



# **Sydney Metro**

## **Responses to Post-hearing questions**

Public Accountability and Works Committee

Inquiry into the NSW Government's use and  
management of consulting services

Hearing Date – Tuesday, 5 September 2023

## QUESTIONS ON NOTICE

### QUESTION:

1.

**The CHAIR:** Thank you for coming along and for providing that opening statement. Can we just start with the overall picture? Looking at your annual reports, there's a combined contractors and consultants spend, which is multiple times the value of the consultants spend. For example, in 2020 consultants were around \$587,000, whereas total contractors and consultants was \$47.2 million. A similar magnitude of difference applies as we go through. In 2022, \$3 million was disclosed, but \$205 million in total. I understand that that was a particularly big year because of some COVID-related expenses. Can you tell us what sits within that larger amount of contractor and consulting spend?

**FIONA TRUSSELL:** I think our large program of works—our \$60 billion program of works—and, as I mentioned, our blended workforce, the way in which we operate to manage and deliver our program of work, our three mega projects, concurrently, the phases and the life cycle of project management and also the scale of activities means that there are different phases and activities that occur across our business throughout the year and throughout the program of work. I think, as you're reflecting on the 2021-22 annual report—the specific detail—I am happy to take that on notice, but it does reflect some step up in COVID-related activities as well.

### ANSWER:

Sydney Metro currently has a blended workforce approach, comprising of a combination of government employees, Labour Hire and Professional Services Contractors (PSC).

PSCs are either 'Integrated Team Members' or 'Outsourced Work Packages'. Sydney Metro defines an 'Integrated Team Member' as a contracted resource engaged to provide services that support the delivery of our core work. 'Outsourced Work Package' contractors deliver discrete parcels of work in accordance with detailed contract specifications. These do not include legal services. These definitions of PSCs, Integrated Team Members, or Outsourced Work Packages apply to these terms when used throughout this document.

The question relates to two separate disclosures in 2021-22:

1. Table M: Payment to consultants (at page 64 of the Sydney Metro 2021-22 Annual Report Volume 1)

Payment to consultants in Table M is calculated based on actual expenditure with consultants during the financial year. For Table M, Sydney Metro uses the definition of consultants in Procurement Board Direction 2021-03.

2. The 'Other contractors and consultants' line item shown under 'Note 2(b) other operating expenses' (at page 12 of the Sydney Metro 2021-22 Annual Report Volume 2 Financial Statements)

The line item discloses the operating expenditure incurred by Sydney Metro in the 2021-22 financial year and does not include capitalised expenditure which would be included in the Property, Plant and Equipment balances under the Statement of Financial Position.

Specifically, the breakdown of this line item is as follows:

Totals in \$ thousands:

Category	Total
Labour Hire	6,371
Professional Services	32,567
Consultant	1007
Construction Claims	165,464
<b>Total</b>	<b>205,409</b>

The 'Construction Claims' shown above reflects the COVID-related expenditure incurred as a result of COVID-19 health restrictions from July to October 2021 which caused disruptions that resulted in increased costs from contractual obligations with major contractors.

**QUESTION:**

2.

**The CHAIR:** Okay. I am just looking at the 2021-22 figures. We have a full-time equivalent of 1,071.7 in your headcount: some 852 of them are government staff and around 230 are labour hire. Does that sound right?

**FIONA TRUSSELL:** To be really clear and check those numbers, I would have to take that on notice. Typically, it's around the 70 per cent to 30 per cent mix.

**ANSWER:**

As of 30 June 2022, Sydney Metro had 1,082 government employees (equivalent to 1,071.7 FTE). This is referenced on page 71 of the Sydney Metro Annual Report 2021-22 Volume 1 which also notes that these figures are exclusive of labour hire engagements.

The table below shows the breakdown of government and labour hire workforce.

Engagement type/level	Headcount	% of total workforce
Government - Award	623	53%
Government - Transport Senior Service Manager	229	19%
Government - Transport Senior Service Executive	230	20%
<b>Total government workforce</b>	<b>1082</b>	<b>92%</b>
<b>Labour hire</b>	<b>97</b>	<b>8%</b>
<b>Total workforce</b>	<b>1179</b>	

It should be noted that the headcount and FTE for labour hire was the same as of 30 June 2022.

The reference to a 70/30 workforce mix relates to the approximate percentage split between government employees (70%), and labour hire and professional service contractors engaged (30%), as part of Sydney Metro's Integrated Teams.

**QUESTION:**

3.

**The CHAIR:** How does that relate to that, when we take it back to the annual reports and we see the consultant and contractor spend? So, for instance, take a more normal year like the 2021 financial year. The total contractors and consultants spend was \$28.6 million. What percentage of that would be from that non-government staff spend?

**FIONA TRUSSELL:** I would have to take that specific question on notice, if I may.

**The CHAIR:** That would be really useful. Are you able to also take on notice an analysis of how many of those people have been working within government for more than a year, more than two years, more than three years et cetera?

**FIONA TRUSSELL:** I'm happy to take that question on notice.

**ANSWER:**

The question relates to the 'Other contractors and consultants' line item shown under 'Note 2(b) other operating expenses' (page 16 of the Sydney Metro 2020-21 Volume 2 Financial Statements) which totals \$28,605,000.

Based on analysis, approximately 95% of this expenditure is non-government spend.

The nature of the expenditure shown in this line item includes labour hire, professional services, valuer general costs, construction claims and other accrued expenditure which are of an operating nature (that is, under accounting they cannot be capitalised to a project or asset). The nature of the accounting treatment does not allow for specific analysis by individuals.

**QUESTION:**

4.

**The CHAIR:** How many professional service contractors hired at Sydney Metro in the last three years have been on contracts worth the equivalent of, like, a band 2?

**FIONA TRUSSELL:** Again, that's a level of detail that I certainly don't have with me this afternoon, but I would be happy to take that question on notice.

**The CHAIR:** If you could, because I can't see the specific number of labour hire or contract staff. Anything you can give me as a bit of a breakdown as to how many there are and what equivalent level that they tend to sit at—that kind of thing. That would be incredibly useful.

**ANSWER:**

The salary of a Band 2 employee ranges from \$287,201 to \$361,300 and is not comparable to a contract paid to a professional service contractor firm for workers, which includes a range of oncosts borne by the firm that include insurance, superannuation, leave entitlements and other matters.

**QUESTION:**

5.

**The Hon. PETER PRIMROSE:** I look at, for instance—and earlier today I was looking at—things like Transport for NSW and the Treasury advice that they produce in relation to all different agencies. For Transport for NSW there are two categories and Treasury gives specific numbers to them. There are consultant expenses and contractor expenses. In relation to Sydney Metro, there is a particular classification called contractor expenses—it lists a particular number—but there are no consultant expenses. Now, it's almost impossible, I suspect, if someone goes through and simply looks at this, they would assume that—I don't understand why Transport for NSW has two, whereas Sydney Metro only has contractor expenses, according to NSW Treasury. What is a contractor?

**FIONA TRUSSELL:** I am not immediately sure about what particular document you are referring to. It's a little bit difficult for me to provide context to your question. In terms of definitions of consultants versus contractor, we work with Transport for NSW and we sit within the Transport cluster. We utilise New South Wales Government policy, procurement guidelines, Procurement Board directions and the like, and we also utilise a Transport consultancy definition fact sheet.

**The Hon. PETER PRIMROSE:** But you would see why I'm confused because you say you use the things. Transport for NSW, and the other agencies that we've met with this morning, have both, so you can disaggregate it. Whereas I would assume that Treasury would be a reasonably central agency but for your organisation there are only contractor expenses. If anyone was going through this document, they would assume you don't employ consultants at all.

**FIONA TRUSSELL:** We do report in our annual report every year our consultancy expenditure. So as I indicated in my opening statement, \$2.7 million worth of consultancy expenditure in 2021-22 against 12 engagements.

**The Hon. PETER PRIMROSE:** Can I ask you to take it on notice—and I am not being funny about it. I just don't understand why the Treasury doesn't list you as having any consultants at all. Either Treasury's wrong or there's something wrong in terms of your reporting to Treasury.

**FIONA TRUSSELL:** I would be very happy to take your request on notice.

#### **ANSWER:**

This response assumes the document shown at the hearing is an extract from the NSW Treasury PRIME reporting system.

In financial year 2021-22, Sydney Metro had reported in the NSW Treasury PRIME system, an aggregate figure which included consultant expenditure within the PRIME account 'AE208020001 Contractor Expenses'. This aggregated reporting into PRIME was also reviewed by NSW Treasury at the time and no issues were raised with Sydney Metro.

However, from financial year 2024 onwards, Sydney Metro has included a separate budget line within PRIME account 'AE208020001 Consultant Expenses' which will specifically include the actual consultant expenditure as part of the regular reporting into the NSW Treasury PRIME system. This will mean the contractor and consultant expenses will no longer be aggregated as they have been previously reported.

#### **QUESTION:**

6.

**The CHAIR:** Can I ask you, Ms Trussell—I suspect you will have to take this on notice—what is the average amount of remuneration that's being paid for that project manager level when it's a contractor within Sydney Metro? Do you know?

**FIONA TRUSSELL:** I would have to take that on notice, in terms of our employee salary bands. I am happy to if that's your question. Or is it—

**The CHAIR:** No, it's in terms of the contracting. I'm not sure if you were watching this morning, but we were talking with Transport and Infrastructure about the numbers of consultants or contractors who are appointed to a particular role instead of an employee. Do you know how many of those you have in Sydney Metro and what their average remuneration might be?

**FIONA TRUSSELL:** I will take it on notice, but what I will say is that we may not know the remuneration specifically that individuals are paid by third parties.

**ANSWER:**

At 19 September 2023, Sydney Metro has 520 Integrated Team Members as part of its blended workforce.

Sydney Metro is charged an hourly rate that covers all costs associated in providing the resource.

The current average hourly rate charged out for these Integrated Team Members is \$286.00 (ex GST).

Given that these contracts charge per hour, depending on the services they are providing, the hours may fluctuate during the year.

A number of these individuals are highly specialised people in their fields who are only available as professional service contractors in the current market.

**QUESTION:**

7.

**The CHAIR:** Are you aware of a director within Sydney Metro—a project manager—called Barry McGrattan?

**FIONA TRUSSELL:** I don't personally know Barry.

**The CHAIR:** Barry McGrattan has been at Sydney Metro for nine years and 11 months in various roles, and during that same time has been the managing director of a company called Bellgrove Advisory. Bellgrove Advisory is also listed on—I just did an eTendering search and I came up with 10 different roles that Bellgrove Advisory has been granted by Metro in the last year. Some of them range as high as \$700,000. I have got one here for two years for \$951,000. There are a bunch of contracts which appear to be effectively hiring people into Metro. Are you aware of these?

**FIONA TRUSSELL:** I am aware of Bellgrove Advisory, amongst other contracts that the organisation operates, all of which are disclosed on our eTendering website. As I mentioned at the outset, we do operate a blended workforce and that blended workforce can engage specialist skills as required. They may be in the commercial management, they may be—there is a variety of specialist skills that are required, subject to the timing of the project and the phase of the project. All of those arrangements are conducted in accordance with the New South Wales procurement guidelines and use of panels and schemes, as applicable.

**The CHAIR:** How many Bellgrove Advisory people do you have sitting within Sydney Metro?

**FIONA TRUSSELL:** I would be happy to take that question on notice.

**ANSWER:**

At 18 September 2023, there are 13 personnel named under current Professional Services Contracts with Bellgrove Advisory.

**QUESTION:**

8.

**The CHAIR:** The eTendering system only requires contracts be kept on there for three months after they have been published—some of them stick around a little bit longer, but we don't get to see much past that or to go, sort of, historically. Sitting on there at the moment are 10 contracts for Bellgrove Advisory and we know that somebody seemingly employed in Sydney Metro for 10 years is the managing director of Bellgrove Advisory. Does that not raise flags for you in terms of conflicts of interest?

**FIONA TRUSSELL:** As I said, we have rigorous processes for managing conflicts of interests. Contractors and professional services providers are not decision-makers. They have no delegated authority. They have no ability to make decisions.

**The CHAIR:** Perhaps you could confirm whether he is in fact an employee or a contractor. Do you know, off the top of your head?

**FIONA TRUSSELL:** I'd have to take that question on notice. I believe we're talking about a contract, not an employee.

**ANSWER:**

Mr McGrattan is not, and has never been, an employee of Sydney Metro. Mr McGrattan is a resource made available under contract with Bellgrove Advisory.

Sydney Metro operates in accordance with the Sydney Metro General Delegation Schedule – August 2023 which states: “Delegations may only be exercised by employees (not contractors or labour hire).”

Additionally, Sydney Metro has procurement and contract management processes that support robust and transparent decision making. The Sydney Metro Procurement & Contract Management Standard sets out the obligations for all participants involved in procurement and contract management activities to have completed Statements of Interests and Associations which are assessed, and management actions implemented including removing individuals from processes where appropriate.

**QUESTION:**

9.

**The CHAIR:** Do you think it's common or are you surprised that there are professional services contractors employed by Metro on over half a million dollars a year? Does that strike you as a lot?



**FIONA TRUSSELL:** Look, I'm not going to comment on the specifics of what we pay on a daily rate. They are relative to the PMS scheme. There are competition limits and the like that are in place, and they're competitively sourced.

**The CHAIR:** At that sort of director level, if they were employed directly by Sydney Metro then they would be on about half of that, wouldn't they?

**FIONA TRUSSELL:** I'd have to take that question on notice.

**ANSWER:**

Sydney Metro complies with the Procurement Policy Framework in respect of its procurement and contract management processes. The resources engaged are competitively procured, where appropriate, and the rates payable for PSCs align with the Performance and Management Services Scheme – Commercial Framework rates and are reflective of market conditions.

The remuneration packages for Public Sector Senior Executive are determined in line with job evaluation and remuneration guidelines.

**QUESTION:**

10.

**The Hon. Dr SARAH KAINE:** I just want to rephrase the Chair's question, because when you said "there is knowledge that they have brought into the team", I think the confusion from our end is, if they've been sitting in that team for 10 years, what is it that they're bringing that isn't already in the team?

**FIONA TRUSSELL:** I'm happy to take the specific question on notice.

**ANSWER:**

In the current Australian infrastructure market there is a skills shortage for a number of highly specialised roles. In many of these cases, these individuals are in high demand and are only available as professional service contractors.

Sydney Metro shares knowledge consistently across our projects, with other government departments in Australia and internationally, and with our private sector delivery partners.

**QUESTION:**

11.

**The Hon. MARK BUTTIGIEG:** The Chair has said that this was a 10-year continuous contract.

**The CHAIR:** It was 10 years working in government, across different positions in Transport.

**The Hon. MARK BUTTIGIEG:** So, effectively, where the department is paying someone the equivalent of the secretary of the department, presumably there is an assessment that the value-adds are equivalent to what the secretary of the whole department adds. Essentially, that's the—

**The CHAIR:** That's more than the Prime Minister. When we're talking about value-add—and this isn't an exception. Again, I don't want to devalue the work of my office, but it's very easy to find examples of this type of arrangement.



**The Hon. PETER PRIMROSE:** Ms Trussell, if you are unable, given your recent arrival and your position, to answer the questions we are putting, who within your organisation can?

**FIONA TRUSSELL:** Well, it's best we take them on notice and provide you a response.

**The Hon. PETER PRIMROSE:** Are you saying you don't know, or you won't say?

**FIONA TRUSSELL:** No, I'm saying that I'm happy to take it on notice and consider your specific question and provide you the response.

**The Hon. PETER PRIMROSE:** So you're not aware of who in your organisation knows the reasons why these people are being employed?

**FIONA TRUSSELL:** Well, there is a specific example that has been provided and my response was "I don't have the details for that specific example, so we'll take it on notice and provide a response."

**ANSWER:**

There have been six separate contracts for the services of Mr McGrattan over the 10-year period referenced.

On three separate occasions an open tender process was conducted to determine the best value for money outcome. On the other three occasions, the NSW Government Performance & Management Services Scheme was utilised. NSW Procurement recommends the use of this Scheme by NSW Government agencies.

External service providers, such as Mr McGrattan, are engaged to provide Sydney Metro with the services defined by the respective professional services contract under which they are engaged. These services are often not available in the recruitment market due to the highly specialised nature and related market conditions.

Sydney Metro complies with the Procurement Policy Framework in respect of its procurement and contract management processes. The resources engaged are competitively procured, where appropriate, and the rates payable for PSCs align with the Performance and Management Services Scheme – Commercial Framework rates and are reflective of market conditions.

**QUESTION:**

12.

**The Hon. Dr SARAH KAINE:** Could I ask you to provide on notice the last report of the probity committee that looked at conflicts of interest and checked those that weren't declared? Could we get that on notice please?

**FIONA TRUSSELL:** I am happy to take that on notice.

**ANSWER:**

Sydney Metro has a dedicated Probity Team that manages the Sydney Metro procedures relating to Conflicts of Interest, provides advice to Sydney Metro personnel on probity matters and manages independent external probity advisors that are assigned to major procurement packages.

Data maintained by the team relating to requests for probity advice on conflict-of-interest related matters shows that since April 2022, 137 requests have been received and advice provided by the Probity Team. Advice relating to Statements of Interests and Associations

(SIAs) for major procurement packages is provided by the assigned external Probity Advisor directly to the accountable Project Director or Executive.

In addition to SIAs, conflicts are declared and managed through the Conflict of Interest Register and the Senior Service Declaration Portal in accordance with Sydney Metro's procedures.

**QUESTION:**

13.

**The CHAIR:** Perhaps you could come back on notice with the numbers of people who may have been—the number of investigations or some sort of information that could give us some assurance that some action gets taken somewhere.

**FIONA TRUSSELL:** I am happy to take that on notice and see what we can provide for you.

**ANSWER:**

Sydney Metro established a Fraud and Corruption Investigation capability in April 2022. Where investigations result in substantiated allegations, appropriate disciplinary procedures are followed. Sydney Metro reports to ICAC as required under the ICAC Act.

Prior to the establishment of Sydney Metro's investigation function, all matters were referred to TfNSW's Workplace Conduct and Investigation unit.

**QUESTION:**

14.

**The CHAIR:** We have allowed a two-tier workforce to occur within Sydney Metro and other parts of Transport, wouldn't you agree, where some people are paid one thing and then somebody sitting across from them, who happens to be a contractor, is paid two or three times more than that. Again, is that not a problem from your perspective and something that you would be looking to investigate and potentially change in the future?

**FIONA TRUSSELL:** Workforce planning is certainly an area of activity and review that is ongoing all the time, relative to the project and relative to the projects of the activities, the skill sets, the capabilities and the capacity of the business. So we are continuously reviewing our workforce plan and our workforce needs. To deliver a \$60 billion program of work, we work with a multitude of industry partners and providers to enable those services to be delivered. We absolutely have a continuous program of work and planning to enable us to be comfortable that we are delivering the value for money. It's a rigorous part of our ongoing assessment, as I said, right through the life cycle, through the plan, through the procure and through the manage of the project.

**The Hon. MARK BUTTIGIEG:** But, somewhere along the line, doesn't someone look at these things and go, "Hang on a minute, this bloke has been on the books for 10 years"—I am using this as an emblematic example because the Chair has raised it—"and we are paying him \$600,000 a year, effectively. I wonder if we could do that better. We may as well resource someone internally for \$300,000 or \$200,000"? Does anyone actually put that?

**FIONA TRUSSELL:** Maybe I didn't explain myself well enough; my apologies. If we look at our workforce needs and we look at the outcomes and the services that we need to deliver, it depends on the peak and the nature of the activity of work. If we assess that we're going to

have a need for those particular services right up-front over a longer period of time—it can be short-term or it could be mid-term—we will assess that and review that. All of our arrangements have contract dates. They are reviewed relative to contract dates and business needs throughout the program of work.

**The Hon. MARK BUTTIGIEG:** In terms of this particular example—and, as the Chair has pointed out, with a bit of legwork, there's many more—are you confident that there has been value for money in that particular arrangement over a 10-year period?

**FIONA TRUSSELL:** In terms of the specific examples that were provided, I'm happy to take the detail on notice. I don't have the detail across those. But value for money is certainly an important assessment in everything that we do.

**ANSWER:**

Refer to the response provide to question 11 of the Questions on Notice.

**QUESTION:**

15.

**The CHAIR:** While we're on variations, can I ask you just about two specific ones before I move on to other things? You may need to take these on notice. I understand. There's one for cost-consulting services that was awarded to E3 Advisory. There was a variation published on 20 March. Under that variation, the contract was extended by a month, from 29 June 2023 to 31 July 2023. The amount payable went from \$262,405 up to \$660,000. I'm curious as to how it doubled for one month's extra work. Do you know any visibility on that one?

**FIONA TRUSSELL:** I don't have that level of detail with me, Chair—happy to take that on notice.

**The CHAIR:** Then I've got another one here, for probity advisory services with O'Connor Marsden. This one is advisory services of the Sydney Metro West projects. This one runs from 21 October 2021. The variation was published—it must have been the original, published on 25 November 2021—I'm not sure. It then says that the amended contract duration is one day extra. So it's gone from 31 August 2024 to 1 September 2024. But the amount goes from \$331,238 to \$1.153 million, which is like a three-times extension for a one-day extension in contract length—so that is another one that would be good if you could look into.

**FIONA TRUSSELL:** I am happy to take that on notice for you, Chair.

**ANSWER:**

**E3 Advisory**

The contract disclosure for the E3 Advisory contract was originally published on 20 March 2023.

The variation to the contract in question was published on the 13 June 2023.

The variation was for additional scope that was required over the course of the entire contract to be delivered by the revised completion date of 31 July 2023.

The services under this contract were delivered by a team of experienced and suitably qualified professionals as opposed to one individual contractor.

**O'Connor Marsden**

A Standing Offer Deed (SOD) was awarded to O'Connor Marsden (OCM) in 2021 following an Open Tender process for the provision of independent probity advisory services. A Contract disclosure was published on 25 November 2021 for this engagement.

Under the provisions of the SOD, individual packages of work (Services Orders) are issued as required for the provision of independent probity advisory services on major transactions. The amount disclosed reflects the cumulative value of all Services Orders issued to OCM under the SOD.

The 'one-day extension' was to correct an error in the published contract completion date. The disclosure has been further amended to reflect the full Term of the SOD (which began on 1 September 2021 rather than the originally published 21 October 2021). In addition, a Standing Offer Notice (SON) has been published, to reflect the standing offer arrangement in place. The disclosure has been linked to this SON.

The services under this SOD are being delivered by a team of experienced and suitably qualified professionals who are prequalified under and in accordance with the Performance and Management Services Scheme rules.

**QUESTION:**

16.

**The CHAIR:** Did you have oversight of Transport for NSW work with Mr Lyon from KPMG?

**FIONA TRUSSELL:** Chair, can I say that this afternoon I am here representing Sydney Metro. I don't have much information at hand with regard to TAHE, so I would be more than happy to take your questions on notice—if I can say that from the outset.

**ANSWER:**

Yes.

**QUESTION:**

17.

**FIONA TRUSSELL:** I do think it's appropriate to say that absolutely up-front that I will have to take questions on notice with regard to TAHE. But I can confirm that I do know Brendan Lyon.

**The CHAIR:** The reason I ask—firstly, unfortunately we were not able to have the chance to speak with you during the TAHE inquiry, even though you were named on a number of the emails. It is very handy to have you here. Given that we are looking at the way in which government is using consultants, I am particularly interested in your thoughts from that time around the conflicts of interest that KPMG had, how they were managed and whether you had any—I'm trying to put this in a way that you don't feel that you are stepping outside of the role that you are here for. Are there any recommendations you would have in terms of government using consultants going forward to avoid the conflicts of interest issues that happened during that TAHE work?

**ANSWER:**

Sydney Metro cannot comment on any matters relating to TAHE.

**SUPPLEMENTARY QUESTIONS****QUESTION:****1.**

How many people does Sydney Metro have working for it who aren't direct employees? How many are labour hire/contractors/consultants? Please provide as much detail as possible.

a. Why is this not disclosed in the annual report?

**ANSWER:**

Sydney Metro currently has a blended workforce approach, comprising of a combination of government employees, Labour Hire and PSCs.

PSCs are either 'Integrated Team Members' or 'Outsourced Work Packages'. Sydney Metro defines an 'Integrated Team Member' as a contracted resource engaged to provide services that support the delivery of our core work. 'Outsourced Work Package' contractors deliver discrete parcels of work in accordance with detailed contract specifications. These do not include legal services. These definitions of PSCs, Integrated Team Members, or Outsourced Work Packages apply to these terms when used throughout this document.

As of 19 September 2023, there are 53 personnel engaged under labour hire contracts.

As of 19 September 2023, there are a total of 3,276 personnel named and approved to work under professional services contracts, however, this does not mean every individual named is currently providing services to Sydney Metro. This includes 2,809 personnel under outsourced work packages such as contracts for design and engineering services.

**Answer to a):**

Sydney Metro complies with its obligation to report consultant expenditure in accordance with the annual reporting requirements in the Government Sector Finance Act 2018.

Those consultants that meet the definition of Consultants according to Procurement Board Direction 2021-03 are disclosed in the annual report.

All contracts valued at \$150,000 or more (including GST) are publicly disclosed on the NSW Government eTendering website in accordance with the Government Information (Public Access) Act 2009.

**QUESTION:****2.**

How many professional services contractors have been employed by Sydney Metro since 2020, and at what cost?

a. Why is this not reported in the annual reports?

**ANSWER:**

As at 19 September 2023, Sydney Metro has awarded 523 professional services contracts since 1 January 2020. Contracts may have short or long duration and one or more resources made available under that contract. This includes outsourced work packages such as contracts for design and engineering services. The total value of the awarded contracts since 1 January 2020 is \$1,186 million (this does not include contracts awarded prior to 1 January 2020 but were ongoing).

**Answer to a):**

Sydney Metro complies with its obligation to report consultant expenditure in accordance with the annual reporting requirements in the Government Sector Finance Act 2018.

Those consultants that meet the definition of Consultants according to Procurement Board Direction 2021-03 are disclosed in the annual report.

All contracts valued at \$150,000 or more (including GST) are publicly disclosed on the NSW Government eTendering website in accordance with the *Government Information (Public Access) Act 2009*.

**QUESTION:**

3.

How many professional services contractors are employed by Sydney Metro or related entities on remuneration of \$500,000-plus a year?

**ANSWER:**

No professional services contractors are employed directly by Sydney Metro.

Sydney Metro is not aware of the employment or contractual arrangements between service providers and their employees or subcontractors.

The price of a contract does not equate to the salary of an employee and factors in a number of oncosts borne by the supplier, such as insurance, superannuation, leave entitlements and other matters.

The contracts these personnel are engaged under include outsourced work packages such as contracts for design and engineering services.

**QUESTION:**

4.

How many variations have been made to professional services contractors agreements with Sydney Metro since 2020 and why are they not converted to permanent roles to reduce costs?

**ANSWER:**

There were a total of 1774 variations across 436 contracts (since 1 January 2020). In the 2 year period 30 June 2020 to 30 June 2022 the number of Sydney Metro employees increased from 476 to 1082, as reported in Sydney Metro Annual Reports 2020-21 and 2021-22.

Due to the significant scale and complexity of the portfolio of works Sydney Metro is delivering, there will always be a need to supplement our workforce with contractors. However, and where possible, the preference is to fill positions with government employees.

Some of these contracted resources are delivering outsourced packages of work. In the current Australian infrastructure market there are well-known skills shortages, and many specialised resources are only available as professional service contractors.

**QUESTION:**

**5.**

How many of those contractors have been working in roles at Sydney Metro for more than:

- a. 1 year?
- b. 2 years?
- c. 3 years?
- d. 4 years?
- e. 5 years?
- f. 6 years?
- g. More than 6 years?

**ANSWER:**

- a. more than 1 year - 700
- b. more than 2 years - 810
- c. more than 3 years - 488
- d. more than 4 years - 646
- e. more than 5 years - 77
- f. more than 6 years - 287
- g. More than 6 years – as per answer f.

This information takes into account all personnel named under all Professional Services Contracts (as at 19 September 2023) including outsourced work packages such as design and engineering contracts which are established for multiple years to meet project delivery timeframes following open tender processes. Many contractors do not work in a full time capacity or may be listed as personnel but have not completed work under the relevant contract in some time. Contractors operate as directed by Sydney Metro under the terms of a professional services contract and are not necessarily FTE equivalent.

The above numbers include PSC resources who have been engaged on multiple contracts and across multiple projects over time.

**QUESTION:**

**6.**

What is the longest period any contractor has worked in roles (whether a single role or multiple roles) at Sydney Metro?

**ANSWER:**



12 years (the period that a resource was named and available to provide services to Sydney Metro under multiple contracts). This does not mean the individual provided services for that entire period of time.

**QUESTION:**

7.

How many professional services contractors hired at Sydney Metro since 2020 have been on contracts worth above TSSE Band 2 rates (\$351,591.13 in 2021/22)?

**ANSWER:**

The salary of a Band 2 employee ranges from \$287,201 to \$361,300 and is not comparable to a contract paid to a professional service contractor firm for workers, which includes a range of oncosts borne by the firm that include insurance, superannuation, leave entitlements and other matters.

**QUESTION:**

8.

What is the average remuneration for project managers per hour and annually? How many project managers does Sydney Metro have?

**ANSWER:**

For the purposes of this question, a 'Project Manager' references any government employee, labour hire or professional service contractor engaged against a position with 'Project Manager' in the title. Additionally, as this request is for headcount, this response does not take into consideration any vacant positions that Sydney Metro might have.

Sydney Metro either employs or engages a total of 181 Project Managers.

The average remuneration of a Government employee is \$216,492 per annum based on actual rates as at 31/08/2023 but this excludes on-costs paid by Sydney Metro such as the employee's payroll tax, worker's compensation and other entitlements. .

Sydney Metro engages a service provider to provide, as required, labour hire or professional service contractors. Hourly rates paid by Sydney Metro include oncosts borne by the service provider that may include insurance, superannuation, tax, leave entitlements and other matters. Accordingly, the remuneration paid to individuals not employed directly by Sydney Metro is not known to Sydney Metro.

The average cost of a contracted Project Manager to Sydney Metro per hour, while not comparable to employee remuneration, is:

- Labour hire –\$198.92.
- Contractor –\$281.77.

**QUESTION:****9.**

Why is Sydney Metro recruiting highly paid contractors on short term (one year or less) contracts when the projects are long running? Does Sydney Metro accept that this is inefficient because contractors on long term contracts would have lower salaries?

a. How many of those contractors are senior managers?

**ANSWER:**

The need for an external service provider may be long term or it may be short term, depending on the particular function and project requirements.

In the current Australian infrastructure market there are well-known skills shortages, and many specialised resources are only available as professional service contractors.

Sydney Metro continues to face on-going challenges associated with the attraction of skills and talent in critical areas including project delivery, commercial and engineering. This is primarily due to macro-economic factors including residual impacts of the COVID-19 pandemic, and large volumes and continued growth cycles of infrastructure projects in transport, mining, social and commercial building and residential building sectors, across NSW and Australia more broadly.

To manage these impacts and ensure successful delivery against our strategic objectives (including publicly committed project delivery dates), Sydney Metro engages a blended workforce that includes the use of contractors. This engagement is subject to business justification review and compliance with relevant NSW Government policies.

**Answer to a):**

Contractors are not employed as senior managers of Sydney Metro however they may be “notionally” held against positions as part of Sydney Metro’s blended workforce for budget / workforce management contexts.

*Sydney Metro General Delegation Schedule – August 2023 states: “Delegations may only be exercised by employees (not contractors or labour hire).”*

**QUESTION:****10.**

How many senior managers at Sydney Metro are also current directors and/or owners of companies that have won labour hire contracts with Sydney Metro?

**ANSWER:**

Sydney Metro has reviewed the Secondary Employment Declarations and Conflicts of Interest Declarations and based on this information does not have any employees who are also directors and/or owners of companies that are currently engaged for labour hire or other forms of contracted work with Sydney Metro.

As at 19 September 2023, Sydney Metro does have 28 contracts with PSCs where the business owner or directors of those companies are engaged by Sydney Metro as part of those arrangements. A total of 8 company directors of those 28 companies are currently engaged within Sydney Metro as Integrated Team Members.

**QUESTION:**

**11.**

Why is Sydney Metro allowing people in senior positions to use associated companies to tender for contracts?

**ANSWER:**

Sydney Metro has reviewed the Secondary Employment Declarations and Conflicts of Interest Declarations and based on this information does not have any employees who are also directors and/or owners of companies that are currently engaged for labour hire or other forms of contracted work with Sydney Metro.

Contractors are not employed as senior managers of Sydney Metro, however they may be 'notionally' held against positions as part of Sydney Metro's blended workforce for budget/workforce management contexts.

Sydney Metro has a broad range of service providers who support its blended workforce. Many of these service providers are a small to medium enterprise providing services which include that of the directors and owners of the business. Probity controls are in place in respect of procurement processes to ensure the integrity of these processes.

**QUESTION:**

**12.**

Why are senior staff permitted to employ people through associated companies to be their direct reports and/or for senior positions in other areas of the metro projects?

**ANSWER:**

Sydney Metro has reviewed the Secondary Employment Declarations and Conflicts of Interest Declarations and based on this information does not have any employees who are also directors and/or owners of companies that are currently engaged for labour hire or other forms of contracted work with Sydney Metro.

Sydney Metro employees are required to make declarations and seek consent for any secondary employment.

Engagement of contractors or personnel is undertaken in accordance with the *Sydney Metro General Delegation Schedule – August 2023* which states: "Delegations may only be exercised by employees (not contractors or labour hire)."

**QUESTION:****13.**

How many contracted roles have been converted to permanent positions at Sydney Metro since 2020?

**ANSWER:**

In the 2 year period 30 June 2020 to 30 June 2022 the number of Sydney Metro employees increased from 476 to 1082, as reported in Sydney Metro Annual Reports 2020-21 and 2021-22. Sydney Metro does not report against role conversions as described in the question.

To manage the impacts associated with external challenges (referenced in supplementary question 9) and ensure successful delivery against our strategic objectives (including publicly committed project delivery dates), Sydney Metro will need to continue to engage a blended workforce that includes the use of contractors. This engagement is subject to business justification review and compliance with relevant NSW Government policies.

To mitigate the longer-term reliance on contractors, Sydney Metro continues to undertake proactive workforce planning and organisational design activities, assessing requirements over the medium to longer term.

**QUESTION:****14.**

What commissions are Bellgrove Advisory and Pro Consultants earning for each person who is hired via these companies? Please provide as much detail as possible.

**ANSWER:**

Sydney Metro does not pay commissions.

**QUESTION:****15.**

Does Sydney Metro accept that people with senior roles at Sydney Metro who run companies engaged in competitive tenders to win work at the same agency in the same area as they hold senior positions have a conflict of interest? Have these people declared their conflicts of interest and, if so, how are these conflicts being managed and, if not, why not?

**ANSWER:**

Sydney Metro has reviewed the Secondary Employment Declarations and Conflicts of Interest Declarations and based on this information does not have any employees who are also directors and/or owners of companies that are currently engaged for labour hire or other forms of contracted work with Sydney Metro.

Contractors are not appointed as senior managers of Sydney Metro however they may be “notionally” held against positions as part of Sydney Metro’s blended workforce for budget/workforce management contexts. Sydney Metro accepts that this could potentially give rise to an actual or perceived conflict of interest if the potential conflict is not appropriately disclosed. Probity controls are in place in respect of procurement processes to ensure the integrity of these processes including requirements to declare conflicts of interest and not participating in any relevant procurement processes.

**QUESTION:****16.**

Has Sydney Metro been alerted to or investigated the arrangements (running companies engaged in competitive tenders to win work at the same agency in the same area as they hold senior positions) made by Paul Rogers’ Pro Consultants, or Barry McGrattan’s Bellgrove Advisory? And if so what was the outcome?

**ANSWER:**

Sydney Metro has well established processes for staff and contractors to report concerns about serious wrongdoing. This includes an externally operated anonymous platform which allows two-way communication without the reporter needing to identify themselves. Sydney Metro also makes reports to ICAC where appropriate. Sydney Metro is currently reviewing all existing contractor arrangements to assess longevity and value for money.

**QUESTION:****17.**

Has Mr Rogers had at least six people report to him directly who have been contracted through Mr Rogers’ company Pro Consulting and, if so, how is this conflict of interest managed?

**ANSWER:**

Pro Consultants has been awarded two contracts for Utilities Investigation Services following an open tender process in 2021. Mr Rogers was not involved in the tender development or evaluation process. The contracts provide for multiple resources to enable the service provider to deliver the scope of services contracted.

Pro Consultants was awarded a contract for Utilities Project Management Services following a select tender process in 2022. Mr Rogers was not involved in the tender development or evaluation process.

Pro Consultants has been awarded two contracts for Interface Management Services following an open tender process in 2023. Mr Rogers was not involved in the tender development or evaluation process.

Mr Roger's does not have a role in the management of these contracts on behalf of Sydney Metro.

**QUESTION:****18.**

What probity advice was obtained in relation to this potential conflict?

**ANSWER:**

Sydney Metro has a dedicated Probity Team that manages the Sydney Metro procedures relating to Conflicts of Interest, provides advice to Sydney Metro personnel on probity matters and manages independent external probity advisors that are assigned to major procurement packages.

In addition to SIAs, conflicts are declared and managed through the Conflict of Interest Register and the Senior Service Declaration Portal in accordance with Sydney Metro's procedures.

Data maintained by the team relating to requests for probity advice on conflict-of-interest related matters shows that no specific probity advice was sought on this matter.

**QUESTION:****19.**

How many separate contracts has Mr Rogers been employed by Metro on since 2020?

- a. How much has he earned from these?
- b. How much in commissions from various senior Metro people employed through his company Pro Consulting has he made?

**ANSWER:**

Mr Rogers is not an employee of Sydney Metro. Mr Rogers is a resource made available under two separate contracts with Pro Consultants entered into since 2020.

**Answer to a):**

Sydney Metro is not aware of the employment or contractual arrangements between Pro Consultants and their employees or subcontractors.

**Answer to b):**

Sydney Metro does not pay commissions.

**QUESTION:**

**20.**

How many separate contracts has Mr McGrattan been employed by Metro on since 2020?

a. How much has he earned from these?

b. How much in commissions from various senior Metro people employed through his company Bellgrove Advisory has he made?

**ANSWER:**

Mr McGrattan is not, and has never been, an employee of Sydney Metro. Mr McGrattan is a resource made available under three separate contracts with Bellgrove Advisory entered into since 2020.

**Answer to a):**

Sydney Metro is not aware of the employment or contractual arrangements between Bellgrove Advisory and their employees or subcontractors.

**Answer to b):**

Sydney Metro does not pay commissions.

**QUESTION:**

**21.**

In the case of Mr Hayward, has he ever been offered a full-time permanent position at Sydney Metro given his involvement with the agency and metro projects since 2014 and, if not, why not?



**ANSWER:**

Mr Hayward has not been offered employment at Sydney Metro.

Mr Hayward has been engaged under five different contracts with three separate organisations since 2014. On two of these occasions, the contracts were established following an open tender process. On the other three occasions, the contracts were established following a select tender process with service providers that were prequalified on the NSW Government Performance & Management Services Scheme.

**QUESTION:**

**22.**

Why is Sydney Metro hiring professional services contractors on salaries of \$500,000-plus for skills advertised in the market for salaries of about \$250,000 or less?

**ANSWER:**

Please refer to answer to supplementary question 9.

**QUESTION:**

**23.**

Why has Sydney Metro not disclosed in its annual reports the engagement of Bellgrove, Pro Consultants and other professional services contractors? If these engagements are disclosed, where?

**ANSWER:**

Sydney Metro has complied with Annual Reporting requirements and guidance issued by NSW Treasury in preparing its annual reports.

The engagements referred to in the question do not fit the definition of a consultant under Procurement Board Direction 2021-03 Engagement of professional services suppliers.

All engagements valued at \$150,000 or more (including GST) are publicly disclosed on the NSW Government eTendering website in accordance with the Government Information (Public Access) Act 2009, including the engagements referred to in the question.

**QUESTION:**

**24.**

How many people (including contractors) acting as Sydney Metro directors, management level employees (band 2 and above) or on annual wages from Metro above \$500,000, have,

or are engaging people via their own companies or companies in which they are directors to work on the project? To be clear, here are some examples: Susanna Zalesk - Hannover Consulting Pty Ltd, Dan Cameron - Pro Squared Infrastructure Consultants, Steve Bennett - ProCom Group and the large group from Connell Griffin Pty Ltd including Stuart Overton, Andrew Harfield and many others?

**ANSWER:**

Sydney Metro has reviewed the Secondary Employment Declarations and Conflicts of Interest Declarations and based on this information does not have any employees who are also directors and/or owners of companies that are currently engaged for labour hire or other forms of contracted work with Sydney Metro.

Contractors are not employed as senior managers or directors of Sydney Metro however they may be held against positions as part of Sydney Metro's blended workforce for budget/workforce management contexts.

In relation to the number of Integrated Team Members that are also directors of their own companies please refer to question 10 of the Questions on Notice.

It is noted that engagement of contractors is undertaken in accordance with the *Sydney Metro General Delegation Schedule – August 2023* which states: "Delegations may only be exercised by employees (not contractors or labour hire)."

**QUESTION:**

**25.**

Is Metro aware of allegations of bribes being offered as inducement for staff to join a consulting or contracting company?

**ANSWER:**

Earlier in 2023 an investigation into an allegation related to this was undertaken and closed without any allegations being substantiated. ICAC was notified of the outcome.

**QUESTION:**

**26.**

Have any contractors ever sat on recruitment panels for hiring positions to Metro, whether as direct employees or as labour hire/consultants/contractors?

- a. Has Mr Rogers ever been involved in such a panel for Metro?
  - i. Has he ever been involved in any way in a decision to hire or appoint a contractor/consultant/labour hire to Metro, whether as a direct-decision maker or as part of a panel, those interviewing or assessing applications, those making recommendations or those involved in any other part of the process that leads up to a decision to hire or appoint a person or company to Metro?
- b. Has Mr Hayward ever been involved in such a panel for Metro?
  - i. Has he ever been involved in any way in a decision to hire or appoint a contractor/consultant/labour hire to Metro, whether as a direct-decision maker

or as part of a panel, those interviewing or assessing applications, those making recommendations or those involved in any other part of the process that leads up to a decision to hire or appoint a person or company to Metro?

- c. Has Mr McGrattan ever been involved in such a panel for Metro?
- i. Has he ever been involved in any way in a decision to hire or appoint a contractor/consultant/labour hire to Metro, whether as a direct-decision maker or as part of a panel, those interviewing or assessing applications, those making recommendations or those involved in any other part of the process that leads up to a decision to hire or appoint a person or company to Metro?

**ANSWER:**

Where PSC resources, Labour Hire contractors or other independent panel members may have played a role in selection processes, the ultimate authority and approval is made by a government employee in line with Sydney Metro's Schedule of Delegations – August 2023 which states: *"Delegations may only be exercised by employees (not contractors or labour hire)."*

Panel members are required to declare conflicts of interest related to the particular process they are involved in. Appropriate management action is then taken if a conflict is declared.

**Government recruitment panels**

Sydney Metro follows the Transport Cluster Recruitment Procedure for the employment of direct employees. Interviewers from outside Transport Cluster may be invited to join a panel where appropriate.

All recruitment panel members are required to declare any Conflict of Interest and the nature of the conflict of interest in writing.

Final recruitment decisions are made by an appropriately delegated employee who must be employed in the Transport Service. Recruitment decisions are not made by any contractors.

**A) No**

**B) Available records indicate that Mr Hayward has been involved in two (2) selection panels. In each of these two instances, final approvals were made by the delegated government employee.**

**C) No**

**Procurement panels related to professional service contractors:**

Tenders for professional services are assessed in accordance with an agreed Tender Evaluation & Probity Plan.

**A) Available records show Mr Rogers was a member of two (2) tender evaluation panels. Pro Consultants was not a tenderer for these services.**

**B) No.**

**C) No.**

**Labour Hire panels:**

Sydney Metro uses the Contractor Central system, also used across Transport for NSW, for the engagement of labour hire since 2020.

In line with the use of Contractor Central, where possible, the interview panel must comprise two government employees.

- A)** Available records in Contractor Central show Mr Rogers was on one selection panel.
- B)** Available records in Contractor Central show Mr Hayward was on two (2) selection panels.
- C)** No.

Sydney Metro complies with Transport's current Labour Hire Guidelines published in July 2023.