

Lyon, Brendan

From: Watson, Heather
Sent: Monday, 7 September 2020 12:50 PM
To: Lyon, Brendan; Lee, Simon; Box, Matthew
Cc: King, Andrew (AUS); Linke, David; Yates, Andrew J; Hunter, James (Sydney); Lucas, Joel; Low, Paul
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Hi Brendan

You will need to put that request to Treasury.

CFOA did not provide modelling input into the submission FIS table or assist with Treasury's modelling in the lead up to the submission. We commenced our limited assistance to Treasury with its modelling after the May submission was made.

N

From: Lyon, Brendan
Sent: Monday, 7 September 2020 12:16 PM
To: Watson, Heather <[redacted]>; Lee, Simon <[redacted]>; Box, Matthew <[redacted]>
Cc: King, Andrew (AUS) <[redacted]>; Linke, David <[redacted]>; Yates, Andrew J <[redacted]>; Hunter, James (Sydney) <[redacted]>; Lucas, Joel <[redacted]>; Low, Paul <[redacted]>
Subject: TAHE | June cab financial model request - final copy and user guide/assumptions
Importance: High

Sensitive: NSW Cabinet & Commercial in Confidence (KPMG RESTRICTED)

Hi Heather, Matt and Simon

We are trying to reconcile the treasury financial model to the financial outputs disclosed in the June Cab sub. The version we have (13 May 2020) shows different numbers to the final ones included by CfOA/Treasury.

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1. Could you please provide the Treasury Financial model that was used to determine the financial impacts in the paper?
2. If you could also send through any guide or file note that corresponds to the Treasury financial model outlining the assumptions applied, that would be greatly appreciated.

This is obviously important to explain any variation when we return to Cabinet.

If you could get back to us as soon as possible that would be great.

Thanks,

Brendan

Lyon, Brendan

From: Cassandra Wilkinson [redacted]
Sent: Monday, 7 September 2020 5:01 PM
To: Lyon, Brendan
Cc: Sajiv De Silva; Jeanne Vandebroek; Sean Osborn; San Midha; Fiona Trussell
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

112

Sensitive: NSW Cabinet

Hi Brendan,
Saj is collating our most recent comments from various Treasury colleagues. However, please note that our comments on your drafts don't constitute an endorsement of the model or the drafts because there are aspects which are still not clear to us and some unresolved points may be significant.

To get the clarity we need, Treasury has engaged your colleague Heather Watson to review your model for consistency with various preceding advices from KPMG.

I would be grateful if you could please make all your working documents including the spreadsheet of :countabilities available to Heather for her review.

Best regards
Cass



Treasury

Cassandra Wilkinson | Executive Director
Transport, Infrastructure, Planning and Environment

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

I acknowledge the Gadigal People of the Eora Nation as the traditional owners of the land on which we work

From: Lyon, Brendan [redacted]
Sent: Monday, 7 September 2020 1:50 PM
To: Cassandra Wilkinson [redacted]
Cc: Sajiv De Silva [redacted]; Jeanne Vandebroek [redacted]; Sean Osborn [redacted]; San Midha [redacted]; Fiona Trussell [redacted]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Hi Cass – I don't seem to have your number in my contacts but it'd be good to try and get this asap if possible.

Thanks again 😊

From: Lyon, Brendan
Sent: Monday, 7 September 2020 12:54 PM
To: Cassandra Wilkinson [redacted]
Cc: Sajiv De Silva [redacted]; Jeanne Vandebroek [redacted]

Lyon, Brendan

From: Lyon, Brendan
Sent: Monday, 7 September 2020 5:09 PM
To: Cassandra Wilkinson
Cc: Sajiv De Silva; Jeanne Vandenbroek; Sean Osborn; San Midha; Fiona Trussell
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

113

Importance: High

Hi Cass thanks for the response; I may have misunderstood but I am asking for a copy of the Treasury financial model, which was used to generate the numbers that went to Cabinet in June.

I asked Heather for a copy; but she has advised that it was done by Treasury – not her team.

Could you please confirm regarding a final copy of the financial model so we can understand why the numbers that went to Cabinet are different.

Regarding the operating model – a copy of it will go to Heather as you suggest.

Thanks in advance.

Brendan

From: Cassandra Wilkinson [REDACTED]
Sent: Monday, 7 September 2020 5:01 PM
To: Lyon, Brendan [REDACTED]
Cc: Sajiv De Silva [REDACTED]; Jeanne Vandenbroek [REDACTED]; Sean Osborn [REDACTED]; San Midha [REDACTED]; Fiona Trussell [REDACTED]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

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Best regards
Cass



Treasury

Cassandra Wilkinson | Executive Director
Transport, Infrastructure, Planning and Environment

[REDACTED]

Lyon, Brendan

From: Cassandra Wilkinson [REDACTED]
Sent: Monday, 7 September 2020 5:12 PM
To: Lyon, Brendan
Cc: Sajiv De Silva; Jeanne Vandebroek; Sean Osborn; San Midha; Fiona Trussell
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

114

Hi Brendan,

There is no model for the June Cab Sub. The Submission simply noted the impact of any change on our equity treatments and depreciation liabilities.

The only TAHE financial model was done in (I think) 2017 by KPMG and belongs to TfNSW. Peter may be able to provide if you done already have it.

Regards,
Cass

From: Lyon, Brendan [REDACTED]
Sent: Monday, 7 September 2020 5:09 PM
To: Cassandra Wilkinson [REDACTED]
Cc: Sajiv De Silva [REDACTED]; Jeanne Vandebroek [REDACTED]; Sean Osborn [REDACTED]; San Midha [REDACTED]; Fiona Trussell [REDACTED]
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From: Cassandra Wilkinson [REDACTED]
Sent: Monday, 7 September 2020 5:01 PM
To: Lyon, Brendan <[REDACTED]>
Cc: Sajiv De Silva [REDACTED]; Jeanne Vandebroek [REDACTED]; Sean Osborn [REDACTED]; San Midha [REDACTED]; Fiona Trussell [REDACTED]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Sensitive: NSW Cabinet

Hi Brendan,

Lyon, Brendan

From: Lyon, Brendan
Sent: Monday, 7 September 2020 5:14 PM
To: Low, Paul; Linke, David; Heathcote, David
Subject: FW: TAHE | June cab financial model request - final copy and user guide/assumptions

115

Importance: High

FYI – very clear that Treasury are trying to hang it on KPMG – note Heather’s new engagement to review my engagement.

Obviously, she’s not getting access to my files.

From: Lyon, Brendan
Sent: Monday, 7 September 2020 5:09 PM
To: Cassandra Wilkinson [redacted]
:: Sajiv De Silva [redacted]; Jeanne Vandenbroek [redacted]; Sean Osborn [redacted]; San Midha [redacted]; Fiona Trussell [redacted] >
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions
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Lyon, Brendan

From: Lyon, Brendan
Sent: Monday, 7 September 2020 5:21 PM
To: Linke, David; Heathcote, David; Low, Paul
Subject: FW: TAHE | June cab financial model request - final copy and user guide/assumptions

117

This is good – Treasury have admitted it was not modelled; which is handy.

We should get this noted in our 'fact pattern' as it clears up one area of reputational liability.

The 'instruction' from Cass to hand over all my work papers to heather suggests the level of pressure James might have been under on the weekend – it seems a bit frayed in there just judging by the emails.

Anyway, good admission below that we should def save on file.

From: Cassandra Wilkinson [redacted]
Sent: Monday, 7 September 2020 5:18 PM
To: Lyon, Brendan [redacted]
Cc: Sajiv De Silva [redacted]; Jeanne Vandebroek [redacted]; Sean Osborn [redacted]; San Midha [redacted]; Fiona Trussell [redacted]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Yes – we'll send over shortly.
Cass

From: Lyon, Brendan [redacted]
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To: Cassandra Wilkinson [redacted]
Cc: Sajiv De Silva [redacted]; Jeanne Vandebroek [redacted]; Sean Osborn [redacted]; San Midha [redacted]; Fiona Trussell [redacted]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Ok thanks – I'll note it wasn't modelled.

Could you provide the workings or arithmetic of basis for the numbers in June?

Regards,

Brendan

From: Cassandra Wilkinson [redacted]
Sent: Monday, 7 September 2020 5:12 PM
To: Lyon, Brendan [redacted]
Cc: Sajiv De Silva [redacted]; Jeanne Vandebroek [redacted]; Sean Osborn [redacted]; San Midha [redacted]; Fiona Trussell [redacted]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Hi Brendan,

Lyon, Brendan

From: Lyon, Brendan
Sent: Tuesday, 8 September 2020 7:18 AM
To: Cassandra Wilkinson
Subject: Cabinet & Commercial In Confidence - KPMG RESTRICTED

Hi any luck with the workings for what was in the cab sub?

118

Also, we will circulate the updated conops /biz rules today.

As noted at last week's steer co; this will be on a limited circulation basis – noting that there will be many comments and sensitivities about words and constructs. A limited circulation means we can make changes without the worry of multiple initial drafts flying around.

We are keen to work through words, phrases and concepts within reason – and as mentioned last week we need this part to be a 'safe sandpit' – where we can all work through the words and what they mean.

I am very eager to avoid the pressures that played out last time - it'd be really good if you could help in setting a calm, collaborative tone as we move into the last weeks.

Regards

Brendan

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Thanks in advance.

Lyon, Brendan

From: Lyon, Brendan
Sent: Tuesday, 8 September 2020 7:22 AM
To: Fiona Trussell
Subject: FW: Cabinet & Commercial In Confidence - KPMG RESTRICTED

119

FYI – I am hoping that Cass will step up a little as per the below.

On the Cab Sub, the Treasury June numbers appear to have no basis, which is interesting – hence the discussion yesterday about where they came from.

We suspect it was ‘inspired’ by the model but we are finding it very hard to replicate the numbers they had.

When you’re feeling better lets chat about treasury – they’re I suspect more anxious and have been trying to bust out early drafts via other parts of the Firm.

We will need to update our strategy a bit; and it might be time for Rodd to get ready for a chat with the Treasury secretary and you with San; but lets chat.

From: Lyon, Brendan
Sent: Tuesday, 8 September 2020 7:18 AM
To: Cassandra Wilkinson <[REDACTED]>
Subject: Cabinet & Commercial In Confidence - KPMG RESTRICTED

Hi any luck with the workings for what was in the cab sub?

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Regards

Brendan

From: Cassandra Wilkinson <[REDACTED]>
Sent: Monday, 7 September 2020 5:18 PM
To: Lyon, Brendan <[REDACTED]>
Cc: Sajiv De Silva <[REDACTED]>; Jeanne Vandenbroek <[REDACTED]>; Sean Osborn <[REDACTED]>; San Midha <[REDACTED]>; Fiona Trussell <[REDACTED]>
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Lyon, Brendan

From: Russell, Dave
Sent: Wednesday, 9 September 2020 8:05 AM
To: Lyon, Brendan
Cc: Hui, Jessie
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

124

This is not what is reflected in the June Cabinet submission right Jessie? Seems they only reflect the equity injection benefit in that.

This is a gross misguidance to the overall impact of TAHE.

From: Lyon, Brendan
Sent: Wednesday, 9 September 2020 7:56 AM
To: Russell, Dave [REDACTED]; Hudson, Nick [REDACTED]; Hui, Jessie [REDACTED]; Leech, Ross [REDACTED]; Harris, Gavin [REDACTED]
Subject: Re: TAHE | June cab financial model request - final copy and user guide/assumptions

Hi saj thanks for that we will look over today.

Cheers

Brendan Lyon
Partner
Infrastructure & Projects Group
KPMG
[REDACTED]

From: Lyon, Brendan [REDACTED]
Sent: Wednesday, September 9, 2020 7:54:35 AM
To: Russell, Dave [REDACTED]; Hudson, Nick [REDACTED]; Hui, Jessie [REDACTED]; Leech, Ross [REDACTED]; Harris, Gavin [REDACTED]
Subject: Fwd: TAHE | June cab financial model request - final copy and user guide/assumptions

Brendan Lyon
Partner
Infrastructure & Projects Group
KPMG
[REDACTED]

From: Sajiv De Silva [REDACTED]
Sent: Wednesday, September 9, 2020 7:38:02 AM
To: Lyon, Brendan <[REDACTED]>; Cassandra Wilkinson [REDACTED]
Cc: Jeanne Vandebroek <[REDACTED]>; Sean Osborn [REDACTED]; San Midha [REDACTED]; Fiona Trussell [REDACTED]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Hi Brendan,

Lyon, Brendan

From: Hui, Jessie
Sent: Wednesday, 9 September 2020 8:17 AM
To: Russell, Dave; Lyon, Brendan
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

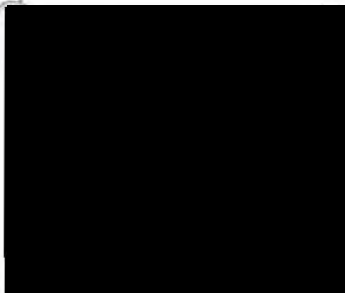
Correct – they've only done a TAHE as a GGS vs TAHE pre 30 June scenario

We've done TAHE as a GGS vs TAHE as a commercial SOC.

125⁻

Kind Regards,

Jessie Hui
Executive
Financial & Business Modelling
Infrastructure & Projects Group



From: Russell, Dave [REDACTED]
Sent: Wednesday, 9 September 2020 8:12 AM
To: Hui, Jessie [REDACTED]; Lyon, Brendan [REDACTED]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

Yep – and if we are reconciling, it ignores the large subsidies required for Access/License Fees that have a negative impact on the budget.

From: Hui, Jessie
Sent: Wednesday, 9 September 2020 8:10 AM
To: Russell, Dave [REDACTED]; Lyon, Brendan [REDACTED]
Subject: RE: TAHE | June cab financial model request - final copy and user guide/assumptions

I think the June Cabinet Submission was presented in a very convoluted way as they only put the equity injection numbers in the table and said "this is the impact". There is a dot point further down in the word doc which explains the depreciation impact as Saj has put into a table in the email.

Kind Regards,

Jessie Hui
Executive
Financial & Business Modelling
Infrastructure & Projects Group

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Lyon, Brendan

From: Lyon, Brendan
Sent: Tuesday, 15 September 2020 11:27 AM
To: Linke, David; Hunter, James (Sydney); Yates, Andrew J; Low, Paul; Lucas, Joel
Subject: FW: Word version of draft business rules file note

This is good.

It's finally been revealed that the fight is between TAHE and Treasury over the operating model.

James – relevantly, Treasury have now submitted their minor comments on the rest of the paper. They are radically different to the emotional response that we saw last week.

This is a big issue – and now out in the open.

We can now let them sort it out.

Regards;

Brendan.

From: Peter Crimp [REDACTED] >
Sent: Tuesday, 15 September 2020 10:32 AM
To: Lyon, Brendan [REDACTED] >; Sajiv De Silva [REDACTED] >; Hudson, Nick [REDACTED]; Russell, Dave [REDACTED]; Cassandra Wilkinson [REDACTED]; Sean Osborn [REDACTED]; Anne Hayes [REDACTED]; Andrew Alam [REDACTED]; George Roins [REDACTED]; Peter Perdikos [REDACTED]; Nicole Albert [REDACTED]; John Hardwick [REDACTED]; Bobby Li [REDACTED]; Fiona Trussell [REDACTED]; Julia Cassuben [REDACTED]; Jeanne Vandenbroek [REDACTED]; Hui, Jessie [REDACTED]
Subject: RE: Word version of draft business rules file note

Brendan, this is not TAHE's position. The discussion yesterday was that funding for maintenance (both OPEX and CAPEX) would go direct to the Operators from TfNSW or Treasury.

Therefore maintenance funding is still an open matter from TAHE's perspective.

Regards

Peter

Peter Crimp
Acting Chief Financial Officer
Transport Asset Holding Entity of NSW

[REDACTED]



Transport
for NSW

From: Lyon, Brendan [REDACTED]
Sent: Tuesday, 15 September 2020 9:15 AM
To: Sajiv De Silva [REDACTED]; Hudson, Nick [REDACTED]; Russell, Dave [REDACTED]; Cassandra Wilkinson [REDACTED]; Sean Osborn [REDACTED]; Anne Hayes [REDACTED]; Andrew Alam [REDACTED]; Peter Crimp [REDACTED]; George Roins [REDACTED]; Peter Perdikos [REDACTED]; Nicole Albert [REDACTED]; John Hardwick [REDACTED]; Bobby Li [REDACTED]; Fiona Trussell [REDACTED]; Julia Cassuben [REDACTED]; Jeanne Vandenbroek [REDACTED]; Hui, Jessie [REDACTED]
Subject: RE: Word version of draft business rules file note

Excellent thanks Saj

We will adjust the RACI to have capital and operating maintenance funded from TAHE to the operators.

Speak later.

From: Sajiv De Silva [REDACTED]
Sent: Tuesday, 15 September 2020 8:16 AM
To: Lyon, Brendan [REDACTED]; Hudson, Nick [REDACTED]; Russell, Dave [REDACTED]; Cassandra Wilkinson [REDACTED]; Sean Osborn [REDACTED]; Anne Hayes [REDACTED]; Andrew.Alam [REDACTED]; Peter Crimp [REDACTED]; George Roins [REDACTED]; Peter Perdikos [REDACTED]; Nicole Albert [REDACTED]; John Hardwick [REDACTED]; Bobby Li [REDACTED]; Fiona Trussell [REDACTED]; Julia Cassuben [REDACTED]; Jeanne Vandenbroek [REDACTED]; Hui, Jessie [REDACTED]
Subject: RE: Word version of draft business rules file note

Hi Brendan,

TAHE is accountable as the asset owner and manager and will need to discharge this responsibility to the operators through its chosen agreements.

As as per the advice we got from John and Anne to keep it simple, makes sense to have both CAPEX and OPEX maintenance funding to come from TAHE based on the agreed levels of maintenance to comply with safety and best value for the state.

Once agreements and pricing starts to be negotiated, it might be simpler to do it another way.

Regards,

Saj

From: Lyon, Brendan [redacted]
Sent: Monday, 14 September 2020 7:21 PM
To: Hudson, Nick <[redacted]>; Russell, Dave [redacted]; Sajiv De Silva [redacted]; Cassandra Wilkinson [redacted]; Sean Osborn [redacted]; Anne Hayes [redacted]; Andrew.Alam [redacted]; Peter Crimp [redacted]; George Roins [redacted]; Peter Perdikos [redacted]; Nicole Albert [redacted]; John Hardwick [redacted]; Bobby Li [redacted]; Fiona Trussell [redacted]; Julia Cassuben [redacted]; Jeanne Vandenbroek [redacted]; Hui, Jessie [redacted]
Subject: Re: Word version of draft business rules file note

Sorry that was brendan (me) - forgot I was on nicks keyboard)

Brendan Lyon
Partner
Infrastructure & Projects Group
KPMG
[redacted]

From: Hudson, Nick [redacted]
Sent: Monday, September 14, 2020 7:19:30 PM
To: Russell, Dave [redacted]; Sajiv De Silva [redacted]; Lyon, Brendan [redacted]; Cassandra Wilkinson [redacted]; Sean Osborn [redacted]; Anne Hayes [redacted]; Andrew.Alam [redacted]; Peter Crimp [redacted]; George Roins [redacted]; Peter Perdikos [redacted]; Nicole Albert [redacted]; John Hardwick [redacted]; Bobby Li [redacted]; Fiona Trussell [redacted]; Julia Cassuben [redacted]; Jeanne Vandenbroek [redacted]; Hui, Jessie [redacted]
Subject: RE: Word version of draft business rules file note

Saj,

Thanks for the inputs which we will take aboard.

- I don't quite understand the point you're making on maintenance - Do you mean:
- a. TAHE is accountable for maintaining its asset, including funding maintenance; or
 - b. ST is accountable for maintaining the assets in line with TAHE's requirements – but that this funded directly by the Budget/ERC and not by TAHE or TfNSW?

From: Sajiv De Silva [redacted]
Sent: Monday, 14 September 2020 6:15 PM
To: Lyon, Brendan <[redacted]>; Hudson, Nick [redacted]; Cassandra Wilkinson [redacted]; Sean Osborn [redacted]; Anne Hayes [redacted]; Andrew.Alam [redacted]; Peter Crimp [redacted]; George Roins [redacted]; Peter Perdikos [redacted]; Nicole Albert [redacted]; John Hardwick <[redacted]>; Bobby Li [redacted]; Fiona Trussell [redacted]; Julia Cassuben [redacted]; Jeanne Vandenbroek [redacted]
Subject: RE: Word version of draft business rules file note

Hi Brendan,

Please find two key deliverables from today.

1. A response from our Commercial Team which clarifies some of the misunderstandings of the Commercial Model. As discussed today, we would appreciate it if the commercial benefits are incorporated at the front of the document and necessary adjustments made throughout.
2. A few dots points from us on how we believe the maintenance funding is to work, which has always been consistent with our understanding of the second reading speech.

A comprehensive set of mark ups will come tomorrow morning just to close out the loop, but the "must haves" has already been provided over the last few days and the attached.

Regards,

Saj

From: Sajiv De Silva

Sent: Friday, 11 September 2020 1:06 PM

To: Lyon, Brendan [redacted]; Hudson, Nick [redacted]; Cassandra Wilkinson [redacted]; Sean Osborn [redacted]; Anne Hayes [redacted]; Andrew.Alam@ [redacted]; Peter Crimp [redacted]; George Roins [redacted]; Peter Perdikos [redacted]; Nicole Albert [redacted]; John Hardwick [redacted]; Bobby Li [redacted]; San Midha [redacted]

Cc: Fiona Trussell [redacted]
Subject: RE: Word version of draft business rules file note

Hi Brendan,

Agree on the way forward. Can I suggest if you want to move towards more detailed comments we move this meeting to Monday afternoon as both my commercial and accounting colleagues at Treasury have not had sufficient time to digest the file note in detail.

It would be great if we can extend the same level of courtesy to the Treasury Commercial and Accounting team as we have with Transport Infrastructure Projects team given the complexity involved.

Regards,

Saj

From: Lyon, Brendan [redacted]

Sent: Friday, 11 September 2020 12:15 PM

To: Sajiv De Silva [redacted]; Hudson, Nick [redacted]; Cassandra Wilkinson [redacted]; Sean Osborn [redacted]; Anne Hayes [redacted]; Andrew.Alam@ [redacted]; Peter Crimp [redacted]; George Roins [redacted]; Peter Perdikos [redacted]; Nicole Albert [redacted]; John Hardwick [redacted]; Bobby Li [redacted]; San Midha [redacted]

Cc: Fiona Trussell [redacted]
Subject: RE: Word version of draft business rules file note
Importance: High

Saj;

158

Thank you.

I had a discussion with San last night about the file note and wider TAHE matters, including some concerns I have.

I note your comment about an updated 'fact based' draft.

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I would also appreciate if today's session could move from general commentary toward detailed comments on whether the allocations and descriptions pose problems.

I look forward to the discussion this afternoon - and hope it might see a higher level of cooperation and respect.

Brendan

S: For completeness, I have copied San in above.

From: Sajiv De Silva [REDACTED]
Sent: Friday, 11 September 2020 10:13 AM
To: Hudson, Nick [REDACTED]; Cassandra Wilkinson [REDACTED]
 Sean Osborn [REDACTED]; Anne Hayes [REDACTED]
 Andrew.Alam [REDACTED]; Peter Crimp [REDACTED]; George Roins [REDACTED]
 [REDACTED]; Peter Perdikos <[REDACTED]>; Nicole Albert
 <[REDACTED]>; John Hardwick [REDACTED]; Bobby Li [REDACTED]
 [REDACTED]
Cc: Fiona Trussell [REDACTED]; Lyon, Brendan [REDACTED]
Subject: RE: Word version of draft business rules file note

Hi Nick

San Midha has provided our initial views on this document and we will provide a more detailed response by COB Monday given other priorities around budget proposals and TSSA accounts some of my Treasury colleagues are lancing.

Can we please ensure the next draft speaks to facts backed by available evidence and not views/interpretations.

We will provide our feedback to the group and we would appreciate if TAHE and Transport can also share they feedback with this group.

Regards,

START



Treasury

Sajiv De Silva | Associate Director
Infrastructure Strategy & TAHE | Policy and Budget Group

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

I acknowledge the traditional custodians of this land on which I work and live.
I pay tribute to their continuing culture and I pay my respects to all Elders past, present and emerging.



157

From: Hudson, Nick <[redacted]>
Sent: Thursday, 10 September 2020 5:51 PM
To: Cassandra Wilkinson <[redacted]>; Sajiv De Silva <[redacted]>; Sean Osborn <[redacted]>; Anne Hayes <[redacted]>; <[redacted]>; Andrew.Alam <[redacted]>; Peter Crimp <[redacted]>; George Roins <[redacted]>; Peter Perdikos <[redacted]>; Nicole Albert <[redacted]>; John Hardwick <[redacted]>; Bobby Li <[redacted]>
Cc: Fiona Trussell <[redacted]>; Lyon, Brendan <[redacted]>
Subject: Word version of draft business rules file note

sensitive: NSW Cabinet in Confidence

Good afternoon everyone,

Many thanks for your time this afternoon to discuss the draft business rules file note.

Please find attached the word version of the document. As Fiona outlined, can each group - TAHE, Treasury and Transport - please provide consolidated mark ups to the document, and add examples where you believe they will assist in the explanation. Another action was for Peter and Andrew to provide a step by step outline of maintenance funding and approvals.

If possible, we would like to receive by COB tomorrow. Please advise if you require additional time.

Thanks again for your time today.

Best regards

Nick

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Lyon, Brendan

From: Lyon, Brendan
Sent: Monday, 14 September 2020 1:53 PM
To: Linke, David; Heathcote, David; Low, Paul
Subject: MEETING WITH TAHE/TREASURY

Colleagues;

- 1) We had a much more productive and polite interaction today, with TAHE and with Treasury.

It would be fair to say that Treasury are dangerously unclear about maintenance aspects of TAHE. This is the issue that TAHE and Treasury melted down about last time.

The safety people are having a meltdown post their comments with a current view that Treasury's current position 'completely repeats Pink Batts' – I'd not thought of that as I always revert to rail parameters, but it shows the complexity. It also shows the highly shiftable positions of Treasury. The latest plan is that Cabinet's ERC approves the vel of maintenance.

Based on today's comments, we have to (again) recut:

- The functional segmentation
- The fin model
- The op model
- The final deliverable structure.

Pleasingly, Treasury now acknowledge that they did not properly review the document – and that they understand both its purpose and its context. I hope that they will communicate this up the chain. James – this is relevant to your ongoing discussions with Mr Pratt et al.

- 2) The TAHE board are apparently seeking me to meet with them tomorrow, in place of the meeting that was to be last week.
- 3) I'll recirculate the op and fin models once updated.

Regards to all.

Brendan.

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Lyon, Brendan

From: Lyon, Brendan
Sent: Monday, 14 September 2020 6:23 PM
To: Linke, David; Heathcote, David; **Low, Paul**
Subject: UPDATE - AND IMPORTANT QUESTION
Attachments: Maintenance dot points.docx; TAHE - SOC Model Feedback - Commercial comments 14 Sep.docx

They've finally said it.

Maintenance is a key activity of TAHE.

VERY different to what they said to TAHE's directors – and shows the complete, utter and rank stupidity of Thursday's meeting; Sans carry on – and Mike Pratt's ongoing interventions via Mr Hunter.

Like last time, they've agreed with everything – but not the vibe.

At that meeting – we proposed precisely this. It's what saw all the drama – now on Monday night, they send a badly drafted memo that confirms last Thursday we were spot on.

The second page is a rant from Cass about how TAHE is a huge economic reform, not a bad way to try and hide non cash expenses.

IMPORTANT QUESTION:

I've not seen a 'clarification' from James Hunter – can you update pls?

From: Sajiv De Silva [redacted]
Sent: Monday, 14 September 2020 6:15 PM
To: Lyon, Brendan [redacted]; Hudson, Nick [redacted]; Cassandra Wilkinson [redacted]; Sean Osborn [redacted]; Anne Hayes [redacted]; Andrew.Alam@ [redacted]; Peter Crimp [redacted]; George Roins [redacted]; Peter Perdikos < [redacted] >; Nicole Albert [redacted]; John Hardwick [redacted]; Bobby Li [redacted]; Fiona Trussell [redacted]; Julia Cassuben [redacted]; Jeanne Vandenbroek [redacted]
Subject: RE: Word version of draft business rules file note

Hi Brendan,

Please find two key deliverables from today.

1. A response from our Commercial Team which clarifies some of the misunderstandings of the Commercial Model. As discussed today, we would appreciate it if the commercial benefits are incorporated at the front of the document and necessary adjustments made throughout.
2. A few dots points from us on how we believe the maintenance funding is to work, which has always been consistent with our understanding of the second reading speech.

A comprehensive set of mark ups will come tomorrow morning just to close out the loop, but the "must haves" has already been provided over the last few days and the attached.

152

Regards,

Saj

From: Sajiv De Silva

Sent: Friday, 11 September 2020 1:06 PM

To: Lyon, Brendan [redacted]; Hudson, Nick [redacted]; Cassandra Wilkinson [redacted]; Sean Osborn [redacted]; Anne Hayes [redacted]; Andrew.Alam [redacted]; Peter Crimp [redacted]; George Roins [redacted]; Peter Perdikos <[redacted]>; Nicole Albert <[redacted]>; John Hardwick <[redacted]>; Bobby Li <[redacted]>; San Midha [redacted]

Cc: Fiona Trussell <[redacted]>

Subject: RE: Word version of draft business rules file note

Hi Brendan,

Agree on the way forward. Can I suggest if you want to move towards more detailed comments we move this meeting to Monday afternoon as both my commercial and accounting colleagues at Treasury have not had sufficient me to digest the file note in detail.

It would be great if we can extend the same level of courtesy to the Treasury Commercial and Accounting team as we have with Transport Infrastructure Projects team given the complexity involved.

Regards,

Saj

From: Lyon, Brendan [redacted]

Sent: Friday, 11 September 2020 12:15 PM

To: Sajiv De Silva [redacted]; Hudson, Nick [redacted]; Cassandra Wilkinson [redacted]; Sean Osborn [redacted]; Anne Hayes [redacted]; Andrew.Alam [redacted]; Peter Crimp [redacted]; George Roins [redacted]; Peter Perdikos [redacted]; Nicole Albert [redacted]; John Hardwick [redacted]; Bobby Li <[redacted]>; San Midha [redacted]

Cc: Fiona Trussell [redacted]

Subject: RE: Word version of draft business rules file note

Importance: High

Saj;

Thank you.

I had a discussion with San last night about the file note and wider TAHE matters, including some concerns I have.

I note your comment about an updated 'fact based' draft.

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MAILS_006_MAINTENANCE

I would also appreciate if today's session could move from general commentary toward detailed comments on whether the allocations and descriptions pose problems.

I look forward to the discussion this afternoon - and hope it might see a higher level of cooperation and respect.

Brendan

151

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Can we please ensure the next draft speaks to facts backed by available evidence and not views/interpretations.

We will provide our feedback to the group and we would appreciate if TAHE and Transport can also share they feedback with this group.

Regards,



Treasury

Sajiv De Silva | Associate Director
Infrastructure Strategy & TAHE | Policy and Budget Group

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] | [REDACTED]

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From: Hudson, Nick <[REDACTED]>
Sent: Thursday, 10 September 2020 5:51 PM

163

Lyon, Brendan

From: Lyon, Brendan
Sent: Tuesday, 15 September 2020 11:40 AM
To: Linke, David; Low, Paul; Heathcote, David; Hunter, James (Sydney); Yates, Andrew J
Subject: TO SHOW THE LEVEL OF AGREEMENT
Attachments: RE: Word version of draft business rules file note; RE: Word version of draft business rules file note

Colleagues;

Here's a classic example of the level of disagreement for the TAHE and Treasury stakeholders.

Treasury says 'your fault, there's no disagreement'

TAHE says 'thanks'

An illustrative and current example of the challenge.

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Lyon, Brendan

From: Lyon, Brendan
Sent: Wednesday, 30 September 2020 7:32 PM
To: Low, Paul; Heathcote, David; Linke, David
Subject: RE: CONFIRMED - Catch Up Discussion - Haissam Helmey / Peter Crimp / Brendan Lyon / Dave Russell / Jessie Hui

Yep. Same one. Maintenance is the unresolved issue because anyone from transport land knows this is all madness.

Crimp is a rail man. He was/is CFO of Sydney Trains – on leave to TAHE. HE’s been very bought in to TAHE because he was Anne’s deputy a few years ago and he’s loyal to her.

He’s annoyed at me, because we keep maintenance allocated to them – which is wrong – but it’s ‘right’ for CFOA and Treasury.

The benefit of the draft being out is all the sick cats are out – and they can fight it out with each other from now on.

Budget First. It’s a lifestyle.

From: Low, Paul [redacted]
Sent: Wednesday, 30 September 2020 7:28 PM
To: Lyon, Brendan [redacted]; Heathcote, David [redacted]; Linke, David [redacted]
Subject: Re: CONFIRMED - Catch Up Discussion - Haissam Helmey / Peter Crimp / Brendan Lyon / Dave Russell / Jessie Hui

Thanks - agreed - this maintenance position has been oscillating over the past 4 weeks particularly. It’ll be an important matter for ONSA too given the maintenance v safety balance.

Get [Outlook for iOS](#)

From: Lyon, Brendan [redacted]
Sent: Wednesday, September 30, 2020 7:16:37 PM
To: Heathcote, David [redacted]; Linke, David [redacted]; Low, Paul [redacted]
Subject: FW: CONFIRMED - Catch Up Discussion - Haissam Helmey / Peter Crimp / Brendan Lyon / Dave Russell / Jessie Hui

Hi – the draft is coming. Still editing and making a few adjustments. Will be across shortly.

Worth noting below – there remains very strong misalignmnet between TAHE and Treasury.

From: Peter Crimp [redacted]
Sent: Wednesday, 30 September 2020 6:36 PM
To: Lyon, Brendan [redacted]; Haissam Helmey [redacted]; Hui, Jessie [redacted]; Russell, Dave [redacted]
Cc: Anne Hayes [redacted]
Subject: RE: CONFIRMED - Catch Up Discussion - Haissam Helmey / Peter Crimp / Brendan Lyon / Dave Russell / Jessie Hui

Brendan,

189

Lyon, Brendan

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To: Lyon, Brendan [REDACTED]; Haissam Helmey [REDACTED]; Hui, Jessie [REDACTED]; Russell, Dave [REDACTED]
Cc: Anne Hayes <Anne.Hayes@tahensw.com.au>
Subject: RE: CONFIRMED - Catch Up Discussion - Haissam Helmey / Peter Crimp / Brendan Lyon / Dave Russell / Jessie Hui

Brendan,

Further to the meeting earlier today we do need to clarify / revisit the issue of TAHE's role in the authorisation of maintenance funding.

I've confirmed with Anne and we are clear that TAHE does not play a role in approving the overall quantum of maintenance funding.

Important that we resolve.

Regards

Peter

-----Original Appointment-----

From: [REDACTED] On Behalf Of Lyon, Brendan
Sent: Wednesday, 30 September 2020 4:03 PM
To: Haissam Helmey; Peter Crimp; Hui, Jessie; Russell, Dave
Subject: CONFIRMED - Catch Up Discussion - Haissam Helmey / Peter Crimp / Brendan Lyon / Dave Russell / Jessie Hui
When: Wednesday, 7 October 2020 10:30 AM-11:30 AM (UTC+10:00) Canberra, Melbourne, Sydney.
Where: Microsoft Teams Meeting

Lyon, Brendan

From: Linke, David
Sent: Monday, 27 July 2020 8:31 AM
To: Rodd Staples; Fiona Trussell
Cc: Lyon, Brendan; Lucas, Joel; Blakey, Gayle
Subject: Conflict of interest mitigation plan
Attachments: TAHE Conflict of Interest Mitigation Plan.docx

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Rodd and Fiona

Apologies I did not get this document to you last week.

As agreed this document sets out the communication plan and the avenues to resolve any conflicts in relation to the TAHE matter.

I have asked Andrew Yates to join the committee to provide greater balance. I do however need to discuss with you James Hunter's continued involvement principally because of Mike Pratt's position.

I understand that a working group of Transport and Treasury officials has now been formed to progress the matter and therefore, seeking your approval for the members of this committee to be acceded to the NDA's from the Transport side is important.

I propose that we set up a call in the next few days if possible to discuss a number of matters .

Thanks

David

Lyon, Brendan

From: Lyon, Brendan
Sent: Wednesday, 5 August 2020 3:59 PM
To: Linke, David
Cc: Low, Paul
Subject: FILE NOTE - meeting with Cass Wilkinson NSW Treasury - question on conflict committee

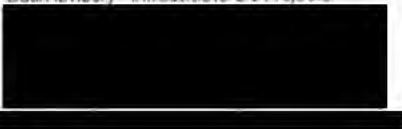
- 1) I have reflected on whether to provide a file note of the conversation at all, noting that Cass requested the chat as 'off the record' and within the context of our circa 20 year professional and personal relationship
- 2) However, on balance I believe the discussion provided substantial insight into the Firm's risk position and exposure
- 3) I have therefore chosen to provide a digest of what I believe I learned from the discussion –
- 4) This is provided on a **no attribution basis** meaning that I would appreciate that any insights contained below are not shared with anyone else in this form – and are not attributed to having been gleaned from Cassandra Wilkinson.
- 5) I make this request noting that a range of Treasury officials are worried about professional consequences, should TAHE not prove up as stated in the KPMG advice.
- 6) The key points are:
 - a. Treasury are now very nervous about TAHE's audit and professional consequences for officials involved
 - b. Treasury do not appear as confident as Heather and Andy do about any aspect of TAHE
 - c. It appears James Hunter and Heather Watson jointly pitched the initial conflicting CFOA work, via the Treasury Secretary
 - d. KPMG has been unremittingly confident that the accounting positions will 'work' and could 'fix' TAHE
 - e. Any friction with my initial work appears to have been amplified or overplayed within KPMG
 - f. There is no residual damage to my relationship with senior Treasury officers
 - g. We will talk at least weekly to ensure Cass is getting a balanced view of progress and risks.

Consequential issue:

- Can James be a member of the conflict oversight group, noting an apparent material and undeclared conflict of interest via the initial engagement?

Brendan Lyon | Partner

Deal Advisory - Infrastructure & Projects



Lyon, Brendan

From: Lyon, Brendan
Sent: Wednesday, 26 August 2020 7:51 PM
To: Yates, Andrew J
Subject: RE: UPDATES - NSW CABINET & COMMERCIAL IN CONFIDENCE - KPMG
RESTRICTED

102

Hi Andrew;

If it's ok I have just written back to you, as I've not really loved all the internal conflicts and machinations/shenanigans around TAHE – and don't want to get others excited.

If I am honest, I imagine it's hard to come into a complex environment like TAHE – and likely, you'd be hearing mixed views about what I am saying on risks and impacts.

For my own sanity - and to give you context - I'd suggest you ring Brenda and discuss the issue with her, if you know and respect her.

I suspect she'd give you a useful context in understanding the risks and impacts we are facing – and the (I think) the utility of my engagement.

Anyway, it's just a thought since you raised it.

I hope you are well otherwise – and I must say I cannot wait to be done with TAHE!!!

Brendan.

From: Yates, Andrew J
Sent: Wednesday, 26 August 2020 7:37 PM
To: Lyon, Brendan [REDACTED]; Linke, David [REDACTED]; Low, Paul [REDACTED]; Hunter, James (Sydney) [REDACTED]; Lucas, Joel [REDACTED]
Cc: Low, Paul [REDACTED]
Subject: RE: UPDATES - NSW CABINET & COMMERCIAL IN CONFIDENCE - KPMG RESTRICTED

Brendan

Sorry, I'm not able to provide a view on item 4, I'd defer to the technical team. As an aside, I know Brenda from her time at perpetual, in the event that is ever helpful.

Regards
Andrew

Andrew Yates
National Managing Partner - Audit, Assurance & Risk Consulting
KPMG

[REDACTED]

[LinkedIn](#)
[Twitter](#)
[Instagram](#)

kpmg.com.au

Lyon, Brendan

From: Low, Paul
Sent: Thursday, 27 August 2020 10:45 AM
To: Yates, Andrew J; Hunter, James (Sydney); Lucas, Joel; Linke, David
Cc: Watson, Heather; King, Andrew (AUS); Lyon, Brendan
Subject: TAHE COGC Agenda tomorrow

Categories: FYI

105
—

Good morning All

Re agenda for tomorrow's TAHE COGC.

Given Treasury discussion didn't occur re risk register I have spoken with Andy last night and we have agreed that Brendan's team will work off the below Treasury rewording that came through from Cass's team last week to get a version that also meet's the TfNSW engagement risk perspective.

doing so, the focus is to find a middle ground that accurately picks up the perspectives of Heather/Andy/Brendan and I and allows us to square away that matter from a KPMG perspective.

Given other deliverables for Transport this is likely to occur and be done on Monday.

Once we have an agreed position it can be shared with Treasury and Transport prior to Brendan including it in his Weekly risk report next week.

Treasury rewording of risks by Jeanne Vandenbroek (NSW Treas)

Regarding the Cabinet Fiscal Risks we recommend the following wording:

Risk: Cabinet fiscal objectives

That the operational model does not meet the necessary accounting and GFS treatment / classification to achieve Cabinet's fiscal objectives.

Mitigation:

Collaboration between and with agencies during development of the operating model.

Regarding the Financial Impacts risk, we didn't quite understand what the risk was trying to say, but I had a go at rewording it:

Risk: Financial impacts

Challenges to evidencing the Government's expectation of a return on its investment, with consequential impacts on TSSA, NSW Budget and TfNSW's accounts.

Mitigation:

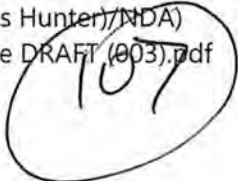
Collaboration between and with agencies in dealing with the Audit Office.

I trust this approach is acceptable to COGC

Regards

Lyon, Brendan

From: Lyon, Brendan
Sent: Friday, 4 September 2020 8:00 PM
To: Linke, David
Cc: Low, Paul; Heathcote, David
Subject: Confidential - NSW Cabinet, Commercial & KPMG in confidence (Op model initial draft + Treasury/James Hunter)/NDA
Attachments: Business Rules Filenote DRAFT (003).pdf



Hi David1.0, David2.0 + Paul (original recipe)

Operating model:

As mentioned to Dave 1.0 today, attached the current draft of the concept of operations. ('TAHE2020' is the p/w). This was shared with Paul a few days ago who's been working his way through.

Please note this will change substantially over the weekend, reflecting:

- 1) The functional allocation has moved a lot (again), after consultation with NSW Treasury across this week;
- 2) We will have comments from TfNSW sometime tonight – which we will review and adopt/reject
- 3) The 'NSW Treasury's view' aspect will be removed – noting that we reached (almost) agreement today about a single option
- 4) It is likely that the maintenance issues will pose a range of issues for safety and accountability.

Treasury/James Hunter & NDA

I had San (Dep Sec) ring me today. He was very warm; keen to organise a meeting/coffee/drink with me and Mike Pratt; keen to be reassured etc ect .

I agreed to catch up informally next week with him, within the bounds of what I can do under my NDA.

James Hunter then rang and said he'd spoken to San and that he'd appreciate if I sent an unapproved draft to San.

I said no about 7 different ways, but it was not really being heard. In the end I agreed to send as soon as I have an updated draft and approval from Fiona.

I made the following points:

- 1) It's not ready based on treasury's increasingly major changes that we now have to redraft over the weekend into the main option
- 2) It's counter-productive to provide treasury with a draft that has changed a lot to accommodate them
- 3) We are bound by an NDA; and
- 4) We are already deeply exposed to Rodd and TfNSW for unmanaged commercial conflicts.

I think James was a bit annoyed – but we have to be very careful now – and we have to stay absolutely, 100 per cent, out of the Cabinet hunger games.

At the steer co meeting this afternoon, Cass tried to verbal me and say I'd agreed to send today – and Andrew Alam (junior Treasury officer now on loan to TAHE, very close to our CFOA colleagues) also got quite demanding for the updated functional model.

I corrected the record at the time – and said it was not discussed or agreed that I'd send a draft until it was ready and moreover, it'd changed due to Cass's teams inputs that we need to recut it (again) due to all the changes now required.

This suggests to me that James is continuing to be highly motivated by Treasury's needs.

Either way, it's unlikely the firm's interest will be served by playing further side games.

Important:

There is likely to be a lot of pressure next week on me/my team – noting:

- 1) We will issue the ConOps after updates, likely Monday – it does not paint good news re control (as you'll see in the attached) – due to legislation, not us
- 2) We will issue the fin model mid week (once we've all discussed Monday) – it does not paint good news re independence/control/safety
- 3) The Auditor General has requested access to all Cabinet materials related to TAHE from 2014 – present, this week – and written to the Premier to seek formal permission (which by convention, she must give).

We are going to face some pretty desperate stakeholders and colleagues.

I would like for the four of us to discuss on Monday sometime.

I need you guys covering me as it's likely to get worse, before it gets better.

I don't want to be hung out internally again or wedged/trashed by colleagues in front of officials and ministers I've known for a long time.

Have a nice weekend.

Brendan

Lyon, Brendan

From: Linke, David
Sent: Friday, 4 September 2020 8:05 PM
To: Lyon, Brendan
Cc: Low, Paul; Heathcote, David; Blakey, Gayle
Subject: Re: Confidential - NSW Cabinet, Commercial & KPMG in confidence (Op model initial draft + Treasury/James Hunter)/NDA

Brendan

108

Thanks for sending this through.

We have an oversight committee on Monday at 5.30pm. I will ask Gayle to get time in the diary before this. I will read the report.

David

[Get Outlook for iOS](#)

From: Lyon, Brendan [REDACTED]
Sent: Friday, September 4, 2020 8:00 pm
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Cc: Low, Paul; Heathcote, David
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Hi David1.0, David2.0 + Paul (original recipe)

Operating model:

As mentioned to Dave 1.0 today, attached the current draft of the concept of operations. ('TAHE2020' is the p/w). This was shared with Paul a few days ago who's been working his way through.

Please note this will change substantially over the weekend, reflecting:

1. The functional allocation has moved a lot (again), after consultation with NSW Treasury across this week;
2. We will have comments from TfNSW sometime tonight – which we will review and adopt/reject
3. The 'NSW Treasury's view' aspect will be removed – noting that we reached (almost) agreement today about a single option
4. It is likely that the maintenance issues will pose a range of issues for safety and accountability.

Treasury/James Hunter & NDA

I had San (Dep Sec) ring me today. He was very warm; keen to organise a meeting/coffee/drink with me and Mike Pratt; keen to be reassured etc ect .

I agreed to catch up informally next week with him, within the bounds of what I can do under my NDA.

James Hunter then rang and said he'd spoken to San and that he'd appreciate if I sent an unapproved draft to San.

I said no about 7 different ways, but it was not really being heard. In the end I agreed to send as soon as I have an updated draft and approval from Fiona.

Lyon, Brendan

From: Lyon, Brendan
Sent: Saturday, 5 September 2020 7:36 AM
To: Harris, Gavin; Hudson, Nick; Russell, Dave
Subject: FYI and battle configuration

109

We are coming back into battle again and lots of indications of more internal bs to come. I'll fill you in on Monday; but basically a fresh attempt to slur me internally by a CFA Associate Director.

This time it will likely land differently; and not be the full show trial battle it was last time. However it's a good signal that we will need to be very united for the next few weeks internally and externally

If we are crisp and calm and ahead of the curve, they cannot break us. If we have stumbles, they'll be waiting to stomp me into the ground.

I have included the message I sent to the two DTL heads and Paul Low below. I am meeting them at 8am Monday.

The briefing to them will very much reflect what's in the discussion with Rodd at 6pm so it's the same task – only I needs to be verbal and at 8am Monday morning.

Nick can you add to the shite we need to do?

Have a nice day guys – and while the next weeks will be hard; remember on our side we have dignity, fun and ethics – and we are also hotter.

I'd rather be us than the ones about to start throwing the muck.

☺☺☺

From: Linke, David
Sent: Friday, 4 September 2020 8:05 PM
To: Lyon, Brendan [REDACTED]
Cc: Low, Paul [REDACTED]; Heathcote, David [REDACTED] Blakey, Gayle
Subject: Re: Confidential - NSW Cabinet, Commercial & KPMG in confidence (Op model initial draft + Treasury/James Hunter)/NDA

Brendan

Thanks for sending this through.

We have an oversight committee on Monday at 5.30pm. I will ask Gayle to get time in the diary before this. I will read the report.

David

Get [Outlook for iOS](#)

From: Lyon, Brendan [REDACTED]
Sent: Friday, September 4, 2020 8:00 pm
To: Linke, David
Cc: Low, Paul; Heathcote, David

Lyon, Brendan

From: Lyon, Brendan
Sent: Sunday, 6 September 2020 6:37 PM
To: Hunter, James (Sydney)
Cc: Linke, David; Low, Paul
Subject: draft of the operating model /business rules

Importance: High

110

Hi James;

David has just rung me regarding confusion over what we discussed and what can/will go to Treasury and when. For clarity, I told San that I'd be happy to share the draft with him early next week. It was in your call shortly after that you asked for it to be sent on Friday. Later that afternoon, Cass said she 'understood' that it would be shared Friday afternoon. I corrected her and said that that would not occur.

I appreciate that you are eager to please Mike, San and Cass; but in practice it is not ready and definitely not going to go across tonight for a number of reasons that I mentioned in our discussion on Friday:

- The operating model has changed due to treasury input
- This requires a full rewrite of the operating model – which I am doing tonight
- I am bound by an NDA that means I cannot send anything without Rodd or Fiona's permission
- I have not yet provided Rodd or Fiona with an updated File Note – noting that it is not yet done.

I also understand that San and likely the secretary are likely to be quite anxious, given Audit's focus on TAHE and the various challenges it faces – combined with the ongoing iCare issue (I think Mike is starring this week at the inquiry).

I am also keen to maintain a good relationship with Treasury – personally and for the Firm – but we need to make sure we are ready with each thing we issue.

Noting the quite nasty internal behaviours I've experienced - and noting our exposure to two important agencies – and the reality that if things go wrong, some of our clients might be professionally impacted – it is extremely important to me that we do things in the right order.

Accordingly, I am asking TfNSW for permission to share the updated draft with you and the Committee tomorrow for discussion and awareness – before it goes to treasury or TAHE.

I hope this clears up the confusion – if treasury were expecting it for some reason, they should have got a reasonably clear picture at the TAHE meeting Friday that this was not the case.

Cheers

Brendan

Brendan Lyon | Partner
Deal Advisory - Infrastructure & Projects

[Redacted]
[Redacted]
[Redacted]

Lyon, Brendan

From: Lyon, Brendan
Sent: Tuesday, 8 September 2020 8:12 AM
To: Linke, David; Heathcote, David
Cc: Low, Paul
Subject: Internal circulation and important insight

Importance: High 120

Sorry to bombard; few more things:

- 1) Fiona is comfortable with internal circulation to the COCG committee – with the exception of James. She made the point that Rodd never accepted James’ membership of the committee – and therefore he should not receive it. I did not solicit that – it was her unaided response. I will make a few corrections and send an updated final draft to you David Linke to circulate to COCG; assumedly without James Hunter.
- 2) Separately – I spoke ██████████ @ Treasury today | ██████████ – this suggests that TAHE is now at a crisis level; with Mike Pratt meeting the most senior level of government for a dedicated meeting on it – I think early next week. This might also explain why James has been a bit erratic in seeking insights to our work early for San etc.
- 3) I also get the sense that Cass Wilkinson might be under some degree of internal pressure on this; which means we might see more desperate reactions over the coming weeks.
- 4) Mike Pratt is at the icare inquiry tomorrow 3-5pm t <https://www.parliament.nsw.gov.au/Pages/webcasts.aspx> - this is also stressing treasury and the treasurer’s office a lot and is contextually interesting.

Brendan Lyon | Partner
Deal Advisory - Infrastructure & Projects

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Lyon, Brendan

Sent: Friday, 11 September 2020 7:17 AM
To: Linke, David; Hunter, James (Sydney); Yates, Andrew J; Lucas, Joel
Subject: For COCG only -
Importance: High

136
—

(James – please note this email should not be sent to CFOA partners and is only for the conflict group)

We had an interesting day today. A lot of guilt and stress from TAHE and Treasury officers that played out.

Below is the email from San Midah (dep sec) copying in Mike Pratt and also Bruce Morgan (acting chair TAHE).

For additional context, Cass Wilkinson – the Treasury executive director charged with TAHE and Heather’s client – continued her pattern of regrettable behaviours in the meeting.

I have an honest discussion with San for about an hour; I have known San for a long time and expressed to him my disappointment in Cass’s conduct – and in his email

He apologised and said he’s send a clarifying email – but let’s see if that happens.

CFOA relationship

The issues of working with CFOA has come up several times on the committee.

My strongly negative response might not seem ‘collegiate’; but a little known fact is that Heather was my second partner on this job; but that had to be changed due to challenges and conflicts that caused.

Neither me nor my engagement team would willingly work with Heather Watson or Matt Box again.

However, noting the risky position the firm is in across two clients, I will suggest a number of short-term options that would allow collaboration. This will include having a PPC representative at any meeting or discussion with that team, noting the history of vexatious complaint in recent times.

will circulate some suggested measures to allow collaboration – without allowing a return to the problems we all had in May and June.

If anyone would like to discuss – please reach out.

Brendan

From: Lyon, Brendan
Sent: Thursday, 10 September 2020 4:39 PM
To: San Midha [REDACTED]
Cc: Michael Pratt [REDACTED]; Rodd Staples [REDACTED]
[REDACTED]; bruce morgan [REDACTED]; Low, Paul
[REDACTED]
Subject: RE: Preliminary view on TAHE Business Rules filenote
Importance: High

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

Thanks for your email.

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KPMG EMAILS 010 TREASURY

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

From: San Midha [REDACTED]
Sent: Thursday, 10 September 2020 4:01 PM
To: Lyon, Brendan [REDACTED]
Cc: Michael Pratt [REDACTED]; Rodd Staples [REDACTED]
[REDACTED]; bruce morgan <[REDACTED]>
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.

Our expectation of 'Operating Model' work was to provide a model on how to integrate TAHE within the Transport eco system as per Government policy. This was to spell out how processes, instruments, legals etc. were to change or be setup to operate successfully from Operations, Safety and Fiscal objectives and meet the rules of the SOC act. There are no doubt challenges however our job to implement Government policy and find solutions to the issues that face us. This document does not attempt to do that, unfortunately this documents purpose escapes me and now the challenge to deliver a high quality operating model by October for ERC endorsement is bigger in the remaining time frame.

The NSW Government's policy objectives for TAHE are incorrectly expressed at the outset, leading to errors throughout. The document fails to acknowledge that the strategic policy objectives of TAHE are multiple and equal under its Act. TAHE's objectives include, "to manage the State's portfolio of transport assets better and more commercially" as expressed in the Second Reading Speech. The 2R makes it clear that customer service improvements are a key objective.

The June Cabinet Decision requires a joint submission that equally reflects the views of Transport and Treasury. The current file note does not reflect the views of Treasury which are consistently misrepresented throughout this document. The characterisation of Treasury's objectives as "budget first" is frankly wrong.

The file note contains at least the following errors:

- the current policy intent of TAHE
- the Government's obligations under the Fiscal Responsibility Act
- that the TAHE operating model is *contemplating a material transfer of accountability and control for rail infrastructure and related projects – putting them beyond the control of the NSW Government and TfNSW – and into the control of TAHE's board*. Where is the justification for this statement?
- errors of understanding of the SOC Act and other NSW Acts and the applicability of the Corporations Act
- mis-characterising the role of the current interim operating licence
- consistently mis-stating control definitions throughout the document
- incorrectly asserting without evidence that TAHE will not have a customer focus

- incorrectly asserting TAHE access pricing negatively impacts Transport Outcomes with the provision of any evidence.

I understand the TAHE executive has similar concerns and my team will be collaborating with them on our joint review and response. Finally, I reiterate our request to see the detailed financial model which has been in development by your team for the last two months.

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Regards,

San



Treasury

San Midha | Deputy Secretary
Policy and Budget Group

[Redacted signature block containing multiple lines of blacked-out text]

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Lyon, Brendan

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 [REDACTED] San Midha [REDACTED]
Cc: Rodd Staples [REDACTED] bruce morgan [REDACTED]; Low, Paul <plow@kpmg.com.au>
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.

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

From: Michael Pratt [REDACTED]
Sent: Sunday, 13 September 2020 2:17 PM
To: Lyon, Brendan [REDACTED]; San Midha [REDACTED]
Cc: Rodd Staples [REDACTED]; bruce morgan [REDACTED]; Low, Paul [REDACTED]
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

From: Lyon, Brendan [REDACTED]
Sent: Thursday, 10 September 2020 4:39 PM
To: San Midha [REDACTED]
Cc: Michael Pratt [REDACTED]; Rodd Staples [REDACTED]; bruce morgan [REDACTED]; Low, Paul [REDACTED]
Subject: RE: Preliminary view on TAHE Business Rules filenote
Importance: High

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

Thanks for your email.

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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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Cc: Michael Pratt [REDACTED]; Rodd Staples [REDACTED]; bruce morgan [REDACTED]
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I understand the TAHE executive has similar concerns and my team will be collaborating with them on our joint review and response. Finally, I reiterate our request to see the detailed financial model which has been in development by your team for the last two months. .

Regards,

San



Treasury

San Midha | Deputy Secretary
Policy and Budget Group

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

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Lyon, Brendan

From: Lyon, Brendan
Sent: Monday, 14 September 2020 10:27 AM
To: Heathcote, David; Low, Paul; Linke, David
Subject: We now have a few confirmations from NSW Treasury

The they want access fees to start @ \$700m pa from FY21.

Will definitely minimise the budget cost; but hard to see TAHE surviving very long with ¼ of its rev req.

Anyway, we are modelling now and will update.

Thanks again for this morning's discussion – and sorry to be explicit about support – but it'd simply not be worth defending KPMG, if senior partners are not prepared to defend me while doing so.

Glad you're all locked in 😊 😊

Look forward to Mr Hunter's explicit clarification.

Thanks 😊

Brendan.

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Lyon, Brendan

From: Low, Paul
Sent: Thursday, 24 September 2020 9:47 AM
To: Lyon, Brendan; Heathcote, David; Linke, David
Subject: RE: Update

Categories: FYI

Hi Brendan

Thanks for update. On the basis that Rodd advises San as per your note – it would be useful for Fiona to discuss your submission outline with him so San gets a sense of how matters will be considered and the scope of KPMG final deliverable. I assume they will likely also need to discuss the extent of financial model outputs reflected in the final cab sub. I suggest this as it may be circuit breaker as I can imagine we'll get another round of challenges with Mike Pratt once San briefs him.

Regards

Paul Low
National Leader – Infrastructure, Government and Healthcare

KPMG

[Redacted]

[Redacted]

kpmg.com.au

From: Lyon, Brendan [Redacted]
Sent: Thursday, 24 September 2020 9:23 AM
To: Heathcote, David [Redacted]; Linke, David [Redacted]; 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.

Lyon, Brendan

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From: Lyon, Brendan
Sent: Wednesday, 30 September 2020 10:05 PM
To: Low, Paul
Subject: RE: URGENT

What if I told you fiona's in bed and that TfNSW asked me to send it out (like you know, a Partner in a global firm)....

From: Low, Paul [REDACTED]
Sent: Wednesday, 30 September 2020 10:04 PM
To: Lyon, Brendan [REDACTED]; Linke, David [REDACTED] Heathcote, David
Subject: RE: URGENT

Ok thanks – agree with David H – Fiona should do circulation and hopefully caveat appropriately as working draft, a point in time..but obviously key matters to engage further on

Regards

Paul Low
National Leader – Infrastructure, Government and Healthcare

KPMG
[REDACTED]
[REDACTED]
[REDACTED]

kpmg.com.au

From: Lyon, Brendan <[REDACTED]>
Sent: Wednesday, 30 September 2020 10:02 PM
To: Low, Paul [REDACTED]; Linke, David [REDACTED]; Heathcote, David
Subject: RE: URGENT

D1 is having a quick scan now.

It is clearly a draft so I think that's ok (It has no exec sum or assessment on objectives yet)

It's a beast of a document – so they want to start getting feedback.

It will also flush out the modelling issue – noting Treasury have not seen the application and outcome of their suggestions as yet.

Separately – I am told that the Treasury Secretary was informed today about the preliminary final outcomes of the model – apparently he was a little rattled.

Anyway, sounds like another fun week on the TAHE ship.

Lyon, Brendan

From: Lyon, Brendan
Sent: Saturday, 10 October 2020 3:25 PM
To: [REDACTED]
Subject: FW: IMPORTANT

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From: Lyon, Brendan
Sent: Saturday, 10 October 2020 3:12 PM
To: Heathcote, David [REDACTED] Linke, David [REDACTED]
Cc: Low, Paul [REDACTED]
Subject: RE: IMPORTANT

Ok thanks – I spoke to David Linke a little while ago.

oting I am the most exercised on this issue (Viking), David L suggested that I draft some words I would be happy with.

I have enclosed the below, which I believe lacks emotion, but is clear.

I told David L that I remain unhappy that this has not yet been done, as discussed below. My strong preference is that this be sent today.

Timing:

I would expect that the Firm would find it very easy to confirm that my (approved, contracted and extremely well scrutinised) work is a KPMG output.

Noting that I am a Partner with an approved, contracted scope – why does James need to give an opinion on that before the email is sent to Rodd?

You could just send him a copy of what's sent and ask to talk to him about it when he's finished moving house. And then he should be instructed that this is an output of the Firm.

If I am honest, some other Partners could easily have faced disciplinary action, noting undisclosed professional conflicts, unapproved scope atop an existing improperly declared conflicted work, risky professional work, repeated non-compliance with the additional risk process, substantial questions about external behaviours when representing the Firm – and most particularly, their behaviours toward me.

Put in those terms, James may realise that an email to my client stating fact – that my work is a KPMG output - is likely the least-worst outcome of how things might flow.

I am exercised because I have been bullied and discredited by certain Partners of the Firm for almost a year now – without anyone doing anything much about it – while doing a terrible job we never wanted to do; at the request of the firm – to protect it from major financial loss from TfNSW>

It is worth remembering the reason the firm needed protection was because of James and Heather's (stupid) work with Treasury – and failure to follow conflict and risk processes.

Consequently, I do (very) much care about how quickly the Firm (finally) shows that it supports me and my team – we've been charging the trenches but we are still full of KPMG-shaped bullet holes in our backs – and it needs to be stopped once and for all.



Treasury

Contact: *t*
Telephone

247

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

KPMG EMAILS 010 TREASURY

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

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San Midha
Deputy Secretary

11/11/2020

CC: Michael Pratt, Secretary NSW Treasury

Lyon, Brendan

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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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

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253

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- 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:

KPMG EMAILS 010 TREASURY

- 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.

Treasury letter:

252

"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*

KPMG EMAILS 010 TREASURY

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

KPMG response:

251

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'.

ISW 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.

KPMG EMAILS 010 TREASURY

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



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250



Lyon, Brendan

From: Lyon, Brendan
Sent: Thursday, 12 November 2020 8:21 AM
To: Heathcote, David; Linke, David; Low, Paul
Subject: Re: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Yes he will - and also got one himself and will want me to respond with some advice on the one to him.
Happy to chat - I don't think we should respond at all until after your meeting with Rodd today.
When we do - it's pretty straight forward given we are following cabinets instruction to the letter.

Brendan Lyon
Partner
Infrastructure & Projects Group
KPMG

249

From: Heathcote, David [REDACTED]
Sent: Thursday, November 12, 2020 7:40:49 AM
To: Lyon, Brendan [REDACTED]; Linke, David [REDACTED]; Low, Paul [REDACTED]
Subject: RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Brendan it would be good to understand Rod's view on whether this warrants a response. Think it would be a good idea if we got together to discuss options given it has been sent to a wide group at KPMG.

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

Dear Brendan,

See attached letter.

Regards



Treasury

San Midha | Deputy Secretary
Policy and Budget Group

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Lyon, Brendan

From: San Midha [REDACTED]
Sent: Wednesday, 11 November 2020 6:57 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)
Attachments: IGA_11_11_2020_18_45_28_996.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

248

Dear Brendan,

See attached letter.

Regards



Treasury

San Midha | Deputy Secretary
Policy and Budget Group

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Lyon, Brendan [REDACTED]
Sent: Monday, 9 November 2020 5:41 PM
To: Cassandra Wilkinson [REDACTED]; Sajiv De Silva [REDACTED]; San Midha [REDACTED]; Fiona Trussell [REDACTED]; Peter Perdikos [REDACTED]; Anne Hayes [REDACTED]; Peter Perdikos [REDACTED]; Andrew Alam [REDACTED]
Cc: Rodd Staples [REDACTED]; Linke, David [REDACTED]; Heathcote, David [REDACTED]; Low, Paul [REDACTED]
Subject: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)
Importance: High

Dear TAHE stakeholder,

Due to a minor labelling error on one chart, please find enclosed an updated finalised version of our report on TAHE.

If would you would like to discuss any aspect of KPMG's final report, I am available on 0403 504 548 anytime.

Faithfully,

Brendan Lyon
Partner

Brendan Lyon | Partner
Deal Advisory - Infrastructure & Projects

[Redacted]



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Treasury

Contact: Cassandra Wilkinson
[REDACTED]

247

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

KPMG EMAILS 010 TREASURY

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

246

San Midha
Deputy Secretary

11/11/2020

CC: Michael Pratt, Secretary NSW Treasury

Lyon, Brendan

From: San Midha [REDACTED]
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

260

Dear Brendan,

I refer to my email and letter dated 11th 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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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

Dear Brendan,

See attached letter.

Regards

Brendan Lyon
Partner

261

Brendan Lyon | Partner
Deal Advisory - Infrastructure & Projects

[Redacted]
[Redacted]
[Redacted]
[Redacted].au



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262

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

Dear Brendan,

See attached letter.

Regards



Treasury

San Midha | Deputy Secretary
Policy and Budget Group

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

From: Lyon, Brendan [redacted]
Sent: Monday, 9 November 2020 5:41 PM
To: Cassandra Wilkinson [redacted]; Sajiv De Silva [redacted]; San Midha [redacted]; Fiona Trussell [redacted]; Peter Perdikos [redacted]; Anne Hayes [redacted]; Peter Perdikos [redacted]; Andrew Alam [redacted]

Cc: Rodd Staples [redacted]; Linke, David [redacted]; Heathcote, David [redacted]; Low, Paul [redacted]

Subject: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)
Importance: High

Dear TAHE stakeholder,

Due to a minor labelling error on one chart, please find enclosed an updated finalised version of our report on TAHE.

If would you would like to discuss any aspect of KPMG's final report, I am available on 0403 504 548 anytime.

Faithfully,

Lyon, Brendan

From: Michael Pratt [REDACTED]
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



Treasury

[REDACTED]
[REDACTED]
[REDACTED]
E [REDACTED]
[REDACTED]@au [REDACTED]

Content delivery to:
NSW Treasury - Govnet (Post)
NSW Treasury Group Mail (Workmail)

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

Dear Brendan,

I refer to my email and letter dated 11th 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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

264

Lyon, Brendan

From: San Midha [REDACTED]
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,

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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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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

Dear Brendan,

See attached letter.

Regards

265

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)

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

From: Michael Pratt [REDACTED]
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,
 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



Treasury

[REDACTED]
 [REDACTED]
 [REDACTED]

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

Dear Brendan,

I refer to my email and letter dated 11th Nov:

266

Lyon, Brendan

From: Michael Pratt [REDACTED]
Sent: Thursday, 19 November 2020 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



Treasury



From: Lyon, Brendan [REDACTED]
Sent: Thursday, 19 November 2020 5:03 PM
To: Michael Pratt [REDACTED]; San Midha [REDACTED] Linke, David [REDACTED] Heathcote, David [REDACTED]; Low, Paul [REDACTED] James Hunter (Contact) [REDACTED]
Cc: San Midha [REDACTED]
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
[REDACTED]

From: Michael Pratt [REDACTED]
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,

Lyon, Brendan

From: Cook, Jeff A
Sent: Wednesday, 2 December 2020 9:14 AM
To: Lyon, Brendan
Cc: Hulme, Spencer; Heathcote, David
Subject: Review findings
Attachments: Research - Reporting obligations under NSW legislation.docx

Hi Brendan

As mentioned in our discussion with David Heathcote, I have now had the opportunity to review the material provided by you relating to the two engagements KPMG has with NSW Treasury (NSWT) and Transport for NSW (TfNSW) respectively.

Based on that information, and in response to your concerns stated to Spencer Hulme and myself on 9 November, there does not appear to be a basis for concluding that:

- NSWT has deliberately overstated the benefits to the NSW Government which would accrue from the establishment of TAHE by approximately \$7b; or
- NSWT officials, namely the Department Secretary and a Director reporting to the Department Secretary, are attempting to confuse or obscure the true financial effects of the establishment of TAHE.

Based on the above, I have not seen evidence that would suggest to me that NSWT are engaged in corruption or that we are engaged in a conspiracy. If you have, or come into possession of, further information that you feel may evidence corruption on the part of NSWT, or that we are engaged in a conspiracy, please reach out to me.

Spencer Hulme and I committed to coming back to you regarding the legal framework around reporting obligations. A note from OGC is attached on these matters. In the current circumstances no reporting obligation appears to exist. Should you want to discuss the note further please reach out to Spencer in OGC.

I have reviewed an email from you that I note raises allegations of bullying and harassment. If you consider that you have been the subject of such conduct, please may I ask you to reach out directly to Ben Lawler in PPC so that these matters can be properly investigated.

Please give me a call if you have any questions flowing from this email.

Kind regards
Jeff

Jeff Cook
Partner – Risk Management
KPMG

[Redacted contact information]

Have a good weekend.

KPMG EMAILS 010 TREASURY

28/11/20

From: Low, Paul [REDACTED]
Sent: Friday, 20 November 2020 2:57 PM
To: Heathcote, David [REDACTED]; Lyon, Brendan [REDACTED]
Subject: RE: Draft words

I'm good with that guys 😊

Regards

Paul Low
National Leader – Infrastructure, Government and Healthcare

[REDACTED]

[REDACTED]

kpmg.com.au



From: Heathcote, David [REDACTED]
Sent: Friday, 20 November 2020 1:50 PM
To: Lyon, Brendan [REDACTED]; Low, Paul [REDACTED]
Subject: Re: Draft words

Hi Brendan,

My suggestions detailed below:

I like,
I am writing to apologise for my email and phone conversation yesterday. The tone and comments were not appropriate or professional.
TAHE has been a very complex and trying engagement, for all concerned.
Looking ahead, I have decided it would be better for any correspondence on the TAHE engagement be addressed via my second Partner, Paul Low, to put in some appropriate space.

Brendan - I think this needs to go back to all copied in the original email to close this out and ensure we can move forward positively.

Paul - not sure if you have any comments?

Rgds
David

Get Outlook for iOS

From: Lyon, Brendan [REDACTED]
Sent: Friday, November 20, 2020 1:47:26 PM

Lyon, Brendan

From: Lyon, Brendan
Sent: Friday, 20 November 2020 3:08 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)
Importance: High *268*

Mike,

I am writing to apologise for my email and phone conversation yesterday. The tone was not appropriate or professional.

TAHE has been a very complex and trying engagement, for all concerned.

Looking ahead, I have decided it would be better for any correspondence on the TAHE engagement be addressed via my second Partner, Paul Low, to put in some appropriate space.

Sincerely,

Brendan

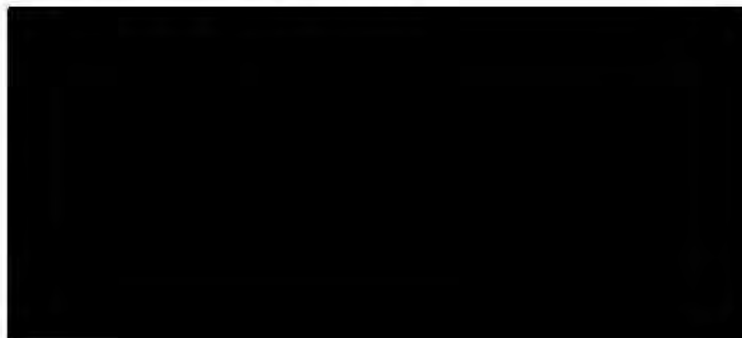
From: Michael Pratt [REDACTED]
Sent: Thursday, 19 November 2020 5:13 PM
To: Lyon, Brendan [REDACTED]; San Midha [REDACTED]; Linke, David [REDACTED]; Heathcote, David [REDACTED]; Low, Paul [REDACTED]; Hunter, James (Sydney) [REDACTED]
Cc: San Midha [REDACTED]
Subject: RE: UPDATED FINAL KPMG TAHE REPORT (NSW CABINET IN CONFIDENCE)

Apologies TAFE should read TAHE.

Michael Pratt AM | Secretary



Treasury



From: Michael Pratt
Sent: Thursday, 19 November 2020 5:12 PM

Lyon, Brendan

From: Lyon, Brendan
Sent: Friday, 20 November 2020 3:36 PM
To: Low, Paul; Heathcote, David
Subject: RE: Draft words

Importance: High

Noting that the phone call will have been 'emotively' described by some of our colleagues – I thought it worth just arming you up to understand what I said and did.

1. I got an email from the Deputy Secretary asking me to change our finalised report.
2. I then got an email from the Secretary asking in effect the same – and quoting at me Heather's (additional, conflicting) scope of work.
3. I then wrote my short email.
4. And then I got called a rogue partner – even though I have been the only one doing my scope that was agreed by everyone including Treasury.
5. And then I rang him
6. What I said to Mike yesterday on the call was:
 - In 20 years I've not seen the types of behaviours I'd seen from Treasury and it was unrecognisable to me.
 - I said that the continued mischaracterisation of our work and personal attacks were deeply inappropriate.
 - I said that Treasury had not advised of errors in any of our work and that I do not appreciate the efforts to discredit our my team, our professional work or our firm.
 - I told him that I thought the efforts to hide the results are inappropriate and unprofessional.
 - I asked him why he thought it was ok for Treasury to behave as it has - he said that we had '*not listened to us*'
 - I said "*I am listening now, what do you disagree with?*"
 - He said that he agrees with Heather Watson's work (which is being used precisely to discredit our work)
 - I asked him which bit of the financial or operating model Treasury disagrees with.
 - He struggled for words and then hung up.

Important:

It's important to note that I was not angry, didn't yell or swear – I just said as above; and very calmly.

I did not raise this this morning as I didn't want you to think I was explaining or justifying – but now that I've sent the agreed retraction, it's worth my two champions knowing what I actually said and did.

I am not surprised that Pratt went mental. He's passive aggressive, a real fan of 'tough' letters – but has the minor problem of having a dog that ate about \$7.3bn of homework. Whoops!

With the benefit of the content, I am not sure either of you would disagree – noting that the delivery was not ideal



Anyway, that's what went down – and almost word for word what I said.

Lyon, Brendan

From: Rodd Staples [REDACTED]
Sent: Friday, 3 July 2020 11:56 AM
To: Linke, David
Cc: Fiona Trussell; Lyon, Brendan; Kirsten Watson
Subject: RE: KPMG TAHE protocols

Follow Up Flag: Follow up
Flag Status: Flagged

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Categories: FYI

David

Thank you for the call on Wednesday and the email below. We do appreciate you stepping in and taking action in relation to this matter. We have reviewed your material and provide the following feedback:

1. Noting specific points raised in 2-7 below, the attachment appears more an internal document. We suggest you actually turn this into something that is a client facing mitigation plan that outlines your commitments to us, not to yourselves.
2. We note the attachment is explicit that the Committee's role is to 'Protect the best interests of KPMG'. While we understand the intent behind this it raises doubts for us as to how this will align with committee assessing the impact on and the interests of Transport for NSW (TfNSW) or NSW Treasury, your two clients.
3. It is unclear to us what the references to the 'TAHE Team' means. Is this the team working on the contract with Treasury, or the contract with TfNSW, or both? We would have thought there are two teams here with clear lines of delineation. We also have at least one other related contract in Evolving Transport organisation design, which is the starting point of this entire issue. This contract and the operation of the team needs to be included in the oversight of the committee.
4. You will be aware that you have a number of other engagements with agencies across the transport cluster. Noting that a number of these scopes pivot off our overall Evolving Transport strategy, which to date has been disregarded in KPMG's advice to NSW Treasury, we would ask that you review all engagements across the transport cluster and assess the need for these to be included in the mitigation plan.
5. Some other specific comments on the attachment include:
 - a. Clause 6 – refers to "All partners.....need to prioritise the interest of the State ahead of individual priorities or demands of individual departments...." We are not sure what the basis of the judgement of the prioritisation would be? KPMG have commenced working on a scope of works that supports the Cabinet outcome regarding risk. Does this mean the current scope of works that we have both approved stands or do KPMG require to reassess based on this Clause? We are also interested as to how you will make this assessment on an ongoing basis throughout the period of your engagements with TfNSW.
 - b. Clause 11 – requires your staff (assuming TAHE team are the KPMG nominated staff) to ensure " no discussion should be taken by the TAHE team.....which is contrary to the decisions made a COGC..." Comment: What are your returned protocols with TfNSW once you have made various internal decisions? What is the risk to each of your engagements as currently approved?
 - c. Could you also add something in there around TAHE as a separate legal entity? The KPMG work to date has been on behalf of NSW Treasury and TfNSW, whereas TAHE as a SOC now sits outside that construct and in the Commercial Conflicts section perhaps something needs to be broadened that if TAHE as a separate legal entity specifically seeks to engage KPMG for work, we would wish to be consulted for us to be satisfied over our own conflicts?
6. The rationale for the specific committee members is not clear to us, but should be included in the mitigation plan. To be clear, we would expect that no member of the committee has a senior ongoing relationship with either TfNSW or NSW Treasury, or is involved in the day to day work of any of the three contracts referred

to above. The inclusion of Andrew King appears sensible, but I do not know James Hunter or what ongoing role he has. Therefore, we will reserve any comment on his inclusion until this is clarified.

- 7. In order to finalise this I suggest you write to us under all of our related contracts to formally confirm and commit to your conflict of interest mitigation plan. In doing so we would appreciate you taking account of our feedback above.

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Finally, we are yet to understand how this issue first arose. It seems to have been forgotten that the first issue here was a failure to notify us of a conflict under our Evolving Transport organisational design contract, when you chose to commence the work with NSW Treasury (or when the progress of this work subsequently created one). We met with three of your senior people on Monday 16th March and asked for an explanation of how this situation could have arisen and what steps KPMG would take to avoid it happening again. We are yet to get any advice in relation to this, but will eventually seek it through the contract if necessary. You will note that we have acted in good faith by expanding the scope of related engagements while this matter remains open.

I am available to discuss this further to assist you in finalising your mitigation plan.

Regards
Rodd

From: Linke, David [REDACTED]
 Sent: Thursday, 2 July 2020 8:04 AM
 To: Rodd Staples [REDACTED]
 Cc: Fiona Trussell [REDACTED]; Lyon, Brendan [REDACTED]
 Subject: KPMG TAHE protocols

Rodd

Enclosed are the TAHE Commercial Conflicts and Oversight Governance Protocols that I discussed on the phone last night .

The members of the Committee are James Hunter, Joel Lucas (our Risk Management Partner) and me. This committee has been established to have oversight and governance of both streams of work to ensure that conflicts that may emerge are identified early, managed and communicated effectively to all parties involved. It is also designed to ensure a close working relationship between the teams while ensuring confidentiality protocols are adhered to. Brendan and Catia’s team and Heather’s team all report to the Committee.

Reflecting on the conversation last night I am asking for approval for the members of that committee to obtain access to the various scopes, documents and other necessary documentation from a Transport perspective such that the committee can achieve its objectives. This would cover James, Joel and me. I also think, as discussed, we need technical accounting input on the various Transport matters since the accounting outcomes for TAHE are a key deliverable. As such I suggest that a partner Andrew King also be added to this Committee. Andrew is the second partner reviewing all work on the Treasury TAHE project and would , in my view, act as the bridge across both the Transport objectives and the technical accounting conclusions.

I realise this is unusual as he is the reviewing partner on the Treasury engagement. However, Andrew is a senior partner trusted by me who I believe can play this role in a manner that both parties can have confidence in .

Below is the revision to the Treasury engagement letter that was issued by Treasury yesterday and I am asking that Transport have a similar revision in order that we can put these procedures in place:

“KPMG has implemented project governance arrangements aimed at managing actual and potential conflicts of interest that may arise in respect

Lyon, Brendan

From: Linke, David
Sent: Tuesday, 7 July 2020 8:05 AM
To: Rodd Staples
Cc: Fiona Trussell; Lyon, Brendan; Kirsten Watson; Lucas, Joel; Blakey, Gayle
Subject: RE: KPMG TAHE protocols

Categories: FYI

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Rodd

I have considered each of your questions below . Before I send you something in writing I would like to discuss a number of the matters to explain our thinking. I propose to organise a call tomorrow or Thursday with this group, Joel and I .

Is there an EA Gayle can work with to find a time which works for you and your team.

hanks

David

From: Rodd Staples [REDACTED]
Sent: Friday, 3 July 2020 11:56 AM
To: Linke, David [REDACTED]
Cc: Fiona Trussell [REDACTED]; Lyon, Brendan [REDACTED]; Kirsten Watson [REDACTED]
Subject: RE: KPMG TAHE protocols

David

Thank you for the call on Wednesday and the email below. We do appreciate you stepping in and taking action in relation to this matter. We have reviewed your material and provide the following feedback:

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Lyon, Brendan

From: Linke, David
Sent: Thursday, 20 August 2020 2:05 PM
To: Lyon, Brendan
Cc: Low, Paul; Lucas, Joel; Yates, Andrew J
Subject: Re: Informal background only.

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Brendan

Thanks for the note. Copying in Joel and Andrew.

Dave

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From: Lyon, Brendan [REDACTED]
Sent: Thursday, August 20, 2020 1:30 pm
To: Linke, David
Cc: Low, Paul
Subject: Informal background only.

Hi David – without wanting to inflame any of the issues raised yesterday, after discussion with Paul Low I thought best to give you a quick update on the TAHE Board meeting – who I met with today for an hour – noting that Rodd Staples is a director and that it may be relevant in that regard; and also, that I believe there are some relevant considerations to report regarding the accounting risk issue.

I have structured this email to ensure it makes sense – but this not a risk file note or anything else, just a personal email with a structure to explain what I heard and learned.

Board:

Chair: Bruce Morgan
Directors: Anne McDonald
Rodd Staples
Trevor Bourne

Staff:

Anne Hayes A/CEO
Peter Crimp A/CFO
George Roins A/General Counsel
Andrew Alam A/Company Secretary

Relevant points:

1. The board meeting was productive – I was professional and detailed – they were respectful, despite some not great news on some aspects
2. It was very evident that TAHE management are not really informing the Board of the developing issues facing TAHE
3. The TAHE Board and management confirmed that diversity of revenue is not a test for them – which may be relevant to the later shape we suggest.
4. Through the Chairman, I asked about the audit office engagement – which occurred yesterday.
5. I learned that Heather Watson attended yesterday's discussion with TAHE management and directors to discuss TAHE with the NSWAO

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6. I note that Heather did not reveal this long-planned meeting in yesterday's COCG meeting – despite a specific question about NSWAO engagement – and a long general discussion about the risk designation and wording.
7. Anne McDonald (Chair of Water NSW, director) reported that Margaret Crawford made the following points:
 1. The NSWAO itself is under scrutiny about what it does on TAHE (it was implied that the Opposition are asking questions about it)
 2. Advised that the NSWAO would act with “demonstrable independence”; and
 3. “TAHE should be prepared for a very hard look in this year’s audit’
8. Trevor Bourne appeared to be somewhat concerned about the overall bona fides of TAHE – and as a director of VA – was very awake to the discussion about the chain of accountability + goal terms for the board under the NRSL /safework etc
9. Andrew Alam (staff member, former Treasury project lead under Cass Wilkinson) somewhat abruptly shut down the responses of the Board members at that point on the basis of time.
10. I got a sense that the directors were very respectful of the depth and gravity of our work.
11. Happily – we really showed up BCG’s managing director 😊😊😊

Brendan Lyon | Partner

Legal Advisory - Infrastructure & Projects

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Lyon, Brendan

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.

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Big bets have big consequences for those who make them.

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

From: Lyon, Brendan
Sent: Tuesday, 15 September 2020 8:56 PM
To: Rodd Staples [REDACTED]
Cc: Linke, David; Heathcote, David; Low, Paul; Blakey, Gayle
Subject: PRIORITY: DISCUSSION RE KPMG TAHE ENGAGEMENT AND RELATED ISSUES

Importance: High

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Dear Rodd,

I am writing to suggest/request a discussion between you and Fiona – and David Linke, David Heathcoate and Paul Low from KPMG.

Rodd, Fiona can update you on her call with San – but he suggested that arrangements had changed within KPMG. This meeting is about confirming to you and Fiona the leadership and accountability for KPMG's TAHE engagement th you.

It would be helpful for me if this could be resolved quickly; noting your diaries Rodd and Fiona.

Regards to all.

PS: David Heathcoate is replacing David Linke, who's taking a global role; Paul Low is my second Partner – both are in the NDA.

Brendan Lyon | Partner
Deal Advisory - Infrastructure & Projects

