

Tabled, by leave,
Mr Graham

TRANSPORT ADMINISTRATION AMENDMENT BILL 2024

STATEMENT OF PUBLIC INTEREST Clerk of the Parliaments

Need: Why is the policy needed based on factual evidence and stakeholder input? / 29

The Transport Asset Holding Entity of NSW (TAHE) is established as a statutory State owned corporation (SOC) under the *State Owned Corporations Act 1989* and has statutory functions and powers under the *Transport Administration Act 1988*.

Inquiries and analysis of TAHE undertaken by both the Public Accountability Committee of the Legislative Council and the Auditor General of NSW suggest that TAHE's status as a SOC is challenged by the extent to which it relies on public funds. The predominant users of the assets owned by TAHE are Sydney Trains and NSW Trains which, under the current model, must be funded by the Government to pay a commercial rate to TAHE for access to those assets. It is inappropriate to continue to require TAHE to focus on commercial outcomes at the expense of its role as holder and manager of the State's publicly owned rail related assets.

In addition, the Sydney Trains Review found that strategic asset management is currently hindered by a complex operating model across Transport for NSW, TAHE and Sydney Trains. A lack of clear accountability for decision making has impacted medium and long term planning for rail, and as a result asset planning and management. The Review identified the need for a single accountable function to undertake strategic asset management across the full life cycle of assets.

Transport for NSW does not have any explicit objectives and functions related to the promotion of active transport, or the activation of public spaces. This limits the activities it can undertake to ensure that walking, cycling and personal mobility are integrated into the broader transport network.

Objectives: What is the policy's objective couched in terms of the public interest?

TAHE owns the rail asset portfolio in NSW – tracks, tunnels, bridges, rolling stock, stations, and related assets and infrastructure. These assets are the fundamental building blocks of the rail services provided to the community and businesses of NSW. TAHE holds these assets on behalf of the people of NSW and makes them available to transport operators and users.

The Transport Administration Amendment Bill 2024 (the Bill) will remove TAHE's status as a SOC and establish the Transport Asset Manager of NSW (TAM) as a statutory corporation, NSW Government agency and owner of the NSW rail asset portfolio. There will no longer be a requirement for the rail asset owner to provide returns to Government in the form of income tax equivalents and dividends.

The establishment of TAM as the dedicated asset manager will also simplify the currently complex arrangements and establish a new entity with clear accountability for rail asset management across NSW. TAM's principal objective will be to undertake its activities in a safe and reliable way.

Effective asset management supports a safe, resilient and reliable rail network for passengers. A reliable and resilient rail network also paramount to supporting the movement of freight on rail and encouraging greater modal shift.

By expanding Transport for NSW's objectives and functions through this Bill, it will be equipped to develop and implement critical programs, projects, strategies, and campaigns that will help realise the NSW Government's active transport and public space activation commitments.

Options: What alternative policies and mechanisms were considered in advance of the bill?

Consideration was given to three options: removing the SOC status of TAHE with it becoming a non-commercial public non-financial corporation; re-integrating TAHE's functions into Transport for NSW; or maintaining the SOC status of TAHE.

The expansion of Transport for NSW's functions and objectives to include active transport and public space activation can only be achieved through legislative amendment.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The first option is preferred and will be enacted with this Bill. TAM will remain a separate statutory corporation under the *Transport Administration Act 1988*, but as a non-commercial PNFC it no longer has the statutory imperative to achieve a commercial rate of return, providing more scope to deliver on its principal objective to undertake its activities in a safe and reliable way and pursue social objectives such as investment in social housing, alongside its investment in rail assets.

As a non-commercial PNFC, it will still be a business and have the capacity to invest and borrow and generate revenue for ongoing investment in transport assets. There is merit in maintaining a separate entity to provide strategic oversight and assurance of the planning, procurement and maintenance of the State's transport assets, leaving Transport for NSW responsible for the overall policy and planning for the transport network.

Should Transport for NSW's objectives and functions not be expanded there is a risk that it will be unable to deliver critical active transport and city activation initiatives, programs, and services.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

This Bill is the final step in establishing a new operating model for the ownership of rail assets in NSW. In November 2023, the Minister for Transport issued a direction to the Board of TAHE under the *State Owned Corporations Act 1989* so that, to the extent possible, it now operates in a fashion that is less guided by the commercial imperative and is more like other non-commercial NSW Government businesses.

Then, in December 2023, the *Transport Administration Act 1988* was amended to make it clear that the principal objective of TAHE is to undertake its activities in a safe and reliable way. The other objectives, which include being a successful business, are secondary to that overriding objective.

The provisions related to the establishment of TAM will commence on a day or days to be proclaimed. This will provide time for TAHE and Transport for NSW to work together on the supporting contractual, commercial and administrative arrangements needed for this new operating model.

The provisions related to active transport and public space activation will commence on assent.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

In respect of the establishment of TAM, the Bill takes account of the views of the key stakeholders: Transport for NSW, NSW Treasury and TAHE.

In preparing the changes to Transport for NSW's objectives and functions, Transport for NSW consulted with the Department of Planning, Housing and Infrastructure, Office of the 24-Hour Economy Commissioner, Office of Local Government, the Department of Customer Service, and Placemaking NSW. These agencies have indicated their support for the Bill.