

BUDGET ESTIMATES 2021-2022

Transcript Questions

Portfolio Committee No. 3 – Education

SKILLS AND TERTIARY EDUCATION

Hearing: Thursday 28 October 2021

Answers due by: 24 November 2021

p. 5 – MO Briefings

The Hon. COURTNEY HOUSSOS: Minister, you have been in government for more than a decade. Let us focus on your record. Let us talk specifically, and we will get to the specifics of this document shortly. What I am interested in you providing me, with either as an answer or taking on notice, is: Did you or did your office request that this document be created?

Dr GEOFF LEE: I am more than happy to take that on notice, unless you have those details or one of my staff have those details. I will take it on notice.

Answer:

I am advised TAFE NSW received a briefing request from the Minister's Office on 28 July 2020.

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The Hon. COURTNEY HOUSSOS: Mr Faurby, you are saying that this document came from your department with a pretty radical proposal to sell off 19 TAFE campuses, and you did not approve it and you were not aware of it.

Mr FAURBY: That is to the very best of my recollection. I certainly did not approve it, and I cannot recall having seen this document before, no.

The Hon. COURTNEY HOUSSOS: Is it normal for a proposal as significant as this to come from your department and to go to the Minister's office to brief the Minister on, for him to provide a formal non-approval?

Mr FAURBY: If it was a formal recommendation from TAFE NSW, it certainly would have had my signature on it.

The Hon. ANTHONY D'ADAM: Is it possible that the electronic signatures have been redacted or removed?

Mr FAURBY: I absolutely do not believe that to be the case, but I am happy to take that specific technical question on notice to confirm.

Answer:

I am advised TAFE NSW confirms that no signatures were redacted or removed.

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The Hon. COURTNEY HOUSSOS: Okay. Minister, perhaps you can take on notice when this issue was discussed by your office—

Dr GEOFF LEE: I am happy to take that on notice if I can.

Answer:

I am advised:

The issue would most likely have been discussed by my office in September 2020.

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The Hon. COURTNEY HOUSSOS: —and how this document came to be in your office. If it did not go through a formal approval process, if it did not come from the secretary of the department, if it got escalated to your chief of staff—

Dr GEOFF LEE: Happy to take it on notice. If you want to find out the internal processes, I am happy to share that with you. I think it probably came from an email, to be honest with you.

Answer:

I am advised:

Refer to TAFE NSW response to Supplementary Questions 143 and 144.

p. 7 – Land purchases

The Hon. COURTNEY HOUSSOS: Minister, how many new sites did you buy in 2021?

Dr GEOFF LEE: I will have to check for you because the connected learning centres— I just do not want to mislead, unless one of my staff can tell us the sites that we purchased to deliver CLCs. In fact, we are growing sites, not reducing sites in the—

The Hon. COURTNEY HOUSSOS: Solely for CLCs. You purchased new sites for CLCs. Is that what your testimony is?

Dr GEOFF LEE: There was a mix of where land was available and where purchasing and where we cannot buy land, sometimes we have to lease. It depends upon the arrangement for that.

The Hon. COURTNEY HOUSSOS: Minister, can you name a single site that you purchased in 2021?

Dr GEOFF LEE: I will take it on notice. One of my staff will tell me. I just do not want to get it wrong. That is all.

Answer:

I am advised:

Please refer to the answer to Supplementary Question 95.

p. 9 – MO Briefings - drafts

Mr DAVID SHOEBRIDGE: Where do I find that in any TAFE policy or any department documentation that a brief is considered draft in those circumstances, or is that the position you are adopting now? Is there a document that says this?

Ms GRUMMER: We will have to take the question on notice, unless Mr Faurby can speak to it. I do not oversee that particular protocol. From my perspective, it is just—

Mr DAVID SHOEBRIDGE: We will see if Mr Faurby can shed any light on it.

Mr FAURBY: We will take that specific question on notice.

Mr DAVID SHOEBRIDGE: Mr Faurby, how many of these so-called draft briefs have gone to the Minister in the past 12 months?

Mr FAURBY: What I would like to perhaps suggest for the Committee, if I may—

Mr DAVID SHOEBRIDGE: Perhaps you can answer my question.

Mr FAURBY: Yes. We have a number of briefings that have gone to the Minister with my signature on that formally recommends a divestment, as an example. Until such time as it has my signature on it, it is not regarded as a brief.

Mr DAVID SHOEBRIDGE: I had a very simple question, Mr Faurby. Could you address that?

Mr FAURBY: Was the question how many briefs have we sent—

Mr DAVID SHOEBRIDGE: Draft briefs.

Mr FAURBY: Draft briefs? I will not be able to give you that number but I will certainly take it on notice.

Answer:

I am advised:

Since 28 October 2020, TAFE NSW has provided the following briefings regarding proposed TAFE NSW divestments to the Minister's Office for consideration as approved by the Managing Director.

Brief title
Partial Divestment - Deniliquin
Partial Divestment - Narrandera
Divestment of TAFE NSW - Grenfell
Divestment of TAFE NSW - Dubbo
Divestment of TAFE NSW - Chullora
Divestment of TAFE NSW - Goulburn

Divestment of TAFE NSW - Dapto
Divestment of TAFE NSW - Quirindi
Divestment of TAFE NSW - Seaforth
Divestment of TAFE NSW - Kogarah

In the same period, a briefing was provided to the Minister's Office progressing the divestment of TAFE NSW – Mudgee, which was previously approved for divestment by the former Assistant Minister for Skills in 2018.

p. 10 – MO Briefings

Mr DAVID SHOEBRIDGE: How does your organisation run? What do you do with these things?

Mr FAURBY: What I can say, Mr Shoebridge, is that we have a number of recommendations that we provide to the Minister that are submitted formally with my signature on it. They are the ones that we ask the Minister to give us guidance and position on.

Mr DAVID SHOEBRIDGE: But this one asked for the Minister's approval. You have got it not approved but now you say it never existed because it was a draft. So what do you do with it?

Mr FAURBY: What I testified is that, as far as I recall, I have never seen this document, yes.

Mr DAVID SHOEBRIDGE: And you have never heard about a proposal to divest 19 projects?

Mr FAURBY: No.

Mr DAVID SHOEBRIDGE: Mr Faurby, are you on top of your brief, because you have got the general manager of TAFE making a recommendation to the Minister to flog off 19 sites and the first you find out about it is a year later in budget estimates? Are you on top of your brief?

Mr FAURBY: I can absolutely assure you that I am on top of my briefs. I will be happy to provide for this Committee a list of briefs that we have sent off to the Minister that have had recommendations about divestments of sites. If you would like me to do that, I would be certainly happy to talk about that.

Mr DAVID SHOEBRIDGE: Indeed. And could you provide the ones that have been signed by you—

Mr FAURBY: Yes.

Mr DAVID SHOEBRIDGE: —and the ones that have not been signed by you?

Mr FAURBY: The ones I know about are the ones that—

Mr DAVID SHOEBRIDGE: But maybe you should dig a bit and find out about all the other ones you did not know about, Mr Faurby. That is what I am suggesting you do. Will you do that? Will you find out about all the ones you do not know about until we tell you about them in budget estimates, Mr Faurby?

Mr FAURBY: We will do that, yes.

Answer:

I am advised:

Refer to response for Question on Notice taken on page 9.

p. 11 – Operation Lancer

Mr DAVID SHOEBRIDGE: Minister, have you implemented or have you accepted all of the recommendations from ICAC coming out of Operation Lancer?

Dr GEOFF LEE: I will have to take that one on notice.

Answer:

I am advised TAFE NSW has accepted all 14 recommendations of ICAC set out in its report of October 2021.

p. 11 – Staffing

Mr FAURBY: Ms Arnot, I believe, had a contract which was a time-bound contract and when that ran out she ceased her employment with us. She was not a permanent employee, from my recollection.

The CHAIR: When did that contract expire?

Mr FAURBY: We can probably provide that evidence during the course of today but I do not have that date readily available. If you would allow me, Chair, I will try and see if I can provide that number.

Answer:

I am advised Ms Arnot's fixed term contract ended on 30 June 2021.

p. 12, 13 – MO Briefings

The CHAIR: Okay. How many other times did someone in the third tier of TAFE administration make these types of submissions direct to the Minister's office and bypassing you?

Mr FAURBY: Mr Shoebridge asked a similar question and I think what I believe I answered there was that we will take on notice whether we can provide such data that suggests how often we do that.

...

The CHAIR: How many working drafts go through to the Minister's office of this kind?

Mr FAURBY: That was the question that Mr Shoebridge asked and we will take on notice and provide to the Committee some details as to whether or not we can clarify and quantify whether there have been any other such other documents. I would imagine there has as part of the ongoing engagement between TAFE NSW and the Minister's office.

Answer:

I am advised:

Refer to response for Question on Notice taken on page 9.

p. 14 – Meeting with Gwnedy

Ms GRUMMER: I believe the document was submitted when I was on a leave of absence when Ms Arnot was acting in my role. When I found out that the document had been submitted, I had a conversation with Ms Arnot because, in previous practice before I assumed responsibility for TAFE Infrastructure, there would be often communications and correspondence between Ms Arnot and the Minister's office. Once I became aware of what had happened, I had conversations with Ms Arnot to say that that is not our practice going forward and any recommendations to the Minister's office must go through a formal brief, which requires my signature and both that of the managing director—if that brief in fact required his signature.

The CHAIR: When was that conversation with Ms Arnot?

Ms GRUMMER: From memory, it would have been in the September-October time frame. I would have to take that question on notice to go through my calendar.

Answer:

I am advised the Chief Corporate Services Officer had conversations with the then General Manager TAFE Infrastructure in early September, after 2 September 2020, around process improvements for sharing briefs. A follow up conversation occurred on 5 November with the broader Shared Services Group Leadership team.

p. 15 – Divestments

The Hon. COURTNEY HOUSSOS: Minister, I draw you to page 2 of the briefing note in the third paragraph where it states:

TAFE NSW understands that the Cluster's contribution to the Target is over and above divestments planned for asset recycling or other Budget measures.

What other sites are being considered for asset recycling programs?

Dr GEOFF LEE: I will take it on notice. Nothing springs to mind in terms of— remembering this was a draft document that did not go through the official channels. But I am happy to take it on notice and say if there are any others that we are looking at. Currently we are doing our 20-year infrastructure strategy, looking at what are the other opportunities we have right across the State. I am happy to take it on notice. Nothing springs to mind.

Answer:

I am advised TAFE NSW maintains one annual Asset Recycling Program as required under TPP19-07: Asset Management Policy for NSW. There are 7 sites currently under consideration for a divestment proposal.

- 1 site where TAFE NSW may propose a partial divestment and will continue with service delivery on the retained part of the site: and,
- 6 sites where TAFE NSW will shortly vacate or does not currently undertake service delivery

Site: Partial or Whole
1. Partial – Deniliquin, cnr Poicters & Macauley Streets
2. Grenfell, 45 East Street
3. Chullora, 12 Muirs Road
4. Dapto, 145 Fowlers Road
5. Quirindi, 10 Gamble Street
6. Seaforth, Sydney Road
7. Kogarah, Hogben Street

p. 16-17 – MO Briefings

The Hon. ANTHONY D'ADAM: Mr Faurby, it is your evidence today that this is a draft document that we are considering. That is correct, is it not?

Mr FAURBY: It is, yes.

The Hon. ANTHONY D'ADAM: Is there a further iteration of this that was not a draft?

Mr FAURBY: Yes, well, I would not necessarily call it an iteration. But there are certainly details that I would like to explain for the Committee as to the specifics of some of the places and locations I have just identified in this document, which I would be happy to talk to if you would like me to, so formal recommendations for divestments.

The Hon. ANTHONY D'ADAM: I think we will come to that.

Mr FAURBY: Okay.

The Hon. ANTHONY D'ADAM: But there was a further iteration. This is an overarching document about the divestments strategy. There was a further document akin to this?

Mr FAURBY: Not that I am aware of, Mr D'Adam. What I am saying is that, and as I explained before, to the very best of my recollection this is the first time I have seen this document. I am not aware that there was a further iteration on the document, if that is the question. But we will gladly take it on notice.

Answer:

I am advised:

I am advised TAFE NSW has no record of further drafts or a final iteration of this briefing (MIN20/726).

p. 23-24 – Operation Lancer

Mr DAVID SHOEBRIDGE: Minister, Operation Lancer—you now know what that is? Is that right?

Dr GEOFF LEE: Yes.

Mr DAVID SHOEBRIDGE: Did you get a ministerial brief on Operation Lancer?

Dr GEOFF LEE: I will have to take that on notice to—

Mr DAVID SHOEBRIDGE: You say "take on notice". Do you know when the Operation Lancer report was handed down?

Dr GEOFF LEE: It was 20 October—let me just get the right date for the Committee. It was 19 October. Sorry, I thought it was 20. It was Tuesday 20 October it was tabled in Parliament.

Mr DAVID SHOEBRIDGE: It was 19 October of what year?

Dr GEOFF LEE: This year.

Mr DAVID SHOEBRIDGE: We are talking 11 days ago. I am asking you if in the last 11 days you have had a ministerial brief about an ICAC report about serious corruption in TAFE, and you are taking that on notice. Is that really your evidence?

Dr GEOFF LEE: I cannot—

Mr DAVID SHOEBRIDGE: You are taking that on notice?

Dr GEOFF LEE: I—

Mr DAVID SHOEBRIDGE: Eleven days, ICAC report, major corruption.

The CHAIR: No, there needs to be a question.

Mr DAVID SHOEBRIDGE: Are you really taking that on notice?

The CHAIR: Minister, are you taking it on notice?

Dr GEOFF LEE: Can I say to you that I will take it on notice because I just want to get it right. Because I have discussed the matter with Mr Faurby. To remind you, this was a historical matter, before I was Minister, before Mr Faurby were there with TAFE. I agree with you that it was corrupt behaviour of two, three employees. Those employees are no longer employed by TAFE NSW. Can I say that TAFE did their own investigations and Operation Lancer was the investigation by the ICAC.

Answer:

I am advised:

Refer to transcript.

[Uncorrected Transcript p33]

p. 28 – MO Briefings

Mr FAURBY: Mr D'Adam, because what we hear Ms Grummer say—which is consistent with what I have said—is that we have not seen this document and it has been presented to me as evidence here for the first time and to the best of my recollection it is the first time I have seen it, can I suggest to you that we take on notice to clarify whether or not we actually received the document back from the Minister's office or whether this is a document that was entirely kept with the Minister, the Minister's office and not shared with TAFE subsequently.

Answer:

I am advised:

Refer to TAFE NSW response to Supplementary Question 145.

p. 33-34 – Operation Lancer - corrupt payments

Mr DAVID SHOEBRIDGE: Do you know how much TAFE paid under those corruptly obtained contracts to Oscillosoft?

Dr GEOFF LEE: I will take that on notice, unless Mr Faurby or—

Mr FAURBY: Can I ask Ms Grummer to perhaps provide some details on that, please?

Mr DAVID SHOEBRIDGE: How much, Ms Grummer?

Ms GRUMMER: Yes. What I can share is since 2014 we have spent \$6.8 million with Oscillosoft. I am unable to share how much of that is for our use for the software versus implementation services. But the total aggregate amount is \$6.8 million.

Mr DAVID SHOEBRIDGE: According to ICAC, they were looking at \$3.4 million in contract payments to nine of the 10 TAFE NSW institutes. What was the additional \$3.4 million that was not the subject of ICAC's inquiry, Ms Grummer?

Ms GRUMMER: If I may just take that on notice because I think we are going to have to go through each invoiced payment one by one to categorise that. I am not familiar with what was submitted to ICAC. I just can report when we look at the vendor Oscillosoft for our system we paid \$6.8 million.

Mr DAVID SHOEBRIDGE: Minister, you now know, don't you, that the better part of \$450,000 was made in corrupt payments to TAFE employees up to as recently as December 2018 to obtain those contracts? You now know that, don't you?

Dr GEOFF LEE: In the briefing note, and to my recollection, it is \$200,000 to each of the wives.

Mr DAVID SHOEBRIDGE: It was more than \$220,000 to each of them. Were you aware that the payments were being made as recently as December 2018?

Dr GEOFF LEE: I will take that on notice. I cannot remember the date, to be honest with you.

Mr DAVID SHOEBRIDGE: You gave me a date earlier. You read a date. Do you not remember that?

Answer:

I am advised:

Chapter 3 of the ICAC report refers to payments made to Oscillosoft between 21 January 2014 and 29 August 2018 totalling \$3.4m.

On 2 November 2018, TAFE NSW entered a new scope of work with Oscillosoft to consolidate the existing instances of iPlan into a single enterprise version of iPlan hosted in the TAFE Private Cloud (TPC).

The consolidation activity involved moving disparate instances with inconsistently deployed modules and sets of data hosted on separate servers outside of the TAFE private Cloud to a single instance. The consolidated single enterprise instance of iPlan software was deployed allowing all modules to be consistently used by the regionally dispersed Finance team and enabling approximately 3,000 existing end-users to participate more effectively in budget planning related activities.

The estimated contract value was \$3.8m. TAFE NSW incurred actual expenditure of \$3.4m for implementation, ongoing maintenance, and licencing.

This additional \$3.4m was paid to Oscillosoft over the period 30 August 2018 to 16 June 2021.

iPlan was decommissioned in June 2021, and the final payment to Oscillosoft was made on 16 June 2021.

p. 39 – Staffing

The Hon. COURTNEY HOUSSOS: What was the position prior to that that was responsible for this?

Ms GRUMMER: I would have to take that question on notice. I know, when I moved into this role, there were some things that we were doing around looking at how that team was resourced. I will have to take that question on notice.

The Hon. ANTHONY D'ADAM: How many people are in the Divestment Program team?

Ms GRUMMER: I will take that on notice. It is about five or six, I think, but I will take it on notice.

Answer:

I am advised:

There is no stand-alone Divestment Program Team.

There are five (5) full time equivalent resources directly allocated to all property transaction matters:

- Two (2) positions are 'Program Manager, Property Transactions' allocated to manage all non-leasing property transaction matters.
- Three (3) full time equivalent resources allocated to manage leasing transaction matters.

Non-leasing property transactions is not just divestment related, it covers a range of other activities including but not limited to land acquisitions, creating or extinguishing infrastructure easements, Native Title and Aboriginal Land Claim matters, historical boundary adjustments and compulsory acquisitions processes by other organisations for road or footpath widening.

p. 40 – Organisational change

The Hon. ANTHONY D'ADAM: Can I ask Mr Faurby about the progress of the restructuring that was discussed in estimates earlier in the year? Where are we up to in terms of staff reductions?

Mr FAURBY: Thank you, Mr D'Adam. Can I invite Ms Tickle, who is our chief people and culture officer, to provide evidence to that question?

The CHAIR: Yes, sure. Julie Tickle, please. Ms Tickle, are you there?

Answer:

I am advised:

The Student Services and Facilities Management & Logistics change aims to improve the experience of students and teachers by removing duplication across campuses and ensuring students are provided with a consistent level of service and equal access to information. The new Student Services and Facilities Management & Logistics structures were announced to staff on 29 June 2021, and will see a reduction of net 31 TAFE NSW jobs across the organisation.

In Student Services, TAFE NSW has mapped 90% of positions from the current to future state structures. Eligible employees in mapped positions have progressed through the placement process as communicated during consultation. TAFE NSW is continuing to progressively stand up these new teams. It is anticipated that the full transition to the new structures will be completed by early 2022.

p. 40– Staffing

The Hon. COURTNEY HOUSSOS: How many people were in that particular commercial transactions team in July when you started acting in the role?

Ms GRUMMER: I will have to take that question on notice; I do not know that off the top of my head, but the size of my team is 450 people overall.

Answer:

I am advised:

The Commercial Transactions Team was not established in July 2020. At this time, property acquisition and divestment activities were completed within the Development Team in the Infrastructure Branch.

In July 2020, there was one full time resource and one contracted resource partially allocated to acquisitions, divestments and other non-leasing land transaction matters. Refer to p 39 for details of the current team responsible for property transactions.

p. 41 – Organisational health

The Hon. ANTHONY D'ADAM: We might move on until Ms Tickle is available. Can I ask about the organisational health survey that was done in 2019. It had some pretty poor results, which you acknowledge, Minister. What steps have you taken to improve morale in the organisation?

Dr GEOFF LEE: Can I say I agree that in 2019—I think our testimony still remains the same, that we had to do a lot better than the previous results. Can I say that organisational change is very difficult on a large scale. We are bringing 10 institutions into one. Can I say we have made some significant changes. I will let Mr Faurby or Ms Tickle talk about the programs that we have implemented while he has been managing director in terms of looking at how we can improve the operation of the thing in terms of the reforms to make it more efficient.

The Hon. ANTHONY D'ADAM: Minister, has there been a further organisational health survey since that one was done?

Dr GEOFF LEE: Yes. I do believe there has been one.

The Hon. ANTHONY D'ADAM: Are the results of that able to be provided to the Committee?

Mr FAURBY: Thank you, Mr D'Adam. I would really appreciate if we could see if we could get Ms Tickle to offer details because she has much more detail into this than I have here at hand.

Mr DAVID SHOEBRIDGE: We have been trying.

Mr FAURBY: We would like to answer these questions to their full extent.

The Hon. ANTHONY D'ADAM: I am happy for you to take them on notice, given the difficulties.

Answer:

I am advised:

Refer to TAFE NSW Answers to Supplementary Questions No 163 – 167 regarding Organisational Health Survey.

p. 42 – Signed Briefings

The Hon. COURTNEY HOUSSOS: That is not what I am asking you, Minister. I am asking you if you have written the words "not approved" anywhere on any briefing paper that you have received.

Dr GEOFF LEE: I will have to take it on notice. I noticed even in one of those documents some of the recommendations—I did not approve one of the recommendations. I cannot remember which it was.

The Hon. SCOTT FARLOW: It was struck through. It was recommendation 3.

Dr GEOFF LEE: Yes.

The Hon. COURTNEY HOUSSOS: Exactly. There is a document where you have struck something out. Have you written "not approved" and signed any campus sales documents?

Dr GEOFF LEE: I will take it on notice. I cannot remember, to be honest with you.

Answer:

I am advised:

My role as Minister requires me to consider each brief on its merits and I do not always support the recommendations of agencies. This includes campus sales documents.

p. 44 – SMS

Mr DAVID SHOEBRIDGE: At the time you also told us that the project was an \$89 million project. Do you remember that?

Mr FAURBY: I do not remember that. I am happy to go back and revisit the transcript to confirm or otherwise.

Mr DAVID SHOEBRIDGE: Mr Backley, do you now have the figure that you paid to Red Rock?

Mr BACKLEY: I do not. I will have to take that on notice, I am sorry.

Answer

I am advised:

I am advised the termination amount paid to DXC Red Rock for termination of the contract between TAFE NSW and DXC Red Rock forms part of a commercial-in-confidence Deed of Settlement and Release. TAFE NSW cannot provide this information in response to the Question taken on notice without being in breach of its confidentiality obligations under the Deed of Settlement and Release.

p. 45 – SMS

Mr DAVID SHOEBRIDGE: Mr Faurby, that will be the better part of a decade since TAFE went down what was initially the disastrous Learning Management and Business Reform and then became the disastrous Educational Business System. How does it take a decade to get a functioning student management system in TAFE? How does that happen?

Mr FAURBY: You are asking me questions that I think require insights into what happened eight or nine years before I joined this organisation. It is a bit hard for me to comment on what the organisation was set up to do back then. But I think what is important for this question is to clarify the work that Mr Backley and his team has done in making sure that the SMS system and the way it gets implemented meets the requirements of the students of today and the students of the future. I am very, very satisfied with the way in which they have done that. I am satisfied with that from the perspective of adopting—

Mr DAVID SHOEBRIDGE: We have limited time, Mr Faurby. If you want to give more of an answer on notice, then please feel free to do so.

Answer:

I am advised the program of work to develop and implement a functioning student management system at TAFE NSW is a complex process and involves building a large, multi-faceted software system for the largest training enterprise in the country. TAFE NSW's current management team is taking the time to get it right. This program has evolved across four distinguishable phases (each providing key learnings for subsequent phases) and was brought in-house in 2020 with significant operational cost savings.

The four phases of the program are:

1. Phase 1 (2012-2014): The Department of Education Student Administration and Learning Management Program
2. Phase 2 (2014-2016): Adoption/Adaption of EBS by TAFE NSW
3. Phase 3 (2017-2019): Student Management Solution program (Part 1)
4. Phase 4 (2020-current): Student Management Solution Program (Part 2 - current)

Phase 1 and 2 replaced legacy solutions, however, the program continued support of the multiple RTO model rather than a single One TAFE NSW model.

During Phase 3, the new solution's aim was to deliver a singular student management solution. In this phase, the program delivered CRM functionality and nominal additional organisation capability but was unable to create the single system that was required within the timeframe.

From 2020, TAFE NSW brought the program in-house and the TAFE NSW team commenced a full design review of the built SMS system. This enabled a more customer centric approach to design, better integration with other systems and a release of the solution in a phased way to support business cycles. The team has created a single instance of the EBS solution, a robust identity management system and delivered a central consolidated secure system that enables migration to a new more functionally rich SMS environment in 2022.

A customer centric design and phased implementation will result in better outcomes for our teachers, our students and ultimately our communities.

p. 45 – Casual Conversions

Mr DAVID SHOEBRIDGE: Before we go to Ms Tickle, could you provide us with the correspondence you sent to staff advising that not one of the 7,700 eligible employees would be converted to permanent?

Mr FAURBY: We will be glad to provide that notice.

Answer:

Attached as requested.

p. 45- 46 – Casual Conversions

Ms TICKLE: Certainly. Just two points of clarification for Mr Shoebridge. I believe I heard you say we communicated two weeks ago. We communicated [audio malfunction] September, to be accurate. Also, just a nuance on what the managing director said there: We have converted temporary staff. Some 1,400 temporary staff [audio malfunction] permanent work in the last two years. In terms of the reasonable grounds under section 66 of the Fair Work Act, "reasonable grounds" were twofold. The first one is [inaudible] conversion would not comply with recruitment selection or processes, which applies to us. The second one under section 66 is where offers would require significant adjustment to regular patterns of work hours [inaudible]. I am very happy to explain both of those in more detail if the Committee would like me to.

Mr DAVID SHOEBRIDGE: I have run out of time, unfortunately, if you could put that on notice. I am sorry, I missed the date because the audio broke up when you were giving us the date.

Answer:

Employees were advised on Monday 27 September 2021.

Amendments to the Fair Work Act include provisions outlining reasonable grounds where employers are not required to convert casual employees.

Reasonable grounds under Subsection 66C(2)(d) of the Fair Work Act include where offers would not comply with a recruitment or selection process required under State law, and under Subsection 66B(1)(b) of the Fair Work Act where it would require a significant adjustment to the employee's regular pattern of work hours performed during the preceding six months.

On this basis, offers were not made by TAFE NSW to eligible casual employees to convert to permanent ongoing full-time or part-time employment because:

- TAFE NSW is required to comply with merit comparative assessment recruitment and selection processes under section 18 of the Technical and Further Education Commission Act 1990, like other NSW Public Sector agencies are required to comply with section 7 of the NSW Government Sector Employment (GSE) Act 2013 as well. This includes publicly advertising

permanent ongoing full-time and part-time roles, and ensuring the comparative assessment of candidates. This process differs from the recruitment and selection processes used with TAFE NSW casual employees.

- The TAFE NSW Teachers and Related Employees Enterprise Agreement sets out markedly different teaching and related duties hours for part-time casual and permanent employees. Any part-time casual employee who converted to permanent ongoing employment would be required to significantly change the work hours spent delivering teaching vs related duties. The significantly altered pattern of work hours would mean more related duties hours than what is operationally needed and less teaching hours to deliver the TAFE NSW course profile, which would negatively impact students and affect TAFE NSW's ability to deliver training to students.

TAFE NSW advised unions on Monday 27 September that between now and the end of 2021, TAFE NSW will work collaboratively with them and any casual employees who believe they are legitimately eligible to be converted to see if conversion can be offered.

A review of our casual workforce will also be undertaken during the first half of the 2022 calendar year. If the review indicates that TAFE NSW can create more permanent ongoing full-time or part-time positions, invitations will be extended to casual staff to apply and participate in a merit-based, comparative assessment recruitment and selection process.

p. 47 – Airds High School

The CHAIR: I ask the secretary about the pressing VET needs at Airds High School. It is in a public housing estate just south of Campbelltown, where they have very low rates of tertiary participation, university participation, after year 12. Why is Airds being made a Connected Communities high school—so Indigenous management—instead of a TAFE high school?

Ms HARRISSON: Thank you for the question. I am sure this will be something you might want to pick up with us next week in the Education hearing. The Connected Communities program has been expanded. Airds High School has a high proportion of Aboriginal students. As part of that program, there is nothing stopping the school also engaging in an EPPP program, as the Minister referenced, to make sure that the offer for the students at that school meets their needs. I am very happy to take further details on that on notice, for the plans for Airds High School.

The CHAIR: What constitutes a high level of Indigenous student population?

Ms HARRISSON: I will need to come back to you on notice on that. I will be happy to follow up on Tuesday because I do not have that information with me.

The CHAIR: Okay. Airds is 23 per cent Indigenous, 18 per cent Pacific Islander. There is not a big difference, is there, between 23 and 18? It has got 52 cultural backgrounds. Why would it be designated an Indigenous-management high school—one of those 52 cultural backgrounds—instead of meeting the pressing, burning vocational education and training needs that they have by declaring it a TAFE high school?

Ms HARRISSON: I am very happy to take the details of Airds High School on notice or to return to it next week. As part of the Connected Communities Strategy, one of our aims is to ensure that it is connected for all students, regardless of background, and ensure that we have the services across different government agencies coming to support those schools and those students. With that program comes a number of other investments in additional staffing for those schools and the like. I am very happy to provide further details on that.

Answer:

The Connected Communities Strategy is an approach that schools and communities can use to strengthen the educational outcomes for Aboriginal students and all

students. The Strategy is a whole of government approach that position schools as community hubs. It broadens the influence of the community and school leadership, to play a role in the delivery of key services, supporting children and young people from birth, through school and into further training, study and employment.

The decision to expand the Connected Communities Strategy to Airds High School was made after an extended process of consultation and detailed analysis. Various data sources, such as student enrolment data, health data, unemployment data, and Department of Communities and Justice data, were interrogated to identify schools where students and communities would benefit from a concerted effort to bring better and stronger interagency collaboration and service provision.

The identification of the Connected Communities schools is a multi-faceted approach with due consideration given to current and projected contextual needs. Greater Sydney boasts the highest number of Aboriginal people in Australia, let alone the State. The high density of schools within the Greater Sydney region distributes student numbers across a broader cohort of schools. Consequently, the number of Aboriginal students enrolled in Airds High School is considered to be in proportion to the whole school enrolment.

Designed to benefit all students, the main focus of the Connected Communities Strategy is to provide differentiated learning that is holistic and underpinned by local Aboriginal Culture. Each Connected Communities school has a local, place-based approach to determine the programs and initiatives that provide the best fit for the school's specific context, composition of enrolment and engagement needs.

Airds High School, as a new Connected Communities school and as part of the strategy, will continue to deliver contextual quality curriculum and training programs which meet the needs of all students. Key deliverables of the Connected Communities Strategy complement the Educational Pathways Pilot Program objectives by supporting students to make informed decisions regarding post school pathways.

There are no TAFE high schools in NSW. The NSW Government made an election

commitment in 2019 to pilot the establishment of two new vocational high schools. These will be operational from 2023 in Seven Hills High School and Tweed River High School. Selection of these locations was based on a range of criteria, including: Vocational education and training (VET) participation in schools; VET facilities already available in schools; and location of industries with future employment pathways.

Airds High Schools has participated in the Educational Pathways Program from 2020. The Program is designed to improve vocational education and career outcomes for young people. The Program includes initiatives to increase the uptake of School-Based Apprenticeship and Traineeship and “test and try” vocational learning with Registered Training Organisations, such as TAFE NSW.

As part of Educational Pathways Program Airds High School has:

- Supported School Based Apprenticeship and Traineeship (SBAT) commencements and completions:
 - Five new students are preparing to commence a SBAT in 2022 in the Early Childhood Education and Care, Allied Health, and Automotive industries.
 - The Airds High School student undertaking Certificate III in Mobile Plant Technology in 2021 is a finalist in the local ‘My Gateway Group Training Organisation’ awards.
 - In 2020, two students completed their SBAT, the first SBAT completions in Airds High School since 2014.
 - The first student mentored by the SBAT Engagement Officer in 2020 was offered and accepted a full-time apprenticeship in Heavy Commercial Vehicle Mechanical Technology Certificate III.
- Increased careers education opportunities:
 - The Educational Pathways Program’s Head Teacher-Career has established the Careers Immersion Team for the local Educational Pathways Program group of schools, which includes Airds High School. The Immersion Team includes the school’s executive members and the Careers Advisor from Airds High School, local employers and

training providers.

- With support from the Educational Pathways Program Head Teacher, the school responded to student needs and arranged White Card training for 20 students in June 2021.
- Prepared students for the workplace
 - 29 students attended a full day work readiness workshop on 22 March 2021.
 - Four students completed pre-apprenticeship training in Construction in March 2020 under the “test and try” GTO initiative with Macarthur Group Training Ltd.

The SBAT Engagement Officer partnership with the school has taken time due to challenges of accessing students under 2020 and 2021 COVID-19 restrictions. It is expected 2022 will see growth in participation with current mentoring activity.

From: MD TAFE NSW <

Sent: Monday, 27 September 2021 6:06 PM

To: MD TAFE NSW <

Subject: Changes to the Fair Work Legislation about Conversion from Casual to Permanent Ongoing Full-Time or Part-Time Employment



Dear colleagues

Earlier this year, the Federal Government introduced some changes to the Fair Work legislation for casual employees. One of the changes required employers to determine whether casual employees with at least 12 months service, who have worked a regular and systemic pattern of hours over the last six months, should be converted to permanent ongoing full-time or part-time employment (**attached** is the casual employment information statement).

Following a review of these changes, there are reasonable business grounds not to convert part-time casual teachers and counsellors, including any other casual employees across the organisation, to permanent ongoing full-time or part-time employment. Specifically, converting casual staff to permanent ongoing full-time or part-time employment does not comply with merit comparative assessment recruitment and selection processes required under the *Technical and Further Education Commission Act 1990 (NSW)* and/or the NSW Government Sector Employment legislation. The NSW Public Sector requires offers of permanent ongoing full-time or part-time employment to follow specific merit recruitment and selection processes. This involves an external advertisement through 'I work for NSW' and comparative assessment of candidates – which is different to a suitability assessment of applicants, a general merit recruitment and selection process (that involves only an interview and reference checking), and/or an on nomination recruitment process.

Further, the hours of work for part-time casual teachers and counsellors differ under the *TAFE Commission of NSW Teachers and Related Employees Enterprise Agreement 2020*. For example, the number of direct teaching and related duties hours are different for part-time casual teachers and counsellors when compared to permanent ongoing full-time or part-time teachers which would require a significant adjustment.

This means that TAFE NSW cannot convert part-time casual teachers and counsellors to permanent ongoing full-time or part-time employment without failing to comply with the recruitment or selection processes required under the law of a State, and it having a significant impact on our business operations. This could also mean any such changes to our workforce mix may inadvertently result in the need to make future changes to the size of our delivery workforce.

We expect that even as NSW reaches 70, 80 or 90 per cent double vaccination rates, TAFE NSW and the VET and higher education sectors will continue to feel the delivery and financial impacts of the COVID-19 pandemic well into 2022. Notwithstanding these disruptions, TAFE NSW will conduct a review of our casual workforce needs which includes part-time casual teachers and counsellors. If the review indicates that our operational needs can be better supported by creating more permanent ongoing full-time or part-time positions, invitations will be extended to part-time casual teachers and counsellors to apply and participate in a merit comparative assessment recruitment and selection process. I will provide more details as the review progresses during the first semester next year.

In the meantime, if you have any queries about the changes to the Fair Work legislation for casual employees please contact the TAFE NSW Workplace Relations team by sending an email to

Regards

Managing Director TAFE NSW





Fair Work
OMBUDSMAN

Casual Employment Information Statement

Employers must give this document to new casual employees when they start work. Transitional rules apply for existing employees. See www.fairwork.gov.au/ceis

IMPORTANT: New casual employees also need to be given the Fair Work Information Statement. Visit www.fairwork.gov.au/fwis for more information.

? Who is a casual employee?

From 27 March 2021, changes to workplace laws relating to casual employees mean that you are a casual employee if:

- you are offered a job
- the employer makes **no firm advance commitment** that the work will continue indefinitely with an agreed pattern of work
- you accept the offer knowing that there is **no firm advance commitment** and become an employee.

Whether you're a casual employee is assessed **at the time** you are offered and accept the job.

> No firm advance commitment

To work out if your employer made **no firm advance commitment** when offering you the job, only 4 factors are to be considered. They are whether:

- your employer can choose to offer you work and it's your choice whether to work or not
- you'll be offered work when the employer needs you to work
- your employment is described as casual
- you'll be paid a casual loading or a specific pay rate for casual employees.

A regular pattern of work doesn't automatically mean you're permanent (full-time or part-time).

Find out more about casual employment at www.fairwork.gov.au/casual

📄 Becoming a permanent employee (casual conversion)

As a casual employee, you have the right to become a permanent (full-time or part-time) employee in some circumstances. This is known as 'casual conversion'.

> Small businesses

If you are employed by a small business (fewer than 15 employees), your employer does not have to offer you casual conversion, but you can make a request to your employer if you meet the requirements for making a request (see table below). Unlike employees who work for a business with 15 or more employees, you don't have to wait until 28 September 2021 before you can make a request. Find out more information about what a small business employer is and the rules for making a request at www.fairwork.gov.au/casualconversion

> Other businesses

If you work for a business with 15 or more employees, the rules about offers and requests for casual conversion are:

OFFERS	REQUESTS
<p>Your employer must offer you casual conversion if:</p> <ul style="list-style-type: none"> • you've been employed by them for 12 months • you've worked a regular pattern of hours for at least the last 6 months on an ongoing basis, and • your regular hours could continue as a permanent employee without significant changes. <p>Your employer doesn't have to offer you casual conversion if:</p> <ul style="list-style-type: none"> • there are reasonable grounds for them not to, or • you are not eligible. <p>Depending on when you started as a casual employee with the employer, there are different rules and timeframes that apply.</p> <p>If you started as a casual employee before 27 March 2021, your employer needs to assess whether they need to make you an offer for casual conversion by 27 September 2021. If you meet the requirements, they need to make the offer to you in writing within 21 days after making the assessment. You have to respond in writing within 21 days after the offer is given to you.</p>	<p>From 28 September 2021, you can make a request to your employer to become a permanent employee if:</p> <ul style="list-style-type: none"> • you've been employed by them for at least 12 months • you've worked a regular pattern of hours in the last 6 months on an ongoing basis • your regular hours could continue as a permanent employee without significant changes • you haven't refused a previous offer to become a permanent employee in the last 6 months • your employer hasn't told you in the last 6 months that they won't offer you casual conversion on reasonable grounds, and • your employer hasn't already refused a request from you to become a permanent employee based on reasonable grounds in the last 6 months.

Last updated August 2021


OFFERS (continued)

If your employer decides not to offer you casual conversion (including if you don't meet the requirements because you haven't been employed for 12 months), your employer needs to tell you that in writing within 21 days of making the assessment but by no later than 27 September 2021.

If you started as a casual employee on or after 27 March 2021 and are eligible for casual conversion, your employer needs to make the offer to you in writing within 21 days after your 12-month anniversary. You have to respond to the offer in writing within 21 days after the offer is given to you.

If your employer doesn't have to offer you casual conversion, they need to tell you that in writing within 21 days after your 12-month anniversary.

REQUESTS (continued)

You need to make the request in writing. You can make the request from 21 days after your 12-month anniversary. Your employer has to respond within 21 days. Your employer can only say no after consulting you, and only if there are reasonable grounds. They have to tell you in writing.

If your employer refuses a request on reasonable grounds, you won't be able to make another request for 6 months. You'll need to meet the requirements to make another request.

 > **Find out more about casual conversion requirements**

Find out more, including rules about timeframes, making the offer or request in writing and responding in writing, and what counts as reasonable grounds, at www.fairwork.gov.au/casualconversion


What if there is a disagreement?

If you and your employer have a disagreement about casual conversion, there are steps you can take to help resolve it:

- If you're covered by an award, agreement or employment contract with a process for dealing with disputes relating to the National Employment Standards, you need to follow that process.
- If **not**, you need to try to resolve the disagreement directly with your employer first. If you aren't able to resolve it, you can refer your dispute to the Fair Work Commission.

You can also seek help from the Federal Circuit Court (including the small claims court) if your dispute is about whether:

- you meet the requirements for your employer to make an offer to you to become a permanent employee
- you meet the requirements to make a request to your employer for casual conversion
- your employer has reasonable grounds to not offer or agree to your request for casual conversion.

You can have someone to support or represent you through the dispute process (which could include a union entitled to represent you).

Get help with conversations: Find free online courses to help you have conversations at work (including about casual conversion) at www.fairwork.gov.au/learning

WHO CAN HELP?

The Fair Work Ombudsman, Fair Work Commission and Australian Building and Construction Commission can help:

FAIR WORK OMBUDSMAN

- provides information and advice about your rights as a casual employee, including casual conversion entitlements
- gives information and advice about pay and entitlements
- has free calculators, templates and online courses
- helps resolve workplace issues
- enforces workplace laws and seeks penalties for breaches of workplace laws.

www.fairwork.gov.au - 13 13 94

FAIR WORK COMMISSION

- deals with disputes about casual conversion (if you are not able to resolve them directly with your employer)
- can deal with your dispute through mediation, conciliation, making a recommendation or expressing an opinion
- if you and your employer agree, can deal with your dispute through arbitration (making a binding decision).

www.fwc.gov.au - 1300 799 675

If you work in the commercial building industry the Australian Building and Construction Commission can help.

www.abcc.gov.au - 1800 003 338

From: MD TAFE NSW < >
Sent: Monday, 27 September 2021 6:08 PM
To: MD TAFE NSW < >
Subject: Changes to the Fair Work Legislation about Conversion from Casual to Permanent Ongoing Full-Time or Part-Time Employment



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We expect that even as NSW reaches 70, 80 or 90 per cent double vaccination rates, TAFE NSW and the VET and higher education sectors will continue to feel the operational and financial impacts of the COVID-19 pandemic well into 2022. Notwithstanding these disruptions, TAFE NSW will conduct a review of our casual workforce needs. If the review indicates that our operational needs can be better supported by creating more permanent ongoing full-time or part-time employment opportunities, invitations will be extended to casual staff to apply and participate in a merit comparative assessment recruitment and selection process. I will provide more details as the review progresses during the first semester next year.

In the meantime, if you have any queries about the changes to the Fair Work legislation for casual employees please contact the TAFE NSW Workplace Relations team by sending an email to

Regards

Managing Director TAFE NSW



TAFE
NSW



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Fair Work
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www.fwc.gov.au - 1300 799 675

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www.abcc.gov.au - 1800 003 338

Last updated August 2021