

INQUIRY INTO TRANSPORT ASSET HOLDING ENTITY

Organisation: Transport Asset Holding Entity of NSW (TAHE)

Date Received: 1 December 2021



26 November 2021

Mr David Shoebridge MLC
Parliament House
Macquarie St
SYDNEY NSW 2000

(Sent via email)

Dear Chair of the Public Accountability Committee,

Re: Supplementary submission to the Inquiry into the Transport Asset Holding Entity

Please find attached a supplementary submission that addresses safety issues raised at hearings subsequent to TAHE's appearances before the Committee.

A range of other matters have been discussed before the Committee; however, this submission is exclusively focused on safety, reflecting the priority of this issue and mindful of the Committee's reporting timelines. It is critical that the Committee – and the people of NSW – are aware of the facts around TAHE's approach to safety and have confidence that the rail safety framework remains robust and clearly defined.

I note there has been evidence tabled that reflects on TAHE as an organisation. I would like to reinforce that my priority as CEO of TAHE is to lead an organisation that embraces safety, integrity and accountability as key elements of its culture. The team at TAHE is strongly committed to these principles, just as we are committed to delivering new value for the people of New South Wales.

Thank you for the opportunity to provide supplementary information to assist the Committee.

Yours sincerely

Benedicte Colin
Chief Executive Officer

Supplementary Submission

to the

Public Accountability Committee

Introduction

The Transport Asset Holding Entity of NSW (TAHE) provides this supplementary submission to assist the Public Accountability Committee's Inquiry into TAHE. The submission provides additional information about the safety framework in and around TAHE arising from the discussions and evidence provided in recent hearings. It highlights:

- TAHE's role in the safety management framework – and that the framework under which TAHE operates is substantially different to the draft framework that was discussed in evidence presented to the Committee; and
- TAHE's response to the recent review by the Office of the Transport Safety Investigator (OTSI).

Safety

The safety of rail transport in NSW remains the highest and central priority of all participants in the State's rail system following the creation of TAHE. For TAHE specifically, safety is our leading non-financial performance indicator and is one of the principal legislative objectives of TAHE.

The creation of TAHE does not alter the fundamental principles that have underpinned the approach to rail safety and maintenance since the responses to the inquiries into the tragedies at Glenbrook and Waterfall. The overarching approach is governed by the Rail Safety National Law and regulated by the Office of the National Rail Safety Regulator (ONRSR).

Whilst TAHE is the asset owner of the Metropolitan Rail Network, Country Regional Network and rolling stock, the control and day-to-day operational management is not exercised by TAHE. TAHE is required to operate within the remit of an Operating Licence issued by the Minister for Transport and Roads. The Operating Licence stipulates that TAHE must not carry out railway operations (as defined in the Rail Safety National Law), must not operate a Transport Service (as defined in the Transport Administration Act), and must not carry out maintenance of Transport Assets (as defined in the Transport Administration Act).

Decisions about assets – including maintenance and delivery – are the responsibility of Sydney Trains, NSW Trains and the other rail operators and these decisions continue to be subject to the same rigorous asset and safety standards that existed prior to the establishment of TAHE on 1 July 2020.

The creation of TAHE actually strengthens the transport safety arrangements of an already heavily regulated environment, as TAHE has legislated obligations to assure itself that the assets are safe, reliable and fit for purpose.

TAHE safety management framework

TAHE notes the evidence of former Transport Secretary (and Director of TAHE) Mr Rodd Staples that he had raised some considerations around safety as part of the operationalisation of TAHE. The issues raised by Mr Staples were legitimate and important considerations to put forward as the framework around TAHE was being developed.

The discussion of the issues raised by Mr Staples – as well as issues raised by other parties – substantially strengthened and clarified the ultimate safety management framework developed to reflect the creation of TAHE.

This safety management framework continued to substantially develop following Mr Staples finishing as Transport Secretary in February 2021. The framework under which TAHE now operates

evolved and is very different to the framework which was the subject of Mr Staples evidence to the Committee In particular:

- As already outlined above, TAHE's Operating Licence which came into effect on 1 July 2021 specifically precludes TAHE from undertaking railway operations and maintenance of Transport Assets.
- The new TAHE operating agreements which came into effect on 1 July 2021 clearly articulate the roles and responsibilities of all the transport cluster parties. For example, the Licence, Agency and Maintenance (LAM) Deed between TAHE, Transport for NSW, Sydney Trains and NSW Trains makes it clear that the rail operators operate the network end-to-end and are responsible for operational safety and maintenance, while TAHE provides an additional layer of assurance.
- In the unlikely event of any conflict between TAHE and the rail operators on an investment relating to safety there is a clear conflict resolution procedure in place. If the operator requires resources for assets that have a safety impact, the operator is empowered to take the appropriate steps required to make sure the assets remain safe and reliable under their remit.

OTSI Report

The Committee may be aware that, since the appearance of TAHE representatives before the committee, we have received the Office of Transport Safety Investigations (OTSI)'s review and advice as to whether the mitigation controls and supporting TAHE governance arrangements in place are sufficient to manage potential conflicts between TAHE's commercial objectives and the safe management of the rail assets.

TAHE welcomes the review and its preliminary broad finding that the proposed mitigations and safety governance arrangements are fit for purpose, and should achieve the objective of clarity and focus around safety roles. In particular, we note the comments that TAHE's Operating Licence serves to constrain the organisation's role and responsibilities and removes commercial imperatives from Transport operating rail assets.

We note the areas of the framework the review identifies for further consideration and agree with the recommendation these considerations are monitored and addressed as appropriate. Finally, we note and fully support OTSI's recommendation to review the framework in association with the renewal of TAHE's Operating Licence, to ensure it continues to operate as intended.

Conclusion

Thank you for the opportunity to contribute this additional submission to assist the Committee's Inquiry.