



Transport for NSW

Responses to post-hearing questions

Public Accountability and Works Committee

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

Hearing Date – 8 April 2024

QUESTIONS ON NOTICE

QUESTION 1. P18

The Hon. NATALIE WARD: Thank you. In the documents provided to the Parliament under Standing Order 52, it's my understanding that the legal advice and any correspondence concerning that advice has not been provided to the Parliament. Are you aware if it has been?

SUSAN CARROLL: The legal advice that Ms Webb prepared has been disclosed under Standing Order 52.

The Hon. NATALIE WARD: All right. Perhaps you could provide the document index number where that has been provided.

SUSAN CARROLL: We can certainly look at that but because it was legal advice, a claim for privilege has been made over that document.

ANSWER:

Transport for NSW provided this document to the Committee in correspondence dated 8 April 2024.

QUESTION 2. P28

The Hon. NATALIE WARD: All right, I'll come back and do that. Just before I go to the next question, I'll just clarify that you're coming back with that index number of that document on the legal advice.

SUSAN CARROLL: Yes.

ANSWER:

Transport for NSW provided this document to the Committee in correspondence dated 8 April 2024.

QUESTION 3. P29

The Hon. NATALIE WARD: Can I go back to Melanie Stewart? That was a DLO that was requested. Was there a process for that, or was that a request from the Minister?

SUSAN CARROLL: That was a request.

The Hon. NATALIE WARD: From the Minister—a named person.

SUSAN CARROLL: We did not go through a process for that appointment.

The Hon. NATALIE WARD: Why, then, did she need to complete a future conflict of interest statement when she was summonsed to come back to the Minister's office?

SUSAN CARROLL: All of our officers under the code of conduct are required to prepare a conflict of interest declaration as the circumstances present. I certainly did not make that request. I was not aware at the time of the matters that were contained in that declaration.

The Hon. NATALIE WARD: But she was requested, named and spent her time. What is the future conflict that she had to declare?

SUSAN CARROLL: As I said, the onus in making a conflict of interest declaration rests with each officer in accordance with the code of conduct, so she would have made that judgement call at the time.

The Hon. NATALIE WARD: Can you take on notice to provide clarification to the Committee of what that future conflict was, to be clear about what she had to declare when she was requested to come back to the Minister's office? I'm asking you what the conflict is.

SUSAN CARROLL: My understanding is that that document has been produced and is the subject of a claim.

The Hon. NATALIE WARD: Do you know what the conflict is?

SUSAN CARROLL: That was subsequently drawn to my attention.

The Hon. NATALIE WARD: What is the conflict?

SUSAN CARROLL: I'm not in a position to speak to that because I understand that a claim of privilege has been made with respect to that document.

The Hon. NATALIE WARD: I think they've been dealt with by the arbiter.

SUSAN CARROLL: I'm not aware of that, Mrs Ward.

ANSWER:

Consistent with Transport for NSW's Code of Conduct and Conflicts of Interest Policy, all Transport for NSW employees are required to assess their own circumstances and declare any actual, potential or perceived conflicts of interest. This includes adding, updating or amending conflict of interest declarations as their professional and personal circumstances evolve.

In addition, all Senior Service staff members (including staff acting in Senior Service roles) are required to make an annual written declaration of private financial, business, personal and other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made or advice given by the staff member.

Regarding the specific disclosure referenced during the hearing, this was provided by Transport for NSW in its return to the Legislative Council under the relevant Standing Order 52.

QUESTION 4. P30

The CHAIR: That brings me to the question I was about to ask you. Following all of that media attention and controversy over the DLO appointments and the type of work that they may or may not be doing, what has changed in terms of appointments of DLOs?

TRACEY TAYLOR: We've made several recommendations to the way that DLOs are managed across the organisation. I recently wrote a letter to the Premier's Department to outline what those recommendations are. I'm happy to give a copy of this as well.

The CHAIR: Thank you, that would be very useful.

TRACEY TAYLOR: We have made a number of recommendations, including the managerial contact during the time that they are DLOs—that it's far more regular and that there is actually a dual reporting line, so that it's very clear who they report to in Transport for NSW, as well as taking day-to-day direction from the Minister's office, so that they have a senior person in Transport to liaise with; that all DLOs be provided with a copy of the updated DLO handbook, because there have been updates made to the DLO handbook and we're making sure that we're providing that to them; and before they do commence as a DLO, if they are a member of a political party, that they do disclose that up-front.

The CHAIR: That's great. If you wouldn't mind tabling that, that would be fantastic. What's the date of those recommendations? When were those recommendations made?

TRACEY TAYLOR: The recommendations were made at the end of the investigation process. I'd have to take on notice when we actually closed it, but I recently sent this letter to the Premier's Department. I had had a conversation with Ms Dobbins to say that we had identified some recommendations that the Premier's Department may want to consider in relation to their management of the DLO circular.

ANSWER:

Transport for NSW tabled a copy of the letter that was sent to the Premier's Department on 5 April 2024 during the hearing.

QUESTION 5. P36

The Hon. NATALIE WARD: Is the rail review finished?

BARBARA WISE: The rail review has given its final report to the Minister and, yes, it has.

The Hon. NATALIE WARD: That's finished?

BARBARA WISE: Yes.

The Hon. NATALIE WARD: When did it provide it to the Minister?

BARBARA WISE: As per its terms of reference, sometime late last year.

The Hon. NATALIE WARD: When late last year? December, November?

BARBARA WISE: I would have to take that on notice, sorry. I don't remember the date exactly.

The Hon. NATALIE WARD: If you would. The Government hasn't published that yet?

ANSWER:

The Sydney Trains' Rail Infrastructure and Systems review panel provided its final report for consideration by the NSW Government on 12 December 2023.

QUESTION 6. P38

The Hon. NATALIE WARD: You talk about the TAHE. The rail review has been provided. Do you have a copy of the TAHE terms of reference?

BARBARA WISE: Not at hand, no.

The Hon. NATALIE WARD: Can you provide that on notice?

BARBARA WISE: There is a terms of reference for the steering committee. I would have to ask. I would have to check whether I can provide that.

ANSWER:

The process to transition TAHE to a non-commercial operating model is being carried out under a phased approach and will require legislative change.

Transport for NSW is working with TAHE, NSW Treasury and public Rail Operators to:

- finalise the design and implementation of the longer-term TAHE operating model
- agree on funding arrangements and future heavy rail investment
- review and amend the suite of agreements between TAHE, Transport for NSW, Sydney Trains and NSW TrainLink
- amend all necessary and relevant legislation, including in the *Transport Administration Act* and *State Owned Corporation Act*.

QUESTION 7. P39

The Hon. NATALIE WARD: What's the total expenditure on staffing costs for the Transition Office, given it's been established?

BARBARA WISE: That's probably best answered by the chief people officer, but I can take it on notice. I understand this has been provided.

The Hon. NATALIE WARD: Can you take that on notice? You are the head of the Transition Office. Will you take that on notice to provide the expenditure?

BARBARA WISE: I'll take it on notice, yes. Sure.

ANSWER:

Positions within the Transition Office are filled by staff who have been seconded from other parts of Transport for NSW, which means that there is no additional cost to Transport for NSW for these roles.

QUESTION 8. P45

The Hon. NATALIE WARD: I will be specific: What were you told by your colleagues? Can you be more specific about what you were told about the DLO issues and this inquiry?

JOSH MURRAY: I don't think I can be more specific. I'm aware of the DLO inquiries that came in, the DLO media inquiries and then the issues that led to Mr Gartrell referring documents that were received under Standing Order 52 back to the department to be investigated.

The Hon. NATALIE WARD: What else were you told by your colleagues about the inquiry and the DLO issues, specifically as it pertains to your role as secretary?

JOSH MURRAY: We had discussed the past elements in terms of how Mr Collins—who's given evidence on this before—had discussions with Mr Gartrell at the time, what led to those comments and then how it was dealt with. They were the main issues pertinent, but I'd have to go again go back over that time frame to look at exactly what you were asking for.

The Hon. NATALIE WARD: If you could take that on notice, that would be helpful, to assist the Committee about what steps you took to familiarise yourself and what you were told. You've raised that you were told issues by your colleagues that would help to confine that information to a more specific—sorry, to elaborate, to make it more specific for the Committee to understand what steps you took and what you were told at the time in your role as secretary.

JOSH MURRAY: Sure, and I think I have been clear in previous hearings as to some of those discussions. In terms of the estimates hearings of last year, we canvassed that issue in quite a lot of detail.

ANSWER:

Upon commencing as Secretary, Mr Murray was briefed on a wide range of matters, including DLO roles, as outlined at the Portfolio Committee No.6 – Transport and Arts Budget Estimates hearing on 7 November 2023.

QUESTION 9. P45

The Hon. NATALIE WARD: In the limited time that we had. We have some more specific questions about that today, so I appreciate your assistance. Do you know how many DLOs were requested or approved without a recruitment process for Minister Haylen's office?

JOSH MURRAY: No, I don't.

The Hon. NATALIE WARD: Can you take that on notice?

JOSH MURRAY: Yes.

ANSWER: All DLO assignments provided by Transport for NSW to ministerial offices have been completed in accordance with C2021-07 Department Liaison Officers.

QUESTION 10. P46

The Hon. NATALIE WARD: The report of this Committee could potentially make a finding about the conduct of DLOs in Transport from the information we've obtained. To assist in that, could you take on notice, as you said, the exact number of DLOs that were requested and joined the Minister's office in your capacity as Secretary for Transport?

JOSH MURRAY: Yes, I will take that on notice. I believe that number itself has been tabled previously, which I'll clarify. The only reason I don't have that to hand is, obviously, this was

several months before I started at Transport, and I was focused after coming on board on the issues that stemmed from that point forward, rather than going back over the two previous secretaries' time in the role.

The Hon. NATALIE WARD: All right, but a number have been requested and/or placed since your time.

JOSH MURRAY: Yes.

The Hon. NATALIE WARD: I think it would assist the Committee to be clear about those. I've raised some but, for the sake of clarity, it would be good to have an exact number.

JOSH MURRAY: Happy to provide that.

ANSWER:

Between 14 August 2023 and 8 April 2024, seven Transport for NSW staff members have been newly assigned to the relevant Ministerial offices. This included four short-term assignments to temporarily provide leave cover for other DLOs. These individuals were assigned in accordance with C2021-07 Department Liaison Officers.

QUESTION 11. P46

JOSH MURRAY: —who you've heard from earlier today, that these matters were under investigation. During the course of the investigation itself, which was handled by our chief people officer and chief legal officer, the items were updated to Ms Lo on a semi-regular basis is my advice. At the culmination of that inquiry, the chief people officer and the chief legal officer alerted me to the findings, or rather to the outcome, which was that the DLO in question had resigned during the course of the investigation. My question at that time was: Have we updated the other stakeholders in government who we had committed to keeping involved and informed during that process? I believe that's where that letter has then stemmed from, in terms of ensuring that that circle is closed. When I spoke to Mr Draper at the initiation of the investigation, I said that I would ensure that any materials that we felt were relevant across government would be referred on to the PSC and to the Premier's Department.

The Hon. NATALIE WARD: That's helpful, thank you. The letter doesn't have a date. Are you able to take on notice the date of this letter?

JOSH MURRAY: Sure.

ANSWER:

5 April 2024.

QUESTION 12. P50-51

The Hon. NATALIE WARD: Did you ask about Mr Ash's conduct prior to the Standing Order 52?

JOSH MURRAY: The matters were being handled at that time through the processes within Transport. I did not personally ask about those issues of conduct.

The Hon. NATALIE WARD: What does that mean? What are the processes through Transport?

JOSH MURRAY: Questions were being asked. The Parliament was being asked and the Minister was responding to a number of those questions. Again, I'd have to go back over the exact time line to look at what you are referring to. As you said, there were multiple media articles about different elements of this case.

The Hon. NATALIE WARD: Why didn't you ask earlier than then when there are media reports around? Why weren't you asking questions prior to the documents being ordered through the House?

JOSH MURRAY: I'd have to check on what was being done at the time. This is now quite a long time ago in terms of the daily life of the administration of Transport for NSW.

The Hon. NATALIE WARD: There's a media report about a DLO doing political work. With your extensive HR background, you would be picking up the phone to Mr Gartrell and saying, "What's going on with my DLO doing political work? Is that correct? Is there something we need to do?"

JOSH MURRAY: Certainly I had discussions with Ms Carroll and Mr Collins at the time about what the history of this case had been.

The Hon. NATALIE WARD: What were those discussions?

JOSH MURRAY: I asked them what the history of this case had been.

The Hon. NATALIE WARD: Given that there can't have been a very long history, because it was only raised in the media at that time, was that immediately upon the first Daily Telegraph report, was it some time after or was it after the documents? Why didn't you ask Mr Gartrell, "My staff member is in your office. There are allegations of him doing political work. What's the story?"

JOSH MURRAY: Again, I'd have to check the timeline. I don't believe Mr Ash was in the office at that time.

The Hon. NATALIE WARD: Am I clear that you didn't ask the Minister's office or her chief of staff at that time what was the case with the allegations raised in the media?

JOSH MURRAY: As I say, these were historical matters, from my recollection, of my time joining Transport, where I discussed them with Ms Carroll and Mr Collins.

The Hon. NATALIE WARD: Why didn't you ask Mr Gartrell?

JOSH MURRAY: I don't recall having that discussion with Mr Gartrell.

The Hon. NATALIE WARD: That's what I'm asking: Why didn't you?

JOSH MURRAY: Because Mr Ash wasn't employed in the Minister's office at that time.

The Hon. NATALIE WARD: I think you made a statement earlier—I think actually Mr Gartrell was employed at the office at the time. Do you want to take that on notice and check the timing on that to make sure?

JOSH MURRAY: Mr Gartrell was? Yes.

The Hon. NATALIE WARD: And Mr Ash?

JOSH MURRAY: I'd have to check the timing on Mr Ash's employment.

The Hon. NATALIE WARD: He was employed in the Minister's office at that time. That's what the media articles were about.

JOSH MURRAY: Again, I'd have to double-check the timeline.

ANSWER:

Mr Murray commenced as Secretary on 14 August 2023. The individual referenced in the question was on pre-planned annual leave as at 14 August 2023 and remained on leave until mid-September 2023, at which point he concluded in the role of DLO upon returning from leave.

QUESTION 13. P55

The Hon. NATALIE WARD: Mr Murray, earlier today there was a document that we were going to be provided with—the index number. I am just wondering how we are going on that legal advice that was supposed to be produced.

JOSH MURRAY: I don't have the index number, but I am advised that the document that you've queried is in fact in the return.

The Hon. NATALIE WARD: Yes, but an undertaking was provided that the document number in the index would be provided to assist us to clarify that.

JOSH MURRAY: Again, sorry, I do not have that on hand.

The Hon. NATALIE WARD: Yes, but the undertaken was given that it would be produced today so that we could assist the Committee. I don't want to have to recall anybody or come back through. Can we get that information today?

JOSH MURRAY: I don't have the number.

The Hon. NATALIE WARD: Are you able to get it?

JOSH MURRAY: If it comes to me before the end of these hearings, I will absolutely share it with you. It wasn't my action.

The Hon. NATALIE WARD: Could you ask, perhaps, if we can get that document number? If it's been produced, there's no issue there. We just want the index number of the document.

JOSH MURRAY: Sure.

ANSWER:

Transport for NSW provided this document to the Committee in correspondence dated 8 April 2024.