financial impacts due to its limitations.</p>
p. 54	<p>The Hon. DANIEL MOOKHEY: Mr Midha, this question is going directly to you. Are you aware of any correspondence that the Treasury secretary sent to the Transport secretary in which he effectively withdrew Treasury's cooperation with Transport on the basis of what he alleged was persistent errors?</p> <p>Mr MIDHA: No, I am not aware of that. We have never not cooperated or worked together with Transport, hence [disorder].</p> <p>The Hon. DANIEL MOOKHEY: Do you wish to take that on notice and perhaps check your records?</p> <p>Mr MIDHA: Yes, we can certainly take it on notice, but we have never not cooperated with Transport.</p>
	<p><u>RESPONSE</u></p> <p>Treasury continues to co-operate with Transport for NSW. Due to the limitations in Mr Lyons report, Treasury did not use this report to inform TAHE's financial impacts.</p>
p. 55	<p>The Hon. DANIEL MOOKHEY: We did ask some questions on notice as to who precisely commissioned that. Do you recall that? I think the specific question that was asked was whether that was undertaken by the Treasury secretary. Do you recall?</p> <p>Mr MIDHA: The commissioning of Ms Heather Watson? Yes.</p> <p>The Hon. DANIEL MOOKHEY: Yes. The answer that came back was that the Treasury secretary did not commission Ms Watson. That was the answer we got back. Do you recall that?</p> <p>Mr MIDHA: Again, I do not recollect that answer but I can check.</p> <p>The Hon. DANIEL MOOKHEY: Ms Wilkinson, Ms Watson's report is addressed to you. Did you commission Ms Watson?</p>

	<p>Ms WILKINSON: I was the official who signed the engagement letter, so she addressed her communications through me to Treasury.</p> <p>The Hon. DANIEL MOOKHEY: But did you commission her? Was it your decision to engage her services?</p> <p>Ms WILKINSON: I certainly recommended it on the paperwork. In terms of strictly who the authorising entity is, I think I will have to check internally to give you the correct answer.</p> <p>The Hon. DANIEL MOOKHEY: I would appreciate knowing who the authorising entity was, but who told you to issue the commissioning letter?</p> <p>Mr MIDHA: It would have been me, I think.</p>																		
	<p><u>RESPONSE</u></p> <p>Ms Wilkinson commissioned Ms Watson in February 2020. Ms Watson was commissioned by Transport in 2017 to produce options for TAHE’s access pricing model. Ms Watson was already providing advice to Treasury’s Finance and Operations Group on the implementation of new accounting standards.</p> <p>Ms Watson was considered the best person for the role because she has previous experience with audit and accounting matters as a Director on the Total State Sector Audit as well as experience with Transport on TAHE.</p>																		
p. 55	<p>Ms ABIGAIL BOYD: A very quick one, if I may. We talked before about how there is no real difference in terms of the ultimate amount of money spent by government that is going to TAHE, whether it is in the form of an equity injection or a grant. Do you have the total costs involved so far in setting up the TAHE structure? Is that something you could take on notice? I would like it to include consultants' fees, the cost of recruiting board members, the board members' salaries—the whole additional cost of setting up this structure. Are you able to provide that for me on notice?</p> <p>Mr MIDHA: Yes. We can take that on notice and provide those costs for you that have been included by Treasury, yes.</p>																		
	<p><u>RESPONSE</u></p> <p>Treasury consultants’ costs relating to TAHE as provided to the house for budget estimates were \$1.54m to June 2021. The breakdown by firm over this period is as follows:</p> <table border="1" data-bbox="459 1384 1417 1742"> <thead> <tr> <th>Firm</th> <th>Cost</th> </tr> </thead> <tbody> <tr> <td>KPMG AUSTRALIA</td> <td>1,200,617.03</td> </tr> <tr> <td>Jones Lang La Salle</td> <td>129,500.00</td> </tr> <tr> <td>Heathwest Advisory</td> <td>89,100.00</td> </tr> <tr> <td>Korn Ferry</td> <td>65,000.00</td> </tr> <tr> <td>Nothling Consulting</td> <td>27,225.00</td> </tr> <tr> <td>P90 Advisory</td> <td>13,500.00</td> </tr> <tr> <td>Other</td> <td>15,240.50</td> </tr> <tr> <td>TOTAL</td> <td>1,540,182.53</td> </tr> </tbody> </table> <p>Other costs of setting up TAHE will be included in TAHE’s financial statements for the Financial year 2020-21.</p>	Firm	Cost	KPMG AUSTRALIA	1,200,617.03	Jones Lang La Salle	129,500.00	Heathwest Advisory	89,100.00	Korn Ferry	65,000.00	Nothling Consulting	27,225.00	P90 Advisory	13,500.00	Other	15,240.50	TOTAL	1,540,182.53
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