

PORTFOLIO COMMITTEE NO. 6 - TRANSPORT

Friday 4 March 2022

Examination of proposed expenditure for the portfolio area

TRANSPORT, VETERANS

CORRECTED

The Committee met at 9:30.

MEMBERS

Ms Abigail Boyd (Chair)

The Hon. Mark Banasiak (Deputy Chair)

The Hon. Scott Farlow

The Hon. John Graham

The Hon. Taylor Martin

The Hon. Daniel Mookhey

The Hon. Adam Searle

Mr David Shoebridge

PRESENT

The Hon. David Elliott, *Minister for Transport, and Minister for Veterans*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

CORRECTED

The CHAIR: Welcome to the additional public hearing of Portfolio Committee No. 6 and its inquiry into budget estimates 2021-22. Before I commence, I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respects to the Elders past, present and emerging of the Eora nation and extend that respect to other Aboriginals present and to First Nations individuals watching today. I welcome Minister David Elliott and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolios of Transport and Veterans.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. Today's proceedings are being broadcast live from Parliament's website and a transcript will be placed on the Committee's website once it becomes available. In accordance with the broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018.

There may be some questions that a witness can only answer if they had more time or with certain documents to hand. In those circumstances, they are advised that they can take the questions on notice and provide an answer within 21 days. If witnesses wish to hand up documents, they should do so through the Committee staff. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. Finally, could everyone please turn their phones to silent for the duration of the hearing. All witnesses will be sworn prior to giving evidence. Minister Elliott, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

CORRECTED

Mr ROB SHARP, Secretary, Transport for NSW, on former affirmation

Mr MATT LONGLAND, Chief Executive, Sydney Trains, on former oath

Mr PETER REGAN, Chief Executive, Sydney Metro, on former affirmation

Mr HOWARD COLLINS, Chief Operations Officer, Transport for NSW, on former oath

Ms CAROLINE MACKANESS, Director, Office for Veterans Affairs, sworn and examined

The CHAIR: Thank you. Today's hearing will be conducted from 9.30 a.m. to 12.45 p.m. with a 15-minute break around 11.00 a.m. We are joined by the Minister in the morning, but in the afternoon we will have the opportunity to ask further questions of departmental witnesses from 2.00 p.m. to 5.15 p.m., again with a 15-minute break around 3.30 p.m. During those sessions there will be questions from the Opposition and crossbench members only but, if required, an additional 15 minutes is allocated at the end of the morning and afternoon sessions for Government questions. Thank you for your attendance today. Welcome, Minister, to your first PC6 budget estimates hearing. We will begin with questions from the Opposition. I believe that is you, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Thank you, Chair. Greetings to you, Minister, and congratulations on your appointment. I thank all the officials for their appearance today as well. It is good to see you, Minister. My very first question is this: Are you feeling rested?

Mr DAVID ELLIOTT: I will take that as a comment.

The Hon. DANIEL MOOKHEY: Minister, when were you told that your Government had shut down the train network in response to a notified action by the Rail Tram and Bus Union?

Mr DAVID ELLIOTT: Very early on Monday morning.

The Hon. DANIEL MOOKHEY: Do you recall the time?

Mr DAVID ELLIOTT: I think I first learnt of it via some very, very constructive feedback from constituents on social media about four o'clock.

The Hon. DANIEL MOOKHEY: So you learnt at four o'clock in the morning?

Mr DAVID ELLIOTT: About that time.

The Hon. DANIEL MOOKHEY: Your best recollection as to the best contact that you had was that you looked at it via your tweet stream.

Mr DAVID ELLIOTT: No, I do not have a tweet stream.

The Hon. DANIEL MOOKHEY: Okay. You saw it on social media?

Mr DAVID ELLIOTT: Yes.

The Hon. DANIEL MOOKHEY: You are saying that no-one else had told you prior to that?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: You are saying, just to be very clear here, that you had not had any contact directly with the department to tell you?

Mr DAVID ELLIOTT: About this? A shutdown?

The Hon. DANIEL MOOKHEY: A shutdown.

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: You are telling me, as well, that you had not heard from your office on a shutdown?

Mr DAVID ELLIOTT: About a shutdown? Correct.

The Hon. DANIEL MOOKHEY: What about a significant disruption to the rail network? When did you first learn that there was going to be a significant disruption to the rail network?

Mr DAVID ELLIOTT: As you know, on the day of the shutdown, I had been the Minister for 63 days. I do not think there had been a day where there was not either disruption, significant disruption or the threat of significant disruption.

CORRECTED

The Hon. DANIEL MOOKHEY: Let's talk specifically about the disruption that was impending on the Monday.

Mr DAVID ELLIOTT: On the twenty-first?

The Hon. DANIEL MOOKHEY: Yes.

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: When did you first learn that there was likely to be significant disruption?

Mr DAVID ELLIOTT: It would have been via telephone call with my chief of staff between 11.00 and 11.30.

The Hon. DANIEL MOOKHEY: What did your chief of staff tell you?

Mr DAVID ELLIOTT: She told me that there would be significant disruption the next day and she told me that she needed my authority to relist the matter before the Fair Work Commission the following day.

The Hon. DANIEL MOOKHEY: Just to be clear here, what did you understand "significant disruption" to mean?

Mr DAVID ELLIOTT: Again, having been the Minister for 63 days, I took "significant disruption" to be a significant reduction in services.

The Hon. DANIEL MOOKHEY: So, very specifically, did your chief of staff inform you which precise roster would be operating on the network?

Mr DAVID ELLIOTT: No, I think that was a matter of dispute.

The Hon. DANIEL MOOKHEY: I will just press you a bit further here, Minister. If you are saying that you were told that there was significant disruption, what did you understand "significant disruption" to mean?

Mr DAVID ELLIOTT: I refer to my last answer.

The Hon. DANIEL MOOKHEY: Yes, and I am asking you again, because—

Mr DAVID ELLIOTT: You can ask me as many times as you like. It is going to be the same. Significant disruption—

The Hon. DANIEL MOOKHEY: You will find that this will go easier if I can ask a question and you can answer it. Minister, did you have an understanding as to the precise form of significant disruption that was coming?

Mr DAVID ELLIOTT: I took that to mean significant reduction in services.

The Hon. DANIEL MOOKHEY: What did you do after that?

Mr DAVID ELLIOTT: After what?

The Hon. DANIEL MOOKHEY: After you were told that there was significant disruption coming.

Mr DAVID ELLIOTT: When?

The Hon. DANIEL MOOKHEY: After you had that conversation with your chief of staff sometime between 11.00 and 11.30.

Mr DAVID ELLIOTT: I continued reading some briefs and then at about midnight I went to bed.

The Hon. DANIEL MOOKHEY: Did you try to call your secretary?

Mr DAVID ELLIOTT: The department's secretary?

The Hon. DANIEL MOOKHEY: Yes.

Mr DAVID ELLIOTT: No.

The Hon. DANIEL MOOKHEY: Okay. We will get to that. Can I ask that we tender the documents right now and provide a copy to the witness? The Chair has a copy too. Just to be very clear here, Minister, your recollection is that your chief of staff told you that there was significant disruption but she never mentioned there was a shutdown coming.

Mr DAVID ELLIOTT: Correct.

CORRECTED

The Hon. DANIEL MOOKHEY: These are documents that have been produced to the upper House following a call for papers.

Mr DAVID ELLIOTT: Yes.

The Hon. DANIEL MOOKHEY: I think the point that you are making is that your chief of staff told you this between 11.00 and 11.30, which would align with the time stamps of her text message exchange, which is on document 001A. That aligns. But did the department tell your chief of staff that a shutdown was coming?

Mr DAVID ELLIOTT: When?

The Hon. DANIEL MOOKHEY: At any time prior to the conversation with you, did the department tell your chief of staff that the network was going to be shut down?

Mr DAVID ELLIOTT: No. The department told my office that there would be significant disruption, and that we would be relisting the matter before the Fair Work Commission the following day.

The Hon. DANIEL MOOKHEY: And you have checked with your chief of staff that she was not told that the network was being shut down?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: You are adamant that your chief of staff was not told that the network was being shut down?

Mr DAVID ELLIOTT: Yes, and I have tested that because I also refer you to my chief of staff's subsequent text to the Premier's office, which said there would be—I think the term might be "massive disruption"—

The Hon. SCOTT FARLOW: Significant disruption.

Mr DAVID SHOEBRIDGE: No, massive.

Mr DAVID ELLIOTT: —and that there would be a reference to the Fair Work Commission the following morning.

The Hon. DANIEL MOOKHEY: So you are referring to the text chain that is in document 1B, in which she says to the Premier's chief of staff and to the Premier's media director that there will be significant disruption to the rail network tomorrow. It is on tender document 001B. But you are adamant that your chief of staff was not told by the department that the network was being shut down?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: Mr Sharp, did Ms Megan Bourke-O'Neil, Deputy-Secretary, tell the chief of staff—

Mr DAVID ELLIOTT: Chair, all questions have to come through me.

The Hon. DANIEL MOOKHEY: Through you, Minister, to the secretary, did Ms Megan Bourke-O'Neil tell the Minister's chief of staff that the network was going to be shut down?

ROB SHARP: Ms Bourke-O'Neil returned from the phone calls to a meeting of our executive team; that was around 11.30. Her feedback was that she had advised that the network was shutting down, provided an update on the Fair Work Commission and, subsequently, she documented that into the documents that you have access to, which is the chronology that we were requested to produce the following evening.

The Hon. DANIEL MOOKHEY: Through you, Minister, to the secretary, you obviously verified that Ms Bourke-O'Neil had provided that information because that was, of course, important to you, Mr Secretary—that that information was communicated to the Minister?

ROB SHARP: Yes, correct.

The Hon. DANIEL MOOKHEY: Through you, Minister, to the secretary, you then texted the Secretary of the Department of Premier and Cabinet about 11.50 to inform him that the network was being shut down.

ROB SHARP: I texted the Secretary of the Premier's office to advise him of the outcomes of the day. I had been liaising with him throughout the weekend on the progress of the Fair Work Commission. The bulk of the communication in that text was related to that. I did include a comment, though, that the network was not going to operate on Monday.

CORRECTED

The Hon. DANIEL MOOKHEY: Through you, Minister, to the secretary: On Tuesday 22 February you provided a full chronology to Mr Coutts-Trotter, did you not, Mr Secretary?

ROB SHARP: Yes, at their request.

The Hon. DANIEL MOOKHEY: That is in tendered document 008. Minister, I take you to page 6. In the chronology that the department provides the secretary of DPC, it says clearly:

Meg Bourke-O'Neil contacted COS—

I will not read the name because I respect your chief of staff's privacy—

at 10:43 p.m. and conveyed assessment of network risks and ST view that service could not be run safely and reliably (due to union not agreeing to operate scheduled roster, alternatives not possible due to timeframe to implement a new roster, 'no roster' not possible to sustain safely without altered work; sought support for the position that the network could not be operated under these conditions, and failing for action/returning to FWC in morning; comms to be then developed. Support confirmed.

Through you, Minister, to the secretary: Secretary, when you provided this to Mr Coutts-Trotter, you, of course, made sure that that was an accurate document?

ROB SHARP: Yes, we were asked to factually present the time lines of the evening.

The Hon. DANIEL MOOKHEY: And you were not misleading the Premier's department?

ROB SHARP: No. Absolutely not.

The Hon. DANIEL MOOKHEY: You were not deliberately providing the secretary of DPC with false or misleading information?

ROB SHARP: No.

The Hon. DANIEL MOOKHEY: You were providing them with accurate information that could be verified three days after the shutdown?

ROB SHARP: Yes, and I checked with our executive team to ensure that they were of that same understanding.

The Hon. DANIEL MOOKHEY: Minister, your account cannot be correct if the secretary and the department's account is correct. The secretary and the department have said that they documented all this. They confirmed it. Other documents show that they provided the same notification to Mr Farraway's office, and it seems to the Minister for Employee Relations. How can we believe that you are giving us factual information when your own department is saying that you are wrong?

Mr DAVID ELLIOTT: I dispute it, don't I. Because if you have a look at the text that was sent at 11.43 from my chief of staff to the Premier's office, which was sent just after she had had that verbal conversation with the deputy secretary, there is absolutely no reference to a shutdown. It just says that there would be resubmission of an application of termination and that there would be significant disruptions. So quite clearly the chief of staff had not been told at that point that there would be a shutdown in that conversation.

Mr DAVID SHOEBRIDGE: The text was before.

The Hon. DANIEL MOOKHEY: Minister, in respect to the actual events of that particular night, Ms Bourke-O'Neil is not here to give evidence. We explored some of this the other day.

Mr DAVID ELLIOTT: Sure.

The Hon. DANIEL MOOKHEY: Did you direct or did your office ask the secretary to place Ms Bourke-O'Neil on directed leave?

Mr DAVID ELLIOTT: Certainly not.

The Hon. DANIEL MOOKHEY: Has your office refused to communicate with Ms Bourke-O'Neil since the events of last week?

Mr DAVID ELLIOTT: She has been on leave since the events of last week.

The Hon. DANIEL MOOKHEY: No. I am asking you, has your office said that your office will no longer be communicating with Ms Bourke-O'Neil?

Mr DAVID ELLIOTT: I will take that on notice.

The Hon. DANIEL MOOKHEY: Why?

CORRECTED

Mr DAVID ELLIOTT: Because I have to check what communications have happened between Ms Bourke-O'Neil and my office.

The Hon. DANIEL MOOKHEY: Minister, through you to the secretary: Secretary, are you aware of the Minister's office banning communications with Ms Bourke-O'Neil?

ROB SHARP: No, I am not aware of a ban on communications.

The Hon. DANIEL MOOKHEY: Are you aware of a direction that all communications for Ms Bourke-O'Neil should be channelled through others?

ROB SHARP: No, I am not.

The Hon. DANIEL MOOKHEY: Fair enough. Minister, what I do not understand about all of this, despite the dispute clearly between your account and your department's account, with 153,000 people facing either a significant disruption or a shutdown, why didn't you just pick up the phone to your secretary and say, "What's going on?"

Mr DAVID ELLIOTT: Because I was told that it was going to be a significant disruption, that had been at risk for the 63 days of being the Minister. Can I just make the point, Mr Mookhey, that it would not have changed the outcome because the announcement, the decision by Mr Longland at 12.30 the following morning to actually go ahead with the shutdown was made on the back of a risk assessment. As the Premier has said repeatedly, and I have said repeatedly, we are not in a position to question a safety assessment.

The Hon. DANIEL MOOKHEY: Sure.

Mr DAVID ELLIOTT: Because if the safety assessment had been ignored and the shutdown went ahead, and indeed if I had overruled anybody and there had been some sort of an accident or some sort of tragedy on the railway network, knowing full well that a safety assessment had said there should be a lockdown, then I would be before the Coroner, not before you.

The Hon. DANIEL MOOKHEY: Minister, is the actual reason why you never picked up the phone to talk to the secretary that evening because at that point you never actually met the secretary face-to-face?

Mr DAVID ELLIOTT: Well, there are a lot of people in the department that I had not met because, as you know, there had been restrictions about coming to work. But the secretary and I had certainly communicated before that time.

The Hon. DANIEL MOOKHEY: Sure, but you had not met with the secretary at that point, face-to-face?

Mr DAVID ELLIOTT: No, not face-to-face, neither had a lot of people, because we have been doing a lot—

The Hon. DANIEL MOOKHEY: Well, we established—

Mr DAVID ELLIOTT: Can I finish the answer—

The Hon. DANIEL MOOKHEY: Please.

Mr DAVID ELLIOTT: —because if you are going to interrupt me I am just going to put all your questions on notice.

The Hon. DANIEL MOOKHEY: I know, Minister. Go ahead.

Mr DAVID ELLIOTT: There had been a lot of meetings—including the Parliament—on Zoom and Teams over the last two years, if you had not noticed. The secretary and I had communicated.

The Hon. JOHN GRAHAM: Was this your second face-to-face meeting?

Mr DAVID ELLIOTT: No, certainly not my second face-to-face meeting with the secretary .

The Hon. DANIEL MOOKHEY: And you never thought to pick up the phone because you did not think it was necessary, are you saying that is the judgement you made?

Mr DAVID ELLIOTT: As I said to you before, this industrial action certainly predated, or the threat and the risk of industrial action certainly predated my term as the Minister and that is why when I saw the words, "significant disruption" it was an unusual scenario for me.

The Hon. DANIEL MOOKHEY: Minister, have you instructed your secretary to channel all communications with you through your chief of staff, or through other people in your office?

CORRECTED

Mr DAVID ELLIOTT: No. The secretary and I spoke this morning and late last night.

The Hon. DANIEL MOOKHEY: No, I am saying up until that point, had you?

Mr DAVID ELLIOTT: No.

The Hon. DANIEL MOOKHEY: Secretary Sharp, why didn't you pick up the phone and call the Minister?

ROB SHARP: We have had, since the machinery-of-government changes, agreed positions with the Ministers' offices in terms of our protocols and interactions. They are different for each of the offices, depending on where they are at with their staffing and also their style. In regards to the transport Minister, the protocol was to contact and liaise through the chief of staff, effectively a nominee, and we would pass all communications. So that was the process.

The Hon. DANIEL MOOKHEY: To be clear here, Mr Sharp, the protocol that you were operating under on the eve of the shutdown was that all communications had to be channelled through the chief of staff?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: So the reason you were not in a position to call the Minister was that to call the Minister directly to tell him that the network was to shut down would be to breach the protocol?

ROB SHARP: That was the protocol, and we also had the deputy secretaries that had the deep relationships with them and could talk to the operational matters. So that was the protocol or the nature of the relationship.

The Hon. JOHN GRAHAM: How was that protocol originally communicated to you?

ROB SHARP: In the very first week or two that was reinforced through basically requests saying pass everything through the chief of staff.

The Hon. DANIEL MOOKHEY: Did you make that request, Minister?

Mr DAVID ELLIOTT: As a new Minister, as you know, we like to have everything as much as we possibly can in writing, and obviously I had to take advice on anything because I was still getting on top of the brief.

The Hon. DANIEL MOOKHEY: You had established this bespoke protocol to your office?

Mr DAVID ELLIOTT: For the initial period of my tenure, yes.

The Hon. DANIEL MOOKHEY: And that was the protocol that was prevailing until the Sunday night?

Mr DAVID ELLIOTT: If you are suggesting that the secretary and I had not had any communication, that is incorrect.

The Hon. JOHN GRAHAM: That is not the question.

The Hon. DANIEL MOOKHEY: That is not the question.

Mr DAVID ELLIOTT: Well, that is the suggestion; that is the inference.

The Hon. DANIEL MOOKHEY: No, the question is that was the protocol that was operating on the Sunday night?

Mr DAVID ELLIOTT: On that particular occasion, yes, because I wanted to make sure that everything was in writing and I wanted to make sure that I had the maximum amount of guidance and advice when decisions were being made.

The Hon. DANIEL MOOKHEY: Secretary, I will take you now to tendered document 004, and you too, Minister. This is a text message exchange between the secretary and Mr Coutts-Trotter which takes place on the Tuesday or Wednesday. Mr Coutts-Trotter provides the secretary with advanced notice about what the Premier intends to say at his press conference. The secretary replies:

MCT. I am happy for process improvements to be assessed and implemented however this appears to place the blame on Transport. As you can see, there is a discussion there about what is referred to as "process" issues. Do you see that?

ROB SHARP: Yes.

The Hon. SCOTT FARLOW: Point of order: For assistance, I think the Minister is still trying to find it. If you can perhaps direct him to where it is in the bundle.

CORRECTED

The Hon. DANIEL MOOKHEY: The secretary can see it, so maybe the secretary can show him.

Mr DAVID ELLIOTT: That's alright, I have got it.

The Hon. DANIEL MOOKHEY: You can see there that you are making a reference and you are suggesting that you are being blamed there, Mr Sharp, and you are suggesting, in fact, that there is a process issue between you and the Minister's office. What process issue were you talking about there?

ROB SHARP: The process issue here was the verbal communication between the deputy secretary and the chief of staff. As you have just highlighted, there is a differing view between the two of them on what was communicated. The process issues to which I was referring related to that end-to-end process that cuts across from Transport into the Minister's office, and relates specifically to that item.

The Hon. DANIEL MOOKHEY: In truth, what we are saying here is that the network shut down and the Minister seemed to have had no knowledge of it because of a protocol that restricted direct communication with the Minister interfered. That is the impression that we are overwhelmingly getting, that somehow that Sunday night you privileged protocol over picking up the phone and saying to the Minister directly, "Hey, the network is about to be shut down." That is the impression we are being left with.

Mr DAVID ELLIOTT: I would have actually thought it is the contrary. If the protocol was to put everything in writing between the department and my office, we would not be here. If the protocol had been to actually establish any direction or any advice or any confirmation or approval had to be in writing, that conversation, which I submit did not include the term "shutdown", would not be in question.

The Hon. DANIEL MOOKHEY: Minister, will you turn to tendered document 006? This is a text message from your chief of staff to a person unknown. It states:

From Meg:

Hi, not good news—conciliation no result tonight, massive disruption expected in morning and I'll call you soon—need to jump on call with Secretary and Dep sec of regional plus our heads ...

Do you see that?

Mr DAVID ELLIOTT: Is this time stamped at 10.51?

The Hon. JOHN GRAHAM: Yes, 10.51 on 20 February.

The Hon. DANIEL MOOKHEY: Yes. Did you get that message?

Mr DAVID ELLIOTT: I want to take that on notice.

The Hon. DANIEL MOOKHEY: Is your chief of staff in the room?

Mr DAVID ELLIOTT: Yes, but she is not sworn in as a witness.

The Hon. DANIEL MOOKHEY: Can you check with her? She is there to provide notes. Can you find out who she sent this message to at 10.51?

Mr DAVID ELLIOTT: It was an internal text to my staff.

The Hon. DANIEL MOOKHEY: To whom?

Mr DAVID ELLIOTT: To my staff.

The Hon. DANIEL MOOKHEY: So she texted someone else on the staff?

Mr DAVID ELLIOTT: Yes, she texted other staff.

The Hon. DANIEL MOOKHEY: So prior to calling you to say "significant disruption", your chief of staff was telling others that there was a massive disruption expected?

Mr DAVID ELLIOTT: Well, I would have thought that the terms "massive" and "significant" would be—

Mr DAVID SHOEBRIDGE: Significantly different.

The Hon. DANIEL MOOKHEY: The problem is that there is a huge difference between the meaning of "massive" and "significant".

Mr DAVID ELLIOTT: Okay.

The Hon. DANIEL MOOKHEY: What I do not understand is it is quite clear—

CORRECTED

Mr DAVID ELLIOTT: There is no reference to "shutdown", though. Do we agree on that?

The Hon. DANIEL MOOKHEY: Not necessarily, Minister.

Mr DAVID ELLIOTT: Do you see the word "shutdown" there in that text?

The Hon. DANIEL MOOKHEY: Just calm down, Minister.

Mr DAVID ELLIOTT: I am calm, but I am asking you—

The CHAIR: Order!

The Hon. DANIEL MOOKHEY: Minister, your chief of staff is briefed by Ms Bourke-O'Neil sometime between 10.43 and 11.00. She is texting other members of your staff saying a massive disruption is expected.

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: The documentary evidence suggests that the department should be believed over you. That is what this says.

Mr DAVID ELLIOTT: I would disagree with that.

The Hon. DANIEL MOOKHEY: It seems like you had multiple warnings and that you were sweating on precisely the language and the definition of the term "significant", when, in the eyes of a reasonable person, you should have known the network was going to shut down. You were negligent, were you not?

Mr DAVID ELLIOTT: No. I will take that as a comment but there is a big difference between "significant" or "massive disruption" and "shutdown". A "shutdown" means no service. "Disruption" means limited service. I think that is probably the reasonable interpretation.

The Hon. DANIEL MOOKHEY: This is the difference between "it" and "it". Basically, you are running a Bill Clinton defence here. What does "it" mean?

The Hon. SCOTT FARLOW: Daniel, that is beneath you.

The CHAIR: Order!

Mr DAVID ELLIOTT: You are bordering on offensive, Daniel, but I expected no less.

The CHAIR: The Opposition time has expired. I want to issue a point of clarification. Minister, I remind you that you are under oath. You can only take questions on notice if you are genuinely unable to answer them or if you have to have a document at hand.

Mr DAVID ELLIOTT: Sure.

Mr DAVID SHOEBRIDGE: Minister, did your chief of staff tell you about the prospect of the massive disruption of the train network?

Mr DAVID ELLIOTT: I think you will find that the word was "significant", but certainly I was advised that there would be a disruption.

Mr DAVID SHOEBRIDGE: Your chief of staff knew at 10.51 that there would be a massive disruption on the rail network.

Mr DAVID ELLIOTT: Correct.

Mr DAVID SHOEBRIDGE: Are you saying they did not brief you about the scale of the disruption?

Mr DAVID ELLIOTT: I took the word "massive" to be the same interpretation I have heard for the last 63 days.

Mr DAVID SHOEBRIDGE: So you knew it was going to be massive disruption?

Mr DAVID ELLIOTT: That is why—exactly.

Mr DAVID SHOEBRIDGE: But up to now you have been saying all you thought there would be significant disruption?

Mr DAVID ELLIOTT: No.

Mr DAVID SHOEBRIDGE: You are now conceding, and quite properly, that before you ducked off to bed you knew there would be massive disruption.

CORRECTED

Mr DAVID ELLIOTT: There would be significant and/or massive disruption. We did not know the intensity of it.

Mr DAVID SHOEBRIDGE: Significant or massive, what was it, Minister?

The Hon. TAYLOR MARTIN: Surely they are interchangeable.

Mr DAVID SHOEBRIDGE: Maybe to you.

Mr DAVID ELLIOTT: I am going to say that a reasonable person would probably find that it is interchangeable.

Mr DAVID SHOEBRIDGE: I think the reasonable person on Monday morning found out what "massive disruption" meant, even if you could not be bothered interrogating it, Minister. Are you aware of that?

Mr DAVID ELLIOTT: I will take that as a comment.

Mr DAVID SHOEBRIDGE: Minister, are you going to say "sorry" for ducking off to bed, after you had been put on notice that there would be massive disruption in the Sydney rail network?

Mr DAVID ELLIOTT: Thank you—

Mr DAVID SHOEBRIDGE: No, I will ask again. Are you going to apologise and say "sorry" for ducking off to bed after you were told by your own chief of staff there would be massive disruption on the Sydney rail network, which we now found cost the Sydney economy \$50 million. Are you going to say "sorry" for that?

Mr DAVID ELLIOTT: Thank you for bringing my sleep patterns in. You appreciate that I had worked all weekend and I thought at midnight, after my last briefing, knowing full well that I had to get up at four in the morning, I thought that a reasonable person would consider that four hours' sleep was okay, given that I had been prepared for a massive and/or significant disruption.

Mr DAVID SHOEBRIDGE: Are you going to say "sorry"?

Mr DAVID ELLIOTT: But if you are asking me am I sorry that the commuters of Sydney found no services on 21 February, I think you will find that I may have already done that. I am working towards making sure we compensate the fact that they had been disrupted.

Mr DAVID SHOEBRIDGE: Minister, I am asking about your role. You were told, we now know, that there would be massive disruption. Your decision in light of that is not to intervene and find out how you can help the trains run; your decision is to tuck yourself up in bed and let somebody else take the fall. That was your decision, wasn't it, Minister?

Mr DAVID ELLIOTT: Actually, no, I completely dispute that. Again, you want to keep bringing my sleeping patterns in. I think that a midnight—

Mr DAVID SHOEBRIDGE: I want to bring your ministerial responsibility in.

The Hon. SCOTT FARLOW: Point of order—

Mr DAVID SHOEBRIDGE: It is about your ministerial responsibility.

The Hon. SCOTT FARLOW: This point of order is with respect to Mr Shoebridge constantly interrupting the Minister as he is attempting to answer Mr Shoebridge's question. I ask that the Minister be allowed to finish his answer.

The CHAIR: I ask the Minister to allow Mr Shoebridge to finish his question, and I ask Mr Shoebridge to allow the Minister to answer the question.

Mr DAVID ELLIOTT: To the point of intervening—and the Premier has said this and I have said it—if I am advised, and this is a very, very important point, the outcome of the shutdown—the fact that we had a shutdown would not have changed, regardless of what scenario you want to paint in the lead-up. There was a safety assessment, which meant the dispute that had been, in my mind, a false dispute, a feigned dispute, had the dispute meant that there is a safety risk of running the trains, well, then in my mind the decision at 12.30 for Mr Longland to shut down the system was appropriate. If I had come over the top and said, "Listen, for political reasons, I have to have to have the trains running tomorrow morning because I will get in trouble from David Shoebridge", and there was an accident, you would be the first person to be dragging me down to the coroner's court and saying, "Here is a safety assessment which says that it is dangerous. It was dangerous. Elliott made sure, he forced the trains to run because he was too scared of David Shoebridge, and guess what, somebody died."

Mr DAVID SHOEBRIDGE: We will come—

CORRECTED

Mr DAVID ELLIOTT: Can I finish? No, no, no, I am going to finish this one.

Mr DAVID SHOEBRIDGE: Yes, go for your life.

Mr DAVID ELLIOTT: Because I think that your assertion that for some strange reason ministerial oversight included setting aside safety records is actually quite dangerous.

Mr DAVID SHOEBRIDGE: We will come to the fact that the train system managed to operate with union bans the following day after you shut it down. Do you feel at all responsible—

Mr DAVID ELLIOTT: Hold on. Madam Chair, I have to ask him to retract that statement because—

Mr DAVID SHOEBRIDGE: Do you feel at all responsible?

Mr DAVID ELLIOTT: —he said after I shut it down.

The CHAIR: Order!

Mr DAVID ELLIOTT: That is not correct.

Mr DAVID SHOEBRIDGE: No, I accept you did not take ministerial responsibility and somebody else did. We have clarified that. The train system ran on the Tuesday, the Wednesday with union bans in place because people were willing to sit down and work it through. You weren't though. You went to bed and you will not say "sorry". Why not?

Mr DAVID ELLIOTT: I do not think that if between midnight and 4.00 a.m. I asked the union to come and have a cup of tea with me they would have actually been there. But if you had read the chronology and the matters on public record, you would know that I did meet with the union the following day. We did conciliate, we did come to an arrangement, and thankfully Mr Longland and the secretary of the department were able to work with the union so that the operation could return to services on the Tuesday morning.

Mr DAVID SHOEBRIDGE: Minister, will you ever apologise for your behaviour as a Minister? You are the Minister who illegally fired off a submachine gun. You are the Minister who does road rage. You are the Minister who celebrates strip searches and you are now the Minister who has shut down the rail network. Will you ever apologise for your behaviour?

Mr DAVID ELLIOTT: I already told you that I am very sorry that commuters were disrupted on the Monday morning.

Mr DAVID SHOEBRIDGE: No, no, your behaviour. You do not apologise for the submachine gun, you do not apologise for the road rage, you do not apologise for celebrating strip searches.

Mr DAVID ELLIOTT: Did you apologise for the—

Mr DAVID SHOEBRIDGE: Will you apologise for shutting down the rail network?

The CHAIR: Order!

Mr DAVID ELLIOTT: I will apologise for—

Mr DAVID SHOEBRIDGE: Will you apologise for anything?

Mr DAVID ELLIOTT: I will apologise for all those things when you apologise for the disgraceful way you treated your staff, which is on the public record.

Mr DAVID SHOEBRIDGE: Will you apologise for anything?

Mr DAVID ELLIOTT: When you apologise for the disgraceful way you treated your staff—

Mr DAVID SHOEBRIDGE: That is your answer?

Mr DAVID ELLIOTT: —I will apologise for whatever you want me to. I will apologise for the invasion of Cuba, if you want, but I am not going to apologise for something until you apologise for the way you treated your staff, because I think you are a bit of a hypocrite.

Mr DAVID SHOEBRIDGE: Minister, you know that your failure to engage with the unions, your decision to go to bed, has put you in direct dispute with the Premier, do you not?

Mr DAVID ELLIOTT: I am sorry, did the union say that I was supposed to speak to them between midnight and 4.00 a.m., did they?

CORRECTED

Mr DAVID SHOEBRIDGE: You are in a dispute with the Premier because you ducked off to bed, are you not?

Mr DAVID ELLIOTT: No.

Mr DAVID SHOEBRIDGE: Have you engaged with Metro land council about your decision to reverse the naming of Sydney's new metro station as Gadigal?

Mr DAVID ELLIOTT: No decision has been made actually; so I cannot reverse a decision that has not been made.

Mr DAVID SHOEBRIDGE: Did you know that the Metro land council had been engaging since August and working through to get the Gadigal people honoured and respected with the naming of the new metro station? Did you know that that had been happening since August?

Mr DAVID ELLIOTT: I knew that Sydney Metro had been consulting about a name of the Pitt Street station but, in my mind, if we needed to celebrate a memory by way of naming a station, I thought that the Indigenous army officer Captain Reg Saunders, MBE, would have been a very appropriate person, given that he evaded the Nazis in Crete, given that he had served in New Guinea during the Second World War, given that he was made a Member of the Order of the British Empire, given that he had been decorated and celebrated for his service in Kapyong, given that as an army officer he was able to sip sherry with generals in the officers mess but he was not allowed to drink with his diggers in the front bar, given that he had been a well and truly respected member of Sir Robert Menzies' administration, given that he also died in Sydney and Sydney has not celebrated him yet but our dear friends in Canberra have, I am pretty sure you will find that a number of Indigenous groups—and some of them are already on the record—are telling me that they think that this is a worthy recognition.

Mr DAVID SHOEBRIDGE: This is Gadigal land. Metro land council is on Gadigal land. You turned around a process to name a station that honours Gadigal people and yet you have not found the time to talk to Metro land council. Is that what you are telling me?

Mr DAVID ELLIOTT: I have spoken to a number of Indigenous groups and a number of Indigenous leaders, but I think you will find that on the public record the Metro council said that they were quite happy with Reginald Saunders to be honoured.

Mr DAVID SHOEBRIDGE: I think all of us would honour Reginald Saunders, a Gunditjmara man from south-west Victoria, but why will you not respect the Gadigal people in the heart of Sydney, in the heart of Gadigal land, and why will you not direct your department to honour the Gadigal people with the naming of the metro station? What is it about calling it Gadigal that offends you?

Mr DAVID ELLIOTT: In the conversations that I had with a number of Indigenous leaders they said that they thought Gadigal was too broad a word for just one railway station. We believe that there is probably a much more appropriate way to honour the Gadigal.

Mr DAVID SHOEBRIDGE: Who have you had this conversation with, Minister?

Mr DAVID ELLIOTT: Time is up.

Mr DAVID SHOEBRIDGE: Who have you had the conversation with?

Mr DAVID ELLIOTT: It is on the public record.

Mr DAVID SHOEBRIDGE: No, it is not. Who have you had the conversation with to reverse the decision?

The CHAIR: Order! The question was asked before the bell went. Could you answer the question, please, Minister.

Mr DAVID ELLIOTT: I am not at liberty to divulge private conversations until the Indigenous people that I had discussed it with are happy for me to do it. But, as you are well aware, I have got some very good relationships with Indigenous groups.

The Hon. MARK BANASIAK: Minister, a brief change of pace.

The Hon. WES FANG: Taxis?

The Hon. MARK BANASIAK: Taxis, yes. The former transport Minister, who I think lasted a couple of months, gave conciliatory comments about the need to revisit the proposed reform, and so did the now Deputy Premier, who was the regional transport Minister. So my question to you, Minister, is: Have you asked your department to go back and have a look at the proposed reform and proposed compensation package?

CORRECTED

Mr DAVID ELLIOTT: Yes, I have, and I met with the Taxi Council, I think last week, and had a very productive meeting with them. I have also, like most lower House members met with taxidriviers in my electorate. I am very, very conscious that the industrial revolution did not finish 200 years ago; we are still living with the industrial revolution, and what that means is that various professions and trades and occupations are going to be affected by technology and they are going to be affected by the information super highway. The taxi industry has been a victim of the industrial revolution, like my great-grandfather the blacksmith was when they went from horses to cars. So I am very conscious of that. I am very conscious of the burden of history when it comes to that particular profession. I might invite Secretary Sharp to make some further remarks, but I can reassure you and the taxi industry that I am looking at figures, I am looking at processes. I am very conscious of the need for equity and for fairness when it comes to revolutionising the point-to-point industry.

The Hon. MARK BANASIAK: Before you go to Mr Sharp, let us just clarify: It was not just the industrial revolution that caused this mess. It was a decision by your Government to allow Uber to act and operate illegally for 18 months.

Mr DAVID ELLIOTT: Okay, well—

The Hon. MARK BANASIAK: Which was not under your leadership.

Mr DAVID ELLIOTT: I will take that as a comment because this is an issue that happened worldwide.

ROB SHARP: Yes, we have continued the review of the reforms that were announced in June 2021. As the Minister indicated, we are still calculating and working through what the package will look like. There is a process internally that is progressing that and we are looking to complete consultation with developed transitional arrangements. Those transitional arrangements, we believe, will balance the impacts of the reform and the benefits to the community that come from the reform. That process is still underway and the New South Wales Government, I understand, will introduce a bill subsequent to the completion of those analyses.

The Hon. MARK BANASIAK: Thank you. Minister, I will turn to another matter, and this was under Minister Stokes, in essence, last time. I asked some questions around the orbital stage two and your response to a question that was taken on notice regarding the now core koala habitat being extinguished, whether it was the blue or yellow line proposed. The Minister responded, presumably with the guidance of Transport for NSW, and said, yes, the impact on koala habitat was similar in both the yellow and blue option. Minister, I am sure you will be shocked to hear that that is actually not true. I have given you a copy of a map that has come out of the options report from your department and, doing a bit of year 8 geography revision, you can see you have got a map in front of you and the key shows you—

The Hon. SCOTT FARLOW: Were you a geography teacher?

The Hon. MARK BANASIAK: I was.

The Hon. SCOTT FARLOW: There we go!

The Hon. MARK BANASIAK: The key shows you green diagonal lines representing core koala habitat and, as you can clearly see, the blue line goes smack bang through the middle of two core koala habitat corridors, where the yellow line goes straight through farmland. So it is clear, Minister, is it not, that that previous answer provided by your department was demonstrably false?

Mr DAVID ELLIOTT: Mark, I am going to confess that in my 73 days in this job, koalas have not come across my desk yet, physically or metaphorically. So I am sorry, I am going to have to ask the secretary to answer that.

The Hon. MARK BANASIAK: Yes, I am more looking to the secretary for an explanation as to why that misleading statement was given.

ROB SHARP: I am very familiar with this. The premise of your question I do not agree with. There is a consultation process and design process on the orbital roads. The blue swoosh, as it is referred to internally, is actually a 30-year out corridor and the placement of that does move. You will see on the yellow line there it does actually go right up against the green on the right-hand side of your map. There are implications for koalas there as well. What is interesting is that the chief scientist came out with a report in December. That report has highlighted a number of considerations. There is also an Aboriginal heritage site that is much larger than was originally envisaged—

The Hon. MARK BANASIAK: Sorry, in which area?

ROB SHARP: On the blue line.

The Hon. MARK BANASIAK: Around the blue line?

CORRECTED

ROB SHARP: Yes. Near Appin township, on the left. That is now much larger than was originally envisaged, and so the team is actually revisiting both the yellow and the blue lines in the context of these new reports that have come out in December. We have a process called a TAP, which is consultation with impacted stakeholders and impacted community members, and that consultation process will be kicking off in the next month based on this new information. We will be continuing consultation, referencing this new-found information.

The Hon. MARK BANASIAK: Okay. As part of that new-found information, are you also looking—looking at this map, the yellow line clearly goes through what would be potentially the Wilton Growth Area, whereas the blue line skirts totally around it. From an accessibility perspective, would not the yellow line be better in terms of—if that is where all the houses are projected to go, that is where people will want to hop on and hop off that orbital road.

ROB SHARP: Yes. The planning debates that are associated with the yellow line include the size of the corridor. So 30 years out, that could potentially be a very major arterial road. You tend to not want to have stop lights and exits into housing estates straight off those. All of that is back on the table because of the new information. It is quite a complex area. It is a beautiful area. We want to minimise the impact, and work is continuing.

The Hon. MARK BANASIAK: Are you also reconsidering the fact that the blue line proposes a 740-metre bridge over Elladale gorge, whereas that would not be required for yellow line?

ROB SHARP: Correct. Yes, very much aware of that.

The Hon. MARK BANASIAK: Thank you. I might just quickly go to—we will start with ferries, Minister. In terms of the Kamay ferry issue, Botany Bay has been subject to extreme contamination over the years and currently many of those contaminants are dormant in the sediment around La Perouse. Would you agree that it is imperative that we do appropriate marine sediment testing before we start looking at this ferry proposal?

Mr DAVID ELLIOTT: I will refer to Mr Collins for that.

HOWARD COLLINS: Thank you very much for the question. Obviously this area is highly sensitive and, as you would imagine, we are working with DPIE as well. The environmental impact statement is very important. We recognise there are a lot of issues regarding this area. We have been out to public exhibition. My maritime team are very much experts in this field, and we continue to work on this project to ensure that we minimise the impact of both those wharves, which are proposed and in planning, and also any environmental impacts around that area. Being a local resident, I really understand, particularly in Kurnell, that it is a very mixed environment. There is a huge terminal right next door, which for many years has supplied or supported the Caltex refinery and then storage facility. But it is fantastic and I would certainly support making sure that we minimise the impact on all the seagrasses and other environmental factors. We are spending a lot of time with community and environment, along with our colleagues in National Parks and DPIE.

The Hon. MARK BANASIAK: If that is the case, why were over 93 per cent of the sample tests that were done in the soil, water and contamination report only done on land, rather than marine, given that there is such a significant potential marine impact? Why have 93 per cent of those tests been done on land, particularly doing soil tests around a few car parking spaces?

HOWARD COLLINS: I think, like all construction sites, we have to carry out surveys and samples, both land and marine—

The Hon. MARK BANASIAK: But 93 per cent on land?

HOWARD COLLINS: I believe even that 7 per cent which will be calculated in maritime—they have been extensive and certainly further work will continue. At this stage, the project is still in planning and we are working very closely with the departments involved.

The Hon. JOHN GRAHAM: Minister, I might take you back to that text message that we were talking about, about massive disruption. You have said it was sent to others in your ministerial office. This is the text message that says:

... massive disruption expected in the morning ...

The Hon. SCOTT FARLOW: Just for clarification, this is tendered document 006, correct?

The Hon. JOHN GRAHAM: Document 006. We know that it was shortly before your chief of staff called you and shortly before your chief of staff texted the agency to say, "The Minister is briefed and is comfortable."

CORRECTED

Mr DAVID ELLIOTT: Yes.

The Hon. JOHN GRAHAM: This text message says:

... massive disruption expected in the morning and I'll call you soon ...

I want to put to you that this did not go to others in your ministerial staff alone. This went to you.

Mr DAVID ELLIOTT: I will take that on notice, but the timing means that it would have superseded the significant disruption briefing that I subsequently got.

The Hon. JOHN GRAHAM: What do you mean by that?

The Hon. SCOTT FARLOW: Well, it was 10.51 p.m. The Minister's evidence was that it was between 11.00 p.m. and 11.30 p.m.

Mr DAVID ELLIOTT: The other way around, I'm sorry.

The Hon. JOHN GRAHAM: I will invite you to clarify that evidence, Minister. What do you mean?

The Hon. TAYLOR MARTIN: It also clearly went to a group.

Mr DAVID ELLIOTT: Sorry, can you repeat the question?

The Hon. JOHN GRAHAM: The question is: This text message went to you, didn't it, Minister?

Mr DAVID ELLIOTT: I will have to take that on notice because I haven't got any evidence that it did.

The Hon. DANIEL MOOKHEY: Can you check your phone?

Mr DAVID ELLIOTT: I will take that on notice.

The Hon. DANIEL MOOKHEY: Why don't you just check your phone?

Mr DAVID ELLIOTT: I will take it on notice.

The Hon. JOHN GRAHAM: Minister, this message has been produced by the Department of Premier and Cabinet saying it is a text message between the chief of staff to the Minister and ministerial office colleagues. This went to you.

Mr DAVID ELLIOTT: I will take it on notice whether it came to me, but it certainly was sent before we were briefed that there would be significant disruption.

The Hon. JOHN GRAHAM: You were told at 10.51 p.m. that there was going to be massive disruption in this text message, weren't you?

Mr DAVID ELLIOTT: As I said in my earlier answers, I have been told for the whole 63 days that I was the Minister that there was potential for disruption on any given day.

The Hon. JOHN GRAHAM: But that is when you briefed the House—and this is now on 23 February, significantly later.

Mr DAVID ELLIOTT: Yes.

The Hon. JOHN GRAHAM: What you were saying is:

Transport for NSW advised my staff there would be a significant interruption ...

You go on to say:

It was all about significant interruption ...

You are told this is about massive disruption.

Mr DAVID ELLIOTT: I think you and I are going to have to agree to disagree on the interpretation of "significant" versus "massive". The fact of the matter is the allegation was that we were told there would be a shutdown, and we were never advised of that.

The Hon. JOHN GRAHAM: Minister, I will take you to the material that was distributed to your office that evening. This is the media material that came at around 1.28 a.m. It is headed "Rail network shutdown media materials".

Mr DAVID ELLIOTT: Sorry, what time was that?

The Hon. JOHN GRAHAM: This is now at 1.28 that morning.

CORRECTED

Mr DAVID ELLIOTT: Yes.

The Hon. JOHN GRAHAM: "Rail network shutdown materials".

Mr DAVID ELLIOTT: Yes.

The Hon. JOHN GRAHAM: You knew then that this was a shutdown, didn't you?

Mr DAVID ELLIOTT: At 1.30 a.m.? Correct, because Mr Longland had only made the decision at 12.30 a.m.

The Hon. JOHN GRAHAM: Yes, but you went on to claim that this was a strike subsequently.

Mr DAVID ELLIOTT: Well, it was an industrial dispute, but that is going to be a moot point. I have had that discussion with the union, as well, and that is in dispute. But can I just add, hopefully for the last time, that the outcome would not have changed. Whether or not we call it a strike or an industrial dispute or industrial disharmony, whether or not we were advised of massive—

The Hon. JOHN GRAHAM: We will come back to that point, Minister.

Mr DAVID ELLIOTT: Well, I am going to finish this because I am going to refer you back to this answer if you ask me about it again. Whether or not we call it a significant disruption, a strike, or—sorry. Whether or not we call it a strike or industrial unrest or an industrial dispute—

The Hon. JOHN GRAHAM: Or a massive disruption.

Mr DAVID ELLIOTT: —or a massive disruption would not have changed the fact that—

The Hon. JOHN GRAHAM: Don't you think commuters would have appreciated knowing that there was going to be a massive disruption—

Mr DAVID ELLIOTT: Can I finish?

The Hon. TAYLOR MARTIN: Hold on. Let's hear the Minister's answer in full.

The CHAIR: Order!

Mr DAVID ELLIOTT: You know what? You're in the freezer, mate. You can put all your questions on notice from now on.

The Hon. JOHN GRAHAM: Wouldn't commuters have appreciated knowing there was going to be a massive disruption?

Mr DAVID ELLIOTT: Put all your questions on notice.

The CHAIR: Order!

Mr DAVID ELLIOTT: We've got 3½ hours. You didn't have to interrupt me, John.

The Hon. DANIEL MOOKHEY: Minister—

The CHAIR: Order! Mr Mookhey, order!

The Hon. DANIEL MOOKHEY: Sorry, Chair.

The CHAIR: The Minister had not finished his sentence. I do not believe he was being repetitive. Perhaps we could allow him to finish. But I do—

Mr DAVID ELLIOTT: It's fine. I'm going to be putting all his questions on notice.

The CHAIR: I remind you, Minister, that you are under oath, and you may only take questions on notice if you genuinely cannot answer them.

Mr DAVID ELLIOTT: Well, I can't answer them because he keeps interrupting me.

The CHAIR: That is not a genuine reason, and I remind you that you are under oath. Mr Mookhey?

The Hon. DANIEL MOOKHEY: Minister, I have one other question about tendered document 006, which is the text message that has been described to us by the Premier's department as having been sent to you. There is a thumbs up emoji here. Do you recall putting a thumbs up emoji on a message that night?

Mr DAVID ELLIOTT: Which text are you talking about?

The Hon. DANIEL MOOKHEY: Tendered document 006. Someone replied to this.

CORRECTED

Mr DAVID ELLIOTT: Mine do not have—

The Hon. DANIEL MOOKHEY: It is up the top.

Mr DAVID ELLIOTT: I am sorry, Madam Chair, but mine do not have—there are multiple documents that have got the same number on them.

The Hon. DANIEL MOOKHEY: We can provide you a copy if you want.

Mr DAVID ELLIOTT: I can safely say, no, it is not, because I do not do emojis.

The Hon. DANIEL MOOKHEY: Fair enough; good to know. Minister, can I ask, through you to the secretary: Is this protocol about channelling all communications through your chief of staff still in place?

Mr DAVID ELLIOTT: No. As I warm into the job, I can assure you that we have got a lot more ease in our communication as I become more confident in the lingo, the acronyms and the ways in which Transport talk. I am becoming a lot more confident.

The Hon. DANIEL MOOKHEY: I am glad that you have acquired that confidence to be able to be in a position to directly communicate with your secretary. Secretary, would it have been easier, on the night of the shutdown, if you simply just called? Would it have made your department's job a lot easier if you had just called the Minister up and said to him directly that the network was going to shut down?

ROB SHARP: The communication that takes place in these types of events is actually over an extended period. It is never just one particular communication channel.

The Hon. DANIEL MOOKHEY: Secretary, I do not wish to be rude—

The Hon. SCOTT FARLOW: Point of order—

The Hon. DANIEL MOOKHEY: —but I would like to direct you to the question.

The CHAIR: Order!

ROB SHARP: I was in the process of answering the question. The phone call is a useful tool, obviously, but, as the Minister indicated, a written documentation and sign-off is also appropriate. That is part of the process that we will look at improving. To answer your question specifically, yes, it is useful to be able to make a phone call.

The Hon. DANIEL MOOKHEY: And you would have liked to have made a phone call that night?

ROB SHARP: At the end of the day, it would have been a useful part of the suite of communication.

Mr DAVID ELLIOTT: Can I use my discretion as the Minister to finish that question? That is why the Premier has made it very clear that all of these communications should be in writing.

The Hon. DANIEL MOOKHEY: Thank you for that, Minister. I take you to a slightly different matter now. In respect to the actual application that was lodged in the Fair Work Commission, we know from the chronology that you were briefed on the fact that your department was preparing an application to Fair Work in order to obtain an interim order to prevent industrial action. In the course of that briefing, did your department ever canvass with you or seek your views about a shutdown that would be longer than 24 hours?

Mr DAVID ELLIOTT: When?

The Hon. DANIEL MOOKHEY: At any point.

Mr DAVID ELLIOTT: No.

The Hon. DANIEL MOOKHEY: Did they seek such views from your office?

Mr DAVID ELLIOTT: I am not aware of that.

The Hon. DANIEL MOOKHEY: Did your office ever express concerns with such a strategy?

Mr DAVID ELLIOTT: Of a shutdown?

The Hon. DANIEL MOOKHEY: Of a shutdown that would last longer than 24 hours.

Mr DAVID ELLIOTT: We were not advised that it was an option.

The Hon. DANIEL MOOKHEY: So, to the best of your recollection, there was never any advice given to you that there would be a shutdown, or there is the potential for a shutdown that would last longer than 24 hours?

CORRECTED

Mr DAVID ELLIOTT: We were not advised of a shutdown until 1.30 in the morning. I think you will find the chronology of events confirms that—on the Monday morning.

The Hon. DANIEL MOOKHEY: Just to be very clear, at no point in time were you given advice that it was possible that the network would have to shut down pending a full Fair Work hearing on the application?

Mr DAVID ELLIOTT: Thank you for finally acknowledging that.

The Hon. DANIEL MOOKHEY: I did not acknowledge it; I am asking you a question.

Mr DAVID ELLIOTT: No, you acknowledged the fact that nowhere were we told that there would be a shutdown until 1.30 in the morning. We were not told that there would be a shutdown until 1.30 on the Monday morning.

The Hon. DANIEL MOOKHEY: Perhaps, if you listen to the question, it might go a bit easier. The specific question that I am asking you is: At any point, in canvassing your views or briefing you on the application that was lodged to obtain an interim order, were you or your office provided any scenario in which the network would be shut down for more than 24 hours so that the Fair Work Commission could hear the application?

Mr DAVID ELLIOTT: I am not aware of any.

The Hon. DANIEL MOOKHEY: I take you and the secretary to tendered document 012.

Mr DAVID ELLIOTT: Sorry, you are going to have to time to find it.

The Hon. DANIEL MOOKHEY: Yes, that is okay. While you are finding it, I will just explain what it is. This is a text exchange that takes place between the secretary and, I think, his chief people officer or head of HR. You can see here that, on Sunday night at 10.23, the chief people officer is informing the secretary that:

We are still on call. There is a concern to go for termination as the disruption could play out for a few days before we would get a decision. We cannot get interim orders if Commission hears matter within five days which they are saying they can and the unions have agreed they could respond in a few days.

Mr Sharp replies:

Can you please expand. I don't understand the play offs you are referencing?

Then it says:

Group is concerned on Ministers view of potentially having a number of days of disruption or full stoppages whilst we are in the hearing on potential termination and/or suspension. So want to consider all options eg conciliation, doing a deal, making application to argue agreement should be upheld, etc.

I am prepared to say that no-one from your office is party to this text exchange but, quite clearly, at 10.23 that evening, your department is canvassing the prospect of a longer shutdown. They are saying that one of the concerns is that the Ministers are not going to support a full stoppage that would last until, to be fair, Wednesday.

The Hon. JOHN GRAHAM: Will not support and are concerned.

The Hon. DANIEL MOOKHEY: That is what it says. I have to ask you again, at any point, did your office express concerns with an industrial relations strategy that your Government had initiated which could have led to the network being shut down until the Wednesday?

Mr DAVID ELLIOTT: You will see the word "Ministers" there is the plural. I do not know which Ministers they are referring to.

The Hon. DANIEL MOOKHEY: Sure, I am just checking if it is you.

Mr DAVID ELLIOTT: They are saying the Ministers—i.e. the four of us—may have a view. They are obviously pre-empting that I may or may not have an opinion.

The Hon. DANIEL MOOKHEY: I accept the fact that they may not have canvassed your views or your office's views.

Mr DAVID ELLIOTT: So why are you asking the question?

The Hon. DANIEL MOOKHEY: For you to establish whether or not your views were established. That is the reason why I am asking the question.

Mr DAVID ELLIOTT: Listen, that is all speculative. You cannot tell me what Minister you are referring to. It refers to "may"—

The Hon. DANIEL MOOKHEY: Minister, just stay with the questioning.

CORRECTED

Mr DAVID ELLIOTT: Can you let me finish?

The Hon. DANIEL MOOKHEY: Actually, Minister, if you could just answer the question—

The CHAIR: Order!

Mr DAVID ELLIOTT: It refers to Ministers, plural—

The Hon. DANIEL MOOKHEY: I will take you to the next one.

The Hon. SCOTT FARLOW: Point of order: The Minister is trying to answer the Hon. Daniel Mookhey's question, but he is not being given the opportunity. I ask that the Minister is able to finish, and then the Hon. Daniel Mookhey can ask further questions. As the Hon. Daniel Mookhey keeps stating, it will go much easier if that is the course.

The CHAIR: I uphold the point of order. I also ask the member to perhaps give a bit more time for the Minister to find the relevant document.

The Hon. DANIEL MOOKHEY: It is really a simple question: Was your view or your office's view canvassed on this scenario?

Mr DAVID ELLIOTT: Can you tell me what the time and date was for that text?

The Hon. DANIEL MOOKHEY: It is a 10.23 p.m. text exchange on Sunday 28 February.

Mr DAVID ELLIOTT: So it was an hour before my chief of staff had the conversation with the deputy secretary.

The Hon. DANIEL MOOKHEY: Yes.

Mr DAVID ELLIOTT: I am not going to comment on speculation.

The Hon. DANIEL MOOKHEY: Can you go to page 4 of that exchange. This might help clarify it precisely and help you in terms of who the Minister is that we are speaking about. It says here, "Can we grab you for a call with Meg and Matt?" The secretary, presumably, replies, "Yes." And then the chief people officer informs the secretary about this particular scenario. She says:

I understand there is tension in this decision however I want to stress we may not get this opportunity again especially with the support of Minister of ER.

Clearly, the Minister for Employee Relations supports an aggressive industrial strategy that would have seen the network shut down until Wednesday, when the Fair Work Commission would hear the matter in full. Did you have any conversations with Minister Tudehope that night?

Mr DAVID ELLIOTT: On Sunday night?

The Hon. DANIEL MOOKHEY: Yes.

Mr DAVID ELLIOTT: Not to my recollection, no.

The Hon. DANIEL MOOKHEY: Did you have any conversations with Minister Tudehope that weekend?

Mr DAVID ELLIOTT: Not to my recollection, no.

The Hon. DANIEL MOOKHEY: Why not?

Mr DAVID ELLIOTT: Because I was at a ministerial council in Darwin.

The Hon. DANIEL MOOKHEY: You were getting regular updates on the nature of the conciliation proceedings on the Saturday, were you not?

Mr DAVID ELLIOTT: Yes.

The Hon. DANIEL MOOKHEY: And you were getting it on the Sunday?

Mr DAVID ELLIOTT: I was getting updates, but I do not believe that I had any conversation with the Minister for Employee Relations at that time. If you want me to take it on notice, I can clarify that.

The Hon. DANIEL MOOKHEY: I would appreciate that, Minister. But just to be clear when you were getting these updates through the Saturday and through the Sunday, did you speak to any ministerial colleague?

Mr DAVID ELLIOTT: I would have to take that on notice. It would be very unusual if, on a given day, I did not speak to one of my ministerial colleagues.

CORRECTED

The Hon. DANIEL MOOKHEY: But about the dispute.

Mr DAVID ELLIOTT: About the dispute? I will take that on notice. I have got no recollection of me speaking—other than my cluster Ministers and the Minister for Employee Relations, there would not have been any reason for me to have a discussion with anybody else.

The Hon. DANIEL MOOKHEY: I accept that, Minister. But did you talk to the Premier at all throughout the course of the evening?

Mr DAVID ELLIOTT: I will take that on notice.

The Hon. DANIEL MOOKHEY: Did you at all pick up the phone to the Premier and say, "Hey, we're in conciliation. These are the updates that I'm getting. What are you hearing?" Nothing to that effect?

Mr DAVID ELLIOTT: On what date?

The Hon. DANIEL MOOKHEY: On the weekend. Any time in that weekend.

Mr DAVID ELLIOTT: I would have to take that on notice. I do not recall discussing with the Premier. If you remember, on the Saturday we were quite comfortable that conciliation had been made between the two parties. It was not until the Sunday—I do not know if it was before or after my flight—that we found out. With the time difference at some stage during Sunday we found out that there was a dispute in the interpretation of the timetable. I do not recall speaking to the Premier about it. As I said, we were hoping that there would be resolution.

The Hon. DANIEL MOOKHEY: I appreciate that, Minister. Minister, through you I ask the secretary: Clearly though the department was contemplating, or at least your chief people officer was providing you with advice, to take more aggressive action that would have seen the network stay shut till Wednesday. She was informing you that you had the support of the Minister for Employee Relations. Is that a fair interpretation of this exchange?

ROB SHARP: Yes. That is the advice I was being given at that time. We were looking at various strategies.

The Hon. DANIEL MOOKHEY: And one of those strategies was to persist with the shutdown until Wednesday.

ROB SHARP: That was an option.

The Hon. DANIEL MOOKHEY: And that option was to allow the Fair Work Commission to undertake a full hearing into your application?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: And that was because you had assessed, or at this point you had not succeeded in obtaining an interim order.

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: So there was a real chance that the network was going to stay shut for three days under this scenario.

ROB SHARP: Under that scenario, the industrial action that was in place would have continued. That would have impacted on the services. At that stage, those industrial actions had not played out but, obviously, were going to be significant. It was an option, and we looked at multiple options.

The Hon. DANIEL MOOKHEY: Sure. Thank you. I appreciate that. And that option, to keep the network shut, apparently had the support of the Minister for Employee Relations?

ROB SHARP: I do not know. That was the comment that was passed to me at the time.

The Hon. JOHN GRAHAM: Who was that passed to you by?

ROB SHARP: My people officer, who is responsible for industrial relations.

The Hon. DANIEL MOOKHEY: Minister, have you ever been briefed on what is called a circuit-breaker strategy?

Mr DAVID ELLIOTT: In relation to this matter?

The Hon. DANIEL MOOKHEY: Yes.

Mr DAVID ELLIOTT: Not that I am aware of.

CORRECTED

The Hon. DANIEL MOOKHEY: You are not aware of anything that resembles a circuit-breaker strategy?

Mr DAVID ELLIOTT: In what context?

The Hon. DANIEL MOOKHEY: Any context.

Mr DAVID ELLIOTT: "Circuit-breaker" is something that we use in politics a lot.

The Hon. DANIEL MOOKHEY: In this dispute. Let me take you to tendered document 13. This is a text exchange that takes place between your secretary and Mr Coutts-Trotter on Tuesday—

Mr DAVID ELLIOTT: Sorry, what number is it?

The Hon. DANIEL MOOKHEY: Tendered document 13. This is a text exchange that takes place on the day that you are announcing the withdrawal of the application. You are having a press conference this day to say to the public that the Government will withdraw its application as a sign of good faith which, I think, at the time was welcomed by the counterparties in the dispute. I just want to be clear here, Minister. It says here—secretary to Mr Coutts-Trotter:

I have an update on the FWC. No termination option available for the action. We don't meet the hurdle with some services operating. The actions negotiated and agreed on Saturday have however enabled a return of services which was the original agreement and focus. The next step is to engage with the RTBU next week as agreed. The circuit breaker strategy remains. Go to vote in NSW Trains and look for mechanisms to get to FWC on ST. This isn't an easy step. Happy to discuss. Thanks.

Clearly, on the day that you are telling the public that you were withdrawing your application, it seems like your secretary is telling the head of the Department of Premier and Cabinet that actually your department is planning to repeat the very same dispute which, for what it is worth, is bad-faith bargaining, which is illegal under the Fair Work Act. Why is it the case that, at the same time you were telling the public that the application was being withdrawn, your department was advising the Premier and Cabinet that they were getting ready to re-run the same dispute?

Mr DAVID ELLIOTT: The secretary will have to answer that because I certainly met with the union and, on legal advice—it was not just an act of good faith; it was an act of good faith as well as legal advice—that we would withdraw the action. I think—

The Hon. DANIEL MOOKHEY: Can we hear from the secretary?

Mr DAVID ELLIOTT: Sure.

ROB SHARP: The circuit-breaker strategy is not a replay of the Fair Work strategy that took place over the weekend. This is the next step in engaging with the unions, particularly around the Marayong. As you are aware, there are operational differences of opinion around that. From my perspective, the circuit-breaker strategy was: How do we engage with the unions in the next step?

The Hon. DANIEL MOOKHEY: No. It says here, "look for mechanisms to get to FWC". It does not say, "engage with the union". You said that before. It says here, "Look for mechanisms to get to FWC on ST." I will be very clear here: As a former industrial relations practitioner there is only one other thing that Fair Work can give you, which is a termination of a bargaining period application, which is the exact dispute that you filed the earlier week. That is the only power Fair Work has, unless you are telling me that you are getting ready to prepare to terminate the agreement altogether. Your evidence is not correct, Mr Sharp. It is clear here that what you are referring to is an identical application on the presumption that somehow you could stall negotiations with the union in order to induce the circumstances that would allow you to explain to Fair Work why they should terminate a bargaining period. That is the truth, is it not? It is not that you were planning to go to the union any further. The same time the Minister was telling the public that that application was withdrawn, your department was readying an option to go again. That is the actual evidence, is it not, Mr Sharp?

ROB SHARP: I think it is a misrepresentation of the text message. The Fair Work Commission application on the weekend was very specific to a set of industrial bargaining parameters that we saw as carrying a specific risk.

The Hon. DANIEL MOOKHEY: It is a 424 application. Yes, I know it. It is not plausible, Mr Sharp. What you are saying is not plausible.

ROB SHARP: Also, just in terms of language, I am not an industrial relations expert. But my understanding is what we were trying to do was actually get an independent person to actually get us together so we can actually talk through.

The Hon. DANIEL MOOKHEY: No. You were going to go for a vote with NSW Trains.

CORRECTED

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: And you were looking for a mechanism to avoid reaching an agreement with the union. That was why you were trying to get to Fair Work. This is as clear as day. Any industrial relations practitioner, even with a base level of knowledge of the Fair Work Act, knows exactly what you are referring to here. This is not an attempt to get conciliation. You had conciliation. This is an attempt for you to again repeat the Government's aggressive strategy, and the impression that you are clearly leaving is that the Minister is left in the dark on this or, in fact, he knows about it and he is just not prepared to say.

ROB SHARP: The actual circuit-breaker strategy had been shared with the Minister's chief of staff. We were looking to have meetings to actually discuss it. But it was in the context—

The Hon. DANIEL MOOKHEY: When was that? When was the chief of staff told about this circuit-breaker strategy?

ROB SHARP: I would have to take that on notice on the exact timing. I would have to go back to the emails. But the reality is the circuit-breaker strategy—

The Hon. DANIEL MOOKHEY: Minister, your chief of staff has been briefed.

The CHAIR: Order! Mr Mookhey, I have allowed your time to run over quite a bit so that we could hear the rest of the answer from the secretary. Perhaps we can leave that discussion till we come back?

The Hon. DANIEL MOOKHEY: I think we might.

The CHAIR: Good. Minister, if I could just take you back to the discussion my colleague was having with you in relation to the new Metro station in Pitt Street? Are you aware that the Geographical Names Board had run an entire consultation process in relation to that naming?

Mr DAVID ELLIOTT: Correct. Yes. I was advised of that, yes.

The CHAIR: Are you aware that, as part of that, there was, I think, 120 submissions received?

Mr DAVID ELLIOTT: Yes.

The CHAIR: Are you aware that, as part of that, the Geographical Names Board did consult with not just the local Aboriginal land council but also other key First Nations stakeholders?

Mr DAVID ELLIOTT: I do not know the other key—have you got who they were?

The CHAIR: I do not have that in front of me.

Mr DAVID ELLIOTT: I am not aware of it either.

The CHAIR: But I am aware that the process was open for a month; people submitted their thoughts; and a decision was made that it would be recommended that it be called Gadigal?

Mr DAVID ELLIOTT: Yes.

The CHAIR: I would love to know whether this is correct, but there is even reporting that it was actually signed off already by a previous transport Minister. Are you aware of that?

Mr DAVID ELLIOTT: I am not aware of that being signed off yet. No, that is not the case.

The CHAIR: That is not the case? But, in any event, there had been, I would say, quite a thorough consultation process in relation to the naming of this.

Mr DAVID ELLIOTT: That is an opinion, because I do not think 120 submissions is thorough for a railway system that takes millions of people. When the story was put on *The Daily Telegraph* website yesterday you will probably find that there were close to 100 people who put in an opinion in a couple of hours, when the story actually was made public in the tabloids. I must say, from a qualitative research point of view, I am not comfortable with 120 submissions for something as significant as a railway station.

The CHAIR: A process has been set up in order to name new stations like this.

Mr DAVID ELLIOTT: Correct, and a process that allows me to also provide some guidance and some recommendations.

The CHAIR: Did you make a submission during that one-month consultation process?

Mr DAVID ELLIOTT: It was before my time as the veterans Minister.

CORRECTED

The CHAIR: So you were not interested at that time.

Mr DAVID ELLIOTT: I was not familiar with the process. It did not come around to members of Parliament.

The CHAIR: You mentioned earlier, in response to one of the Opposition questions, that you had been following certain procedures because you were acquiring confidence in your new role.

Mr DAVID ELLIOTT: Yes.

The CHAIR: But it is an extraordinary level of confidence to override an entire consultation process and put your own suggestion for a name forward, and basically railroad through what had already been agreed, is it not?

Mr DAVID ELLIOTT: You are forgetting that I have actually been the veterans Minister before. I had four years as the veterans Minister between 2015 and 2019, and it was in my time as the veterans Minister in the last Parliament that I developed a really solid relationship with the Indigenous veterans group. That conversation I had had with them over a long period of time, where they said, "Why is it that in New South Wales, where Captain Reg Saunders passed away, we have never honoured him in the way that even the Australian Capital Territory Government, where he never really lived—he certainly was not born there; nor did he die there—have honoured him?"

The CHAIR: To be clear, nobody is saying that we should not have a future station called Saunders.

Mr DAVID ELLIOTT: Actually, the metropolitan lands council are on the record as saying that it is not a bad idea, because he should be on it.

The CHAIR: Sure, but there are future projects that you could have applied that name to.

Mr DAVID ELLIOTT: There are future projects we could call anything but I believe that, as the Minister for Veterans, my job is to promote the story of veterans.

The CHAIR: Okay, but this renaming—

Mr DAVID ELLIOTT: Proposed.

The CHAIR: However you want to put it, it is changing the understanding that it would be called Gadigal. That was not done as veterans Minister; that was done as transport Minister, was it not?

Mr DAVID ELLIOTT: I have the luxury of being able to do both, which is why I have got some very exciting announcements very soon about veterans and public transport.

The CHAIR: But if you are only the veterans Minister and not the transport Minister then you would not have had this power, correct?

Mr DAVID ELLIOTT: I may not have had the power, but I certainly would have had the voice.

The CHAIR: Could I ask the secretary, through you, whether a previous transport Minister had signed off on the name Gadigal?

Mr DAVID ELLIOTT: Is that to you, Mr Sharp?

ROB SHARP: I would have to refer this to the CEO of Sydney Metro, Mr Regan.

PETER REGAN: If I could clarify, the previous transport Minister, Minister Constance, was aware of the process that had been run in looking at options for the name. I think to say it was signed off would be going too far. He was aware that there was a process.

The CHAIR: Sure, not objected to.

PETER REGAN: And to pick up on the Minister's point, the actual naming of the stations on metro and other railways is a matter for the Geographical Names Board, who make the final decision and run that consultation. The process around the name Gadigal, while public consultation had taken place, the decision had not been made. The Minister has correctly described the fact that he asked us to then put forward an alternative submission for consideration by the Geographical Names Board, and that is what has happened.

The CHAIR: Understood. So there has been a Geographical Names Board process in order to recommend a particular name. The majority of the submissions were in favour of Gadigal.

CORRECTED

PETER REGAN: No, to be clear, the question would have to go to the Geographical Names Board, but my understanding is that they had run a process of consultation but a final decision to recommend that the station would be called that name had not been made.

The CHAIR: Okay, but they had reported that the majority of submissions were in favour of the name Gadigal.

PETER REGAN: They had provided information on the consultation, and there were submissions for and against.

The CHAIR: Yes, but the majority were in favour.

PETER REGAN: That would be a question you would have to put to them; I am not sure of the exact numbers.

The CHAIR: I am still trying to get to the point where, as transport Minister, you have seen fit to override what you may criticise as not being a perfect process but the usual process for putting forward names and suggestions. Less than 63 days into your role as transport Minister, you have just decided to use this almost kingly power to override all of that and instead call it Saunders.

Mr DAVID ELLIOTT: Saunders has still got to go through a consultation process, and I will probably do that after the Anzac Day parade.

The CHAIR: Is it not possible to have both Gadigal and Saunders? We could have Gadigal for Pitt Street and Saunders for another future station?

Mr DAVID ELLIOTT: Possible. But as I said, I have had four years of Indigenous veterans—including as recently as last week—saying to me, "David, when are you going to be honouring Reg Saunders in this city?" As you quite rightly just said, it ain't a perfect process.

The CHAIR: No, I did not say it. I said that you may say that.

Mr DAVID ELLIOTT: No, you said, "I accept that this is not a perfect process".

The CHAIR: No, I said—

Mr DAVID ELLIOTT: Okay, it is semantics.

The CHAIR: I am sure Hansard will correct it.

Mr DAVID ELLIOTT: I am sure you will too. But what I believe we need to do is honour our veterans, first and foremost. I have got a truckload of Indigenous veterans who are saying to me, "David, now is your time to honour Captain Reg Saunders." As an aside, a number of Indigenous groups have said to me, "Please don't call places Gadigal, because Gadigal is the language. Gadigal are the people, like the English or the Australians or the Scottish." You would not call a railway station "English". You would not call Scotland Island "Scottish Island"; you would call it Scotland Island.

The CHAIR: Whose land are we sitting on right now?

Mr DAVID ELLIOTT: Gadigal land.

The CHAIR: Correct.

Mr DAVID ELLIOTT: But it is the Gadigal people. They call the land the Gadi, so if we are going to call a—

The CHAIR: But we are sitting on Gadigal land.

Mr DAVID ELLIOTT: The land of the Gadigal people, but the actual name for the land is Gadi. The Indigenous veterans have reminded me that you should be calling something Gadi if you are actually going to identify a geographical place.

The CHAIR: So just to round this off, you believe that the Metropolitan Local Aboriginal Land Council got this wrong.

Mr DAVID ELLIOTT: No, I certainly embrace their endorsement of the name Saunders. I embrace the comment that they made yesterday in *The Daily Telegraph*.

The CHAIR: No, about wanting to call this Gadigal. That was something that the metropolitan land council had agreed.

Mr DAVID ELLIOTT: I have got groups of Indigenous veterans who are saying to me—

CORRECTED

The CHAIR: No, I am asking you if you think that you know better than the Metropolitan Local Aboriginal Land Council.

Mr DAVID ELLIOTT: No, I certainly do not know better. On all matters veterans, when it comes to Indigenous history, I defer to the wonderful people of the Indigenous veterans groups.

The CHAIR: Okay. There are more Aboriginal people in New South Wales than that subset of veterans. I agree with you that naming something Saunders would be great.

Mr DAVID ELLIOTT: Thank you.

The CHAIR: And we absolutely need to have more recognition for the Indigenous people who lost their lives in wars.

Mr DAVID ELLIOTT: Well, Reg did not lose his life in war.

The CHAIR: Sure, okay—who fought in the war. I absolutely agree with you on that. What we are talking about, though, is that you have gone out and basically got a vibe or a feel for what you think this station should be called, and you think you know better than the Metropolitan Local Aboriginal Land Council.

Mr DAVID ELLIOTT: No, I do not think I know better than the metropolitan land council. I respect them greatly. I also respect Indigenous veterans who have said to me, "David, it's time we recognised Reg Saunders", and I thought this was an extremely appropriate place and time to do that. I want a whole storyboard about Reg and his life and how not only was he the first Aboriginal to get commissioned by the Australian Army—

The CHAIR: Again, no-one is disputing his worthiness.

Mr DAVID ELLIOTT: —but also he was the first Aboriginal to be made a Member of the Order of the British Empire. He was favoured by Sir Robert Menzies. This is a guy who broke the glass ceiling before we even identified there was a glass ceiling there.

The CHAIR: Yes, and no-one is arguing about that, Minister.

Mr DAVID ELLIOTT: When you look at the way that he evaded the Nazis during the Second World War—

The CHAIR: If I could bring you back to the question—

Mr DAVID ELLIOTT: No, you are questioning whether or not this is an appropriate decision, and I do not think—

The CHAIR: No, I asked you whether you thought that you knew better, given your evidence previously that you did not think it should be called Gadigal.

Mr DAVID ELLIOTT: I have already answered that. As somebody who spent much of their childhood coming and going from Bimbadeen Aboriginal college, I can assure you nobody has more respect for Indigenous Elders than me. That is why I want these Indigenous Elders within the Defence Force to get what they ask for.

The CHAIR: Thank you. Mr Banasiak?

The Hon. MARK BANASIAK: Minister, with your indulgence, I might continue my questions about the ferry wharves and direct my questions to Mr Collins, but feel free to—

Mr DAVID ELLIOTT: Put them through me because I have been reading my notes; I might be able to give you a quick answer.

The Hon. MARK BANASIAK: Okay, we will see how we go. I pick up on the last answer given around the testing. Mr Collins, you said that 7 per cent out of the total 100 per cent—so 93 per cent was done on land and 7 per cent was done in the marine area. That 7 per cent was still, I think your word was, "extensive". Why were they done at such inappropriate depths? The contamination report talks about you only going down, essentially, 80 centimetres—between 80 centimetres and 1.3 metres. Why such a shallow depth?

Mr DAVID ELLIOTT: Mark, I withdraw the last remark now that you have brought geophysics into it. I am going to defer to Howard.

The Hon. SCOTT FARLOW: Former geography teacher.

HOWARD COLLINS: Thank you very much for the question. I am no soil mechanics specialist or geophysicist either. I will take on notice the technical details. My assumption about the 7 per cent was based on the facts that you presented in terms of 93 per cent on land. It is not unusual, those percentages, when you are

CORRECTED

building a ferry wharf because a significant part of that is not only the wharf itself but also the access and car parking. Probably both of us know that at both La Perouse and Kurnell it is important to make sure that the impacts on the environment are far and wide. We rely on those technical specialists. So I will take on notice information as to why those depths were included and the reasons for that.

I reiterate that my Maritime colleagues—Mark Hutchings and his team—have extensive experience in wharf construction, renovation and environmental protection. In fact, they have teams out there every day on the harbour dealing with the environmental impacts of our daily lives. I think they are experts, and I will make sure that you have the response on notice.

The Hon. MARK BANASIAK: Minister, the EPA has stated:

... the nature and extent of contamination have not been fully assessed ...

It also states:

... [further testing] is required to safeguard the environment and people ...

Let me be clear. Part of my concern is not necessarily only the environment but also the people. This is going through a recreational fishing haven and potentially will have significant impacts there. Can you explain why your department seems to reject and appears to overrule that recommendation that more testing be done?

Mr DAVID ELLIOTT: Unless Mr Collins can answer that, I will take that on notice. It is a legitimate question, and I certainly want to find out the answer.

HOWARD COLLINS: Just to confirm, we will take that on notice. Certainly, we have extensive discussion not only with, obviously, the environmental impact statement but, obviously, further work is being done with the Department of Planning and Environment, ensuring that these matters are dealt with.

The Hon. MARK BANASIAK: Minister, the proposed wharf site at La Perouse is within three kilometres of three EPA-listed PFAS contamination sites. Biota studies in that area have confirmed PFAS is in the marine food chain. Obviously, we have dietary restrictions regarding fish caught in that bay. Do you think it is inadequate for your department to only test one marine location at Kurnell and one marine location at La Perouse for PFAS, and then say, "We have done enough"?

Mr DAVID ELLIOTT: I will take that on notice, but I preface that by saying the two wharves are only going to be at La Perouse and Kurnell, correct?

The Hon. MARK BANASIAK: Yes, but there will only be one testing site at each location and not in and around.

Mr DAVID ELLIOTT: Yes, okay, I will take that on notice. I do not see any reason—no, I will take that on notice just in case there is further information that I am not familiar with.

HOWARD COLLINS: If I may, Minister?

Mr DAVID ELLIOTT: Yes, Mr Collins.

HOWARD COLLINS: We do believe that the assessments have been carried out according to the regulatory requirements. Obviously, we are working with the regulators and the determined authority, which is obviously the Department of Planning and Environment, and certainly we will address any concerns. We believe that we work very extensively on reducing the impact of the area. I also think it will provide great benefit to the community and to the fishing community as well to support that environmental area. There have been huge improvements. Certainly, I think we have already seen the benefits in Kurnell. My extensive discussion with the local Aboriginal land council—I think we obviously understand how important. We have Indigenous park wardens now being trained. We have a lot of people who are very keen to ensure that those people who have fished on those shores for tens of thousands of years are part of that environmental impact and understand the importance of this site.

The Hon. MARK BANASIAK: I have a more technical question, Minister. I preface that you may have to flip it past again. PFAS would probably most likely be present in the top one metre of sediment. Why did you guys test for PFAS to the depths of 2.5 metres to 8.2 metres?

Mr DAVID ELLIOTT: I am going to have to take that on notice, Mark; I am sorry.

The Hon. MARK BANASIAK: That is alright. Mr Collins?

HOWARD COLLINS: Yes, we will take that on notice. Again, I do not want to mislead anyone. We need to understand from the specialists the reasons for those decisions made.

CORRECTED

The Hon. MARK BANASIAK: I have one final question for you, Minister, which hopefully you will be able to answer. The contamination report refers to unexploded ordinances in the path. Being a former military man, I am sure you would be concerned about ferries going through unexploded ordinances. It would probably make for an exhilarating ride, potentially.

Mr DAVID ELLIOTT: It would. Is the report suggesting that the UXOs are on the ground, are underwater?

The Hon. MARK BANASIAK: I do not believe it is quite clear.

Mr DAVID ELLIOTT: Either way, as you know, a UXO can explode 100 years after it has been placed there. It can explode by changing its temperature by one degree. I am familiar with UXOs going off because people have walked past them and the shadow of their body has changed the temperature, and it has set them off. So if you are asking me whether I am concerned that there are UXOs in or around a ferry wharf, the answer is a hearty yes.

The Hon. MARK BANASIAK: Just for clarification, it is unclear as to whether they are in the water or in ground.

Mr DAVID ELLIOTT: Obviously I am concerned about any UXO. A UXO on the ground provides me with probably a deeper level of concern, but there are existing protocols if the civil engineers find them. They bring either the army bomb disposal unit or the police bomb disposal unit, and they can probably react to them. I think probably what we will find is that Mr Collins will be able to identify what the protocols are at the moment.

HOWARD COLLINS: Yes. I think this really does show the extensive work that Maritime does. As you probably know, a lot of parts of Sydney Harbour and other areas in the past were subject to military use or potential. Coming from the UK, I can tell you it is even more extensive in other countries. It is a procedure not just for Kurnell or La Perouse, but for all sites where we are constructing, modifying or changing the foreshore or maritime construction. This is part of the standard procedure to ensure that records are checked. Surveys are done for all sorts of reasons, and one of them is actually for any military hardware, munitions or anything else. That is not just for Kamay and La Perouse, but for many other sites we do the similar checks.

The Hon. MARK BANASIAK: Because the report is a little bit vague as to where those UXOs are, on notice can you confirm whether they are in the water or potentially on land—whatever information you can provide?

HOWARD COLLINS: Again, I am very happy to share with you, but I believe it is just a general statement and part of our procedures. I do not believe—and I wish not to scare the residents of Kurnell or La Perouse—that there is anything that we know about in the water or out of the water. It is just a common and standard procedure to ensure we do the work in a safe way.

Mr DAVID ELLIOTT: I just conclude that point with managing expectations. It can be very difficult to identify UXOs underwater.

The Hon. MARK BANASIAK: Yes, okay.

Mr DAVID ELLIOTT: You have to get the navy clearance divers in there. It is not easy. Identifying a UXO on land is easy enough to do, depending on how deep it is, but underwater, if they are there, we could have some difficulties.

The CHAIR: It being 11 o'clock, we will take a 15-minute break. We are horribly on time, so we will come back at exactly 11.15 a.m.

(Short adjournment)

The CHAIR: We will start again with questions from the Opposition.

The Hon. DANIEL MOOKHEY: Thank you, Chair. Minister, through you to the secretary: We were having a conversation about the notification that was provided to the chief of staff in respect to the circuit-breaker strategy. Firstly, can we identify when precisely that briefing was provided?

ROB SHARP: The text message is fairly cryptic but I have got some context from the department, if you would like me to read that?

The Hon. DANIEL MOOKHEY: Yes, could you read that? If you wish to table it, you are just as welcome, Mr Sharp.

ROB SHARP: I am happy to do that. The circuit-breaker strategy was done prior to the risk assessment of the PIA being completed and that foreshadowed the potential for two weeks full stoppages. It was

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approximately early February and it was shared with the chief of staff for the Minister. The strategy was not connected to the PIA notified or the decision to go to Fair Work Commission. The strategy to seek Fair Work assistance as part of that strategy was, in effect, to seek their assistance with conciliation as we were not progressing with bargaining. This is an available step for both parties. In December, the Commission called for a conference between the unions and the operating entities, and there was an offer by DP Bull to provide independent assistance to both parties to make progression. The circuit-breaker strategy was to accept that offer made by the commissioner and the strategy was to attempt to resolve the Marayong issue through that process.

The Hon. DANIEL MOOKHEY: On the time line that you just outlined there, Mr Secretary, you said that this was done before the risk assessment?

ROB SHARP: Yes, that is so I am advised.

The Hon. DANIEL MOOKHEY: It was done in February, did you say?

ROB SHARP: Early February is what I am advised.

The Hon. DANIEL MOOKHEY: The union notified the actions on 9 February, so it was thereabouts, was it?

ROB SHARP: I would have to take that on notice. I do not have that level of detail here, Mr Mookhey.

The Hon. DANIEL MOOKHEY: In accordance to the protocol that apparently applied at the time, was that advice that was provided to the chief of staff in writing?

ROB SHARP: I would have to take that on notice but, given the nature of it, I suspect it would have been in an email.

The Hon. DANIEL MOOKHEY: Yes. Can I also ask, in respect to that, do you know who from the department provided that briefing to the chief of staff, or who would have emailed?

ROB SHARP: No, I would have to take it on notice.

The Hon. DANIEL MOOKHEY: But I presume it is not anyone in the department who can just email the Minister's chief of staff?

ROB SHARP: It would have been through one of the dep secretaries or it may well have been from the Chief of People, who deals with industrial relations but, once again, I do not have those details here.

The Hon. DANIEL MOOKHEY: The deputy secretary who was briefing the Minister's office during the weekend was Ms Bourke-O'Neil. Is it possible it was Ms Bourke-O'Neil who provided that email to the chief of staff?

ROB SHARP: I would have to take on notice who actually provided the document.

The Hon. DANIEL MOOKHEY: Fair enough. Minister, do you recall being briefed on this now?

Mr DAVID ELLIOTT: No. But can I place on the record that I have opposed any concept—I think I know where your questioning is going—of terminating the agreement and I gave my word to the union that that certainly was not my intent.

The Hon. DANIEL MOOKHEY: Can you give that word now again?

Mr DAVID ELLIOTT: I just did.

The Hon. JOHN GRAHAM: When did you give that word to the union, as you say?

Mr DAVID ELLIOTT: I would have to take that on notice but I have met with them multiple times. I met them the day before I was even sworn in.

The Hon. JOHN GRAHAM: You have put that on the record already.

The Hon. DANIEL MOOKHEY: Thanks you, Minister. I do appreciate that. Minister, through you to the secretary: I understand that that was the version of what you describe now as a circuit-breaker strategy, Mr Sharp.

Mr DAVID ELLIOTT: Secretary or Minister.

The Hon. DANIEL MOOKHEY: Sorry, Secretary and/or Minister.

Mr DAVID ELLIOTT: Not yet.

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The Hon. DANIEL MOOKHEY: I apologise. Just to be very clear here, the communication you are giving to the Premier's department the same day the Minister is telling the public the application is being withdrawn is quite different. I think, to be fair to the Minister as well, incidentally, Minister, were you aware that was the communication that was being given that day to the Secretary of DPC?

Mr DAVID ELLIOTT: In what context?

The Hon. DANIEL MOOKHEY: The text message that I read out earlier, which I can read out to you again. It is the text message around the notification of the intent to seek a vote at NSW Trains and equally to look for mechanisms to get to Fair Work on Sydney Trains.

Mr DAVID ELLIOTT: I will take that on notice but I am not aware I was briefed on that. I refer to my last answer. I had given my word to the union that I had no intent to support any termination of the EA.

The Hon. DANIEL MOOKHEY: Yes, but this is now also about whether or not you have given your support to an application to terminate the bargaining period. It is a slightly separate concept but I appreciate that you had given that commitment. The issue that still remains is that Mr Sharp's text says, "We are looking for a mechanism to get to Fair Work on Sydney Trains and this isn't an easy step." Mr Sharp, if we are to believe you that getting a conciliation by Fair Work was the intent of this strategy, you do not even need to file a dispute, let alone an application to terminate the bargaining period. You can just call them up and ask for a conciliation. It makes no sense whatsoever to suggest that the circuit-breaker strategy is about getting them to help you conciliate. They can conciliate now because you are in a bargaining period. So it is not about getting conciliation. The truth of the matter is, whether you told the Minister or not, the Government is intending to re-run this strategy, which could include a two-week shutdown?

ROB SHARP: Mr Mookhey, that is not the case as far as I am aware. As I said, the person who was texting in regards to that has specifically provided this information to me on the context, which was actually looking to have this independent assistance. I know the unions have not been keen to do that. They have been keen to negotiate at the delegate level, but we are also getting messages from the unions they do want a substantial step change in what we are doing. The Mariyung fleet is a large issue which we are working through assiduously with the unions for about four or five months.

The Hon. DANIEL MOOKHEY: It is just not plausible, though, because other text messages are referring to the strong support of the Minister for Employee Relations for that strategy. It is not plausible to conclude that the Government is not thinking about repeating this strategy. It seems, though, it is happening without the Minister for Transport knowing about it?

ROB SHARP: I am not aware that that is the strategy. That is not the interpretation. The department has provided me with the context. If you require clarifications, I can certainly ask the department to provide more. But at the moment this is what I have been provided.

The Hon. DANIEL MOOKHEY: Could you, for this afternoon? That would be useful. Minister, have you, since the dispute, had a chat with the Minister for Employee Relations about how you intend to resolve it?

Mr DAVID ELLIOTT: We have had some high-level discussions.

The Hon. DANIEL MOOKHEY: What did you say?

Mr DAVID ELLIOTT: I am not going to divulge Cabinet confidential discussions.

The Hon. DANIEL MOOKHEY: I am not sure it is Cabinet confidential.

Mr DAVID ELLIOTT: Discussions and deliberations between Cabinet Ministers are normally, by convention, kept confidential.

The Hon. DANIEL MOOKHEY: Fair enough. Minister, can I ask through you to Mr Longland, did Sydney Trains prepare a risk assessment the week prior to the shutdown?

MATT LONGLAND: Thank you for the question. Yes, Sydney Trains and NSW TrainLink prepared a joint risk assessment in the lead-up to the commencement of this period of industrial action. That was completed and approved by both chief executives on Thursday 17 February.

The Hon. DANIEL MOOKHEY: When you say "chief executives", do you mean you and Mr Merrick?

MATT LONGLAND: That is correct.

The Hon. DANIEL MOOKHEY: Did that risk assessment foreshadow the potential of a shutdown?

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MATT LONGLAND: It went into quite some detail assessing each of the nine elements of protected action and it made a clear recommendation that, combined, the cumulative impact of those nine actions would result in the suspension of services, yes.

The Hon. DANIEL MOOKHEY: How long would that suspension of services last for?

MATT LONGLAND: The period of industrial action was two weeks so it was a two-week period. During that period, we were planning on changing the roster back to a normal weekday timetable, which we have now done.

The Hon. DANIEL MOOKHEY: Which is established on the record from Fair Work as well.

MATT LONGLAND: Yes.

The Hon. DANIEL MOOKHEY: Do you have that risk assessment?

MATT LONGLAND: Yes.

Mr DAVID ELLIOTT: Do you mind tabling it?

MATT LONGLAND: I think it has been tabled yesterday.

Mr DAVID ELLIOTT: Well and truly. It has been circulated, tabled and discussed.

The Hon. DANIEL MOOKHEY: Can you just table it because there are various versions? I just want to know which one you are referring to.

Mr DAVID ELLIOTT: I do not know if we have got it here.

The Hon. DANIEL MOOKHEY: Do you mind getting it if you can?

MATT LONGLAND: Sure.

Mr DAVID ELLIOTT: Put it on notice.

The Hon. DANIEL MOOKHEY: I am sure the officials can assist us. Incidentally, was that risk assessment provided to the Minister's office last week?

MATT LONGLAND: Yes. The risk assessment and the updated discussions that we held in the evening on Sunday about the updated risk position were provided to Minister Elliott's office, I think it might have been, Tuesday.

Mr DAVID ELLIOTT: At 3.03 p.m. on Tuesday 22 February.

The Hon. DANIEL MOOKHEY: So you got it that afternoon?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: Did you read it?

Mr DAVID ELLIOTT: Yes.

The Hon. DANIEL MOOKHEY: In reading that risk assessment, you were aware that Sydney Trains thought they had to shut the network down for two weeks?

Mr DAVID ELLIOTT: I certainly conceded that the risk assessment was balanced and legitimate in the decision to shut the network on the Monday morning, correct.

The Hon. DANIEL MOOKHEY: I presume that you were actually given that risk assessment in writing?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: Was that given to your chief of staff?

Mr DAVID ELLIOTT: Well, it was circulated amongst the staff. If it is important I will put it on notice, but I remember calling Mr Longland and saying, "Can I please have the risk assessment and any annexures?" and he sent it to me, I think immediately.

The Hon. DANIEL MOOKHEY: Minister, when you were questioned about this in the media you seemed to, firstly, not produce the risk assessment when you were asked by various media outlets and—

Mr DAVID ELLIOTT: When was that?

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The Hon. DANIEL MOOKHEY: Well, on the Monday, Tuesday and Wednesday; there are multiple instances.

Mr DAVID ELLIOTT: Well, no, that is not correct. On the Tuesday I had a press conference—

The Hon. DANIEL MOOKHEY: Minister, let me finish the question.

Mr DAVID ELLIOTT: —and on the Monday I had a press conference and that was—no, this is important.

The Hon. DANIEL MOOKHEY: I know it is, Minister, and you will get ample time to put your view. But the issue is that you knew about the risk assessment on the Tuesday.

Mr DAVID ELLIOTT: At 3.03 p.m.

The Hon. DANIEL MOOKHEY: Indeed, and that clearly canvassed the prospect of a shutdown.

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: So regardless of whether or not you were told of a significant disruption or a shutdown, surely you could have figured it out by yourself that we were heading for a shutdown?

Mr DAVID ELLIOTT: Okay, so let's just go by your time frame. You think that on Sunday night at 11.30 I would have been able to identify that a shutdown was necessary based on a document that I did not see for another 36 hours?

The Hon. DANIEL MOOKHEY: Well, you read it five days prior.

Mr DAVID ELLIOTT: No, I read it on the—I just told you, I saw it on the—

The Hon. SCOTT FARLOW: Tuesday 3.03.

The Hon. DANIEL MOOKHEY: On Tuesday the twenty-second, sorry.

Mr DAVID ELLIOTT: I think you are getting a little bit confused, Daniel. You might want to improve your research skills.

The Hon. DANIEL MOOKHEY: Mr Longland, when precisely did you transmit the risk assessment to the Minister's office in the week prior?

MATT LONGLAND: I did not transmit it to the Minister's office in the week prior.

The Hon. DANIEL MOOKHEY: Was it provided to the Minister's office in the week prior?

MATT LONGLAND: No.

The Hon. DANIEL MOOKHEY: Why not?

MATT LONGLAND: It was reviewed within both of the rail agencies and was provided through to Transport for NSW and it formed the basis of our application to Fair Work Commission.

The Hon. DANIEL MOOKHEY: Minister, you were told that Mr Longland had reached the decision on the basis of the risk assessment?

Mr DAVID ELLIOTT: Yes, correct.

The Hon. DANIEL MOOKHEY: And he made that decision at 12.30 a.m.?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: You did not at some point that morning ask to see it?

Mr DAVID ELLIOTT: I think I may have asked to see it, but I did not see it until the thirtieth. I think there were some annexures that I needed to get as well.

The Hon. DANIEL MOOKHEY: At the time when you are providing a public explanation that says that this is being shut down for safety reasons—

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: —you had never read those safety assessments?

Mr DAVID ELLIOTT: Correct. I said that I will be seeing the risk assessment, I have asked for the risk assessment. But, given that Mr Longland is the CEO of Sydney Trains and given that the secretary was

CORRECTED

comfortable with the risk assessment, of course, as the Minister taking advice from his executive, I had faith that the risk assessment said what they said it would be confirming.

The Hon. DANIEL MOOKHEY: On Thursday 17 February you and your chief of staff were briefed by Transport for NSW on the legal situation, were you not?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: Then you equally received a briefing at 12.40 on the Friday, did you not? Sorry, your chief of staff did?

Mr DAVID ELLIOTT: Can you repeat the question, sorry?

The Hon. DANIEL MOOKHEY: Sure. I take you, if you wish to assist, to tendered document 007, page 2. This is the chronology that the department prepared for the Premier's department. It states on page 2:

12.40pm—Minister Elliott's Chief of Staff briefed that instructions being given by rail agencies and Minister for Industrial Relations to file application to suspend or terminate industrial action advised by the RTBU to commence 21 February. Noted hearing timing may occur today or over the weekend, awaiting confirmation from FWC. Minister's Chief of Staff advises will update the Minister.

I presume your chief of staff did provide you with that update?

Mr DAVID ELLIOTT: Let me just read it. Correct, yes.

The Hon. DANIEL MOOKHEY: You are telling me that in the briefing you had directly yourself on Thursday—

Mr DAVID ELLIOTT: On the Friday, you mean?

The Hon. DANIEL MOOKHEY: No. The one before. We will go through them one by one. We will start with the one on Thursday—

Mr DAVID ELLIOTT: You just read me 12.40 on Friday the eighteenth.

The Hon. DANIEL MOOKHEY: I did, just so that you could know what I am asking you about. But now I am going to ask you about the first dot point there, which is the 12.30 meeting that you and the chief of staff had with Transport for NSW executive and legal on the situation, discussions with the unions and options.

Mr DAVID ELLIOTT: Yes.

The Hon. DANIEL MOOKHEY: Are you honestly telling me that when they were briefing you on options, that they never mentioned to you that there was a risk assessment sitting there saying that the network would have to shut down for two weeks?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: And you are telling me that they never alerted you to—

Mr DAVID ELLIOTT: Just a minute. Say that again? Ask the question again. Sorry, Daniel.

The Hon. DANIEL MOOKHEY: Minister, you can see here at 12.30 you and your chief of staff were given a brief by Transport—

Mr DAVID ELLIOTT: 12.30, yes.

The Hon. DANIEL MOOKHEY: —on the Thursday by Transport for NSW executive and legal on the situation, discussions with unions and options.

Mr DAVID ELLIOTT: Yes.

The Hon. DANIEL MOOKHEY: You are telling me that in that discussion the department never advised you that one of the options included a shutdown for two weeks?

Mr DAVID ELLIOTT: Correct, correct.

The Hon. DANIEL MOOKHEY: You are telling me that they never drew your attention to this risk assessment?

Mr DAVID ELLIOTT: Correct.

The Hon. DANIEL MOOKHEY: And you are telling me that they never drew your chief of staff to the risk assessment on the Friday either?

Mr DAVID ELLIOTT: Correct.

CORRECTED

The Hon. DANIEL MOOKHEY: Therefore, you had no knowledge that a shutdown proceeded on the basis of a safety risk assessment?

Mr DAVID ELLIOTT: Correct. We were not told of a shutdown until 1.30 on Monday morning.

The Hon. JOHN GRAHAM: Not as an option?

Mr DAVID ELLIOTT: Nor as an option. Because I obviously would have had to elevate that to the Premier and, without interfering with the decision, I certainly would have tested it.

The Hon. DANIEL MOOKHEY: Minister, I ask through you, either to Mr Sharpe or Mr Longland, in respect to those particular briefings that you were given, what did you tell the Minister?

ROB SHARP: Mr Mookhey, my notes refer to an update on the industrial action that was currently underway.

The Hon. DANIEL MOOKHEY: Are we talking about the Thursday meeting?

ROB SHARP: The Thursday meeting, 12.30. Recent discussions that had taken place with the RTBU, and the Minister was also updating us on some meetings he had. And then it was the logistics around the decision to file an application in Fair Work. So it was the meeting leading to the filing of that application.

The Hon. DANIEL MOOKHEY: In that did you tell the Minister that if you were not successful in Fair Work the safety assessment said that you would have to close the network?

ROB SHARP: The meeting was not focused on that. I certainly do not recollect that conversation, but I am happy to hand over to Mr Longland who was in the meeting as well.

MATT LONGLAND: Thank you, Mr Sharp. Yes, I recall that we did discuss the significance of the action and what we were doing to try and prevent the action, both through discussions with the union but also the need to seek relief through Fair Work and that is where we ended up heading in terms of the dispute. But I cannot recall any discussions about full shutdown or presenting any formal risk assessment to the Minister at that stage.

The Hon. DANIEL MOOKHEY: But did you alert the Minister to the fact that there would be a safety risk if the action was not terminated by Fair Work or the union?

MATT LONGLAND: My recollection is that we did discuss the significance of the action, and if we were not able to seek relief that it would be significant, correct.

The Hon. DANIEL MOOKHEY: When you say "significant" you are talking about the ability of the network to operate safely?

MATT LONGLAND: Look, as the secretary highlighted, I think the briefing that we covered was really looking at the lead-up to the point that we were at, what we had done to avoid this action proceeding and what we needed to do over that weekend through the Fair Work Commission to try and seek relief. In terms of the detail of the risk assessment, I do not recall that we read any documents, presented any documents or went into detail about the significance or the consequences.

The Hon. DANIEL MOOKHEY: No, I am not suggesting that you went into detail; I am suggesting that you alerted that there were safety implications.

MATT LONGLAND: Yes, I certainly was—part of the discussion was that the assessment that we had done. And, to give some context, we had been managing industrial action for almost six months, so we have had over 100 pieces of industrial action from four or five different unions. The process that we work through is that we seek to limit impact on customers and we ensure that we can operate safely. Where we cannot do that, we obviously then need to look at what other contingencies are in place, whether it is limited services, working through the unions to negotiate an outcome, or ultimately in this case working through the Fair Work Commission.

The Hon. DANIEL MOOKHEY: I just want to in the time remaining explore this discrepancy in the time line here, and that is through you, Minister. Mr Longland makes the decision to close the network at 12.30. The secretary of DPC is told at 11.50 that the network is shutting down. How is it possible that the Secretary of DPC was told at 11.50 p.m. that the network was shutting down if the decision to shut the network was not made till 12.30?

Mr DAVID ELLIOTT: Who do you want to answer?

The Hon. DANIEL MOOKHEY: Minister, perhaps you are not the best person to provide that evidence. Given it was Mr Sharp who sent the text message to Mr Coutts-Trotter at 11.50 saying that the network

CORRECTED

had been shut down, I am interested in hearing how Mr Sharp reconciles why Mr Coutts-Trotter was told at 11.50 that the network was closing when Mr Longland had not made the decision until 12.30.

ROB SHARP: The decision was made earlier than that. There was a meeting from 9.30 to 11.00 p.m. which the executive team attended, and the deputy secretaries provided the chief of staff the update around the closure events at 10.43.

The Hon. DANIEL MOOKHEY: The reason why this is important is because it seems to accord with Ms Bourke-O'Neil's version of events, which is the decision was made earlier. Ms Bourke-O'Neil was advised as a result of the meeting that Mr Sharp just described. Ms Bourke-O'Neil then told the chief of staff, who then told you, Minister. That seems like a far more plausible chain of events than the one you have given us.

Mr DAVID ELLIOTT: I reject that notion. I refer you again to the fact that the chief of staff was told there would be significant disruptions and she sought my approval to re-enter into the Fair Work Commission the following day. The evidence I have to believe the chief of staff is because she subsequently sent a text message to the Premier's office, his chief of staff and his press secretary stating exactly that: that it would be a significant disruption, as well as the fact that we would be returning to the commission the following day. Then, of course, there was her briefing. So, as far as I am concerned, I am going to stick with the chief of staff's recollection of that conversation between her and the deputy secretary that the word "shutdown" was not used and that, indeed, we were referring to significant disruption and we were referring to the re-entering of the commission the following day.

The CHAIR: Minister, I take you back to the discussion you were having with Mr Banasiak in relation to the taxi reforms. As you said, we have all been contacted by a number of taxi drivers and associations. A proposal to fairly compensate New South Wales taxi licence owners was put forward by the Government last year. Is that a proposal that you support?

Mr DAVID ELLIOTT: I would prefer to be a little bit more generous. I have told the Taxi Council and taxi representatives who have visited me.

The CHAIR: What do you mean by that?

Mr DAVID ELLIOTT: I am certainly not going to be pre-empting a Cabinet decision, but it is my view that we should be more generous.

The CHAIR: Generous in terms of how much buyback—for how much you will buy back each licence? Which part?

Mr DAVID ELLIOTT: As much as I would love to make that announcement in front of you, Madam Chair, I will attempt to honour my obligations as a member of Cabinet and wait for that decision to be made by ERC in Cabinet.

The CHAIR: It is a great shame.

Mr DAVID ELLIOTT: It is a great shame, because I can assure you I could do with the distraction.

The CHAIR: I am sure you could. A bill will be coming before Parliament after the analysis has been done that was referred to earlier. Will a draft of that bill be put out for consultation, or will there be some consultation with the taxi industry?

Mr DAVID ELLIOTT: I have already had significant consultation with the taxi industry and, as I said, I met with its representatives last week. I have met with individual taxi owners in my own electorate, as I think most lower House members have. All bills are, by virtue of the fact that they are bills before a Parliament, open for consultation.

The CHAIR: Yes. I guess you are having consultation at the moment in relation to the proposal put forward by the Government last year. You are telling this Committee that there may be changes—hopefully, more generous ones—to this proposal, which will be reflected in the bill. Before that bill is presented to Parliament, will you have some consultation with the taxi industry on whether it is happy with the changes?

Mr DAVID ELLIOTT: I have already done that. We have started the consultation process. I have met with them. They have obviously put in what they believe is fair. I am certainly considering that and I have got my own views around what I believe will be equitable to all parties. I am very conscious of the fact that they, through no fault of their own, have lost the value of a business and, in many respects, tragically, that includes the life savings of families. I do not want to see people finishing their working life as taxi drivers unnecessarily burdened by the financial implications of point-to-point—of Uber, and I want to make sure that they know that the Government has got their back.

CORRECTED

The CHAIR: This Committee learnt during an inquiry that a big chunk of the passenger service levy that is currently being collected on every trip has not gone to taxi drivers. Are you going to look to expand the criteria for hardship and allow some of that money to go to taxi drivers?

Mr DAVID ELLIOTT: Again, I would love to allow that distraction to take up the afternoon's deliberations, but I am not at liberty to go into any further detail other than the fact that I am confirming to you and the Committee that I have met with the industry and I have heard its concerns. I think they are legitimate concerns. I think as somebody who has represented small businesses as an industry association chief executive, they are not going to get a more sympathetic ear than me. I want to make sure that those taxi drivers who have put their life earnings and their working life into an asset which has now been devalued are compensated.

The CHAIR: We will turn to public transport procurement. As you said, there are quite a lot of distractions at the moment in your Transport portfolio. But, unfortunately, you inherited this portfolio with a legacy of—as I referred to it last time in Transport estimates—lemons being purchased by Transport for NSW, with trains too wide for tunnels, ferries leaking, metro mechanical failures, cracking light rail trams et cetera. Your predecessor made a commitment to procure the vast majority, if not all, of the State's public transport assets locally. Will you reaffirm that commitment?

Mr DAVID ELLIOTT: Yes, I have already. In fact, not long ago the Premier and I went to St Marys in western Sydney, where we celebrated the local manufacture of green buses. They are not like your buses, as a member of The Greens. They are green buses. They are energy-efficient buses, which I am very excited about. As a resident of western Sydney, I like seeing jobs created, but as a father of two young men I am delighted to see that we are going to improve the environment of the city that we are going to leave them.

The CHAIR: I am glad to hear that. The zero-emission bus strategy has laid out some pretty clear challenges to fully transition the 8,000 diesel buses by 2030.

Mr DAVID ELLIOTT: It is a huge job.

The CHAIR: Although there are promising signs in the local market, it may struggle to ramp up quickly.

Mr DAVID ELLIOTT: Sure.

The CHAIR: Is there a risk that, in an attempt to meet demand, we end up purchasing lemons again? Or will you be taking action to head that off?

Mr DAVID ELLIOTT: I can only give my commitment that I will ensure that we have quality products. When I took on the job, I said in some opening remarks to the media that I think Australians—New South Welsh men and women—are prepared to pay for quality, and so if it does cost a little bit more and it means that it is locally made and it is quality product, I think New South Welsh men and women will be prepared to do that.

The CHAIR: New South Welsh-people? In November, the then transport Minister said that engineers from Spain were being sent by the manufacturer to assess the damage and plan repairs for the cracked trams on the inner west service running from Dulwich Hill to Central.

Mr DAVID ELLIOTT: Correct.

The CHAIR: Not a single specialist engineer was flown out from Spain to assess the damage, despite former transport Minister Rob Stokes promising experts were on their way out. What happened?

Mr DAVID ELLIOTT: As you know, Madam Chair, it predates me, but Mr Collins might have some corporate memory on that.

HOWARD COLLINS: Thank you very much for the question. I have lived and breathed trams since my expanded portfolio. Let me explain the situation regarding those particular vehicles. And it is good to actually state that we are in full swing of the repairs necessary to return those Urbos vehicles to service. They are being repaired locally. It is a joint exercise with specialist Spanish experts, but also Australian local employees as well, local welders, and we are going through that now.

The CHAIR: Could I clarify that? Sorry, you say that there have been Spanish experts. Are they engineers who have been involved in that?

HOWARD COLLINS: Yes. I can tell you even more in detail, if you wish me to. There is a chief welder, there is a specialist engineer. As people know, CAF are a global rail and tram builder; they assemble vehicles in America, France, Spain and many others. They have an extensive CAF Australia team here and, in fact, we had the benefit of those specialists attend the site and go through what was required. We also sent two of my team, Sydney Trains experts, to Birmingham in the UK to understand how we could set up the production

CORRECTED

line. And we have gained invaluable collaboration and cooperation from West Midlands Metro, who were very supportive in assisting us.

The CHAIR: When you refer to the chief welder and the specialist engineer and others being involved in this, were they flown out from Spain to Australia?

HOWARD COLLINS: Yes, they have been. Let me get some clarifying time lines. I know initially it was thought that perhaps some arrival from Spain was required in the early days in November, but actually CAF provided all the specialist knowledge from within their own team already resident in Australia. What was required was when the work was about to take place—aluminium, specialist aluminium welding of the body side cracks, detailed experience for steel cutting and welding. Those employees, I believe it was January of this year and then further in February, have joined us and are working very collaboratively alongside each other with our Australian colleagues.

The CHAIR: So when transport Minister Rob Stokes in November said that experts were "on their way out", was he mistaken?

HOWARD COLLINS: No, I do not think he was mistaken. I think at that time we were expecting those people to be present. I twice a week meet with the senior officials of CAF, Transdev and ALTRAC.

The CHAIR: Sorry, with all respect, Mr Collins, if you could respond to the question though.

HOWARD COLLINS: I will; I promise you I will. I know time is running out. But the agreement was that actually those people who look after the Canberra trams, who look after the Newcastle trams in terms of manufacturing, were readily available and that we did not need those experts, who are hands-on experts, until we started repair work, which was in January.

The CHAIR: Right, so again, in November, when Rob Stokes said experts were on their way out, they were not, in fact, on their way out?

HOWARD COLLINS: I think we heard, and I think the Minister did, in good faith, as I had explained to him that we were expecting those people to be on their way out. Shortly after that a discussion had taken place and CAF, Spanish experts resident in Australia, CAF Australia, that is—it is an Australian registered company—were able to provide those resources to do the initial assessment. Plus also extensive discussions, as we have all been used to Zoom and Teams, extensive technical discussions took place across—

The CHAIR: That is not what the Minister said though, is it?

HOWARD COLLINS: At the time I think he said that in absolute good faith.

The CHAIR: Thank you. Mr Banasiak.

The Hon. MARK BANASIAK: Thank you. Minister, sticking with the ferry issue, a feasibility study costed this project at \$17 million in 2015 and it has since doubled to \$34 million. In last budget estimates when I asked about costs we were told it was too early to speculate. There appears to be a series or a number of unknowns in this project. We do not know—

Mr DAVID ELLIOTT: You are talking about—

The Hon. MARK BANASIAK: The Kamay ferries, sorry—unknown future operator, unknown subsidies to the operator, unknown time frames for subsidies, unknown cost of whole-of-life asset maintenance, environmental offset costs. Given that we are at an assessment stage, can you provide us with a final projected cost with a breakdown of those potential subsidies or any other ongoing costs? Or any greater indication as to what—

Mr DAVID ELLIOTT: Can I indulge you? For context, because, again, this is one of the wonderful issues I have just become an expert on in the last 73 days, we are rebuilding those ferry wharves which were destroyed in 1974, as you are aware, and we are assessing through the EIS what necessary safeguards are going to be in place, which we have already discussed. You are quite right, the funding commitment is \$34 million, which includes \$9 million from the Commonwealth and \$25 million from us. But beyond that cost, I am not familiar with it and I suspect—I am happy to take it on notice—that that may well be influenced by whatever environmental concerns need to be addressed.

The Hon. MARK BANASIAK: Okay. So, therefore, you probably would not have a projected time frame when this project will pay for itself either?

Mr DAVID ELLIOTT: Well, certainly not, no.

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The Hon. MARK BANASIAK: No. Okay. It is before your time, clearly, but can you explain why this project was missing from the 20-year plan for transport in 2012 and the 20-year plan for ferries that was released in 2013?

Mr DAVID ELLIOTT: No, the secretary and I will have to put that on notice. Sorry, what year are you talking about?

The Hon. MARK BANASIAK: There was a 20-year plan for transport that was released in 2012, and then there was also a 20-year plan for ferries that was apparently released in 2013, but neither of those documents reference this ferry and—

Mr DAVID ELLIOTT: That is an excellent question, one that I wish I could ask publicly myself. But those two plans were published before this announcement was made, I am sure.

The Hon. MARK BANASIAK: Yes. My concern is that this is somehow just a bit of a Scott Morrison brain fart and we are now carrying the can for it.

Mr DAVID ELLIOTT: No, no, no.

The Hon. MARK BANASIAK: Given he was the one that made the announcement.

Mr DAVID ELLIOTT: In defence of the Prime Minister, I mean, this is an important heritage matter. I mean, this is a re-establishment of a heritage wharf and, from what I understand, it will assist in a walk between the south head of Botany Bay and the north head of Botany Bay. And of course, as an Australian historian, I would love to be able to sit here and spend the rest of the estimates committee giving you a lecture as to why Kurnell is the most underrated historical site in Australia. So I get the historical—

The Hon. MARK BANASIAK: As a former history teacher, I might enjoy that, but probably no-one else would.

Mr DAVID ELLIOTT: How dare you! I think the Prime Minister made that announcement as part of an overall commitment to that site, to the Captain Cook landing site. We have a Minister responsible for active transport, we are embracing the use of the foot in this city, and I think that project would link two very, very important historical walking tracks.

HOWARD COLLINS: If I may, Minister?

Mr DAVID ELLIOTT: Yes, indeed.

HOWARD COLLINS: And I can explain, I am sure, Mr Banasiak, we had these conversations before. The significance, particularly for us as a department and for, at the time, the department of Premier and Cabinet, was the Aboriginal connection between the two communities. And we had, and I attended certainly one, if not two, meetings with the Aboriginal Land Council of La Perouse. This is not about a ferry service, to start with. Let me make this clear. It is a building of ferry wharves to allow the opportunity of numbers of people, including recreational boating but also the opportunity for the Aboriginal Land Council, the local Aboriginal people, to look at an Indigenous operation of a ferry, employment, re-engagement with telling the story of the Aboriginal people in that area, which is very significant, the significance of those people being moved, forced from the Kurnell area and placed in La Perouse, which I think is important to recognise, and the ferry wharf, the designs themselves, tell the story of those Aboriginal people. We had extensive meetings with the Ingrey brothers, for example, and many other Elders of that group to ensure this was reflecting not just a ferry service which may happen, but also employment, engagement and reconciliation for those people in those two areas.

The Hon. MARK BANASIAK: Thank you. Minister, can you give us an update on what is happening with the proposed cruise ship terminal in Yarra Bay? It has been put off quite a few times in terms of a final decision because of the impact of COVID on the cruise industry. I am just interested to find out where we are up to with a final decision on where that is potentially going.

Mr DAVID ELLIOTT: I will take that on notice. I do not have a brief on that one just yet, Mark. I am sorry.

The Hon. MARK BANASIAK: Sure, no problems. Turning to another matter, I think I raised this at last budget estimates, particularly with the regional transport Minister. Transport for NSW has a document out that talks about the future forecast of freight through Port Botany. I think it is out to 2056. I cannot find the exact name of the document at the moment. But the former agriculture Minister was on the radio last week complaining about the previous decision of restricting containerisation of Newcastle port and what impact that has on freight getting around the country and out, particularly for the regions. Given in that document there are significant increases in commodities apparently going through Port Botany, which is apparently operating at something like

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99-point-something per cent capacity, how are we going to actually meet those forecasts if we do not lift that ban on containerisation at Newcastle port? Surely we cannot get that much efficiency out of Port Botany, which is already operating at such a high capacity.

Mr DAVID ELLIOTT: You are quite right. The advice I have received is that we have gone from handling 2.4 million 20-foot containers prior to the pandemic to just 425 million containers by rail. So if you are asking for a specific strategy, I am going to need to take that on notice. I am very conscious of the fact that there is high tempo outside of the pandemic period in that port and we have reached capacity. But it is also important to note that a lot of the containers—and there is no silver bullet for this, as far as I am concerned—that are moving in that port are actually empty, because they are leaving empty. So I will need to take that on notice.

The Hon. MARK BANASIAK: There also is a concern that the difficulty of getting those containers from Port Botany out to the regions and getting them back in time because of—

Mr DAVID ELLIOTT: The rail.

The Hon. MARK BANASIAK: The rail.

Mr DAVID ELLIOTT: You are right. I am conscious of that.

The Hon. MARK BANASIAK: If you could take on notice any work that your department has done—

Mr DAVID ELLIOTT: The secretary has offered to make some remarks about that as well.

ROB SHARP: We have kicked off a strategic review looking at that shift from road to rail. It has declined over recent years. There is quite a bit of capacity coming online. Over the next four years \$120 million has been invested by NSW Ports in the on-dock rail capacity and that will lift capacity from 750,000 TEU to 1.5 million, so it doubles that capacity. It is about an extra 32 trains a day. Patrick Terminals is investing \$70 million in automated rail-operating equipment. That is going to be operational next calendar year. Patrick is indicating that this will increase the number of windows that allows freight in—this has been one of key issues for the regional areas—from eight to eventually 24 windows. So it is actually quite sizeable capacity that is coming in.

Also, the Australian Government has allocated \$400 million to duplicate the 2.9-kilometre single track from Mascot out to Port Botany rail yard. In mid-2023, in about 12 months' time, that will be delivered as well. The duplication is expected to be late 2024. So there is quite a lot of infrastructure capacity coming in, and that will actually address some of those pinch points. Notwithstanding, there is a broader freight strategy—basically part of the supply chain, in some ways—that needs to be reviewed.

The Hon. MARK BANASIAK: Any chance in terms of a date of when that review is going to be done or completed?

ROB SHARP: We have committed to do that during calendar year 2022.

The Hon. JOHN GRAHAM: Minister, I might come back to that evidence given by Mr Sharp about when the decision was made. Your secretary has given clear evidence that that occurred on Sunday night and it occurred between 9.30 p.m. and 11.00 p.m. as the officials were meeting. Do you accept now that that is when the decision was made to shut down the trains?

Mr DAVID ELLIOTT: As I said, I only found out that the decision had been made when I woke up at four in the morning, and that was via information that had been released by the department at 1.30 a.m.

The Hon. JOHN GRAHAM: I am not asking when you found out; you have given evidence about that. Mr Sharp sat beside you as your secretary and said the decision was made to shut down the rail system at this meeting between 9.30 p.m. and 11.00 p.m. Do you now accept—

Mr DAVID ELLIOTT: I am certainly not going to question it, but I've also got Mr Longland saying that he made the decision at 12.30 on the Monday morning. I can only tell you what I know.

The Hon. JOHN GRAHAM: Yes. So do you accept the evidence from Mr Sharp?

Mr DAVID ELLIOTT: I am not going to question anybody's evidence, because it is their decision to provide evidence to the Committee. I am letting you know that if you are trying to infer that there is some sort of a dispute, there is not. I discovered about the shutdown at 4.00 in the morning, when I got up.

The Hon. JOHN GRAHAM: Do you accept, though, if Mr Sharp is right, that the decision was made in that meeting between 9.30 p.m. and 11.00 p.m.?

Mr DAVID ELLIOTT: I will have to defer to Mr Sharp for that.

CORRECTED

The Hon. JOHN GRAHAM: Do you accept, if that did happen—if he is right—you were awake at that time? You were still awake at this point?

Mr DAVID ELLIOTT: I went to bed at midnight, correct.

The Hon. JOHN GRAHAM: Yes, correct. In talking about the risk assessment, you said you did not have some annexures as part of your answer.

Mr DAVID ELLIOTT: Yes.

The Hon. JOHN GRAHAM: Was there any point at which you had a partial risk assessment? Did you get some of this document but not the full—

Mr DAVID ELLIOTT: No, I got everything at 3.03 on the Tuesday afternoon.

The Hon. JOHN GRAHAM: Yes, so you had not seen any documents relating to the risk assessment at that point?

Mr DAVID ELLIOTT: I had not seen the risk assessment. But, in Mr Longland's defence, I would have preferred—I think a Minister wants to see an entire document.

The Hon. JOHN GRAHAM: Yes. I will take you back to that chronology, if you have got it in front of you.

Mr DAVID ELLIOTT: Which chronology?

The Hon. JOHN GRAHAM: The chronology supplied by your agency to DPC.

Mr DAVID ELLIOTT: Sure, okay.

The Hon. JOHN GRAHAM: To that 12.30 meeting—this is on Thursday 17 February. This is before you fly to the Northern Territory.

The Hon. SCOTT FARLOW: Just for clarification, this is tendered document 007, correct?

The Hon. JOHN GRAHAM: Yes.

Mr DAVID ELLIOTT: Is it?

The Hon. JOHN GRAHAM: Yes.

Mr DAVID ELLIOTT: Okay. Go ahead with your question while I am looking.

The Hon. JOHN GRAHAM: You said at this meeting no discussion about a shutdown, no discussion about the risk assessment. What was discussed? What do you recall about this meeting?

Mr DAVID ELLIOTT: On the Thursday?

The Hon. JOHN GRAHAM: On Thursday at 12.30, as you briefed.

Mr DAVID ELLIOTT: It was about the industrial matters before us.

The Hon. JOHN GRAHAM: Yes. And you agree that the decision to suspend or terminate industrial action was proposed and you supported it?

Mr DAVID ELLIOTT: I beg your pardon?

The Hon. JOHN GRAHAM: You agree with your department's summary that there was a recommendation to lodge an application to suspend or terminate industrial action proposed and you supported it?

Mr DAVID ELLIOTT: I am going to need to check my notes, so I will put that on notice about exactly what was discussed, because I know there is obviously interest in—

The Hon. JOHN GRAHAM: Look, I think that is reasonable. Take that on notice. But do you want to give us a view? Did you support the decision to suspend or terminate industrial action in that meeting? Do you recall that?

Mr DAVID ELLIOTT: On the Thursday? I had not made a decision on that one, I do not think. That was the first time it had been re-listed, so I was not opposed to it.

The Hon. JOHN GRAHAM: Did you support it?

Mr DAVID ELLIOTT: Well, I was not opposed to it. You have got to remember, Mr Graham—

CORRECTED

The Hon. JOHN GRAHAM: I am happy for you to take that on notice.

Mr DAVID ELLIOTT: No, no. I just want to clarify. You have got to remember, at this point I was hopeful and mildly confident that on Saturday parties would conciliate.

The Hon. JOHN GRAHAM: Yes, I accept that. But your agency has given evidence that one of the options here was that would not happen and the rail network would have been shut down. You say that option was never raised with you.

Mr DAVID ELLIOTT: Correct.

The Hon. JOHN GRAHAM: Never raised with you until the Sunday?

Mr DAVID ELLIOTT: Correct.

The Hon. JOHN GRAHAM: Yes. So when this says discussions with you—

Mr DAVID ELLIOTT: No, sorry. It was not raised with me until we received the documentation at 1.30 on the Monday morning.

The Hon. JOHN GRAHAM: Correct. When this meeting discusses discussions with unions and options, even though it was an option for the agency it was not discussed with you as an option—the shutdown.

Mr DAVID ELLIOTT: Correct. Shutdown was not an option that was discussed with me. Correct.

The Hon. JOHN GRAHAM: How is that the case, Minister, given you are the transport Minister? The day before, the chief economist is initiating modelling. DCJ is informed about it and preparing an affidavit. The Department of Education is. Your transport agencies, all the officials are across that as an option. How is it that as Minister you were not informed?

Mr DAVID ELLIOTT: As I said in Parliament last week, this is obviously a contingency that a government department puts together. It is an assessment and a contingency. If I had been told that a shutdown was an option, I certainly would have elevated that to the Premier. You have got to remember, in government, departments put contingencies together and assessments together based on contingencies. It is no different—

The Hon. JOHN GRAHAM: Minister, if this was a contingency—

Mr DAVID ELLIOTT: Let me finish. I am going to finish because this is an important point.

The Hon. JOHN GRAHAM: I have heard you make it in Parliament.

Mr DAVID ELLIOTT: And I think it is an important point for the Committee to hear because some of the members of the Committee did not hear. When I was the emergency services Minister, the fire commissioner would not get me to sign off on risk assessments that he would put together in the event of a significant fire. When I was the police Minister, the police Minister would do risk assessments based on operational decisions based on all contingencies.

The Hon. JOHN GRAHAM: I understand the point you are making.

Mr DAVID ELLIOTT: He would not brief me on that, and there is probably a good reason for that.

The Hon. JOHN GRAHAM: This was more than a contingency; this was a decision. I am quoting now from documents from your agency:

On 17 February 2022, the Chief Executives of Sydney Trains and NSW Trains confirmed that the cumulative impact of the bans meant it was unable to operate safely in compliance with discharge of its duties under Work Health Safety and Rail National Safety National Law.

That was when the decision was made by these chief executives. This was not a contingency. That was when they decided that this was no longer safe, if the industrial plan fell over. Do you accept that?

Mr DAVID ELLIOTT: If.

The Hon. JOHN GRAHAM: Yes. It was an option, and the decision had been made.

Mr DAVID ELLIOTT: Mr Graham, how can you say one minute that the decision was made on the Thursday and then, in the next sentence, you say, "This was an option"? You are being very inconsistent with your line of questioning.

The Hon. JOHN GRAHAM: The decision was made that it was not safe. Do you accept that?

Mr DAVID ELLIOTT: On the Thursday.

CORRECTED

The Hon. JOHN GRAHAM: On the Thursday.

Mr DAVID ELLIOTT: But then you have just told me that the assessment and the contingency was an option. Which one was it?

The Hon. JOHN GRAHAM: An option that no-one ever put to you, is your evidence.

Mr DAVID ELLIOTT: Correct. I have been saying that for two weeks. That option was never put to me, and I found out about it at four o'clock on Monday morning.

The Hon. JOHN GRAHAM: But it is put to everyone else. Minister Tudehope knows, all your officials know—

Mr DAVID ELLIOTT: You would have to ask Minister Tudehope that.

The Hon. JOHN GRAHAM: —three other departments know and the Department of Premier and Cabinet knows, but you are in the dark as the transport Minister.

Mr DAVID ELLIOTT: The Department of Premier and Cabinet knew on the Thursday.

The Hon. JOHN GRAHAM: About the risk assessment and the possibility of this option.

Mr DAVID ELLIOTT: No, you are asking me whether or not a decision had been made.

The Hon. JOHN GRAHAM: The possibility of this option.

Mr DAVID ELLIOTT: Correct. We were not advised.

The Hon. JOHN GRAHAM: They all knew, but you, as transport Minister, did not.

Mr DAVID ELLIOTT: Correct. I did not know that a decision had been made. You have actually critiqued your own question by saying—

The Hon. JOHN GRAHAM: Do you accept that all of those agencies knew this was an option?

Mr DAVID ELLIOTT: Yes. You asked that question to the Treasurer, and he did not know either.

The Hon. JOHN GRAHAM: But no-one told you?

Mr DAVID ELLIOTT: The Treasurer was asked exactly the same question a couple of days ago, and he did not know either. The Premier did not know either.

The Hon. JOHN GRAHAM: We will take that up with them. Staying with that chronology, do you recognise that, not only were you briefed at 12.30 on Thursday 17 February, but your chief of staff is briefed at 12.40 on the eighteenth? Your chief of staff is also advised further at 6.24 on the eighteenth. On the nineteenth, at 3.28 p.m., your chief of staff is advised that the hearing is underway. At 7.51, Transport for NSW sends your chief of staff a report from the Crown Solicitor's Office. At 4.25—this is now moving on to the Sunday—your office is again informed through your chief of staff. At 7.30 p.m. there is a comms update to your chief of staff. Later that night, at 10.43, there is the contested phone call, where we do not have Ms Bourke-O'Neil's evidence. She sends a text message, and then follows it up with a phone call. Lastly, there is the contact you do agree about at 1.28 a.m. or so on the Monday.

Mr DAVID ELLIOTT: Correct.

The Hon. JOHN GRAHAM: You agree that all of those contacts happened?

Mr DAVID ELLIOTT: No, I am disputing the—

The Hon. JOHN GRAHAM: The content.

Mr DAVID ELLIOTT: —content of the 10.43—

The Hon. JOHN GRAHAM: You do not disagree it happened, but you are disputing the content?

Mr DAVID ELLIOTT: Correct.

The Hon. JOHN GRAHAM: I am asking you, how is it that your office was briefed at least 10 times and no-one told you that this was an option?

Mr DAVID ELLIOTT: Hence the Premier has told the secretary and I very frankly that we have got to put all of this in writing from now on.

CORRECTED

The Hon. JOHN GRAHAM: Isn't that of concern to you? Everyone knows, Minister. This is not a secret.

Mr DAVID ELLIOTT: The Premier did not know, the Treasurer did not know—

The Hon. JOHN GRAHAM: Because you did not tell them. You are the one who is supposed to know.

The Hon. SCOTT FARLOW: He did not know.

Mr DAVID ELLIOTT: That is a ridiculous allegation. If that is where you are going to go with this line of questioning, it is proof that you are trying to dig up something that is not here.

The Hon. JOHN GRAHAM: The Premier says that you are supposed to be involved in the operational details of your agency.

Mr DAVID ELLIOTT: Actually, the Act says that.

The Hon. JOHN GRAHAM: Yes, it does.

Mr DAVID ELLIOTT: Do you know what section? It is 36I.

The Hon. JOHN GRAHAM: How do you regard the actions of your officials? Were they illegal?

Mr DAVID ELLIOTT: Mr Sharp and I have had a—

The Hon. JOHN GRAHAM: I am asking are they illegal?

Mr DAVID ELLIOTT: I am not a lawyer, so I would have to defer that to somebody else.

The Hon. JOHN GRAHAM: I am asking about your view as Minister. You are running the rail system.

The Hon. SCOTT FARLOW: You cannot ask him for a legal opinion. It is the same rules as the House.

Mr DAVID ELLIOTT: I am not going to provide a legal opinion with a moment's notice.

The Hon. SCOTT FARLOW: Point of order—

The Hon. ADAM SEARLE: We are asking the Minister for his understanding of his obligations.

Mr DAVID ELLIOTT: No, he asked me for a legal opinion. I can assure the commuters that the relationship between Mr Sharp and I will make sure that this is always in writing from now on. Let us hope that it does not happen again.

The Hon. ADAM SEARLE: In relation to tendered document 008, if you have got that—page 6 of 11—the second paragraph from the bottom says:

Meg Bourke-O'Neil contacted COS (Tanya) at 10.43 pm and conveyed assessment of network risks ... service could not be run safely and reliably ... not possible to sustain safely ... sought support for the position that the network could not be operated under these conditions ... support confirmed.

The only implication from that is, if you cannot operate the system safely, the system has to cease to operate. That is the only implication you can draw from that.

Mr DAVID ELLIOTT: I would dispute the term—I will tell you that the term—

The Hon. ADAM SEARLE: I understand your position is that the word "shutdown" was never used but, from that summary, there is no other implication you could draw.

Mr DAVID ELLIOTT: That is one person's assessment of the conversation.

The Hon. ADAM SEARLE: Flip over to page 7. There is a text exchange between your chief of staff and somebody else—I am not sure who. Your chief of staff responds:

I just spoke to the Minister. He has been briefed and is comfortable with our position—

"our position" being that the system cannot be operated.

Mr DAVID ELLIOTT: No. Our position being what the chief of staff told me: that we would be relisting in the Fair Work Commission the following day.

The Hon. ADAM SEARLE: No. The position in the briefing note is clear.

Mr DAVID ELLIOTT: No, it is not clear. We dispute that.

CORRECTED

The Hon. ADAM SEARLE: The advice is that the system cannot be operated safely and reliably, on the advice of your agency. The only implication from that is, at least until the matter is relisted, that you cannot operate the system. There is just no other implication that can be drawn from that, Minister.

Mr DAVID ELLIOTT: The advice was that there would be severe disruptions, and seeking my permission to—

The Hon. ADAM SEARLE: Someone obviously did not understand the obvious elephant in the room here. If the advice of your agency—of Mr Sharp and all of his officials—is that the system cannot be operated safely, the only implication is that, until you are relisted, the system cannot operate. What other implication can be drawn?

Mr DAVID ELLIOTT: I dispute that.

The Hon. ADAM SEARLE: I understand you dispute that, but it is just not the real world, is it?

Mr DAVID ELLIOTT: It is real.

The Hon. JOHN GRAHAM: Minister, we have had evidence from Mr Sharp and other Ministers about the daily meetings that occur with various offices. Some Ministers sit across those daily meetings reasonably regularly. How often have you sat across those daily meetings?

Mr DAVID ELLIOTT: I get a brief after most of those meetings from staff.

The Hon. JOHN GRAHAM: So your staff—

Mr DAVID ELLIOTT: But most of the information has already been sent to me anyway.

The Hon. JOHN GRAHAM: But in your office, in your instance, staff would sit across that meeting.

Mr DAVID ELLIOTT: Correct.

The Hon. JOHN GRAHAM: Have you ever sat across that meeting?

Mr DAVID ELLIOTT: I would have to check my diary.

The Hon. JOHN GRAHAM: Thank you. I turn back to the question about the massive disruption. You told the House—you used the word "significant". You were asked to say that this would be a massive disruption.

Mr DAVID ELLIOTT: Correct.

The Hon. JOHN GRAHAM: At that point, were you curious? Did you ask, "How massive is this going to be? How bad is the disruption going to be for commuters?"

Mr DAVID ELLIOTT: That was why I was getting up at 4.00 in the morning, to find out how bad it would be.

The Hon. JOHN GRAHAM: Your response was to get up in the morning rather than ask them and see how massive the disruption was?

Mr DAVID ELLIOTT: The decision had not been made to shut down until 12.30, so I was hoping that some services would be confirmed.

The Hon. JOHN GRAHAM: I know that is your view, but you agree that you were told that this was going to be a massive disruption?

Mr DAVID ELLIOTT: Correct.

The Hon. JOHN GRAHAM: And you went to bed and decided to wake up and see how massive it was.

The Hon. SCOTT FARLOW: At 4.00 in the morning. It was not like he was having a sleep-in.

The Hon. ADAM SEARLE: On the document, it says 10.43.

Mr DAVID ELLIOTT: I will tell you one thing, I am glad you are not my shop steward. If you want to begrudge me four hours sleep a night—

The Hon. JOHN GRAHAM: I do not at all, but I am surprised you did not ask—

Mr DAVID ELLIOTT: Keep representing those workers, bud.

CORRECTED

The Hon. JOHN GRAHAM: I would be curious about how massive this disruption was going to be and how many trains were not running. Did you ask those questions?

Mr DAVID ELLIOTT: I was prepared at four o'clock in the morning to find out what services would be available so that I could, obviously, do media.

The Hon. JOHN GRAHAM: But that is Sunday night. As you were told, you were texted, there is a massive disruption. You did not ask at that point. You agree with that.

Mr DAVID ELLIOTT: I was waiting to get up at four in the morning to find out what massive disruption would look like.

The Hon. JOHN GRAHAM: Understood. I might just put to you one of the views you have put in public. This is in response to your critics. When you are ready, Minister.

Mr DAVID ELLIOTT: Sorry. Can I go just back to that last question? We were waiting to find out what bus services would be replacing trains as well. That question had been put.

The Hon. JOHN GRAHAM: Minister, you have said publicly, in response to your critics, "Them saying it is Government's fault is quite ludicrous. Do you think that Government would want to stop the rail network? Governments have never stopped the rail network." Given what everyone else was involved in, given what everyone else knew in government but you did not, does that not now look pretty ridiculous?

Mr DAVID ELLIOTT: I certainly did not want to see a termination of any agreement. I certainly did not want to see the shutdown of any network.

The Hon. JOHN GRAHAM: But since 17 February, a week earlier, the machinery of government is winding up to do exactly that. Does this not now look ridiculous?

Mr DAVID ELLIOTT: What looks ridiculous?

The Hon. JOHN GRAHAM: "Governments have never stopped the rail network. Do you think that Government would want to stop the rail network?"

Mr DAVID ELLIOTT: Can you tell me a time when a Cabinet—

The Hon. JOHN GRAHAM: Monday 21 February.

Mr DAVID ELLIOTT: Before then. Can you tell me when a Cabinet—

The Hon. JOHN GRAHAM: No. It is quite unusual. It is unprecedented.

Mr DAVID ELLIOTT: That is right. We certainly do not want to see commuters inconvenienced. I do not know what your question is. Of course, we would not wish it to be closed down.

The Hon. JOHN GRAHAM: But that is exactly what your Government did.

Mr DAVID ELLIOTT: It was a contingency over the—we have established that it was a contingency since 17 February. Correct.

The Hon. JOHN GRAHAM: Minister, the stage was set on Monday. International tourists were coming back in for the first time. Universities were opening. People were being encouraged back to the city.

Mr DAVID ELLIOTT: Correct.

The Hon. JOHN GRAHAM: None of that happened, because you took your eye off the ball. It was massively disrupted.

Mr DAVID ELLIOTT: I am sorry, Mr Graham. International travellers did come back to Sydney that day.

The Hon. JOHN GRAHAM: You do not accept that was massively disrupted?

Mr DAVID ELLIOTT: Students did go to university, my son being one of them.

The Hon. JOHN GRAHAM: You do not accept that was massively disrupted?

Mr DAVID ELLIOTT: That is a different question. You just said to me that none of this happened, but it did happen. Travellers did come back to Sydney that day, and university students on most occasions did go back to university. If you are asking me whether or not—

The Hon. JOHN GRAHAM: Minister, because of your failure, it was massively disrupted.

CORRECTED

Mr DAVID ELLIOTT: In fact, it was shut down.

The Hon. JOHN GRAHAM: Because of your Government's action, it was shut down. Because of your failure. You are not aware of that?

Mr DAVID ELLIOTT: That is in dispute, of course. That is in dispute, of course, because the motives behind the shutdown are a matter between the department and the union.

The Hon. JOHN GRAHAM: You will not apologise to the community. Would you at least apologise to your colleagues?

Mr DAVID ELLIOTT: I am sorry. John, you are putting words into my mouth. I have apologised to the community.

The Hon. JOHN GRAHAM: For that massive disruption.

Mr DAVID ELLIOTT: Yes. I apologised on day one. I think I apologised on Ben Fordham at eight o'clock in the morning.

The Hon. JOHN GRAHAM: When you said on Sunday 20 February that you had an inkling that this was going to happen, what did you mean by that?

Mr DAVID ELLIOTT: I had an inkling that—in the 63 days I had been the Minister, every day there had been protected action, every day there was a possibility of disruption to services.

The Hon. ADAM SEARLE: What conclusions did you draw from that? Could you not have foreseen this was a very real possibility?

Mr DAVID ELLIOTT: What was a possibility?

The Hon. ADAM SEARLE: That the system would stop operating.

Mr DAVID ELLIOTT: No, I did not. That is my point. I had—

The Hon. ADAM SEARLE: Even though, at 10.43—at the risk of repeating myself—it was clear to the agency, to your chief of staff, that the advice was the system could not be operated safely.

Mr DAVID ELLIOTT: No, that is not what my chief of staff was told.

The Hon. ADAM SEARLE: And you were told that, and you were comfortable with that position.

Mr DAVID ELLIOTT: I am sorry. You are absolutely misrepresenting the Committee if you continue with those lies.

The Hon. ADAM SEARLE: No, they are not lies.

Mr DAVID ELLIOTT: They are lies.

The Hon. ADAM SEARLE: These are documents produced to the upper House from your agency, from your staff's text messages—

Mr DAVID ELLIOTT: And we disputed that my chief of staff was told there would be a shutdown. I am providing further evidence to that effect. If my chief of staff had been told there would be a shutdown, why would she then text the Premier's office and the Premier's press secretary there would be disruption and that there would be a return to the commission the next day? Why would she not say there would be a shutdown? In any event, how would we know at that time, when the decision was not made until 12.30 on Monday morning?

The Hon. ADAM SEARLE: On the documents, your agency claims that the system, in the circumstances that it understood at the time, could not be operated safely. If you cannot operate a system safely, it would have been negligent in the extreme to operate at all. So the only implication again—

Mr DAVID ELLIOTT: Thank you, Mr Searle. You have confirmed the reason why I am backing the department's decision to shut it down. If it was not safe, if the safety assessment—

The Hon. ADAM SEARLE: But your office knew. The word "shutdown" may not have been used, but what other conclusion could have been drawn, Minister?

Mr DAVID ELLIOTT: That there would be disruption.

The Hon. ADAM SEARLE: I see your chief of staff shaking her head.

The Hon. SCOTT FARLOW: It was not safe, because your union was striking.

CORRECTED

The CHAIR: Just before we leave that issue, can I just get an understanding from you, Minister, as to how much you delegate to your staff in relation to negotiations and discussions on issues like this?

Mr DAVID ELLIOTT: We have a very collective approach to decision-making. That is why you have policy advisers.

The CHAIR: You have got a lot of work to do over a lot of different issues. I would assume that you would delegate quite a bit to your staff. In hindsight, do you regret not taking a more direct role in relation to this issue?

Mr DAVID ELLIOTT: How have I not taken a direct role? Everything was back briefed to me. You have got the evidence here that my chief of staff called me immediately after she got off the phone in the teleconference.

The CHAIR: Okay. Can I turn to something completely different?

Mr DAVID ELLIOTT: With pleasure.

The CHAIR: One of the issues that I have been bringing up at successive estimates with successive transport Ministers is Transport for NSW's failure to comply with the disability standards for accessible public transport. It has been a little bit of a tortured journey. When I first asked about this, in 2019, I was told that there had not even been an audit done yet, despite knowing that the deadline for accessibility for trains would be next year. Since 2002 the department had apparently only done an audit on this—that was completed last year—to then work out what the future work was. I then asked, in the last estimates, when we would be at 100 per cent compliance. It was taken on notice, but the answer did not actually address the question. Can you tell me, Minister, when will we be complying with our obligations under the disability standards for accessible public transport?

Mr DAVID ELLIOTT: Thank you. It is actually a matter I have taken a personal interest in because I have got disabled relatives, who I have seen had to suffer from the lack of disability access. We have got 520 projects now completed or underway. The advice I have received is 90 per cent of customer journeys are now beginning from accessible locations, which I am quite happy with. Since this Government came to the Treasury benches, we spent \$2.2 billion on the Transport Access Program. The current level of work is upgrading train stations and ferry works, which will ensure that we are compliant with the Disability Discrimination Act. We are constructing six new lifts and six new stairs at Redfern station, which, as you know, is an interchange station. So that should provide a fair bit of comfort to those that require access.

So far as ferries are concerned, we have got one, two and 21 commuter wharf ferry interchanges already upgraded. We are currently doing design in Rhode, which will be good. And 10 of 13 ferry upgrades are planned up until 2023. In 2021 Woolwich and Kissing Point Wharf were completed. There is a review of environmental factors in Double Bay. Darling Point is currently going through community consultation, planned for this year. Investigations and design have commenced in Taronga Zoo and South Mosman. Construction upgrade was started in North Sydney recently—

The CHAIR: Thank you, Minister. If I could just interrupt you there—

Mr DAVID ELLIOTT: Sure. I do want to finish off, though, if you do not mind, Madam Chair. I think you mentioned the Auditor-General's report.

The CHAIR: I did not. But by all means.

Mr DAVID ELLIOTT: Just to give you a level of comfort. Transport has accepted the recommendations of the Auditor-General in implementing improvements to the access program. We think that we will maximise our compliance. Just make sure I am happy to table this document. I am happy to table, Madam Chair, the wheelchair-accessible stations since 2011 and the train stations accessibility improvements since 2011 and the wheelchair accessibility upgrades and constructions at various stations.

The CHAIR: Just to clarify, my question was not what has already been achieved, and I absolutely agree that it is not zero. The question was when will we be at 100 per cent compliance, given that the deadline, with some exceptions, was for this year?

Mr DAVID ELLIOTT: The secretary can answer that.

ROB SHARP: As the Minister said, we have responded to the Auditor-General's report. I would have to take on notice the time; I have not got the actual time frame on this. I will ask the team whilst we are in session this afternoon to respond to it.

CORRECTED

The CHAIR: I know you have inherited this problem, Minister, but this was supposed to be done by this year. For at least half of the time since this Government was on notice that it would have to do this, the Coalition has been in government, and yet we have a situation where we are not going to meet the deadline.

Mr DAVID ELLIOTT: In defence of the department, I think 90 per cent is pretty good. But I can give you an assurance, as somebody who has lived the challenges of disability access with relatives, that it is something I will be spending the rest of this parliamentary term focusing on.

The CHAIR: Thank you. Again, I am not saying that nothing has been done. But given that we were working towards 100 per cent by this year, we have clearly failed to meet that target.

Mr DAVID ELLIOTT: We are not at the end of the year yet, Madam Chair.

The CHAIR: I would love it if you made it 100 per cent accessible by the end of the year. We may have a very different budget estimates next time if that is the case. I understand that the Transport Access Program website is still being used by the Government to assist customers to make decisions about where they choose to live, work or study. I think that phrasing is still used on the website. Does that mean that people are essentially having to choose where to move to based on what you are guaranteeing is accessible, or can we expect that everything will become accessible within a short period of time?

Mr DAVID ELLIOTT: I do not think you can expect that we are going to be able to fix this overnight, but I would have thought that reference to that sort of information is giving guidance to people. I can tell you, again from lived experience, I have used that information. If you are taking a disabled relative somewhere then you want to know which of the railway stations within your proximity have got the easiest disability access. I have never had a problem with going an extra station to make sure that I did not have to carry somebody up and down stairs, if that is what you are asking.

The CHAIR: No, that is not what I am asking. I am asking about people who have made the decision about where to live based on the assumption that everything was going to be accessible by 2022 and who now only have particular locations to choose from, which is the opposite of universal accessibility.

Mr DAVID ELLIOTT: Going by the table and the answer I have just given, we have got 90 per cent, so we are doing pretty well. But if you want to put that question on notice, I can provide some commentary on it.

The CHAIR: Thank you.

Mr DAVID ELLIOTT: But, again, I would love to see another city in Australia that is doing disability access better than Sydney is.

The CHAIR: I am not really interested in comparisons, though. I am interested in the commitment that this Government made to do a thing by a certain time. They only worked out in an audit last year how much there is to do, even though they have had 20 years. You can understand that from my perspective, it is quite frustrating to not see it occur.

Mr DAVID ELLIOTT: I can tell you from lived experience, Madam Chair, that it is frustrating when you do find public transport—or pubs, for that matter—

The CHAIR: Or anything not accessible. That is correct.

Mr DAVID ELLIOTT: Yes.

The CHAIR: I turn to ferries. Now that Mr Banasiak is not here, I feel I need to ask a ferry question. I am trying to remember what it was in relation to, but you have made comments about getting a bit tougher on noncompliance by some of the operators of public transport, which is good to hear. Is it even possible to terminate Transdev's ferry system contract? I understand that technically, from a contractual perspective, there is a termination clause. But if we do that, who owns the ferries?

Mr DAVID ELLIOTT: If you ask the question, "Is it possible to terminate the contract?", yes, all contracts can be terminated.

The CHAIR: Yes, I know. I just said that, but in practical terms—

Mr DAVID ELLIOTT: I would have to take that on notice. There would be plenty of people out there that would be happy to run ferry services. Mr Collins, do you have an answer to that?

HOWARD COLLINS: Yes. Thank you for the question. I will take some of the details on notice. It is true to say that we have been working very closely with the ferry operator, Transdev, to ensure that the number of issues that we were facing over the past year—this is the late delivery of the River class and the need for modification of the wheelhouse, the operation of the Emerald 2 ferries and other performance issues. Our contracts

CORRECTED

team, headed up by a very experienced and new contracts manager, has led some good, robust discussions. We are working very closely with Transdev. We have held them to account on a number of dates for delivery, which we are waiting to ensure, and some of those items have now been cleared.

We have got the first of the River class ferries modified with the wheelhouse done by Noakes of Sydney, a local shipbuilder. All 10 River class ferries are now available. They have full disability access, by the way, whereas the old ones do not. That is good news. We are working towards those River class ferries being available later this year. Without pre-empting anything in terms of the Emerald class, I am sure people understand that the past few days have been a good opportunity to test those ferries heading towards Manly, but we are working on that. I would not wish to talk about contractual arrangements and some of those things, because they are commercial in confidence, but we work with a number of those ferry operators and understand the situation that customers have faced. I am pleased to say that—would you believe it?—we still get customer satisfaction of 99 per cent in feedback on our ferry services, which is good news.

The CHAIR: That is good to hear. Could I bring you back to the question, though, of who owns the ferries. My understanding, from reading the contracts, is that—

HOWARD COLLINS: We will take that on notice, because I would probably be criticised for giving you very layman's terms regarding the actual ownership. But we do know that, obviously, the current operator has procured these ferries. There may well be—I will take it on notice again—arrangements about what happens to those ferries if the contracts change.

The CHAIR: Obviously, if it turns out that a percentage of our ferries are not owned by the Government of New South Wales then terminating the contract becomes very difficult.

HOWARD COLLINS: I do not think it is that simple and obvious, if I may be polite about it. It is a complex matter which might mean, if I give you an alternative, that assets can be moved or transferred under certain circumstances. I would rather take that on notice and give you a commercial answer.

The CHAIR: Usually at a cost, but I understand. If you could let us know, on notice, what the arrangements are in the event of a termination of that contract, including how much it would cost if the option is to buy those ferries from the operator, that would be useful. I will pass back to the Opposition for the final 10 minutes.

The Hon. ADAM SEARLE: Minister, we were discussing the issues around the stoppage of the rail system, if I can use that neutral term. You were at a veterans Ministers' council in the Northern Territory; is that correct?

Mr DAVID ELLIOTT: Correct, and the bombing of Darwin commemorations—with Anthony Albanese and the Prime Minister.

The Hon. ADAM SEARLE: I am not being critical; I am just setting the scene here. Did you discuss at that setting the idea that you floated in late December for a national cemetery, similar to the Arlington National Cemetery in America?

Mr DAVID ELLIOTT: Floated with who?

The Hon. ADAM SEARLE: At the veterans Ministers' council.

Mr DAVID ELLIOTT: As part of the agenda? As part of the formal meeting?

The Hon. ADAM SEARLE: Yes.

Mr DAVID ELLIOTT: I do not think that I raised it as part of the formal proceedings, but it is certainly something that I have been discussing with veterans' groups. I certainly discussed it at one of the events on the Saturday.

The Hon. ADAM SEARLE: Which veterans' groups have you discussed it with?

Mr DAVID ELLIOTT: The RSL. There would be a list of them.

The Hon. ADAM SEARLE: Could you provide a list?

Mr DAVID ELLIOTT: To be honest, I speak to veterans' groups three times a day.

The Hon. ADAM SEARLE: Have you formally consulted around this issue?

Mr DAVID ELLIOTT: With who?

The Hon. ADAM SEARLE: With anybody.

CORRECTED

Mr DAVID ELLIOTT: No, it was my idea as the Minister for Veterans. Sorry, incorrect; I have consulted. I consulted in depth with the Labor spokesman for veterans affairs. He has agreed to co-sign the letter to the Leader of the Opposition and the Prime Minister.

The Hon. ADAM SEARLE: I think the article in the Telegraph on 22 December said that you were going to write to the Prime Minister regarding this.

Mr DAVID ELLIOTT: Correct.

The Hon. ADAM SEARLE: Have you written to the Prime Minister?

Mr DAVID ELLIOTT: The letter has been drafted.

The Hon. ADAM SEARLE: Have you spoken to anyone at the Australian War Memorial Council about the idea?

Mr DAVID ELLIOTT: No, but I am glad you raised it. I am hoping that the war memorial will take an active role in the cemetery, but it is my desire for the cemetery to be in the State of New South Wales.

The Hon. ADAM SEARLE: Even though it is a national cemetery?

Mr DAVID ELLIOTT: Even though it is national cemetery, because we have national monuments across New South Wales. Not every war memorial or national commemorative is in the ACT, thankfully.

The Hon. ADAM SEARLE: I understand. Have you or has your agency spoken to anyone at Cemeteries & Crematoria NSW about this idea?

Mr DAVID ELLIOTT: No.

The Hon. ADAM SEARLE: Have you spoken to the cemeteries Minister? I think that is Mr Anderson.

Mr DAVID ELLIOTT: No, because I want to open dialogue with the Commonwealth first. The Commonwealth may, and I am open minded to it—there is a possibility that the Commonwealth will want it as Commonwealth land, which will obviously change the dynamics of the cemetery.

The Hon. ADAM SEARLE: In what way would it change the dynamics?

Mr DAVID ELLIOTT: Again, I have to take advice, which is why I have opened dialogue. If it becomes a Commonwealth asset, it will not be managed under the New South Wales cemeteries trust.

The Hon. ADAM SEARLE: Is your proposal for a New South Wales-aided body, albeit having national significance, or is it your proposal that the Commonwealth takes this over?

Mr DAVID ELLIOTT: My preference would be the former.

The Hon. ADAM SEARLE: So the New South Wales Government would source the land and construct the monument?

Mr DAVID ELLIOTT: No, I think it is appropriate for the Commonwealth to source the land because they are veterans and they will be buried, essentially, in a war cemetery. But again, remember, it is important to note, we are not going to be digging up bodies from the Western Front. This is an asset that would be available to anybody who has served in the Australian Defence Force, regardless of deployments overseas and regardless of their service. The only veteran or soldier who I want repatriated is Private Robert Weir, who is buried under rocks in Khartoum, because in 1885, on deployment to the Sudan conflict, he was the first Australian ever to die on active duty overseas. But, as you know, that predates Federation and so he is actually the first New South Wales soldier to die on active service. I think his body deserves repatriation with full military honours, and I would have thought that his name would, in some way, be recognised in this cemetery.

The Hon. ADAM SEARLE: That seems like a reasonable proposition. Do you have a rough cost estimate for that proposal?

Mr DAVID ELLIOTT: No. Thank you for that question. Unfortunately, as you are probably well aware, death is big business. Unfortunately, funerals are an expensive operation.

The Hon. ADAM SEARLE: And land is short for burial purposes in New South Wales.

Mr DAVID ELLIOTT: Land is short for burial purposes. You are talking about a possibility for—I think in New South Wales we have 100,000 veterans at the moment. It is probably more, is it not, Caroline?

CAROLINE MACKANESS: It is 200,000.

CORRECTED

Mr DAVID ELLIOTT: We have 200,000 veterans in New South Wales. I would have thought that the vast majority of them would relish the opportunity to be buried—and their families would relish the opportunity for them to rest—in, essentially, a war cemetery. The cost of the land is one thing. I also want, as you probably saw in that article, and it is something that your shadow spokesman agrees with me on—I think that it is about time that we have a memorial dedicated to veterans who have fallen by suicide. We really need to acknowledge PTSD as a service-related injury. At the moment we have memorials all over the place for soldiers who were killed in action. We have even got memorials for soldiers who died on exercises. But we have no memorial for soldiers who died by suicide based on their PTSD. I have also said in my application to the Prime Minister—

The Hon. JOHN GRAHAM: Minister, I am just going to—

Mr DAVID ELLIOTT: This is, very, very important, and I think it is important that I put it on the record. So I want to ask—

The Hon. JOHN GRAHAM: Yes, I invite you to do that on notice.

Mr DAVID ELLIOTT: No.

The Hon. JOHN GRAHAM: I am just going to turn to the last couple of questions.

The Hon. SCOTT FARLOW: Veterans are on notice, are they?

Mr DAVID ELLIOTT: I am sorry, mate. I am really sorry.

The Hon. TAYLOR MARTIN: He is only a couple of sentences away from finishing.

The CHAIR: Order!

Mr DAVID ELLIOTT: You really need to hear this because I—

The Hon. JOHN GRAHAM: I will allow you to have leave.

Mr DAVID ELLIOTT: Yes, thank you for allowing me to talk about suicide. I think what we also need is a chapel for reflection and remembrance, and for soldiers who, in many respects when they die by suicide, have been scorned by the main religions because they have seen it as some sort of sin, even though we now acknowledge the fact that PTSD is a war-related injury. Yes, I am hoping the Commonwealth comes good with the cost of the land. I want that land in New South Wales. I am prepared to negotiate with the Prime Minister or the Opposition Leader about whether it is administered under the cemeteries Act in New South Wales or by the Commonwealth. There will be initial capital costs by way of a chapel and by way of a memorial. I want an education centre there as well so that students can come and learn about the service of those who have been laid to rest at the memorial.

The Hon. JOHN GRAHAM: Minister, I have a couple of final questions about the trains issue when you are ready.

Mr DAVID ELLIOTT: Also the Commonwealth will be obliged to provide a guard of honour because I am expecting that there would be literally dozens of funerals a day—

The Hon. JOHN GRAHAM: I hope you are not avoiding these last couple of questions about the trains.

Mr DAVID ELLIOTT: I find that pretty much the most offensive question I have been asked in this Committee.

The CHAIR: Order! Minister, you have been given quite a long time to respond to that—

Mr DAVID ELLIOTT: No, I think you will find that the veterans questions have been limited, and I think you will probably find that—

The CHAIR: Yes, but this is a question-and-answer session, not a say-all-the-things-you-want-to-say session.

Mr DAVID ELLIOTT: I am answering his question.

The CHAIR: I will allow the member to bring you back to the specific question.

The Hon. JOHN GRAHAM: Minister, your secretary has placed one of your key deputy secretaries on directed leave. When were you informed about that decision?

Mr DAVID ELLIOTT: The day that it was made.

The Hon. JOHN GRAHAM: Were you informed why that decision had been made?

Mr DAVID ELLIOTT: I will defer to the secretary to advise why that decision was made.

CORRECTED

The Hon. JOHN GRAHAM: I am asking, were you informed?

Mr DAVID ELLIOTT: I will defer to the secretary as to the reason why that decision was made.

The Hon. JOHN GRAHAM: I am not asking what the reason was. I am asking, were you told what the reason was?

Mr DAVID ELLIOTT: I am not in a position to—

The Hon. JOHN GRAHAM: The secretary cannot answer that.

Mr DAVID ELLIOTT: I am sorry. I am not going to discuss conversations about staff welfare and motivations. The secretary answered that question in an estimates committee two days ago.

The Hon. JOHN GRAHAM: I am asking: Were you, as Minister, informed why?

Mr DAVID ELLIOTT: I am certainly not going to be speculating on the reasons. It was not my decision, and so the secretary appropriately advised me that he had had a discussion with the deputy secretary.

The Hon. JOHN GRAHAM: I have asked you about section 36I of the Act. Do you feel your agency fulfilled its obligations under the Act?

Mr DAVID ELLIOTT: I am not going to provide legal advice right now.

The Hon. JOHN GRAHAM: It is not a legal question. You are the Minister.

Mr DAVID ELLIOTT: I am answering the question.

The Hon. JOHN GRAHAM: In your view, did your agency—

Mr DAVID ELLIOTT: I will take it on notice. If you do not like the answer, I will take it on notice.

The Hon. JOHN GRAHAM: Thank you. A number of ERC submissions were submitted to your office in relation to this.

Mr DAVID ELLIOTT: In relation to what?

The Hon. JOHN GRAHAM: In relation to this set of events. They have been referred to in the documents that have been produced to the Parliament. You are saying that in none of those documents were you made aware that there was an option that involved a shutdown.

Mr DAVID ELLIOTT: As much as I would like to answer that question, I do not want to set a precedent of starting to talk about ERC submissions in a committee.

The Hon. JOHN GRAHAM: But not only did all these agencies know; the ERC knew as well.

Mr DAVID ELLIOTT: I refer you to my last answer.

The Hon. JOHN GRAHAM: Minister, the union has been clear that the seventeenth—that is the Thursday—was the first time it was told that Transport might have to shut down all the trains. That is what it has said publicly. Again I ask: How is it that the union was told, along with all these other people, but you, as Minister for Transport, were not told?

Mr DAVID ELLIOTT: You would have to ask the union that.

The CHAIR: Unfortunately, that is all that we have time for. Do Government members have any questions that they would like to ask?

The Hon. SCOTT FARLOW: As much as I would like to, no.

The CHAIR: Thank you, Minister, for your time. We are done with you, but we will be back with everyone else at 2.00 p.m.

(The Minister withdrew.)

(Luncheon adjournment)

CORRECTED

Ms CAMILLA DROVER, Deputy Secretary—Infrastructure and Place, Transport for NSW, on former affirmation

Mr JOOST de KOCK, Deputy Secretary—Customer Strategy and Technology, Transport for NSW, on former affirmation

Ms BENEDICTE COLIN, Chief Executive Officer, Transport Asset Holding Authority, on former affirmation

Ms DANIELA FONTANA, Chief Executive, State Transit Authority, on former affirmation

Mr ANTHONY WING, Commissioner, NSW Point to Point Commission, on former oath

The CHAIR: Thank you for coming back and not running away. It is always useful. We will start again with questions from the Opposition. Mr Graham.

The Hon. JOHN GRAHAM: Thank you, officials, for this session. Mr Sharp, firstly, I was going to take you up on that offer you made to table that advice you received about the circuit-breaker option. I think you offered to table that, so I will give you the opportunity to do that now.

ROB SHARP: Yes, I can provide an update.

The Hon. JOHN GRAHAM: Perhaps an update and then if you then want to table it, that would be good.

ROB SHARP: The rail entities have not as yet sought an application in the Fair Work Commission to assist with a conciliation, which I spoke about this morning, because the preference was to actually reach an agreement and in recent times there has been an improvement in the dialogue that has been occurring with the unions. Bargaining meetings were continuing weekly and we were not any closer to reaching an agreement, so the option of seeking conciliation was being canvassed. The time frame was early February. That is not connected with the recent application in regard to the industrial action. The circuit-breaker strategy has not been progressed because we are having those meetings at the moment, and both the unions and ourselves are all committed to constructive dialogue to resolve the enterprise agreements. The Fair Work application that went in on 18 February that we have been talking about was not part of the circuit-breaker strategy and it was specific to the termination and the suspension of the action items notified on 9 February, not the actual agreements themselves. So they were actually quite separate events. It was an option. It has not been pursued because we are in active dialogue and negotiations to try to close out an EA agreement.

The Hon. JOHN GRAHAM: I think my colleague is going to have some questions on that specific matter. Did you want to table any advice at this point?

ROB SHARP: No, I have not got advice.

The Hon. JOHN GRAHAM: That is good. I just wanted to check that. I did want to turn to Mr Longland. I think you did offer to table the risk assessment and I will invite you to do that now.

MATT LONGLAND: Yes, thank you. I do understand that it was tabled on the section 52 yesterday.

The Hon. JOHN GRAHAM: We have got a range of documents, though, so I think one of the things that would be helpful, because there are some version control issues, is if you are able to table what you regard as the copy.

MATT LONGLAND: There is a copy here.

The Hon. DANIEL MOOKHEY: Mr Sharp, firstly, thank you to you and your officials for choosing to spend another Friday afternoon with us. We thoroughly appreciate it. Mr Sharp, when were you first provided with Minister Elliott's contact number?

ROB SHARP: I was provided with a contact number in the early days by the secretary of the Premier's office, but by the Minister and secretary's office, it would have been about a week or two ago.

The Hon. DANIEL MOOKHEY: After the dispute or before the dispute?

ROB SHARP: Before the dispute.

The Hon. DANIEL MOOKHEY: So you got the Minister's mobile number for which of his mobiles? How many mobiles—

ROB SHARP: I have only got one number. I cannot talk to how many mobiles the Minister has.

CORRECTED

The Hon. TAYLOR MARTIN: I have only got one number as well.

The Hon. DANIEL MOOKHEY: Fair enough. So you got it a few days before. Did you request it?

ROB SHARP: We requested the details in the very early stages. It would have been in December or January.

The Hon. DANIEL MOOKHEY: So you asked for the Minister's mobile phone number back in December or January?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: And you only got it from the Minister a week or so ago?

ROB SHARP: We were advised that it would be provided at a point when it was required.

The Hon. DANIEL MOOKHEY: Was any explanation given to you for the two-month delay in you getting the Minister's mobile phone number?

ROB SHARP: Not an explanation but the methodology that was used to set up the office was to conduit everything through the chief of staff, as I mentioned earlier this morning.

The Hon. DANIEL MOOKHEY: Just to be clear here, you presumably got the other Ministers' numbers—so we are talking about Minister Farroway, Minister Ward and Minister Stokes. You would have had Minister Stokes' number I presume when he was Minister for Transport. But, given Minister Stokes is your cluster Minister, can I confirm you have his mobile phone number?

ROB SHARP: Yes, the other three Ministers provided their numbers within one or two days of arriving into their portfolios.

The Hon. DANIEL MOOKHEY: In respect to this particular protocol that did apply between—was it just your office and the Minister or your department and the Minister?

ROB SHARP: Department.

The Hon. DANIEL MOOKHEY: There is no such protocol in place in respect to the other Ministers?

ROB SHARP: No.

The Hon. DANIEL MOOKHEY: And there has not been since they became Ministers?

ROB SHARP: No. There is a lot of interaction, obviously, with the chief of staff. They play a critical role—an advisory role—so there is a lot of communication through there, but there are opportunities to communicate directly with the Ministers.

The Hon. DANIEL MOOKHEY: Presumably you availed yourself of those opportunities previously?

ROB SHARP: I have.

The Hon. DANIEL MOOKHEY: Did you ever make an attempt between December and February to contact the Minister directly on any matter?

ROB SHARP: It is Minister Elliot you are referring to?

The Hon. DANIEL MOOKHEY: Yes.

ROB SHARP: I have sent emails, through the chief of staff, requesting urgent meetings in regard to various matters.

The Hon. DANIEL MOOKHEY: Have you been given those meetings?

ROB SHARP: No, they did not take place.

The Hon. DANIEL MOOKHEY: Can you give us examples of incidences where you have requested an urgent meeting? What was the subject of those meetings?

ROB SHARP: The subject of the meetings would have been particularly the industrial action, for example, and the upcoming risks. That would have been a precursor to, for example, the Fair Work Commission that would be coming up. That would be a typical example.

The Hon. DANIEL MOOKHEY: When do you recall making your first request for an urgent meeting with the Minister to talk about the current dispute?

CORRECTED

ROB SHARP: I would have to take that on notice and go back through my communications.

The Hon. DANIEL MOOKHEY: Given the dispute has been underway since May 2021 and the Minister has become Minister around December, can you give us any indication as to even a month?

ROB SHARP: The negotiations have been ongoing since May, but the reference I made there was quite specifically to the protected industrial action that was notified to us probably back into that first week of February.

The Hon. DANIEL MOOKHEY: Technically, I think you will find that you were notified of the action by the RTBU on circa 9 February 2022—the Wednesday. That is correct?

ROB SHARP: Let me just confirm that. Yes, 9 February.

The Hon. DANIEL MOOKHEY: And you are saying that sometime between 9 February and now, but prior to the network closure, you requested an urgent meeting with the Minister?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: Do you know what date you requested that meeting?

ROB SHARP: On 11 February I requested a meeting to talk over the weekend.

The Hon. DANIEL MOOKHEY: And you did that via email to the chief of staff?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: Firstly, can you table that email?

ROB SHARP: Yes, I will arrange for that.

The Hon. DANIEL MOOKHEY: Thank you. What reply did you get?

ROB SHARP: I do not believe I received a reply.

The Hon. DANIEL MOOKHEY: To this date you still have not received a reply?

ROB SHARP: To the best of my understanding, that is the case, but I will take it on notice to review the emails. I do not recollect so.

The Hon. DANIEL MOOKHEY: Did you request any other urgent meetings from that period onwards in relation to this dispute?

ROB SHARP: There was an email on Monday the fourteenth where I chased up an opportunity to meet.

The Hon. DANIEL MOOKHEY: Again by email to the chief of staff?

ROB SHARP: By email to the chief of staff.

The Hon. DANIEL MOOKHEY: On the fourteenth—Valentine's Day. Lucky you. Did you get a response to that email?

ROB SHARP: No. In fact I asked my chief of staff subsequently to follow up with the Minister's chief of staff to look to arrange that meeting and I think the meeting that ended up occurring was the one on Thursday, which was two days before the Fair Work Commission. That was the first meeting that occurred.

The Hon. DANIEL MOOKHEY: But by the fourteenth—by this point in time—the dispute had moved on, correct?

ROB SHARP: Yes, correct.

The Hon. DANIEL MOOKHEY: In fact on the Tuesday, your senior executives and you attended a meeting with the combined rail unions, did you not? On Tuesday, it would have been Tuesday the fifteenth.

ROB SHARP: I do not have that in my time line. Mr Longland is here. Did we meet with the delegates on that date?

MATT LONGLAND: Yes, Mr Collins, Mr Sharp and I, along with Mr Merrick, met with a number of members of the combined rail union on that afternoon.

The Hon. DANIEL MOOKHEY: So you made two requests for urgent meetings. Did you make any others?

ROB SHARP: No others through that week.

CORRECTED

The Hon. DANIEL MOOKHEY: Did anybody else in the department seek to meet with the Minister or his office urgently to discuss the dispute in the week prior?

ROB SHARP: Not to my knowledge.

The Hon. DANIEL MOOKHEY: Because of course you would have to know about that, would you not?

ROB SHARP: That is correct.

The Hon. DANIEL MOOKHEY: Just to be clear here, Mr Sharp. You asked twice to meet with the Minister in the week leading up to the network shutdown and the Minister's office never got back to you?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: And to this point you still have not had an explanation as to why?

ROB SHARP: No.

The Hon. DANIEL MOOKHEY: Putting aside urgent requests for meetings in relation to this dispute, have you made any other requests for meetings with the Minister in relation to any issue in his portfolio?

ROB SHARP: Yes, there are a couple of meetings I requested. I have not got the time lines or the dates here but I can certainly revert on them. One that I do remember was some negative press on my performance and I requested a meeting to discuss that and no meeting was forthcoming.

The Hon. DANIEL MOOKHEY: I am sorry, I will be delicate about this, Mr Sharp. Are you referring to an item that appeared in a column in *The Sunday Telegraph*?

ROB SHARP: I am indeed.

The Hon. DANIEL MOOKHEY: And you would have presumably seen that column that day?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: And prior to that you would not have had any warning that that would be appearing?

ROB SHARP: No, no. There have been no performance meetings or any feedback at all, so I was surprised to see that in the media and I requested a meeting to discuss it, as one would, and no meeting was forthcoming.

The Hon. DANIEL MOOKHEY: Presumably you are still yet to have that meeting?

ROB SHARP: There has been no performance meeting.

The Hon. DANIEL MOOKHEY: To be very clear here on this particular point, your actual cluster Minister is Minister Stokes, is it not?

ROB SHARP: The cluster Minister is, yes.

The Hon. DANIEL MOOKHEY: Presumably you are employed directly by the Premier, are you not?

ROB SHARP: I am.

The Hon. DANIEL MOOKHEY: And you actually go through performance management through the Premier's process?

ROB SHARP: I have been through one of those with the prior Premier.

The Hon. DANIEL MOOKHEY: Presumably those ratings were positive?

ROB SHARP: Very positive.

The Hon. DANIEL MOOKHEY: Were you given an outstanding rating?

ROB SHARP: There were no concerns raised. I do not think there is a rating.

The Hon. DANIEL MOOKHEY: No, there is actually. Believe me, I have interrogated it. I can assure you I have in respect to certain Transport secretaries. That was one incident after you found yourself subject to some adverse comment that was attributed to the Minister and you sought an urgent meeting?

ROB SHARP: Yes.

CORRECTED

The Hon. DANIEL MOOKHEY: What were the other ones?

ROB SHARP: I do not have the details but I would say there are probably one or two other occasions. I would have to take that on notice and go back through the emails to find out.

The Hon. DANIEL MOOKHEY: Sure, please do. Do you recall the subjects?

ROB SHARP: No, I do not.

The Hon. DANIEL MOOKHEY: In respect to this protocol issue—I might pause there to see if there are any other questions about urgent meetings that my colleague has before I go to the protocol.

The Hon. JOHN GRAHAM: I might ask about those daily meetings that occur in the Transport portfolio, now you have got these four Ministers. You agree with the Minister he put the view that in fact in his office he has not attended those meetings. I want to confirm that with you?

ROB SHARP: Correct, he has not attended those meetings.

The Hon. JOHN GRAHAM: And in your experience other Ministers had attended those meetings, at least on some occasions?

ROB SHARP: They are operational focused because they are very regular, but they also provide an opportunity for any urgent matters, things that are coming up in the media, et cetera. Each portfolio is slightly different. For example, the operational areas, you would typically have those meetings every day. And for those, for example, in the regional area, Minister Faraway I would say has been there 95 per cent of the time. Minister Ward attends very regularly, maybe one or two times she has not attended. Minister Stokes is not an operational area, it is more strategic, so typically weekly we would catch up. It is an operational pattern.

The Hon. JOHN GRAHAM: Traditionally the transport Minister itself would be regarded as more on the operational end of that scale?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: Mr Sharp, had you had those meetings with the Minister what would you have told him?

ROB SHARP: Those meetings go for 15, 20 minutes.

The Hon. DANIEL MOOKHEY: No, sorry. I am referring to the urgent meetings you requested in relation to the dispute. Sorry for not clarifying that.

ROB SHARP: Yes. That would have been to talk quite specifically about the protected industrial action that had been notified on the ninth and to actually talk through that. Clearly we were contemplating needing to get to Fair Work Commission and there is quite a bit of detail around that. So we would have been focused on that topic.

The Hon. DANIEL MOOKHEY: Through you, Mr Secretary, to Mr Longland: Presumably when you were notified of this action you started to prepare immediately the risk assessment, including a safety risk assessment?

MATT LONGLAND: That is correct. Just to put it in context, as I said, we have had significant rolling action from a number of unions for quite some time. During that period we were actually managing another two weeks of industrial action with the RTBU, which ran from the seventh through to the 21st. So we were managing current operations and risk whilst preparing for the two weeks that were ahead.

The Hon. DANIEL MOOKHEY: Mr Longland I do not wish to compound my rudeness by being direct, but I will give you an opportunity to add any detail later. The specific questions are: You started that preparation and then presumably you would have started preparing the safety risk assessment as soon as you got notification?

MATT LONGLAND: It does take some time to work through the IR team, the legal team and each of the operations functions, but yes. So there was work underway—

The Hon. DANIEL MOOKHEY: But by the Monday following, the week following, I am talking specifically now about Monday the fourteenth, at the time that the secretary puts the request in for an urgent meeting I presume you would have briefed the secretary or otherwise discussed with the secretary your views as to what were the likely consequences if the action went ahead?

MATT LONGLAND: Yes, by that stage whilst we did not have a signed off risk assessment, we were clear that there were going to be significant actions.

CORRECTED

The Hon. DANIEL MOOKHEY: And it was clear at that point that there was a reasonable possibility that the network would have to close if the action went ahead as notified?

MATT LONGLAND: Yes, if all nine pieces of action went ahead, that would have been the outcome.

The Hon. DANIEL MOOKHEY: And you would have passed this information on to the secretary, and presumably the chief people officer and other people in the Transport for NSW executive leadership team?

MATT LONGLAND: Yes.

The Hon. DANIEL MOOKHEY: Mr Secretary, at the time you put in that urgent request you were aware that that was one of the possibilities?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: Was it your intent at the urgent meeting that you requested to disclose to the Minister that one of the possibilities was that the network would have to close?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: Did you seek the second meeting in order for you to provide that advice?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: As a result of that failure to provide that advice, failure for you to be able to communicate that directly to the Minister, did you have to prepare a Fair Work application?

ROB SHARP: The Fair Work application was in response to the actual protected industrial action. The Thursday meeting was the first opportunity where we talked about that application and the process on that weekend.

The Hon. DANIEL MOOKHEY: Presumably at that point you did communicate, at that Thursday meeting, that there was a possibility that the network would have to close if the Fair Work action did not succeed?

ROB SHARP: As we spoke this morning, that particular meeting was a half-hour meeting and it was more focused on the process of the Fair Work. I needed to specifically write to the RTBU. There are a number of triggers—

The Hon. DANIEL MOOKHEY: I am aware.

ROB SHARP: —which you are very familiar with.

The Hon. DANIEL MOOKHEY: Yes, indeed.

ROB SHARP: It was working through that. It was also a general IR update, so there were quite a few things. It was not a detailed meeting for the secretary with the Minister.

The Hon. DANIEL MOOKHEY: And that was because fundamentally it was too late to provide that advice. You had to get ready anyway, did you not?

ROB SHARP: We were at a point where we needed to submit to Fair Work at that point.

The Hon. DANIEL MOOKHEY: Therefore when you had the opportunity to have a half-hour meeting with the Minister you had to prioritise the information you were giving him, correct?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: And the priority information to provide him was a description as to what was going to happen with Fair Work, correct?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: Therefore, you did not have time to provide him with the other advice. Is that fair?

ROB SHARP: Correct. The time frame did not allow for detailed discussions of risk assessments and all the various information.

The Hon. DANIEL MOOKHEY: Why was the meeting only 30 minutes?

ROB SHARP: You would have to ask the Minister that.

CORRECTED

The Hon. DANIEL MOOKHEY: Was that your request for a 30-minute meeting?

ROB SHARP: We were looking for a meeting. I think we may have asked for an hour.

The Hon. DANIEL MOOKHEY: You asked for an hour and you got 30 minutes?

ROB SHARP: And I have to clarify that with my chief of staff and my secretary, but my recollection is that.

The Hon. DANIEL MOOKHEY: Presumably if you had the additional 30 minutes that Thursday would you have told the Minister that there was a reasonable chance that the network would have to close if the action at Fair Work did not proceed?

ROB SHARP: There would have been a more fulsome conversation around the nuances of the risk assessments and implications.

The Hon. DANIEL MOOKHEY: I might pause there for my colleague.

The Hon. JOHN GRAHAM: You did discuss the termination or suspension of an industrial action. Your note in the time line says that that proposal was discussed and it was supported. The Minister did not recall; he took on notice whether he supported that in the end. But I will confirm that you stand by the document here that says recommendation to lodge an application to suspend or terminate industrial action proposed and supported?

ROB SHARP: Yes. I am not sure of the time line on it, but I believe it was off that Thursday meeting where that occurred.

The Hon. JOHN GRAHAM: When you say "supported" you mean supported by the Minister obviously you were briefing?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: Mr Sharp, given your emails were not being returned, is it the case that you did not make an attempt to call the Minister because that would have breached the protocol?

ROB SHARP: Yes. I mean, we had direct communication very regularly with the chief of staff and the chief of staff was aware that I had made that request and, as I indicated, my chief of staff followed that up.

The Hon. DANIEL MOOKHEY: Did you have any phone conversations with the chief of staff about wanting to meet with the Minister?

ROB SHARP: Did I have—sorry, I did not catch that.

The Hon. DANIEL MOOKHEY: Conversations with the chief of staff about wanting to meet? You relied on email?

ROB SHARP: No, no. I sent the emails. My chief of staff, who meets her counterparts, if you like, regularly throughout the day, she raised it to say Robert is keen for these meetings.

The Hon. DANIEL MOOKHEY: Presumably the other reason why you could not make direct contact with the Minister after your emails were not being returned, was that you did not have his number?

ROB SHARP: The protocol was to go through the chief of staff.

The Hon. DANIEL MOOKHEY: In respect to this particular protocol, is it written?

ROB SHARP: No, it is not written. But in the very early days that was discussed and effectively we were directed to put everything through the chief of staff.

The Hon. DANIEL MOOKHEY: What do you mean by "effectively we were directed"?

ROB SHARP: We were specifically told by the chief of staff that that was the protocol that they would operate under.

The Hon. DANIEL MOOKHEY: Was that when you first met the chief of staff?

ROB SHARP: Very early days—day two or three.

The Hon. MARK BANASIAK: I might turn to buses and specifically the defective safety screens installed around bus drivers, which limit their visibility at certain times of the day. Where are we up to with resolving that issue?

CORRECTED

DANIELA FONTANA: I can take that. We are currently working with SafeWork NSW to conduct a review of those screens. The screens are currently being installed on all of our fleet at the State Transit Authority. We have sought to work with SafeWork, and we are currently meeting weekly and working through alternatives or looking at improving those reflections in screens.

The Hon. MARK BANASIAK: Have you received any regulator notices or improvement notices regarding those screens?

DANIELA FONTANA: Yes, we have. We have received a PIN notice from SafeWork NSW. And as I said, we are currently working with them and meeting with them weekly around looking at the issues that have been raised by one of our bus drivers.

The Hon. MARK BANASIAK: Has just one bus driver raised this, or multiple bus drivers?

DANIELA FONTANA: One particular driver raised it at our previous North Sydney depot. We are working with all our representatives from all of our sites currently and discussing what improvements we could potentially make with those protective screens.

The Hon. MARK BANASIAK: Are you contesting the PIN?

DANIELA FONTANA: At the moment, we are working with SafeWork. We do not believe that the screens are a safety concern. But we are looking at products and looking at ways of potentially improving the reflection that has been raised by our staff members.

The Hon. MARK BANASIAK: Is it true that your own risk assessment identified those screens as a catastrophic risk?

DANIELA FONTANA: No, that is incorrect. We did conduct risk assessments prior to the installation of the screens. We actually had a working committee, which included bus operators and work health and safety members. We went through quite an extensive consultation process with our staff prior to installation. At that point in time, there were no concerns or issues raised on reflection. The matter has been brought to our attention late last year where a PIN notice, as I said, was issued by SafeWork as a result of the concern of one of our North Sydney drivers.

The Hon. MARK BANASIAK: You said you did a risk assessment before they were installed. Have you since gone back and reassessed that risk assessment and, if so, what has that found?

DANIELA FONTANA: We have conducted a risk assessment, yes. I am happy to provide that. The risk assessment does say that there is reflection but there is reflection in all vehicles, not just that particular type of vehicle. As I said, we are looking at different products on the market at the moment.

The Hon. MARK BANASIAK: Does it specifically go to the extent of that reflection in terms of impeding drivers' vision, particularly on the left-hand side? Does that risk assessment go into that level of detail?

DANIELA FONTANA: It does, yes. We are still working through that with the committee at the moment.

The Hon. MARK BANASIAK: It is my understanding that replacement screens that would address this issue would cost around \$400. Does that reconcile with what you have found in your discussions with SafeWork and your own investigations?

DANIELA FONTANA: I do not actually have the exact costings. At this point in time we actually have not found a product on the market that will rectify the reflection. As I said, that is what we are doing at the moment with the committee and together with SafeWork. I do not have a cost or a figure of a product that can be installed at this point in time.

The Hon. MARK BANASIAK: What did the original product cost?

DANIELA FONTANA: The total installation for our full fleet was about \$1.2 million to install the screens.

The Hon. MARK BANASIAK: So, roughly per bus, what are we talking about?

DANIELA FONTANA: It is about \$1,000 a screen.

The Hon. MARK BANASIAK: You would hope that a similar product would be around that ballpark figure. We are not talking about a significant cost to fix a quite significant safety issue. A bus driver who cannot see the left-hand side could potentially side-swipe a pedestrian or another car.

CORRECTED

DANIELA FONTANA: It is not about cost; it is about finding a product that will resolve the concerns. At this point in time there is no product on the market that we can find to rectify the concern of the staff member. Safety is one thing that we would not compromise, regardless of the cost. If it costs more than that, we are more than happy to make changes, if necessary.

The Hon. MARK BANASIAK: Would you table both the previous risk assessment and the one you have done since?

DANIELA FONTANA: Yes, certainly.

The Hon. MARK BANASIAK: Mr Wing, this morning, in response to a question from Ms Boyd, the Minister said he was looking to be a bit more generous with the compensation package offered to taxi drivers. Has the Minister asked you to go back and do more work in that space?

ANTHONY WING: He has not asked me to do some more work. That would be something he would be discussing with his colleagues. But that is not a regulatory matter so Transport for NSW is dealing with that matter.

The Hon. MARK BANASIAK: Mr Sharp, has the Minister asked your department to do more work in terms of what might be a more generous package?

ROB SHARP: Yes, he has. I will pass to Mr de Kock, whose team is doing that work. He can provide the answer.

JOOST de KOCK: Thanks, Secretary. As you know, the point-to-point industry has been progressively changing since 2015, and these reforms since 2015 have created much more adaptive and innovative and competitive markets for the point-to-point transport industry. As the secretary mentioned earlier this morning, we did extensive consultation late last year with the industry. I might just mention that so it gives you a bit of context. We did consult widely through industry and we invited people to attend webinars, and 890 people attended those. We conducted two online surveys with 1,300 responses. We also held eight stakeholder interviews with industry peak bodies—

The Hon. MARK BANASIAK: I might just ask you to skip that part because I think we have already heard that evidence in previous estimates. What work are you now doing beyond those initial stakeholder consultations? What are you doing now, based on the Minister's comments that he wants to be a bit more generous?

JOOST de KOCK: Actually, the input from the stakeholders is quite important because we were using that feedback to help formulate options. Those options are currently for consideration with government.

The Hon. MARK BANASIAK: Ms Fontana, on notice will you provide the PIN or the improvement notice to the Committee?

DANIELA FONTANA: Yes, certainly.

The Hon. MARK BANASIAK: I refer to the Boating Now program. I know we do not have any Maritime people here and you may need to take this on notice. Are the boating guidelines now legally binding, Mr Sharp?

ROB SHARP: I will have to take that on notice; you are correct.

The Hon. MARK BANASIAK: I ask that because there is deep concern amongst registered boat users that some of the funding that has been given to councils for projects has then been allocated to things that were not in their original application and do not actually sit within those guidelines. I am really interested to know if they are legally binding, which you have taken on notice. What is the process when a council changes its application and deviates away from its original plan, and adds other items that are actually outside those guidelines?

ROB SHARP: I will take that on notice. I understand where you are coming from. Thank you.

The CHAIR: The Committee has just received a note from, I understand, one of Minister Elliot's staff. It states that Mr Elliott would like to clarify that he received a text from the secretary on the morning of 24 January 2022.

ROB SHARP: Yes. As I mentioned this morning, I had a phone number given to me by the secretary of the Premier's office so I could contact Mr Elliott. I sent that text because he commenced on 24 January specifically. I did not get a response.

The CHAIR: Thank you. To something quite different, can we talk about the provision of toilet amenities, particularly in relation to Sydney Trains worksites? As you know, ETU NSW has taken work stoppages

CORRECTED

on Sydney trains worksites due to there being inadequate toileting facilities for women. I understand that temporary toilets were put in place. Could you tell us how many temporary toilets are still in place? I understand that as at 19 October we had 180 temporary toilets. Is it still that amount? And what has been the total cost of setting up and hiring those amenities so far?

ROB SHARP: I will just pass that to Mr Longland.

MATT LONGLAND: Thank you, Secretary. I will have to take that on notice to get you those figures, if that is okay. But, yes, I am certainly aware that we have a lot of temporary toilets at major worksites around the network. In terms of the specific number, maybe if we aim for this weekend or at a current date and the cost we can get that information for you.

The CHAIR: Thank you, that would be very useful. Has any work been done to scope out what it would cost to have those amenities on a more permanent basis rather than continuing to hire them week in, week out?

MATT LONGLAND: I am not aware of that work, or the cost. I do know that electricians that do work on the network, some of our worksites are quite remote, so it obviously is not possible to have permanent toilet facilities everywhere. But certainly where it makes sense and where we can do some work to reduce the number of temporary toilets, I think that is something that we are happy to have a look at.

The CHAIR: Thank you. Because I understand that we are looking at thousands per toilet at the moment, which seems quite extraordinary. So, yes, if you could let me know if there has been any work done or any approximate costing for more permanent amenities that would be much appreciated.

MATT LONGLAND: Sure.

The CHAIR: Just going back to the disability access across the network, I understand earlier the Minister was saying he is quite happy with 90 per cent. I understand that he was talking about customers though—or was he talking about trips? Are you able to clarify what that 90 per cent was in relation to? He said they were 90 per cent accessible and 90 per cent complete.

CAMILLA DROVER: It is 90 per cent of the customer journeys are started from an accessible infrastructure.

The CHAIR: Okay. Are you able to give me the figure for how much of, I guess, the network is accessible?

CAMILLA DROVER: Sixty-five point two per cent of suburban intercity stations are wheelchair accessible, and that was at the end of last year.

The CHAIR: Okay. So there is a considerable amount of work to be done then if we look at it in terms of stations.

CAMILLA DROVER: If I can clarify? We are currently upgrading 62 railway stations as part of TAP 3. That will be complete largely next year, in 2023. We are also doing the ferry wharf upgrades as well. After we finish tranche 3, there will be another tranche to go. There is roughly about 63 left after that.

The CHAIR: So if TAP 3 goes as anticipated and the ferry wharf accessibility goes as anticipated, what percentage of accessibility will we be at by the end of next year?

CAMILLA DROVER: I would have to take that on notice and come back with the exact percentage. But there would only be 63 stations left and we have already completed about 520.

The CHAIR: Okay.

CAMILLA DROVER: The other thing to note is we have two DSAT requirements. One is for infrastructure; the requirement for that was 2022. We have also got the fleet DSAT requirement; that is not until 2032. But all our new train requirements, like the Marayong regional rail and the recent Waratah Series 2, they are all DSAT compliant, well ahead of the requirement of 2032.

The CHAIR: Thank you. It does seem to be the infrastructure that is the more delayed component, but we would expect the newly procured trains and other vehicles to be, I guess, more modern and more compliant in that way.

HOWARD COLLINS: If I may add, if that is convenient, since I joined in 2013 there is a huge amount of—over 80 stations have been completed in terms of accessibility. I know the Minister tabled earlier and we have focused certainly—in fact, there are probably over 20 stations currently under construction, and some of these stations, as we know, when they were built in 18-something—1860s, 1870s—were significantly difficult to convert and get step-free access. Como station, for example, Camilla's team have done a magnificent job in

CORRECTED

converting what was almost an impossible station, to provide a lift and involve the community and employed people with disability as well. So I think a lot of work has been done and I think, in terms of New South Wales, we have made exceptional progress. And the other thing is that Sydney Metro will have full step-free access, and has had from day one.

The CHAIR: And, again, I am not saying that nothing has been done, but we are looking at a 2022 deadline where we are not at 100 per cent—we are at 65 per cent—which, for somebody who is living in an inaccessible location, is all that they care about at this point. The other aspect of these upgrades that we are hearing a lot about from people who are contacting my office is that often you will have an upgraded train station but you still have not got other aspects of the location upgraded for accessibility—for instance, nearby bus stations or even car parks. So even though you have got accessibility to the station, you cannot actually complete your entire trip from your home in an accessible way. How is that being tracked and monitored, and when will that piece of it be completed?

CAMILLA DROVER: We did complete the transport accessibility audit findings report in July 2021—so just last year. That was a full audit of all of our accessibility requirements and what still had to be done. It is fair to say for most of the station upgrades we do look at a very broad precinct because we are conscious that it is about the full journey. I can think of a number of stations where we have gone well beyond the railway station and the stairs et cetera into the surrounding urban design and the bus stops et cetera. So it is a key consideration.

The CHAIR: Okay.

HOWARD COLLINS: To add to that, obviously under Transport for NSW's new arrangements where we are all under one roof, so to speak, I think there has been a lot better collaboration between rail, bus and infrastructure in place. I think the other thing is to remember that quite a few of these bus stations are a council responsibility and we do encourage councils as well to provide that seamless and joined-up method for people with disabilities and we will continue to work with councils in those matters.

The CHAIR: Thank you. I will pass back to the Opposition.

The Hon. DANIEL MOOKHEY: Thank you, Chair. Mr Secretary, I think where we left off is that we were discussing the circumstances that led to the establishment of this protocol that we are calling it, but in fact it is probably better described as a direction, correct?

ROB SHARP: Certainly the communication was this is how they would like to operate and, as the Minister said this morning, communications would go to the chief of staff and then be pooled together and passed up to him. So that was their modus operation.

The Hon. DANIEL MOOKHEY: Okay. Thank you. You took on notice when you had precisely that conversation with the chief of staff so I will not ask you to do that again, thank you. Can I just ask, to you Mr Secretary or to the CEOs of the various organisations that are in the cluster, perhaps starting with Mr Longland: Have you met with the Minister individually or briefed him?

MATT LONGLAND: Yes, I have met him before today maybe three or four times.

The Hon. DANIEL MOOKHEY: But have you specifically ever sought a meeting with the Minister?

MATT LONGLAND: No. All of the interaction with the Minister's office is dealt with through Transport.

The Hon. DANIEL MOOKHEY: And is that a similar approach to you, Mr Regan? Have you ever had a meeting or has Sydney Metro had a direct meeting with the Minister about matters to do with your organisation?

PETER REGAN: Yes, we have.

The Hon. DANIEL MOOKHEY: When did that happen?

PETER REGAN: We have had a number of meetings.

The Hon. DANIEL MOOKHEY: Can you, on notice, provide us the dates?

PETER REGAN: Yes, I will see what I can find for you, but I have met Mr Elliott a number of times.

The Hon. DANIEL MOOKHEY: I am sure you have in various capacities, Mr Regan.

PETER REGAN: No, in a Sydney Metro capacity since his appointment as the transport Minister.

The Hon. DANIEL MOOKHEY: And Ms Colin?

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BENEDICTE COLIN: I met with the Minister on Wednesday to brief him on TAHE. And we had a previous meeting with his chief of staff, by recollection, at the end of January, to brief her on TAHE too.

The Hon. DANIEL MOOKHEY: So that was last Wednesday?

BENEDICTE COLIN: This Wednesday with the Minister and with the Minister's chief of staff—

The Hon. DANIEL MOOKHEY: Two days ago?

BENEDICTE COLIN: Yes.

The Hon. DANIEL MOOKHEY: You had your first meeting about the Transport Asset Holding Entity with the portfolio Minister responsible for the Transport Asset Holding Entity two days ago?

BENEDICTE COLIN: Yes, that is correct.

The Hon. DANIEL MOOKHEY: Okay. Of course, there have been some events to do with the Transport Asset Holding Entity in the last month, have there not?

BENEDICTE COLIN: Well, you can call them events. Yes, there have been a number of matters related to the Transport Asset Holding Entity.

The Hon. DANIEL MOOKHEY: Okay. Mr Sharp, is that one of the matters that you would have liked to have a direct discussion with the Minister about—the Transport Asset Holding Entity?

ROB SHARP: Yes. There was some communication with the chief of staff around whether I had any conflicts on the board. I prepared a document and sent that through to them. If I had a meeting, that would have been a topic of discussion.

The Hon. DANIEL MOOKHEY: Has the department sought to meet with the Minister in the last few days to provide him with briefings on the floods?

ROB SHARP: Yes, the Minister and I have been engaged. We have a professional relationship and we have had a number of conversations. We put in place a protocol through Howard Collins' team where there is information flow that goes directly to the Minister.

The Hon. DANIEL MOOKHEY: When did you have your first face-to-face meeting with the Minister, Mr Sharp?

ROB SHARP: On the Thursday meeting prior to the Fair Work Commission.

The Hon. DANIEL MOOKHEY: Thursday meeting. Okay, yes. But that was not a one-on-one meeting?

ROB SHARP: No.

The Hon. DANIEL MOOKHEY: When was your first one-on-one meeting?

ROB SHARP: It would have been last week.

The Hon. DANIEL MOOKHEY: Was that last Thursday?

ROB SHARP: I would have to go back to my diary, but back in the last week.

The Hon. DANIEL MOOKHEY: And who was present at the meeting?

ROB SHARP: The chief of staff and two or three others.

The Hon. DANIEL MOOKHEY: Who were the two or three others?

ROB SHARP: Basically some of his advisers from his team.

The Hon. DANIEL MOOKHEY: Did you have a meeting with the Minister and the Premier?

ROB SHARP: I did.

The Hon. DANIEL MOOKHEY: When did you have that meeting?

ROB SHARP: That would have been Tuesday after—

The Hon. DANIEL MOOKHEY: The day after the shutdown?

ROB SHARP: The day after, correct.

CORRECTED

The Hon. DANIEL MOOKHEY: Okay, so you met with the Premier and the Minister on that day. Did you call that meeting?

ROB SHARP: The Premier called the meeting.

The Hon. DANIEL MOOKHEY: The Premier called the meeting. What was the purpose of that meeting?

ROB SHARP: To discuss the time lines that I had sent through the night before. And so we talked through those time lines and received some constructive feedback.

The Hon. DANIEL MOOKHEY: What was the constructive feedback that you received?

ROB SHARP: Process improvement around written communication. The Premier has spoken publicly about that.

The Hon. DANIEL MOOKHEY: He has.

ROB SHARP: That was the primary discussion, and just going through the time lines.

The Hon. JOHN GRAHAM: What views did you put about process improvements that could occur from your perspective as the secretary of the transport agency?

ROB SHARP: We were talking very specifically about that night and particularly the misunderstanding—I will phrase it that way—on the phone call between Ms Bourke-O'Neil and the chief of staff at Minister Elliott's office. That process is one that we could improve on, and it is part of a suite of communication tools that you would use. In very fast-moving environments you do need to still rely on phone calls and texts but you need to supplement it, and that was the key learning.

The Hon. DANIEL MOOKHEY: Just to be very clear here, at this meeting you presented the chronology, which we know now as tendered document 007. Is that correct?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: And then you took the Premier through this chronology?

ROB SHARP: The Premier had reviewed it. That document got sent through late the night before.

The Hon. JOHN GRAHAM: Late the night before, yes.

The Hon. DANIEL MOOKHEY: And you presented the Premier with the view you have contained within this document, that at 10.43 p.m. your deputy secretary informed Minister Elliott's chief of staff that, amongst other things, the network could not run.

ROB SHARP: Correct. That is what is articulated in the document.

The Hon. DANIEL MOOKHEY: And was that discussed in the meeting with the Premier?

ROB SHARP: Yes. It was quite obvious there was a misunderstanding between the two parties, bearing in mind that was a day after the event. I think we understood that and took the feedback to look at the end-to-end process.

The Hon. DANIEL MOOKHEY: Just to be clear here, did the Premier raise concerns with the nature of your relationship with Minister Elliott?

ROB SHARP: We discussed the interaction.

The Hon. DANIEL MOOKHEY: Did you inform the Premier that you had made urgent requests for meetings the week prior?

ROB SHARP: No, I had not raised that. The conversation was of a more general nature.

The Hon. DANIEL MOOKHEY: So in respect to the discussion that took place in relation to your relationship with Minister Elliott, what did you say?

ROB SHARP: I indicated that having some regular meetings would be a valuable step forward. We agreed that that would be in place, and we have been meeting and telephoning.

The Hon. DANIEL MOOKHEY: Did you express some dissatisfaction or concern that you had not had that in place already?

ROB SHARP: I made the comment that there would be an improvement if that occurred.

CORRECTED

The Hon. DANIEL MOOKHEY: And did the Minister provide an explanation to the Premier or you as to why that was not taking place?

ROB SHARP: No. We had a constructive conversation around the interaction moving forward, and we have been interacting on a professional basis.

The Hon. JOHN GRAHAM: Were there any other improvements? You have agreed regular meetings, significant updates should occur in writing. Were there any other things agreed in the meeting that were—

ROB SHARP: No, there were two or three key items. Mostly it was talking through the time lines and understanding the flow.

The Hon. DANIEL MOOKHEY: Did the Premier express surprise he had to convene a meeting in which the most basic of principles was discussed—that is, that Ministers should talk to their departments?

ROB SHARP: No, he did not specifically comment on that.

The Hon. DANIEL MOOKHEY: So the Premier was not at all surprised that such a practice was in place?

ROB SHARP: I think the Premier was aware that there needed to be improvement in our interactions and made that quite clear.

The Hon. DANIEL MOOKHEY: Fair enough. I will ask if my colleague has any questions about that.

The Hon. JOHN GRAHAM: No, I think that is good.

The Hon. DANIEL MOOKHEY: Fair enough. Moving forward, then, to the events of Sunday night, I can only presume, Secretary, as I asked you this morning, that you and the Transport cluster took great care in compiling this chronology, yes?

ROB SHARP: We were asked to do that the night of the day following the events. But, yes, we did take care, and we reviewed it and ensured that we thought it reflected exactly what we said and what occurred at the time.

The Hon. DANIEL MOOKHEY: And you presumably had pretty rigorous fact checking, given this was information that the Premier himself would then be relying on?

ROB SHARP: Absolutely, yes.

The Hon. DANIEL MOOKHEY: And presumably as part of that fact checking you would have had some pretty detailed conversations with Ms Bourke-O'Neil about the nature of her conversations that evening?

ROB SHARP: Correct, yes.

The Hon. DANIEL MOOKHEY: Can you take us through that conversation and what steps you took to verify Ms Bourke-O'Neil's account?

ROB SHARP: So there are three levels to it. One was—we were in the meeting. Both Ms Bourke-O'Neil as well as Mr Fuller, for the regional areas, respectively went—

The Hon. DANIEL MOOKHEY: This is at 9.30 p.m.?

ROB SHARP: —to brief their counterparts, which would be the normal process. Because they have the detailed operational knowledge, they can talk to that in detail. When they came back we were still in our meeting and they, at that point, confirmed the conversation and talked to it. We specifically were wanting to brief the Ministers, and so that was an important step. Then the next night, once we got to the end of the day—

The Hon. DANIEL MOOKHEY: Just before we move on to the next part, to be very clear here, both the deputy secretaries left the meeting to go specifically to brief the Ministers, correct?

ROB SHARP: The Ministers' chiefs of staff, yes.

The Hon. DANIEL MOOKHEY: Yes, and that was because the meeting had concluded that that was of utmost importance?

ROB SHARP: We had reached the decision and we were very aware we needed to inform the Ministers.

The Hon. DANIEL MOOKHEY: Yes. And so they went and did that because they had responsibility over those respective areas?

ROB SHARP: Correct.

CORRECTED

The Hon. DANIEL MOOKHEY: And they then returned to the meeting, which was ongoing—

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: —and then confirmed to the meeting that such an update had been provided?

ROB SHARP: Correct, and we all felt that the Ministers had been briefed.

The Hon. DANIEL MOOKHEY: To be specifically clear here, the advice was given was that the network could not operate?

ROB SHARP: That is the feedback that was given. On the Monday night I asked for that to be documented. We reviewed it. I questioned it. And then we all agreed that what we had captured there was the recollection of that particular conversation.

The Hon. DANIEL MOOKHEY: When you say you asked for it to be documented on the Monday, who did you ask to document—the participants in the meeting?

ROB SHARP: Well, we were asked to do the time line.

The Hon. DANIEL MOOKHEY: Yes, great.

ROB SHARP: The team that was involved, I asked them all to contribute and we created the time line from their individual contributions.

The Hon. JOHN GRAHAM: But the reason you felt that had been conveyed to the Ministers' chiefs of staff was because that was the decision that had been reached in that discussion—

ROB SHARP: Correct.

The Hon. JOHN GRAHAM: —consistent with what you said before, in that 9.30 p.m. to 11.00 p.m. meeting?

ROB SHARP: That's right.

The Hon. JOHN GRAHAM: That was the point at which your senior team and you realised, "Look, this is the position we are going to have to take. It is not safe. There is some communication and other things to run, but we are going to have to shut down the network."

ROB SHARP: That's correct.

The Hon. DANIEL MOOKHEY: Just to be very clear here, you say that on Monday night you and the participants of the Sunday night meeting collectively confirmed that was the recollection?

ROB SHARP: What we asked them to do was, for all the meetings and communications, to actually document those. Then we collated them into the time line so we could have a chronological order, which is what we had been asked to provide.

The Hon. DANIEL MOOKHEY: Specifically, this point on page 4 of tendered document 007, the 10.43 entry—of course there are only two people, to the best of our knowledge, who are party to the conversation between the Minister and the chief of staff. But Ms Bourke-O'Neil comes back into the meeting and confirms that such a notification has been provided, and that is the recall of a lot of participants in that meeting.

ROB SHARP: Yes.

The Hon. JOHN GRAHAM: Could you tell us, in your words—obviously we cannot ask her—what you recollect of that report back that she gave? Then I intend to ask you about Mr Fuller.

ROB SHARP: My recollection of that—because this was via a Teams meeting—was that she came back onto the Teams meeting, indicated that she had spoken to the chief of staff, indicated that she had communicated the decision, which was that the network would not be operating, went into some detail around the implications of that and that the communications would be coming and we would be sending those through, which subsequently we did. The chief of staff reviewed those and reverted on them. That was my recollection. I was also advised, at the time, that a text message had come through confirming that, which is the text message that has been tabled.

The Hon. JOHN GRAHAM: This was contentious later but, at the time, you were in no doubt that a decision had been made to shut the network, and that had been conveyed to the Minister's chief of staff according to the protocol that you have been asked to follow?

CORRECTED

ROB SHARP: Correct. Our interpretation of the text message was that the confirmation was confirmation of the position that had been communicated.

The Hon. JOHN GRAHAM: Could you take us through the report, then, on the regional side? The parallel discussion.

ROB SHARP: The secretary of ROM contacted—my understanding is—the Minister and the chief of staff. The chief of staff took the information with the regional area that regional trains were still going to be operating, so it was not a total shutdown of the regional network.

The Hon. DANIEL MOOKHEY: In respect to who the actual participants were in that meeting—just so we are very clear about who was on the Sunday night Teams call—that was yourself, Ms Bourke-O'Neil and Mr Fuller. Who else? I presume Mr Merrick was on it.

ROB SHARP: Mr Longland and Mr Merrick were at the beginning. Then they dropped out for some calls, and then came back in.

The Hon. DANIEL MOOKHEY: Who else participated in that meeting?

ROB SHARP: Let me just see if I have got the note here. I will have to come back with all the attendees. I do not have the list in front of me.

The Hon. DANIEL MOOKHEY: It seems like you were working through a notification list of people who needed to know, for which the Ministers and their offices were obviously key. We have also figured out that Mr Coutts-Trotter was also notified. Who else was notified that night?

ROB SHARP: That was it.

The Hon. DANIEL MOOKHEY: And then you were relying on Ministers' offices to notify the Premier's office?

ROB SHARP: Yes, which is the normal process.

The Hon. DANIEL MOOKHEY: And there was no expectation that you—you were only meant to notify the department, and the actual Premier's office was to be notified by the Minister's office, correct?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: Fair enough.

ROB SHARP: Those are actually very important protocols. All of the ministerial offices operate on that basis because otherwise you end up with mixed communication. You do need to follow the channels.

The Hon. DANIEL MOOKHEY: To be clear, Mr Sharp, it does look like the department followed all of the channels by the book, as you are meant to. It does not seem like there is any discrepancy in terms of your actions that you took on the Sunday night around notification. Just to be very clear here, that is the sort of—

The Hon. JOHN GRAHAM: Can I just put a decision to him? The Minister did not want to disagree with your timing evidence in this forum, Mr Sharp, but he has disagreed in another forum in the Parliament about when this decision was made. I just want to put to you again that your evidence is very clear in this time line, earlier today and again now, that the decision was made to shut down the network at 9.30 to 11.00 p.m. in that meeting.

ROB SHARP: Yes.

The Hon. JOHN GRAHAM: There were some subsequent actions that had to be taken by Mr Longland, and we will come to those, that essentially drove the correspondence—

ROB SHARP: Yes. The communication of that decision to the rail entity was from Mr Longland around that 12.30 mark. The actual decision was made earlier, and that was the decision that we communicated to the chief of staff.

The Hon. JOHN GRAHAM: And it was ahead of two things that subsequently happened. It definitely occurred before the discussion between Megan Bourke-O'Neil and the Minister's chief of staff, whatever was discussed. Put that aside.

ROB SHARP: Correct.

The Hon. JOHN GRAHAM: And it was before the—let me put it to you the way that I put it to the Minister. It was while Minister Elliott was awake. It was 11 o'clock.

CORRECTED

ROB SHARP: I think that accords with his evidence.

The Hon. DANIEL MOOKHEY: Can I take you back to the week prior? You sought these two urgent meetings with the Minister. Eventually you were granted a 30-minute meeting despite a one-hour request. At any point did it occur to you to perhaps put the advice in writing that you otherwise would have provided in the meeting?

ROB SHARP: The circuit-breaker strategy was sent—

The Hon. DANIEL MOOKHEY: No, I am asking about the—actually, sorry. Please—

ROB SHARP: That was actually part of the discussion. That was really looking at how do we bring something meaningful to the table with the union negotiations. The Mariyung fleet is a very key part of that. That was one of the reasons I was keen to catch up with them and talk through those. That document was sent through.

The Hon. DANIEL MOOKHEY: So you did.

ROB SHARP: There was also a list of the upcoming industrial actions that had been issued by the RTBU. That was also attached.

The Hon. DANIEL MOOKHEY: Can you table that?

ROB SHARP: Yes, we can table that.

The Hon. DANIEL MOOKHEY: Do you have those emails about the meeting request ready to be tabled?

ROB SHARP: I will just consult with the advisers. They are collating it.

The Hon. DANIEL MOOKHEY: Perfect.

ROB SHARP: The legal team is just looking at it to make sure there is nothing commercial in confidence.

The Hon. DANIEL MOOKHEY: Tell them they can trust us. There is nothing to worry about. We are very good with your documents.

ROB SHARP: They are working on it.

The Hon. SCOTT FARLOW: Cabinet-in-confidence ones are the ones you like to put on the website.

The Hon. JOHN GRAHAM: I might just take the opportunity, given we are discussing it, to come to you, Mr Longland, on this question about when the decision happened. You were in the meeting. You took part. The secretary of your agency at that point made the decision. You had some subsequent actions, which are spelt out here, such as you had to write to the Sydney Trains executive leadership to communicate things. Do you accept the evidence that has been put that it was in that 9.30 to 11.00 p.m. meeting, where the leadership team was around the table, that was when the realisation was that it was not safe? That was when the decision was made.

MATT LONGLAND: I was on the early part of that meeting at 9.30 to get the update from the IR team and the legal team about the outcomes of the Fair Work Commission matter. I then left that call and had a session with my heads of function—train crew, engineering and customer operations. At that meeting, it became very clear that we were not going to be able to run a service based on the risk assessment and the lack of agreed roster and timetable for Monday. I then rejoined that same Teams call at around 10.30, as did Mr Merrick, the Chief Executive of NSW TrainLink.

We then had an opportunity to brief the broader executives—the secretary, deputy secretaries and a number of others that, I think, were on the call at the time—about our significant safety concern and the fact that, certainly for the Sydney Trains operation, that accountability sat with me. I was not comfortable operating a service on Monday, as a result of the combined effects of the actions. We had that discussion around—I gave a briefing, as did Mr Merrick. We had a discussion amongst the team. I was on that call until about a quarter past eleven. Certainly, during that period between 10.30 and 11.15 my recollection is that we had all agreed and understood where we were headed for Monday.

The Hon. JOHN GRAHAM: So you are not disagreeing with the secretary when he says that is where the decision was made, with the leadership around the table there?

MATT LONGLAND: Yes, in that second part of that meeting. I think the secretary said it started at 9.30 and finished at 11 or quarter past 11. It was in the post-10.30 part of that meeting.

CORRECTED

The Hon. JOHN GRAHAM: Understood. Just finally, if I can, were you in any doubt, when the deputy secretaries reported back—Megan Bourke-O'Neil on one side, Fuller on the other—that they had conveyed the decision of that meeting elsewhere?

MATT LONGLAND: That was my understanding at the time.

The CHAIR: I might just ask a couple of questions just off the back of that, if I may, and just for clarification, because your evidence has been very clear in relation to the events that night. Just, I guess, for my own interest, are you saying that, when the decision was made and it was to be communicated to each of the Ministers, it was standard practice to contact each of their chiefs of staff, rather than speaking with the Minister themselves? That is the ordinary protocol, even for something as serious as a shutdown of the network?

ROB SHARP: In regards to the responsible Minister, that was the protocol with Minister Elliott's office. With Minister Faraway, there was a text or a call, I believe, to the Minister but the chief of staff took the information. I would have to go back to find out exactly the steps that were associated with that.

The CHAIR: In relation to Minister Ward, was there a communication—

ROB SHARP: The practical communication took place first thing. We were looking to communicate first thing, and we did. I think it was about quarter past six, from memory, on Monday morning. We agreed actions on the back of that.

The CHAIR: It was Minister Elliott and Minister Faraway who were contacted that night?

ROB SHARP: Correct.

The CHAIR: You said there that the protocol in relation to Minister Elliott is that the chief of staff be contacted.

ROB SHARP: Yes.

The CHAIR: Has that been your experience with prior transport Ministers?

ROB SHARP: No.

The CHAIR: Is that an unusual practice, then?

ROB SHARP: It is not an unusual practice. It can work. But I think ultimately it is a structure that does have a challenge in terms of communication. I think that was one of the aspects that played out here.

The CHAIR: In terms of lessons learnt from this—you were talking about when you met with the Premier—was that raised as one of the issues that—

ROB SHARP: Yes. As I mentioned earlier, that was raised. Having the meetings and the communication was something that needed to change, and that has, as the Minister said. We have been interacting regularly. We have been in meetings regularly over the recent week, 10 days.

The CHAIR: Not just putting things in writing but also direct communication between the department and the Minister?

ROB SHARP: Yes.

The CHAIR: In relation to the comment that Ms Colin made in relation to not having a briefing with the Minister until quite recently in relation to TAHE but having met the chief of staff and had a briefing with the chief of staff much earlier, is that normal practice, from your perspective, for a new Minister?

ROB SHARP: I cannot comment on that. I do not know the protocols or the background in terms of a particular entity. This is a SOC. I would think that the chair and the CEO would meet with the Minister, but I have not been through that process in the past to personally comment on whether that is normal.

The CHAIR: Understand. In your role previously, have you had experience of a Minister sending their chief of staff to brief them at the beginning of taking on a portfolio? Is that something you have seen a new Minister do previously?

ROB SHARP: We certainly meet with the chiefs of staff almost immediately, sometimes before meeting a Minister, because there is a lot of what I would say process, where you are gearing up meetings: What are the urgent briefings that need to happen; what is happening here and now? There is a logistical part. They are also setting up their teams—putting in place their policy advisers, the communications teams. That can take a little bit of time. So I do see quite wide variances in how teams are set up. So my sense is it is not unusual from that perspective because you are setting up, effectively, a brand-new office in reality.

CORRECTED

The CHAIR: And no-one is saying that a chief of staff is not an unimportant role. Obviously, they are.

ROB SHARP: Yes, they are.

The CHAIR: They help the Minister's office to function. In terms of TAHE, Ms Colin, if I could put this question to you. Given that there has been, for lack of a better word, a bit of heat on TAHE and the TAHE structure—

The Hon. DANIEL MOOKHEY: Some developments.

The CHAIR: Some developments in relation to TAHE, would you have expected to have met with the Minister sooner?

BENEDICTE COLIN: I cannot comment on the priority of the Minister. What is usual practice when there is a new incoming Minister is to send a briefing pack, which we did during the month of December, and at that time offered a meeting for a briefing. That meeting happened with the chief of staff during the course of January—second half, if my memory is correct—to brief her and the office on the matters related to TAHE. That was to be followed with a meeting with the Minister, which, as I said, happened on Wednesday.

The CHAIR: When you sent that briefing pack to the new Minister, you requested a meeting with the Minister or with the chief of staff?

BENEDICTE COLIN: I would have to take that question on notice. I think it was with the Minister. But I can take that question on notice.

The CHAIR: Did you meet with the previous transport Minister?

BENEDICTE COLIN: With Minister Stokes?

The CHAIR: Yes.

BENEDICTE COLIN: Yes, I did.

The CHAIR: How soon after Minister Stokes becoming the Minister did you meet with him?

BENEDICTE COLIN: Again, I would have to take that question on notice.

The CHAIR: He was not there for very long, to be fair. It was quite quick.

BENEDICTE COLIN: But he is also the Minister—I have met also recently with Minister Stokes in his capacity of Minister for Infrastructure, Cities, and Active Transport.

The Hon. SCOTT FARLOW: And her shareholder Ministers are Minister Tudehope and Minister Kean.

The CHAIR: So you have met with Minister Stokes, even though he is now not the transport Minister.

BENEDICTE COLIN: He is not my portfolio Minister but obviously has a portfolio which is of relevance for TAHE.

The CHAIR: Have you met with the Treasurer?

BENEDICTE COLIN: Yes I did, through virtual communication. But, yes, I did.

The CHAIR: Previously, when we had Minister Constance, did your—I am trying to work out now if your employment overlapped with him.

BENEDICTE COLIN: I was appointed on the—I started my new role on 1 September and had the benefits of a virtual meeting with Minister Constance when I started my role.

The CHAIR: So you did meet with Minister Constance as well?

BENEDICTE COLIN: Yes.

The CHAIR: Thank you. That is interesting. I will go to Mr Banasiak.

The Hon. MARK BANASIAK: I might just go back to the Boating Now Program. I understand you will not be able to maybe answer some of this.

HOWARD COLLINS: I may be able to assist, as I am the boss of Maritime's Mark Hutchings. I am his reporting supervisor. Detail—you are probably right, Mr Banasiak. But I have got some information regarding Boating Now if you want to talk about that.

CORRECTED

The Hon. MARK BANASIAK: What requirement is there for councils that receive money under the Boating Now Program to do regular maintenance on those projects?

HOWARD COLLINS: Certainly I understand, and I have seen over 290 Boating Now constructions from local council collaboration or constructed by Maritime themselves. There are protocols and agreements about maintenance criteria, as you know. Many of these sites the funding is given by the Boating Now fund, and then the councils, as they either own the land or operate in that area, arrange for the contractors to carry out construction and also protocols about maintenance.

The Hon. MARK BANASIAK: How are those protocols enforced once, I guess, the projects are complete and, I guess, then handed over to council?

HOWARD COLLINS: I can only speak from recent experience. But certainly, as one would know, during construction—there is a period after construction of dealing with any minor defects, which is required to be corrected by the contractor, and then after that period there is an asset handover process, and therefore then the councils take on the responsibilities after that.

The Hon. MARK BANASIAK: And at that point Maritime essentially washes its hands and says, "We're not checking on whether you maintain these assets that we've essentially given you."

HOWARD COLLINS: Absolutely not. As you know, we have a significant number of boating safety officers. We have a significant number of people who are part of our infrastructure team. We certainly welcome feedback regarding if people believe that maintenance is not being carried out. Also we have good discussions with councils regarding any issues which have been raised with us. As we know, we are proactive on the water. If we see maintenance issues that we believe are council responsibility, we will have conversations with them.

The Hon. MARK BANASIAK: Allow me to provide some feedback, Mr Collins. One of the boating associations wrote to 32 councils over the past year trying to ascertain certain things around prevention and maintenance routines, any detail of the usage of facilities, how often they remove slime and any complaints they have had. Out of the 32 councils, 20 indicated that they do not do any maintenance at all or they do it only if someone complains. That is a bit of feedback.

HOWARD COLLINS: It would be very useful if you could table that piece of paper; it would be useful for us to understand that information.

The Hon. MARK BANASIAK: I will get an unscribbled copy to you.

HOWARD COLLINS: Good, thank you very much. I do recognise that, as we know, many of these infrastructures have either been locally owned or owned by Crown lands or other people. We are working very hard, because there are thousands of these infrastructure assets across the whole of the State. Maritime, as you know, goes all the way from Tweed Heads down to Eden. But we are working very hard—and I have seen a significant improvement—to ensure that where reported or where we see them, we can ensure that these facilities are in good order. It is good and pleasing to note that there are many new wharves, jetties and other facilities being built in this State over the past few years.

The Hon. MARK BANASIAK: That is probably all I have, so I will throw back to the Opposition.

The Hon. JOHN GRAHAM: Secretary, we have talked about the decision to shut down on that Sunday into Monday. I want to rewind and go back to where we are discussing an option that might involve shutting down. There is a safety risk, and that is one of the options. It all hopefully goes well over the weekend, but maybe it does not, in which case there might be a shutdown. Putting the decision aside—you have given clear evidence there—I want to go back to the option.

The Minister has put a very strong view in his evidence today—stronger than he has put in the House and stronger than he has put publicly before—that he was never advised that there was any option that involved a shutdown of greater than 24 hours. I want to question you in relation to that. Mr Sharp and Mr Longland, the seventeenth was really the date when that safety assessment was concluded. You have tabled it, Mr Longland, and you were signing off on it on Thursday the seventeenth.

MATT LONGLAND: Yes.

The Hon. JOHN GRAHAM: If that goes badly, there is definitely an option on the table that might involve shutting the rail network. That is indisputable, from your point of view, is it not?

MATT LONGLAND: Thank you for the question. I will go back to the answer I gave this morning, which is that I do recall the discussion at the meeting on 17 February. It was very much focused on how do we avert the significant impact that might be coming at us, given it was at that stage only four days away, and a

CORRECTED

review of the Fair Work process and the need to continue to work with the RTBU to get an outcome. I do not recall briefing the Minister or sharing any documents, even on a screen, about a risk assessment or picking up on the details of a full shutdown of the network.

The Hon. JOHN GRAHAM: I thought you gave clear evidence about that this morning. Mr Sharp has spoken to the time pressures and why that might be the case. There was clearly an option that involved a shutdown being discussed in Government at that point. That is correct, is it not?

MATT LONGLAND: That is correct.

The Hon. JOHN GRAHAM: Mr Sharp, you have given clear evidence about that. You only had 30 minutes; this was your first sit-down with the Minister. You had other things you had to transact, and this did not get into the first 30 minutes. That is a bit of an explanation. But on the 17th, you agree there was a concrete option under discussion in Government that involved shutting down the rail network.

The Hon. SCOTT FARLOW: That the Minister was not aware of.

The Hon. JOHN GRAHAM: Yes, I am not disputing that; but it was clearly an option.

ROB SHARP: On the Thursday that risk was known, because at that stage it is not an option and we are not driving it. At the end of the day, we are trying to forecast what the risks would look like, and it would have been a reasonable forecast. The reality is, though, looking at all the other actions that were taken, the accumulation, that assessment was finalised by the experts on the Sunday night. On the Thursday, to get into Fair Work, you actually have to hit a hurdle that it is a big enough risk, and the view was there was a risk that this could occur. The documentation was geared towards that, and then we went through the process to conciliate on the Saturday.

The Hon. JOHN GRAHAM: I want to go to who else in Government knows at the time, and I will put this to the Minister. The chief economist is doing modelling. The Department of Communities and Justice is doing an affidavit about the impact, and the Department of Education is doing the same. Sydney Trains and NSW Trains are both aware. The Transport agency in general is heavily engaged in this, and they all know this is going on. Important parts of DPC are heavily engaged in the process. The unions say they are first informed this is possible on Thursday the 17th. Maybe it does not happen if it goes well, but it is possible.

Buses are starting to be booked, so some bus operators know there might be some issue. There is an ERC process starting up around this. I do not want you to comment on the ERC process, but that has touched or might touch on this. The employee relations Minister is clearly more aware of this than Minister Elliott. Everyone seems to know except the Minister in charge of the transport system. Firstly, do you disagree with any of the facts about the number of people engaged in an option? You hopefully do not have to use it, but it is an option.

ROB SHARP: The process for a Fair Work Commission application is run by the specialist areas in whole of government, so Mr Tudehope has carriage of that. That team is the one that actually pulls the information together, and we provided input into that process. For example, if you are talking Treasury, they would liaise directly with that team. They are not all coming via Transport, so I cannot comment—

The Hon. JOHN GRAHAM: That is a fair point, so you may not know some of this.

ROB SHARP: No, I do not.

The Hon. JOHN GRAHAM: But you were close to this process, Mr Sharp. You do not want to contradict the perception that, from the outside, everyone seems to know except the Minister running the transport system.

ROB SHARP: I cannot comment on perception; all I can do is talk to the facts as I know them.

The Hon. DANIEL MOOKHEY: I return to another matter that came up in the earlier questioning today. You mentioned that the Minister started his duties on 24 January.

ROB SHARP: The first date that I was aware he was in the role was 24 January. I sent him a text welcoming him to Transport.

The Hon. DANIEL MOOKHEY: And that is the text to the Minister's office that is referred to in the note.

ROB SHARP: I am assuming that is the text, yes.

The Hon. DANIEL MOOKHEY: That is 24 January, but when did he become Minister? Was it 23 December?

CORRECTED

ROB SHARP: The machinery of government was stood up in December. When they were sworn in, I am not sure.

The Hon. DANIEL MOOKHEY: I think it was just a week prior to Christmas. I am not begrudging the fact that Minister Elliott is entitled to take leave, so nothing is to be read into that except for this: Mr Sharp, you made reference to an adverse reaction that you had to a media item. Do you recall saying that?

ROB SHARP: I had an adverse reaction to a media item?

The Hon. DANIEL MOOKHEY: Yes, it appeared in a column to do with your tenure.

ROB SHARP: Everyone debates the tenure, but if it is personal performance related, I do react to that.

The Hon. DANIEL MOOKHEY: That item appears in the newspaper on 21 January. Is that correct, to your best recollection?

ROB SHARP: I cannot recollect. In fact, I think there were two or three comment at various points, so I cannot recollect the dates.

The Hon. DANIEL MOOKHEY: But the one that caused you to seek the urgent meeting was published on 22 January, just two days prior to the Minister commencing day-to-day service.

ROB SHARP: There was what I would call a very small article, a comment buried down in the paper. I did not worry about that. When it got raised again a second time around, that was when I requested a meeting. I would have to go back through the emails for the date, but it was triggered by a second article.

The Hon. DANIEL MOOKHEY: Were you angry when the second article appeared?

ROB SHARP: No, I was keen to talk to the Minister and understand. Once again, it is a media article. It could be factual; it may not be factual. So I was after any feedback if there were any concerns.

The Hon. DANIEL MOOKHEY: That was because concerns to do with how you are performing your role were appearing in the media, attributed to the Minister, despite you never having met the Minister at this point?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: Fair enough. I turn to some aspects of the dispute chronology. First things first: Can we establish that the enterprise agreements expired in May 2021?

ROB SHARP: I believe that is correct.

MATT LONGLAND: Yes, that is correct.

The Hon. DANIEL MOOKHEY: Fair enough. A bargaining process has been underway—we do not need to go through every step of the bargaining process. But nevertheless we have established that on 9 February the union notified its intention to take protective industrial action in the form of nine bans.

MATT LONGLAND: Yes, for this specific action, that is correct.

The Hon. DANIEL MOOKHEY: Thereafter, is it the case, Mr Secretary, that you or your office issued a request to the lead negotiator at Unions NSW, who I will refer to as the assistant secretary of Unions NSW, to have a meeting with you on the following Tuesday? On the Monday you requested a Tuesday meeting. Is that correct?

ROB SHARP: That is right, yes. This is the meeting that Mr Longland spoke about earlier, where the key executives met with the unions.

The CHAIR: Order! Apologies. We are splitting the time before the break. I was out of the room when that was agreed. Mr Shoebridge?

Mr DAVID SHOEBRIDGE: Ms Colin, nice to see you.

BENEDICTE COLIN: Nice to meet you.

Mr DAVID SHOEBRIDGE: When did you first realise that you had a new transport Minister?

BENEDICTE COLIN: When I was advised, as part of the Transport cluster, that there was a change. My recollection is that it would have been in December.

CORRECTED

Mr DAVID SHOEBRIDGE: That accords with the parliamentary record, which shows him becoming Minister on 21 December. Those few days before Christmas were pretty intense for you in getting your finances sorted and talking with the Auditor-General.

BENEDICTE COLIN: Like you would expect when you are closing financial statements, yes.

Mr DAVID SHOEBRIDGE: But they were particularly intense. We do not need to unpack the whole history. They were particularly intense because you were negotiating getting in at least \$1.1 billion of additional revenue over the next three years from the New South Wales Government. Do you remember that?

BENEDICTE COLIN: If my recollection is correct, we signed a heads of agreement with the transport operators on 18 December.

The Hon. DANIEL MOOKHEY: That is correct.

Mr DAVID SHOEBRIDGE: In the lead-up to Christmas, between 21 and 25 December, were you still having discussions about your accounts and finalising the arrangements for your accounts with the Audit Office?

BENEDICTE COLIN: We had a series of steps, as you would expect with any governance process, between our audit and risk committee, our board and the Audit Office, yes.

Mr DAVID SHOEBRIDGE: When did you get a final position on what was required in the forward estimates? When was that finally nailed down to a final figure?

BENEDICTE COLIN: I am not sure I understand your question. As I said, we signed a heads of agreement on 18 December and then approved our accounts on 23 or 24 December.

Mr DAVID SHOEBRIDGE: Between the heads of agreement and approving your accounts—my memory is that it was the twenty-fourth.

BENEDICTE COLIN: That is probably correct.

Mr DAVID SHOEBRIDGE: Yes, it was Christmas Eve. That is why it is in my mind. That was a pretty intense time, getting all your accounts together.

BENEDICTE COLIN: There was a significant workload to get there, yes.

Mr DAVID SHOEBRIDGE: Did the new Minister—Minister Elliott—reach out to you at any point during that and ask for a briefing or approach you about the issue? We are talking about a multibillion-dollar issue. Did he ever reach out to you between 21 and 24 December?

BENEDICTE COLIN: No, he did not. As I said earlier, we sent a letter of congratulations to the Minister. That would have been at the beginning of that week—so 21 or 22 December—with a briefing pack from TAHE and an update of where we were in relation to our financial statements, and offered a briefing.

Mr DAVID SHOEBRIDGE: First of all, could you provide a copy of that letter and the briefing pack to the Committee?

BENEDICTE COLIN: Yes.

Mr DAVID SHOEBRIDGE: Secondly, when did you get a response? Perhaps I am jumping ahead. Did you get a response from the Minister?

BENEDICTE COLIN: We followed with a request for a meeting during the month of January, and we had a meeting to brief the Minister's chief of staff during the second half of January.

Mr DAVID SHOEBRIDGE: Alright, but when did you get something from the Minister saying, "Hey, we know there are a lot of difficult issues here. Thanks for the briefing. The Minister wants to understand what it is. Let's meet"? When did you get that communication from the Minister?

BENEDICTE COLIN: I received an email on Tuesday night that the Minister would be happy to receive a briefing on TAHE on Wednesday.

Mr DAVID SHOEBRIDGE: Tuesday of this week?

BENEDICTE COLIN: Yes.

Mr DAVID SHOEBRIDGE: So he had a briefing. You had that briefing on Wednesday. Is that right?

BENEDICTE COLIN: Yes.

Mr DAVID SHOEBRIDGE: It is lucky we had estimates then, is it not, Ms Colin?

CORRECTED

BENEDICTE COLIN: I cannot comment, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: You were put in your position because of your experience as a senior executive in roles like the one you have at TAHE. Have you ever had a key decision-maker senior to you simply not answer your correspondence for two months like that?

BENEDICTE COLIN: Again, I cannot comment. As you would know, this is my first experience in government. I offered a briefing—

Mr DAVID SHOEBRIDGE: I am very sorry that you have Minister Elliott.

The Hon. TAYLOR MARTIN: Actually, he is not the shareholding Minister.

The Hon. DANIEL MOOKHEY: He is the portfolio Minister.

Mr DAVID SHOEBRIDGE: He is the portfolio Minister.

The Hon. DANIEL MOOKHEY: He has more responsibility.

BENEDICTE COLIN: He is my portfolio Minister. The Minister for Transport issues my operating licence and statement of expectations.

Mr DAVID SHOEBRIDGE: Putting to one side your experience in the New South Wales public sector in your role at TAHE, in your previous senior executive roles have you ever had no answer from your superior decision-maker—in this case, Minister—for two months like that?

BENEDICTE COLIN: Again, I cannot compare. Each of my executive experiences was different.

Mr DAVID SHOEBRIDGE: Was the chief of staff also at your meeting with the Minister on Wednesday?

BENEDICTE COLIN: Yes.

Mr DAVID SHOEBRIDGE: At your meeting with the chief of staff in the second half of January, did the chief of staff explain why the Minister was not there?

BENEDICTE COLIN: No, because, as I mentioned before, that meeting was in preparation for the meeting with the Minister that was to occur after that meeting, and that occurred on Wednesday.

Mr DAVID SHOEBRIDGE: But it was more than a month after—

BENEDICTE COLIN: Yes, that is correct.

Mr DAVID SHOEBRIDGE: —what you are describing as the preparatory meeting. Is that right?

BENEDICTE COLIN: Yes.

Mr DAVID SHOEBRIDGE: What was discussed in the preparatory meeting?

BENEDICTE COLIN: An overview of TAHE and its operating model.

Mr DAVID SHOEBRIDGE: It was you relaying information to the chief of staff?

BENEDICTE COLIN: Correct. The officials of TfNSW were in that meeting and, if my recollection is correct, the secretary was in that meeting.

Mr DAVID SHOEBRIDGE: I assume that in that period between 21 December and now you have had more than one meeting with Mr Sharp.

BENEDICTE COLIN: I meet regularly with Mr Sharp on a monthly basis. Also, Mr Sharp, as you would know, is on the board of TAHE.

Mr DAVID SHOEBRIDGE: Yes. I ask about your plan going forward. As a result of the heads of agreement, the New South Wales taxpayers are putting an additional \$1.1 billion into TAHE over the forward estimates. Is any additional income coming from TAHE back into Treasury or back into Consolidated Revenue in that period—in the forward estimates—or is it all one way?

BENEDICTE COLIN: There are a couple of comments in response to your question. First of all, the access licence fees are certainly the big portion of TAHE's revenue, but we also have revenues from retail, albeit heavily impacted by COVID. We also intend to embark on more property development and unlocking some of the values of our unregulated assets, at which point of time these revenues will come in addition to TAHE's revenues and might be distributed to the shareholders.

CORRECTED

Mr DAVID SHOEBRIDGE: My question was quite specific. In the forward estimates, New South Wales taxpayers are now putting an additional \$1.1 billion into TAHE. In those same forward estimates, is there any actual revenue coming out of TAHE into the New South Wales Consolidated Revenue, Treasury or wherever?

BENEDICTE COLIN: Our revenues and profits might be distributed to the shareholders if we receive a request from the shareholders.

Mr DAVID SHOEBRIDGE: Is there anywhere in your accounts, over the forward estimates, an amount greater than zero that is estimated will actually be paid in as a return to New South Wales taxpayers?

BENEDICTE COLIN: I would have to take that question on notice but, if I remember correctly, in the statement of corporate intent there is an amount to be distributed to the shareholders, yes.

The CHAIR: I think we are just about out of time. Can I just ask, before we break, Ms Colin, when are you intending to table the TAHE's annual report?

BENEDICTE COLIN: They were tabled last week.

The CHAIR: Last week it was tabled. Thank you very much. We are now going to break for 15 minutes.

(Short adjournment)

The CHAIR: We will recommence with questions from the Opposition.

The Hon. JOHN GRAHAM: I might first, Mr Sharp, just put to you one development, which is that there is media reporting of the suggestion that, in fact, Minister Elliott's chief of staff had sent to your office the Minister's mobile number and that that might have happened on 24 December. I might just put that public report to you in case you choose to respond.

ROB SHARP: I certainly do not recollect that. In fact, I contacted the secretary of the Premier's office to specifically request the phone number. I did that in case I did need to ring him at some point, but then it became clear that the communications needed to be through the chief of staff. I also recollect, probably in early February, my secretary chasing the chief of staff for the contact details. The reason I recollect it is that they did not provide it and they said, "If Rob needs it at a particular point, we'll provide it."

The Hon. TAYLOR MARTIN: Did we not cover this off an hour ago?

The Hon. JOHN GRAHAM: This is a public development in this backwards and forwards. This is additional to the message that was sent by the secretariat. This is now a subsequent question. But I think that is dealt with now by way of issue and response.

The Hon. SCOTT FARLOW: It is dealt with to one extent.

The Hon. JOHN GRAHAM: We are going to deal with some veterans issues at this time. I might put those now. There was questioning in the earlier session about the Minister's proposal for a national veterans cemetery. Can you give us some sense of how developed this idea is? What actions have taken place to flesh this idea out?

CAROLINE MACKANESS: I also learnt about the idea through it being announced just as Minister Elliott came back to this portfolio. I had worked with Minister Elliott for four years previously. I have followed up with the Office of Australian War Graves. I was asked for advice on the proposal to help support the Minister's office writing a letter. I spoke to Tim Bayliss who is the director there. I got a lot of information about their role and responsibility and sent that through to the Minister's office. Really, that has been my involvement.

The Hon. JOHN GRAHAM: When you say it was announced, that was I understand on 22 December last year, just after the Minister was appointed on the twenty-first? That is broadly when you became aware of it?

CAROLINE MACKANESS: Yes. As you all know, he is a veteran and is very passionate about his space. It is a proposal he has brought to the portfolio.

The Hon. JOHN GRAHAM: The article that referred to that announcement referred to a site near Canberra. Is that the only site being considered or are others potentially on the table?

CAROLINE MACKANESS: As you would appreciate, national cemetery matters for veterans—I am part of a national working group that meets regularly. There is the Veterans' Wellbeing Taskforce, which has been referenced already today. There was a meeting recently. There has, in the last six years, been a really concerted effort to bring all of the States and Territories together to ensure that we are working consistently to support veterans. At this stage, it is a proposal the Minister is putting to the Commonwealth to consider and I do understand from my research it has been considered previously as well.

CORRECTED

The Hon. JOHN GRAHAM: This is a very New South Wales-centric view, but I do want to put to you some other locations to see if they have either been discussed previously or might be part of this proposal as it develops. One of those is Wagga Wagga, given its history and its location with Kapooka.

CAROLINE MACKANESS: Absolutely. I understand that there was an Australian national cemetery interdepartmental working group as long ago as 1982. There has been quite a lot of work done on this previously. Any decision around a national cemetery would clearly rest with the Commonwealth. The Commonwealth has been very good at consulting nationally with the establishment of the now Veterans' Wellbeing Taskforce, but it did exist as a veterans ministerial council established in 2016 as part of the centenary of Anzac period. There are a number of sites that the Office of Australian War Graves manages across Australia, as you would be aware. It would need a great deal of consideration and thinking and the recurrent costs and so forth.

The Hon. JOHN GRAHAM: There are other sites that some of those communities would like to see developed. One of those is Singleton, given the Australian Army Infantry Museum is there. Another one is Richmond, given its long Air Force tradition. Is this in the discussions you are aware of, heading towards Canberra and surrounds, or potentially are those communities part of this discussion as well?

CAROLINE MACKANESS: I think any decision in the veterans space would have to be really broadly consulted, given that it is a national portfolio. I think potentially Minister Elliott was thinking about New South Wales being at the edge of Canberra where the Australian War Memorial is and that is our national memorial. So having a relationship with that cultural institution, I think, was his thinking. But, from my understanding, it is quite early days in the discussion with the Commonwealth and noting that it has been considered, I believe, on several occasions although the 1982 was a more serious interrogation.

The Hon. JOHN GRAHAM: I think that is exactly the question that this has been considered since 1982. How developed is this idea? One of the issues is the size of land that might be required. Arlington is 230 hectares, a very significant site. Has there been any consideration of the size of the site that might be considered that you are aware of?

CAROLINE MACKANESS: Not that I am aware of. The Arlington history, as you are probably aware, is quite different from our history in terms of war cemeteries. They also manage a national estate of 71-odd war memorials across America as well. We have a similar situation with a number of war memorial sites across Australia.

The Hon. JOHN GRAHAM: I think this has already been indicated publicly, but feel free to correct me: The intention here was to seek Commonwealth funding for this so New South Wales is offering to cooperate potentially engage in this long-running discussion, but it would be clear that we would really be looking for what is a national cemetery from Commonwealth funding here. That is the proposal as it is viewed at the moment.

CAROLINE MACKANESS: I think so, noting that we are in the middle of a royal commission, and there is a lot of discussion about recognition of our veterans and their families and the grief that they suffer as a result of injuries and causes of war. I think, with due respect, the idea is to honour and allow a place of national significance but there is a lot of consideration that would be required, recurrent costs, involvement of the National Guard et cetera. I think it is early days in terms of exposure to the veteran community and discussion with the Commonwealth, which has this responsibility.

The Hon. JOHN GRAHAM: It is early days in a long-running discussion at this stage; that is really the view you are putting to the Committee.

CAROLINE MACKANESS: That is my understanding from the conversations I have had and the research that I have presented to the Minister's office, yes.

The Hon. DANIEL MOOKHEY: Mr Secretary, I might return to some of the questions we were asking about the dispute chronology, if you do not mind. I think we have identified that on Monday 14 February you made a request to the assistant secretary of Unions NSW, who is a lead negotiator for combined rail unions, to attend a meeting the following day. That meeting then takes place. I think we established this morning or earlier this afternoon that the meeting is attended by representatives of the six unions, as well as Unions NSW and the principal people who were involved in managing the dispute from Transport's perspective. Is that correct?

ROB SHARP: Correct.

The Hon. DANIEL MOOKHEY: Just to be very clear here, the attendees at the meeting, you attended the meeting for the first 20 or 30 minutes, is that correct?

ROB SHARP: Yes, it was about 30 or 40 minutes and then the heads of the operating organisations got into the detail around the 300 claims.

CORRECTED

The CHAIR: Order! Before you go any further, I would like to let Ms Mackaness know that she is free to go. Thank you very much for your attendance.

(Caroline Mackaness withdrew.)

The Hon. DANIEL MOOKHEY: That meeting takes place and was the result of that meeting a commitment from the unions to formalise their informal offer to reduce their claims to priority claims? Was that one of the outcomes?

ROB SHARP: I am happy to do a high level and then—

The Hon. DANIEL MOOKHEY: Please. You can defer, however you see fit.

ROB SHARP: Yes, the objective was to distil the 300 claims down to a priority list so we could progress the bargaining. I will just pass to Mr Collins.

HOWARD COLLINS: Yes, just to clarify, I was asked to chair that meeting. I had not, as people may not know, been directly involved in negotiations in my new role as chief operating officer but, obviously having been involved in two EBAs previously, Mr Sharp asked me if I could facilitate that meeting. I confirm that Mr Sharp stayed for over 45 minutes at that meeting. But we did want to get into the detail and Matt Longland and Dale Merrick, the chief executives of the two entities, were there and we did have a good discussion with the unions regarding some of those details, with the focus on trying to reduce the 300-plus claims into a list, from their point of view, in terms of priority order. We agreed at that time that once we had got onto that priority list, we would set up a series of meetings to ensure that we could get some more intensive and meaningful dialogue between the unions and the entities.

The Hon. DANIEL MOOKHEY: Thank you, Mr Collins. The reciprocal offer that was made by Sydney Trains and NSW Trains was a commitment to make an offer on a number of claims by mid-Thursday?

HOWARD COLLINS: Mr Longland, do you want to talk about that directly?

MATT LONGLAND: Thank you, I am happy to talk to that item. My recollection is that there were three actions coming out of that meeting on the Tuesday. One was that we would do some work on a proposal for a more regular schedule of bargaining, including releasing delegates from the workplace to attend. The second was an update on a list of 18 priority items that were tabled with, I think it was, the secretary—

HOWARD COLLINS: Yes.

MATT LONGLAND: —in December, so just before Christmas. We did provide a response in December, but there had been a number of discussions since then—so an update to those 18 items. And the third action was for the Unions NSW representative to provide a consolidated Combined Rail Union's view about what was the priority claims.

The Hon. DANIEL MOOKHEY: That is helpful, Mr Longland. Just to understand this, by December the unions had already indicated what their 18 priority items were?

MATT LONGLAND: Thank you for the question. I think the reference to the 18 items was actually about the items that might make a difference for ongoing protected industrial action, and it was very clear that they were not the only priorities and that they were not the priorities for the enterprise agreement, but they were the things that would make a difference in terms of breaking the cycle of protected industrial action.

The Hon. DANIEL MOOKHEY: Fair enough. Mr Longland, I appreciate the politeness but you do not have to thank me for every question. Feel free to not thank me, but I appreciate it. I am not used to it.

The Hon. SCOTT FARLOW: Especially not at Transport estimates.

The Hon. DANIEL MOOKHEY: Definitely not at Transport estimates. It throws me, this new team. Mr Secretary, it is the case that Sydney Trains and NSW Trains made an undertaking to come back by Thursday with an update on their offer, correct?

MATT LONGLAND: Yes, there was a commitment from both sides that we would exchange our information—so the priority list of union items, the update on the 18, and further work on the proposal for ongoing bargaining.

The Hon. DANIEL MOOKHEY: And did Sydney Trains and/or NSW Trains by the middle of Thursday return and provide the unions with what you said you would do?

MATT LONGLAND: No. To my understanding, that has not yet gone, but I think it is quite close.

CORRECTED

The Hon. DANIEL MOOKHEY: So we are now close to a month beyond that point, to be fair, maybe three weeks, and still the undertaking that was given to come back in two days by Sydney Trains and NSW Trains has not yet been fulfilled?

MATT LONGLAND: Yes. We are two weeks after that date, two weeks yesterday. Whilst we have not sent anything, we also have not received anything.

The Hon. DANIEL MOOKHEY: Sure, but you did send to the unions on Thursday, through the Crown Solicitor's Office, a cease and desist notice, did you not?

MATT LONGLAND: Correct. That was related to the suspension of the industrial action that we have discussed at length today.

The Hon. DANIEL MOOKHEY: Indeed. And just to be very clear here, the unions were given a commitment to get an updated offer on Thursday, but instead of an updated offer they get a cease and desist letter. Why did Sydney Trains and NSW Trains not keep its end of the commitment and instead chose to escalate the dispute?

MATT LONGLAND: The decision to, as you say, escalate the dispute was actually about getting an outcome and avoiding what we saw on 21 February. It became our urgent priority that late in the week, hence why things moved quite quickly on that Thursday—both the letter to the RTBU from the Crown Solicitor and then on Friday, when we did not receive any feedback on that letter, the lodging of our matter with the Fair Work Commission. That became our priority rather than responding on the 18 items.

The Hon. DANIEL MOOKHEY: Indeed. But who changed the priorities?

MATT LONGLAND: My recollection is that it was not a deliberate decision one way or the other. It was, as we have talked about today, the events of Thursday, briefing of the Minister and preparation of the Fair Work matter, in order to ensure that we could work through a process ahead of Monday 21.

The Hon. DANIEL MOOKHEY: I appreciate that. If it is the case that effectively that is what happened, you did provide Mr Sharp that evening, did you not, Mr Longland, with an update on the outcome of that meeting?

MATT LONGLAND: Yes. I would have, yes.

The Hon. DANIEL MOOKHEY: You did that via text message, did you not?

MATT LONGLAND: Perhaps, yes.

The Hon. DANIEL MOOKHEY: I may or may not have that text message with me, Mr Longland. If you give me five seconds I will find it, but my colleague might ask you one or two questions in the meantime, if he has them. Let me find that.

MATT LONGLAND: Okay

The Hon. JOHN GRAHAM: I was going to turn to some other matters.

The Hon. DANIEL MOOKHEY: That is okay. Just give me five seconds.

The Hon. JOHN GRAHAM: I think that is more sensible.

The Hon. DANIEL MOOKHEY: It was a text message you sent on the Tuesday night. Here it is, it is tendered document 009.

MATT LONGLAND: Just bear with me. I will just grab a copy off the secretary.

The Hon. DANIEL MOOKHEY: This is a text message exchange that you had with the secretary. These are not time stamped, so I do not know precisely which part of the day you had these conversations. The secretary asks you, "Hi Matt. Keen for any feedback from the union meeting. Thanks." You reply, "Hi Rob, a very long meeting, around 2hr 15m. Agreed that CRU will come back to us with a consolidated list of priority items and we will provide a new schedule for targeted bargaining. They say that it is too late to avoid the industrial action next week." You say, "Need to check in with Ministers about their willingness to apply for a suspension of action through Fair Work Commission and evaluate if we have hit that threshold." The secretary replies, "Thanks and noted. Just spoke with a Dale and got his perspective. Will call Tracey now and agree next steps. Should get Minister Elliott feedback this afternoon. Thanks Rob." Let us go through this step by step.

MATT LONGLAND: Yes.

CORRECTED

The Hon. DANIEL MOOKHEY: Firstly, the first bit of information that you communicated is that you had a meeting for two hours and 15 minutes, which, knowing your counterparties, I can understand that could have felt as long. The second point you make is that, as you have said, you have agreed that the CRU, which is the Combined Rail Union, "will come back to us with a consolidated list of priority items" and you will provide a new schedule for targeted bargaining, which is what you said earlier.

MATT LONGLAND: Correct.

The Hon. DANIEL MOOKHEY: Then you said, "They stated it is too late to avoid the industrial action next week." Fair enough. Then you say this, "Need to check in with Ministers about their willingness to apply for a suspension of action through Fair Work Commission and evaluate if we have hit that threshold yet." Step by step, what did you mean by, "Need to check in with Ministers about their willingness to apply for a suspension of action through Fair Work"?

MATT LONGLAND: I think, as you say, this text message was on Tuesday. It looks like it has got a time stamp of 4.05, which would be after we had had that meeting.

The Hon. DANIEL MOOKHEY: I think that is actually the time it was screenshot, to be fair.

MATT LONGLAND: Sorry. Regardless, it was after that meeting and I acknowledge that it was related to the meeting of the combined rail unions that Mr Collins shared. The reference to it being too late was a discussion in that meeting with RTBU representatives that the action that was moving from 21 February, specifically around those train crew items, is not something that we could seek to offer them something late and avoid. They were committed to do the action. The reference to checking with Ministers is really that if we were to move into a Fair Work Commission process, we would need to ensure that not only the Minister for Transport but also the regional transport Minister and potentially the industrial relations Minister would need to be supportive of that process.

The CHAIR: Thank you. Mr Shoebridge?

Mr DAVID SHOEBRIDGE: Ms Colin, in the financial year ending 30 June 2021, TAHE paid almost as much to consultants as it did to your own staff. Can you explain how that happened? I think it is \$3.2 million—almost \$3.3 million—to consultants and \$3.8 million to staff.

BENEDICTE COLIN: Bear with me so I can take the—

Mr DAVID SHOEBRIDGE: Just to be clear, I have never seen a government agency where there was almost parity between the amount they spent on consultants and the amount they spent on staff. TAHE is the first time I have seen this.

BENEDICTE COLIN: Just to be clear, this decision was taken prior to my time.

Mr DAVID SHOEBRIDGE: Correct.

BENEDICTE COLIN: My understanding, though, is that TAHE staff was fairly limited at the time; it was a fairly small team. So it would not be unusual during the time of the set-up of an entity to have recourse to consultants to assist with work when the capabilities are not in-house.

Mr DAVID SHOEBRIDGE: The total employee-related costs in that year was \$3.8 million, and TAHE gave almost \$1.9 million to just one consultancy—the Boston Consulting Group. Who was running TAHE, the Boston Consulting Group or State employees? Who was running it?

BENEDICTE COLIN: At the time, there was an interim CEO who was running the entity.

Mr DAVID SHOEBRIDGE: What did TAHE get for the \$1.9 million or so that it gave to Boston Consulting Group?

BENEDICTE COLIN: The Boston Consulting Group was engaged to assist with the strategy and the development of a commercial pipeline and opportunities. As you would know, TAHE's asset base is fairly large. There are a number of opportunities that were screened, as well as benchmarking both domestically and internationally.

Mr DAVID SHOEBRIDGE: What does "advisory services on the medium-term commercial plan" mean?

BENEDICTE COLIN: Sorry, can you point me to that?

Mr DAVID SHOEBRIDGE: That is on page 49 of volume 1 of the annual report.

CORRECTED

BENEDICTE COLIN: As I said, it was the provision of services in relation to assessing opportunities with the asset base, potential property and commercial developments and potential return, whilst either investing or divesting in these opportunities.

Mr DAVID SHOEBRIDGE: So was Boston Consulting Group telling TAHE how to go about becoming a property developer? Would that be a good summary of it?

BENEDICTE COLIN: I think there are a number of opportunities and sectors where TAHE can decide to embark regarding its asset base. Property is certainly one.

Mr DAVID SHOEBRIDGE: Apart from property, what else was contained in the medium-term commercial plan that Boston Consulting Group was working on?

BENEDICTE COLIN: I would have to take that question on notice because that report was commissioned prior to my time.

Mr DAVID SHOEBRIDGE: Can you provide the Committee with a copy of the two Boston Consulting Group reports for which collectively about \$1.9 million was paid?

BENEDICTE COLIN: Again, I would have to take that question on notice and assess whether there are any matters that are commercial in confidence.

Mr DAVID SHOEBRIDGE: KPMG provided TAHE with advice on access pricing and updating the access pricing model, and you paid KPMG \$135,000 for that. Was that advice consistent with the advice KPMG had been giving Treasury?

BENEDICTE COLIN: Again, I think KPMG was engaged on that matter on different capabilities. As has been disclosed previously, KPMG assisted Transport, Treasury and TAHE with the development of its operating model prior to TAHE being set up. My understanding is the advice that was provided consisted of updating the financial model as a result of a negotiation of the access and licence fees.

Mr DAVID SHOEBRIDGE: Will you provide the Committee with a copy of that KPMG access pricing report?

BENEDICTE COLIN: Again, I would have to take that question on notice and assess whether there is any information commercial in confidence.

Mr DAVID SHOEBRIDGE: Are you telling me that there was a point in time when KPMG was working for each of TAHE, Transport and NSW Treasury? It was working for all three entities at the same time?

BENEDICTE COLIN: I would have to take that question on notice because I do not know when the report from KPMG from TAHE was commissioned whether KPMG was still providing advice to those three entities.

Mr DAVID SHOEBRIDGE: Given that TAHE is in the process of having ongoing commercial negotiations with Transport for NSW, how could the same consultancy be working both sides of the aisle on access pricing?

BENEDICTE COLIN: Again, I would have to take that question on notice because I do not know whether KPMG was providing advice to Transport at that time.

Mr DAVID SHOEBRIDGE: We know absolutely that in the last financial year KPMG was continuing to engage with Treasury in terms of the New South Wales taxpayers' return and contributions to TAHE. How could KPMG be working for you on access pricing and also, at the same time, be working on the modelling for Treasury, a highly contentious part of which was access pricing?

BENEDICTE COLIN: Again, I have to take that question on notice. It might have been that KPMG had disclosed that conflict to the team. As I said, I was not part of that team at that time.

Mr DAVID SHOEBRIDGE: Can you take on notice whether they did disclose a conflict of interest? And, if so, can you provide us with the terms in which they disclosed a conflict of interest?

BENEDICTE COLIN: Yes. As I said, I will take that question on notice.

Mr DAVID SHOEBRIDGE: Secondly, even if you are only looking after the interests of TAHE, how could you possibly engage the same consultancy for TAHE's advice on access pricing that is working with the people you are going to have to negotiate with? Who on earth made that decision?

BENEDICTE COLIN: Mr Shoebidge, my understanding is that the work that KPMG assisted TAHE with was really in relation to updating the operating financial model. It is not unusual in the investment world,

CORRECTED

when you develop an investment model—it is quite complicated—to have the same firm that developed that model come and update it. I do not think that you would find any other financial adviser would accept to embark on updating a model when they were not responsible for setting it at the outset.

Mr DAVID SHOEBRIDGE: That does not wish away the conflict of interest, Ms Colin.

BENEDICTE COLIN: As I said, I will take that question on notice to assess whether that conflict of interest was disclosed.

Mr DAVID SHOEBRIDGE: Surely the question you should be asking KPMG is: How did they allow themselves to be advising both sides of the aisle, when you are still, for the moment, as I understand it, having negotiations with Treasury and Transport about pricing?

BENEDICTE COLIN: Since I joined TAHE, KPMG is not providing work for me, so I have not engaged with KPMG.

Mr DAVID SHOEBRIDGE: Has TAHE and Transport for NSW resolved the access price that Transport for NSW will have to pay to access TAHE's assets for this financial year?

BENEDICTE COLIN: As we explained to you in the Public Accountability Committee hearing, the process for reviewing the process of the access and licence fees is embedded in our agreements. We have started that process. I have certainly notified Transport for NSW and the transport operators that we were starting and kicking off that process. The work is ongoing.

Mr DAVID SHOEBRIDGE: My understanding was that work was going to happen through February. Mr Sharp, how far apart is Transport and TAHE in terms of access fees?

ROB SHARP: Yes, I covered this extensively during the TAHE hearing. What we committed to—

Mr DAVID SHOEBRIDGE: But we are now in early March, so I assume something has happened.

ROB SHARP: No.

Mr DAVID SHOEBRIDGE: Okay.

ROB SHARP: At the Committee I indicated that during the budget process those negotiations take place, and the budget process is March to April. We have started the negotiation process and there is a commitment to complete that in April. I have recently reconfirmed the heads of agreement to the Auditor-General off the back of that particular hearing, as well as to Treasury, just confirming that we had agreed to do the negotiations for the fees and acknowledging the changed environment and the higher return expectations. That process is underway right now.

Mr DAVID SHOEBRIDGE: So you have agreed to negotiate—that is an agreement to agree—and we still have not got past that, Mr Sharp.

ROB SHARP: There are commercial contracts in place between the entities that actually spell out the access fee regime and how we calculate that. There is an independent reference, which are the IPART processes and what I would call the building block model. That is actually in place through legislation because TAHE are a monopoly owner of assets, and there is guidance on what those fees should be.

Mr DAVID SHOEBRIDGE: But, unless I misunderstand the chronology, that contract and all of those arrangements predate the heads of agreement, don't they?

ROB SHARP: The contracts were put in place at 1 July last year when the entity was stood up, and each year there is a negotiation. The reason for that is that the timing of the actual infrastructure that we are paying for can vary. So with COVID, for example, some assets would slide to the right because of COVID and it could be a delay, and I am not going to pay an access fee for an asset that I am not using. The building block model takes into account those asset timings. The budget process, as you are aware, has asset management plans. Those asset management plans and our capital forecasting provide the forecast, if you like, for what assets we are likely to procure through TAHE.

Mr DAVID SHOEBRIDGE: How much are you contracted to pay TAHE in this financial year by way of access fees?

ROB SHARP: In financial year June 2022?

Mr DAVID SHOEBRIDGE: Yes, 2022.

BENEDICTE COLIN: I can take that question.

CORRECTED

ROB SHARP: Yes.

BENEDICTE COLIN: In the vicinity of \$700 million.

The Hon. DANIEL MOOKHEY: So it is not going up.

Mr DAVID SHOEBRIDGE: That is basically the same as the previous financial year, maybe a small inflation adjustment. Is that right, Mr Sharp?

ROB SHARP: Yes, that is correct.

Mr DAVID SHOEBRIDGE: Ms Colin, if you have the same fee again next year, you will fail to meet the Auditor-General's test, will you not, for sufficient income to justify your off-balance sheet status?

BENEDICTE COLIN: Sorry, correct me if there was a misunderstanding—we have not changed the fees. The agreements were signed on 30 June 2021. They provide for access and licence fees to be charged to the transport operators for the financial year—the current financial year—of \$700 million.

Mr DAVID SHOEBRIDGE: I understand that.

BENEDICTE COLIN: We have provided a heads of agreement, which has been signed by the transport operators in December, indicating an intention to increase the pricing by roughly \$300 million for the next financial year. As the secretary mentioned, the process for considering that pricing within the guidelines that we have indicated has just started.

Mr DAVID SHOEBRIDGE: Sitting there now, you are \$300 million apart. Would that be fair to say, Mr Sharp?

ROB SHARP: No. The \$300 million is a reference point for what the expectation is. There is some reasonableness to it. We did a reasonableness review in December before I signed the heads of agreement. I had a team of subject matter experts review it. It is driven by capital timing as well as factors like inflation and risk profile that drives return expectations. We have also got subject matter experts that understand the IPART pricing structures and building block models. That gives you a base as well as a ceiling, and you can negotiate within those. My understanding from the team is that the forecast increase remains within those columns, and we will be negotiating with TAHE once the information of asset timings et cetera is run to ground. That is over the next eight weeks.

Mr DAVID SHOEBRIDGE: Can you tell me what range you are negotiating within? What is the low and the high end of it?

ROB SHARP: No, I cannot, because I would need to access the models. I would have to take that on notice.

Mr DAVID SHOEBRIDGE: If we get that on notice, that would be good. Ms Colin, it was not an easy financial year for TAHE, was it, last financial year, as it turns out?

BENEDICTE COLIN: Sorry. You—

Mr DAVID SHOEBRIDGE: I will take you to page 4 of the audited accounts. I describe it as not an easy year. You can describe it how you like, in light of the fact that there was a \$21.7 billion loss.

BENEDICTE COLIN: That loss is essentially driven by the asset revaluation, so it is an accounting loss, not a loss in terms of real revenues and cash.

Mr DAVID SHOEBRIDGE: But your organisation fought tooth and nail not to include that in your audited accounts, did you not? That was a major issue between you and the New South Wales Audit Office.

BENEDICTE COLIN: That is not correct. We always had a discussion. When I joined the organisation, we were very clear that, with TAHE being now a State-owned corporation and having signed agreements which provided sufficient certainty in terms of its future revenues, the asset base had to be valued on a discounted cash flow methodology, which triggered an asset revaluation and a change in accounting methodology.

Mr DAVID SHOEBRIDGE: That was not included in TAHE's initial accounts that it gave to the Audit Office for audit. It was only included once the Audit Office insisted on it.

BENEDICTE COLIN: That is not correct. The draft which was submitted to the Audit Office in October included a writedown for the asset revaluation.

Mr DAVID SHOEBRIDGE: Will you provide those draft accounts to the Committee?

BENEDICTE COLIN: I will have to take that question on notice.

CORRECTED

Mr DAVID SHOEBRIDGE: Ms Colin, the \$21 million loss—sorry, I will start again. I was 1,000 times out. The \$21 billion or \$21.7 billion loss—do you have a strategy to recoup that loss? If so, over what time period?

BENEDICTE COLIN: As I said, this is an accounting loss. The value of our assets has not changed. There has not been loss in the quality of our assets. We have received a statement of expectations from our voting shareholders in December, indicating that they wanted to receive from TAHE an increase in the return to the shareholders. Part of the strategy to recover that accounting loss is in relation to our access licence fees, as well as other commercial revenues that we may derive.

Mr DAVID SHOEBRIDGE: You know you have to find an additional \$21 billion at some point, do you not, in order to continue to meet the Auditor-General's standard for you to be an off-balance-sheet, for-profit entity.

BENEDICTE COLIN: I think that question would be best directed to Treasury, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: It is your business that needs to make up an additional \$21 billion. You say you are doing that because the statement of expectations includes it. Is that what you are telling me?

BENEDICTE COLIN: What I just said is that, as part of the business, it would be normal to have consideration to the expectations of your shareholders.

Mr DAVID SHOEBRIDGE: And they have told you to recover that \$21.7 billion. So I go back to roughly where this started. What is your strategy to recover that \$21.7 billion, as you have been told to do?

BENEDICTE COLIN: The shareholders have not indicated to me that they wanted to recover the \$20 billion loss. The shareholders have indicated to me that they expected to have a return on the equity that they inject into TAHE—of 2.5 per cent. One of the options and one avenue to give that return back to the shareholders is to charge the transport operators with access and licence fees. As I said, that is the bulk of TAHE's revenue. It is not the only source of revenue.

Mr DAVID SHOEBRIDGE: But the assets they injected into TAHE, when they gave them to TAHE, were valued at more than \$37 billion. Once you got your hands on them, they had a radical revaluation. It is that initial investment, of some \$37 billion, maybe more, that they are requiring recovery of, is it not?

BENEDICTE COLIN: Again, questions in relation to the treatment of TAHE's State account would be best directed to Treasury. The asset base of TAHE was evaluated, before it became a State-owned corporation, on a depreciation cost and a replacement methodology.

Mr DAVID SHOEBRIDGE: Ms Colin, that is the amount you have to return to shareholders. That is the figure you are working off, not what it got revalued at and reduced—it is that initial figure, isn't it?

BENEDICTE COLIN: No, that would be incorrect. With TAHE being now a State-owned corporation, its asset base is valued at roughly \$20 billion. On the calculation of a return of shareholders, it is based on that asset base.

Mr DAVID SHOEBRIDGE: So you are saying to me, as I understand your evidence, that you do not have a strategy to recover the assets lost in the asset writedown that is identified in this report. Is that your evidence, that you do not have a strategy?

BENEDICTE COLIN: I have not said that I haven't a strategy. As I said, we have received a change of direction in terms of the return that our shareholders are expecting. One of the strategies is to recoup access and licence fees and renegotiate the access and licence fees. That is precisely what we are about to do with the transport operators.

The Hon. DANIEL MOOKHEY: I am tempted to follow on, but I will not. Can I just seek, Mr Sharp, an update on our request earlier about whether it was possible for you to table the emails in which you requested the urgent meetings?

ROB SHARP: They are still working on it, Mr Mookhey. I think they would be still doing due diligence on it.

The Hon. DANIEL MOOKHEY: I appreciate that. If it is possible, even if we could just get the covering emails and any, as I understand it, from your earlier evidence—

ROB SHARP: I will take it on notice. The team has been asked.

The Hon. SCOTT FARLOW: You want to get it on the 6.00 p.m. news.

CORRECTED

The Hon. DANIEL MOOKHEY: If it is possible, given the nature of budget estimates—and this is totally a matter for your discretion—but if it is possible to provide the information earlier than usual, that would be helpful.

ROB SHARP: I will take that on notice. I do need to rely on the advice that I receive.

The Hon. DANIEL MOOKHEY: Of course, but if it is possible it would be appreciated, given budget estimates has another week to run and there are a few other Ministers and departments. We might see you again, Mr Sharp.

The Hon. JOHN GRAHAM: We hope to.

The Hon. DANIEL MOOKHEY: We hope to! That would be helpful. Can I just return to some of the questions we were asking before about the dispute? I think we left off with Mr Longland explaining that there was a requirement to check in with multiple Ministers. Mr Longland, you mentioned that, of course, Minister Farraway would have been one of them, Minister Tudehope would have been one of them in respect of things and it is quite clear from this text message that Mr Elliott would have been one of them. That is correct?

MATT LONGLAND: That is correct. Whilst I do not sit across the IR team—that is within Transport—that is my understanding.

The Hon. DANIEL MOOKHEY: You say specifically:

Need to check in with minister's about their willingness to apply for a suspension of action through FWC and evaluate if we have hit that threshold yet.

What do you mean by "if we have hit that threshold yet"?

MATT LONGLAND: Whether the action would cause the significant harm or economic harm that would be required for the Fair Work Commission to consider a suspension.

The Hon. DANIEL MOOKHEY: So that is basically the section 424 test?

MATT LONGLAND: Yes. I do not have the Act in front of me but, yes, I will take your word for that.

The Hon. DANIEL MOOKHEY: It is the 424 test, I am fairly positive, or the 423 test—either way. Mr Sharp, you spoke with a Dale. Was that Mr Merrick you were referring to?

ROB SHARP: I am not sure. I would presume that would be Dale, Mr Merrick.

The Hon. DANIEL MOOKHEY: You say, "We should get Minister Elliott feedback this afternoon." Firstly, did you put this scenario to Minister Elliott's chief of staff as per your protocol?

ROB SHARP: I do not recollect the process around that. Typically with something like this it would go through my industrial relations team and the communication would be around the industrial relations channels. I cannot provide clarity at the moment specifically on that.

The Hon. DANIEL MOOKHEY: Do you recall getting Minister Elliott's feedback that afternoon?

ROB SHARP: No, I do not.

The Hon. DANIEL MOOKHEY: Do you mind checking with your team or perhaps they can check and provide you with advice as to whether or not that afternoon or that evening or any time afterwards, actually, Minister Elliott or his office provided any specific feedback on the question that Mr Longland had asked?

ROB SHARP: I will take on notice what communications occurred around that time.

The Hon. DANIEL MOOKHEY: No, it was a very specific question on whether or not Minister Elliott's office or Minister Elliott provided the feedback that Mr Longland had said was required to evaluate whether or not this threshold has been reached. Will you take that on notice?

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: Thank you. Can I just ask Mr Collins and/or Mr Longland—

MATT LONGLAND: Before we leave that, we mentioned in the last series of questions about the list of 18 priority matters that you were inquiring about. Just to be completely clear, the commitment was not about any new concessions on those 18; it was an update on anything that had changed since December.

The Hon. DANIEL MOOKHEY: Sure, and that update has still not yet been provided.

MATT LONGLAND: Correct.

CORRECTED

The Hon. DANIEL MOOKHEY: Fair enough. Thank you, that is helpful. Between the commitments that were made on the Tuesday and the transmission of the cease-and-desist letter on the Thursday, why did no-one just pick up the phone to the unions and have a chat about where they were up to in terms of providing you with the advice? They would then have had the opportunity to inquire where you were up to on providing the update. Why did Mr Collins, Mr Longland or Mr Sharp not just pick up the phone to Unions NSW and say, "Hey, there's an issue"?

ROB SHARP: I had an extensive conversation on the Thursday with—I know the person's name but you have his title, the CRU assistant secretary—on that exact topic, and there was a lot moving over those two days. We had the nine new Industrial Relations protected industrial actions that had come through. As Matt articulated, that became a pressure point because the risk associated with it was actually quite large. There was a lot that happened over those two days. We still, even through the Fair Work Commission, agreed to continue to engage. The Fair Work Commission process was not adversarial. We were looking for a conciliation and—correct me if I am wrong here, Matt—I think we committed the next week to meet with them.

The Hon. DANIEL MOOKHEY: I have a few follow-up questions on this, Mr Sharp. But, given that Sydney Trains and NSW Trains committed to provide an update on the 18 priority matters but no update was provided and they instead received a cease-and-desist letter, do you understand how from the perspective of the Combined Rail Union that might resemble an ambush?

ROB SHARP: I cannot comment on the perceptions. What I can comment on is that I did have an extensive conversation.

The Hon. DANIEL MOOKHEY: Did you flag, in that conversation with the assistant secretary, that one of the unions was about to receive a cease-and-desist letter?

ROB SHARP: I spoke to him on I think it was the Thursday or the Friday after that, because clearly there was—

The Hon. DANIEL MOOKHEY: My Sharp, I do not wish to be rude, but a lot turns on whether it was Thursday or Friday. Did you speak with the assistant secretary on Thursday or Friday?

ROB SHARP: It was after the event, so I presume that would have been Friday.

The Hon. DANIEL MOOKHEY: After the shutdown or after the—

ROB SHARP: No, it was after I wrote to the RTBU, which would have been on the Friday. It was a Fair Work lodgement.

The Hon. DANIEL MOOKHEY: Yes, so you wrote to him on Friday the 18th.

ROB SHARP: Yes, so it was following that that we spoke.

The Hon. DANIEL MOOKHEY: Okay, but this is my point: The cease-and-desist letter is transmitted on Thursday.

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: So that communication that you are referring to with the assistant secretary takes place after they are the recipients of a cease-and-desist letter and when they are about to be notified of the application. I return to my previous question because, with a better understanding of the timeline, you might be in a better position to address it. Mr Collins or Mr Longland might be as well. Given that Sydney Trains and NSW Trains had made a commitment to provide an update on the offer but no such update was provided and instead the unions were given a cease-and-desist letter, can you understand from their perspective and that of a reasonable person why it might look like an ambush?

ROB SHARP: I am not sure whether an ambush is the right word, because ultimately there were commitments. We are still working on those.

The Hon. DANIEL MOOKHEY: Can we agree on a "surprise"?

ROB SHARP: In the middle of that, we made a decision that we needed to go to the Fair Work Commission to resolve the risks that were associated with it. I certainly acknowledge that it places pressure on negotiations when any action or Fair Work action happens. That took place during that period. We are still drafting responses to the 18 items; we are still looking to engage. As the Minister said this morning, Transport's view is that we would rather have a negotiated agreement than not.

The Hon. DANIEL MOOKHEY: Mr Collins, you were chairing that meeting on the Tuesday?

CORRECTED

HOWARD COLLINS: Correct, yes.

The Hon. DANIEL MOOKHEY: To be very clear, was the impression left that the update that Mr Longland refers to was, in fact, the Government making a commitment to consider concessions, and that would be enough for the union to then withdraw its industrial campaigns?

HOWARD COLLINS: I genuinely felt at the end of that meeting that we had had a good dialogue and that we would respond to the request, but also that the unions would clarify and respond to those priorities. I was of the belief at that time that we would set up a series of meetings, which I would help facilitate, to try to move this EBA forward.

The Hon. DANIEL MOOKHEY: Were you informed that somehow someone had decided, through the Crown Solicitor, to send a cease and desist letter on Thursday night?

HOWARD COLLINS: I certainly was not involved in any of the decisions regarding that matter, but I was duly informed by the secretary and the chief executive.

The Hon. DANIEL MOOKHEY: If you are essentially being presented to the unions as an honest broker here, is that a fair characterisation?

HOWARD COLLINS: I have probably got a lot of campaign medals in 25 years of industrial action, and two EBAs which eventually came to fruition. I do not know whether I am an honest broker but I am someone who has had a fair amount of experience.

The Hon. DANIEL MOOKHEY: I am prepared to acknowledge, Mr Collins, that you are quite the practised industrial relations practitioner. Don't you think that, as the chair of this, you should have been told that there has been such a reversal of strategy, and that rather than the unions getting an update on their offer, as they were promised, instead they were sent a cease and desist letter?

HOWARD COLLINS: What I want to say is I had not been involved in the detailed discussions up until this point. A lot of things were happening, as the secretary describes, at a fast pace. Obviously there was more detail going back over several months. What I was trying to do was facilitate that, and I believe subsequently to then—and I know this is water under the bridge—we have reconnected with the unions and we are looking for a process to go forward. I really believe that in good faith we will spend further time together to try to resolve this matter.

The Hon. DANIEL MOOKHEY: No doubt, Mr Collins, we will get to what is going on currently. Right now the Saturday night agreement is still in effect, is it not, in that there are seven bans are in place. Is that correct?

MATT LONGLAND: Yes. Mr Mookhey, if I could make a comment on your last line of questions about the gap between Tuesday and Thursday and the change in approach?

The Hon. DANIEL MOOKHEY: Please, sure.

MATT LONGLAND: The risk assessment on the industrial action was completed on Thursday. It indicated, as you have the copy, that we were facing a very significant risk in relation to industrial action. That is why the urgent priority became working through the Fair Work Commission.

The Hon. DANIEL MOOKHEY: I appreciate that. Can I get Mr Longland, Mr Collins or Mr Sharpe to confirm that seven of the nine bans remain in place?

MATT LONGLAND: Correct. On the Saturday 19 February the Fair Work Commission considered an outcome that removed the overtime ban and it introduced a protocol for emergency on the network for things like critical safety events.

The Hon. DANIEL MOOKHEY: These bans were in place from Monday 21 February and they were still in place on 22 February, were they not?

MATT LONGLAND: Correct.

The Hon. DANIEL MOOKHEY: So it was safe to operate the rail network on 22, 23, 24, 25, 26, 27, 28 February and until today under these same bans but it was not safe to operate it on Monday?

MATT LONGLAND: The difference between Monday and Tuesday—Monday 21 and Tuesday 22 February—was that during the day on Monday, my train planning team worked on developing a very basic timetable that included a number of what are called "blank rosters". They basically scheduled and timetabled a very basic level of service—around 800 services a day—and we could allocate those blank rosters to train crew on the day of operation on the agreement of the RTBU around allowing what is called "standby". So a crewmember

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would move off their shift into a standby pool and would then be allocated one of these blank rosters, which is a very time-consuming and labour-intensive process, but it did let us get a basic timetable developed for Tuesday.

The Hon. DANIEL MOOKHEY: But you did it within a day.

MATT LONGLAND: We did that planning work during the day and, from memory, we met with the RTBU officials around about 6.30 or seven o'clock on Monday night. We put that proposal to them because it was an action that could be considered "altered working", which was one of the protected actions that was in place.

The Hon. DANIEL MOOKHEY: Yes, Mr Longland, I appreciate that you did that work and that you did it fast but, having read the Saturday night and Sunday night transcripts, the fact that you were capable of doing that was never mentioned in the commission, nor was it ever put to the RTBU in the commission. To be fair, having read the views being put by the RTBU's counsel, in multiple instances she was asking your legal representatives to disclose whether there was anything that the RTBU could do. The RTBU made it very clear that it was open to continuing the Fair Work process regarding any adjustment to their bans that would facilitate the ongoing running of the network. Given that you were able to do this in a day on Monday, why was it not presented as an option in the Fair Work Commission on Saturday or Sunday?

MATT LONGLAND: I cannot comment on the transcript of Fair Work. I was not in the Fair Work process. That was managed by our industrial relations team. I am happy to take that on notice for a detailed response.

The Hon. DANIEL MOOKHEY: Please.

MATT LONGLAND: But I can say this: The conciliated outcome that was achieved on Saturday evening on 19 February—we, our lawyers and our operational team had a very clear understanding that that would allow what is called the "enhanced weekend timetable" to operate from Monday 21 February, and then we learnt on the Sunday that that was not the case.

The Hon. DANIEL MOOKHEY: I appreciate that. I am not suggesting that there was a deliberate attempt not to, or maybe I am, but either way you have said that it was not. This blank-roster option was put into effect on the Monday for Tuesday. Given that you did that in a day—you were given notice on 9 February—why in the week prior was that not developed as an option?

MATT LONGLAND: I think we looked at all options. You can see in the risk assessment that has been tabled, there was a combination—as I said, the cumulative impact of those nine items. The item around the master roster absolutely was significant, but so were a number of other items, including the overtime ban. The issue in the network is that when we have a gap in safety-critical operators—for instance, rail signallers—we need to close part of the network. The first day of the previous round of action, which, from memory, was around about Monday 7 February, we had exactly that case. We had an overtime ban in place. We had a signaller in our Revesby signal complex who took ill while on shift and could not be replaced. We closed one of our signal panels, and then we could not operate that section of the line for the whole day. So the focus in the lead-up to the Fair Work Commission matter was really about looking at the combination of things that could be removed from that list of nine that would give us the confidence that we could reliably and safely operate the network. It was not just the master roster.

The Hon. DANIEL MOOKHEY: On that particular Monday or Monday night, prior to you adopting this blank-roster option, did you update the safety risk assessment?

MATT LONGLAND: On the blank-roster option?

The Hon. DANIEL MOOKHEY: Let me simplify it. On the Monday, prior to you adopting measures that would facilitate the return of some services on the Tuesday, did you update the risk assessment?

MATT LONGLAND: We discussed the risk assessment, but we did not provide a published version of a new risk assessment, no.

The Hon. DANIEL MOOKHEY: Between Monday and Tuesday, Transport does not update or does not document an update to the risk assessment that would facilitate the return of the network on Tuesday.

MATT LONGLAND: We presented a train plan, as I said, that was the basic level of service. We took that to the RTBU delegates and sought its support, given it could be considered a form of "altered working", which was one of the items that was in the protected action. They took that away. They came back and they said that, for the benefit of customers, they were willing to work with us to provide that basic level of service on Tuesday. From that point in time, our schedulers worked through until probably 4.00 or 5.00 the next morning. They worked right through the night to be able to get those rosters ready, get them allocated to train crew and get trains running again.

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The Hon. DANIEL MOOKHEY: Just to be very clear, the first time the union hears about this option, which is circa 6.30 p.m., they agree to it. Equally, according to their counsel in Fair Work they would have agreed to any option like it if it was presented to them at any point during the weekend.

MATT LONGLAND: As I said, I have not seen the transcript of Fair Work so I cannot comment on the specifics of which counsel said which specific statements. But I will go back to the Saturday conciliation: That was the very concession that we were seeking—the ability to allow us to run a timetable on Monday—and that was what we thought was agreed.

The Hon. DANIEL MOOKHEY: Sure. Basically this all turns on disputed interpretations of the Saturday agreement, correct?

MATT LONGLAND: That is correct.

The Hon. DANIEL MOOKHEY: Fair enough. Can I now turn to where we are up to? Mr Longland, you wrote to the assistant secretary of Unions NSW on 26 February 2022 to invite him and senior CRU officials to a facilitated workshop on Thursday 3 March 2022, did you not?

MATT LONGLAND: Yes. I have not got a copy of that letter but, yes, that sounds correct.

The Hon. DANIEL MOOKHEY: You set out the purpose of that workshop. The letter states:

1. Agreed priorities and objectives for the next stage of enterprise bargaining, to ensure an alignment between the parties about how we will develop a jointly productive process;

You go on to refer to a regular program of bargaining meetings, a coordinated program of pre-bargaining meetings and then the inclusion of a Thursday "check-in" meeting with senior CRU officials.

The CHAIR: Mr Mookhey, finish the question.

The Hon. DANIEL MOOKHEY: That meeting never takes place, correct?

MATT LONGLAND: The meeting has not yet taken place but it is scheduled for next Tuesday.

The Hon. DANIEL MOOKHEY: Have the unions been informed that it is scheduled for next Tuesday?

MATT LONGLAND: I am not sure about that. I will have to check.

The Hon. DANIEL MOOKHEY: My understanding is that they have not and, in fact, they have been trying for the past two weeks—they informed someone in Transport for NSW that they were unavailable on that particular day and they proposed alternative days, including other days this week, but they never had a reply. They are still waiting to hear whether or not this meeting is going ahead.

MATT LONGLAND: I have not received any correspondence from Unions NSW. It would have gone through our IR team. My understanding was that we proposed to do the workshop yesterday—Thursday—and that was referenced in that letter, but it did not meet one of the unions that was unavailable.

The Hon. DANIEL MOOKHEY: Yes, they had a delegates' meeting—that is correct, is it not, Mr Collins? You are nodding.

HOWARD COLLINS: Correct. Obviously we realised that today we could not attend, so I believe that in our discussion with one of the particular unions we put forward a proposal of Tuesday. We will take on notice what Mr Longland—

The Hon. DANIEL MOOKHEY: I can assure you at this point, sitting here at 4.48 p.m., that no-one from the CRU knows if this meeting is taking place and no-one has been told. If it has been scheduled, how has it been scheduled without the counterparties being aware that they are meant to come?

MATT LONGLAND: I will need to look into that, Mr Mookhey.

The CHAIR: I will ask just a couple of clarifying questions and then I will go back to Mr Mookhey. Ms Colin, my colleague Mr Shoebridge was asking you some questions before and I just wanted to clarify a couple of things. I think he was talking to you about the revaluation of the assets and the writedown of \$20.3 billion. When we look at the statement of comprehensive income on page 4 of the financial statements we have a loss of \$21.7 billion, roughly. Does that include the \$20.3 billion or is that a separate—

BENEDICTE COLIN: Sorry, I am not sure where you get the—

The CHAIR: Sorry, I am looking at page 4 of your financial statements.

BENEDICTE COLIN: Yes, I have got a loss of \$21.7 billion.

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The CHAIR: That is right. Does that \$21.7 billion loss include the \$20.3 billion writedown?

BENEDICTE COLIN: Of the asset provision? Yes, a portion has gone into offsetting the—yes.

The CHAIR: A portion? How much is that portion?

BENEDICTE COLIN: It is \$4 billion, if my recollection is correct. But I can take it—

The CHAIR: Which is that—I think I saw that number.

BENEDICTE COLIN: I can take that question on notice, if that would help.

The CHAIR: It might be the \$4.218 billion. Okay. Then I think he was asking about how you will make up that \$20.3 billion or how we will cover it.

BENEDICTE COLIN: As I explained before, we received correspondence from our shareholder Minister in December asking us to strengthen our commercial trajectory and requesting that we provide a return on the equity injected into TAHE of 2.5 per cent over the course of the next 30 years, actually. One of the ways to do that is to increase our access and licence fees, and we have just started that process of renegotiation.

The CHAIR: That accords with what the audit report says, which was that to avoid qualification of the State's accounts, the final TAHE modelling used a 2.5 per cent benchmark as the expected rate of return and projected returns to 2052 to recover the holding loss of \$20.3 billion.

BENEDICTE COLIN: I acknowledge that \$20.3 billion loss is a big number and you would not recover it in the next three to five years. Under the modelling we have done, we expect to recoup that loss over the next 30 years, yes.

The CHAIR: From a layperson's perspective, if you go from what the Government gives or transfers to TAHE its assets of—I do not know what the figure was.

BENEDICTE COLIN: Around \$40 billion.

The CHAIR: There is then a \$20.3 billion writedown, which can only be plugged by increasing the amount that the Government then pays into TAHE, correct?

BENEDICTE COLIN: Can I just comment on the fact that whilst \$20 billion is a big number, it is really triggered by a change of accounting methodology. I really insist that there has not been any change to the asset condition of TAHE.

The CHAIR: I understand that, but there has been a change to how much cash is being injected into TAHE to cover that loss?

BENEDICTE COLIN: That is correct. And that cash can be either reinvested in transport infrastructure and CapEx, in new projects, in new investment in TAHE or distributed to the shareholders.

The CHAIR: But what it cannot be used for is for new schools and hospitals because it has been trapped over in TAHE?

BENEDICTE COLIN: That would be an incorrect characterisation because that amount of money can be redistributed to the shareholders if we ask it to, and I cannot comment on the use of the money invested into TAHE by the Government.

The CHAIR: I think during the TAHE inquiry, in one of the hearings we discovered that there was quite a big difference between the amount that would be put in and the amount that would come back. I do not know if, Mr Mookhey, you remember that figure. Was it \$13 billion in the end?

The Hon. DANIEL MOOKHEY: It was \$13.3 billion.

The CHAIR: Yes, \$13.3 billion between what the Government will put in and what it can get back in return.

The Hon. JOHN GRAHAM: Over 10 years.

The Hon. DANIEL MOOKHEY: Until 2031.

The CHAIR: Is that your understanding as well?

BENEDICTE COLIN: What I can say is we have not been able to reconcile that figure of \$30 billion, Mr Mookhey.

The Hon. DANIEL MOOKHEY: It is \$13.164 billion.

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BENEDICTE COLIN: It would be helpful if you could point us to—

The Hon. DANIEL MOOKHEY: This is just coming from note 11 of the State accounts, which have now been published. It is purely the difference between projected access licence fees from 2021 to 2031 and projected dividends and income tax equivalent. The difference between them works out to be \$13 billion—\$164 million by 2031. That is the negative obviously.

BENEDICTE COLIN: As I said before, we have not discussed with our shareholders their expectation in terms of distribution. The cash which is sitting within TAHE, like any business, might be available for distribution.

The CHAIR: To be fair, this is being made out to be just some sort of different accounting treatment. That may well be true, but the impact is real world in that it is trapping at least \$13.164 billion of money, which otherwise could go to schools and hospitals, within TAHE?

BENEDICTE COLIN: As I said, that cash might be available for distribution to the shareholders should they wish to.

The Hon. DANIEL MOOKHEY: Just to follow up on that, TAHE is required under the commercial framework to maintain a forecast dividend profile?

BENEDICTE COLIN: Yes.

The Hon. DANIEL MOOKHEY: You do that for 10 years?

BENEDICTE COLIN: Yes.

The Hon. DANIEL MOOKHEY: And you provide that every year to Treasury, do you not?

BENEDICTE COLIN: I think that was provided for last year, yes, and that will be reconfirmed as part of an updated statement of corporate intent. We have not discussed our distribution policy with the shareholders.

The Hon. DANIEL MOOKHEY: To be fair, these are not unique arrangements to TAHE; this applies to all State-owned corporations. I also want to be very clear here—TAHE has followed the policy. There is no implication or suggestion that you have deviated from the process whatsoever. But the forecast dividend profile is what the Treasury uses to forecast revenue, dividends and access fees, incidentally in this respect, and the budget in the next 10 years will be recording that \$13 billion difference. While you say you cannot comment on future intentions of future governments when it comes to distribution, which is accurate, as the forecast dividend profile currently stands right now—the one that is in the computer systems that we use to prepare our forward estimates—we will be losing \$13 billion by the end of this decade just on that difference between the amount of money that will be paid to Mr Longman and Mr Merrick to pay you and the amount of money that you will be returning in dividends.

BENEDICTE COLIN: I would disagree with that statement, if that is okay. That money is sitting within TAHE at the moment and it is still very much government money. As you would know, TAHE is owned by the Government. I would not agree with the statement that it is lost.

The CHAIR: Trapped, perhaps, is a better word in that it is not available for other—

BENEDICTE COLIN: Again, I will repeat the statement that we have not discussed our distribution policy with our shareholders and they might change their expectation.

The CHAIR: It seems unlikely, but okay. Can I ask you one final question on your accounts? On page 6, there is a contributed equity figure of \$6.638185 billion. What is that?

BENEDICTE COLIN: I might have to take that question on notice, but my understanding is that that is how TAHE's equity injection from the Government has been valued. It was a portion of assets that was gifted and a portion—our equity—has been calculated on the contribution from 2016, if my memory is correct. But I am happy to take that question on notice.

The CHAIR: That is a combination of injection and something else—a portion of the assets that was originally transferred across, is it?

BENEDICTE COLIN: I will have to take that question on notice.

The CHAIR: I understand. Thank you.

The Hon. JOHN GRAHAM: I might refer to the photos that I have supplied to the witnesses—I think, to you, Mr Collins.

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HOWARD COLLINS: These two photographs?

The Hon. JOHN GRAHAM: Yes. They are photographs taken yesterday of the trials of the 35-metre Emerald class ferries.

HOWARD COLLINS: Yes, that is correct.

The Hon. JOHN GRAHAM: They were out on trials. Obviously, looking at those pictures, to the lay person it looks reasonably alarming. I love the Manly ferry run, even when it gets rough, but that looks rougher than normal. Looking at those pictures, do these look like boats that can handle that harbour crossing?

HOWARD COLLINS: Thank you very much. I do note that the horizon has been slightly adjusted in a certain angle to make it even more dramatic. A picture tells a thousand words.

The Hon. JOHN GRAHAM: I cannot comment on that.

HOWARD COLLINS: The feedback I have had from Transdev, and even the head of the unions, is that—we put these vessels under a trial yesterday. This is the first time since they have been in Sydney that we have had 3.9-metre swells. They were looking to see how this vessel performs under all sea conditions; even those trials included manoeuvres that you would not make under passenger circumstances. This is an Australian-designed vessel. We are very proud of Incat Crowther and the design of this vessel. It has a number of modifications to deal with high swell, particularly for this route.

The Hon. JOHN GRAHAM: Looking at those photos, are these some of the manoeuvres that one might not attempt with passengers?

HOWARD COLLINS: They may well be manoeuvres which, under those circumstances—and anyone who has driven a catamaran versus a monohull vessel would understand that there are different ways that you tackle the swell conditions on those different vessels. Certainly, I have had the feedback—and we are waiting later today—that the vessel performed well. We did over 30, I believe, trips in this area, including some stationary manoeuvres. We are waiting for the risk assessment, because I know we love risk assessments. We are waiting for the risk assessment, which is apparently being done this afternoon. I do hope that we will see these vessels out in service during times including swells above 2½ metres.

The Hon. JOHN GRAHAM: You expect to receive that risk assessment today—

HOWARD COLLINS: I understand—

The Hon. JOHN GRAHAM: —or shortly.

HOWARD COLLINS: Yes, shortly, I think, is probably a fair word to be put on *Hansard*.

The Hon. JOHN GRAHAM: Okay, thank you.

The Hon. DANIEL MOOKHEY: Returning to the previous matters that we were discussing, you understand the meeting is scheduled for next week. Is that correct?

MATT LONGLAND: Next Tuesday; that is correct.

The Hon. DANIEL MOOKHEY: Do you think you will have your update on the offers in respect to the 18 priority matters ready by then?

MATT LONGLAND: I certainly hope so. We are hoping that Unions NSW and the combined rail unions talk to us about their priorities as well because I think they will be both very important elements of how we move forward.

The Hon. DANIEL MOOKHEY: Indeed. But are they going to have a reasonable amount of time to prepare a proper response?

MATT LONGLAND: I think the purpose of Tuesday is not about responding; it is about hearing and listening. I expect that there would be an opportunity for us to present where we are at with some of those claims and any updates and, equally, for the respective unions to be able to present back to us. If we get some time to review ahead of the meeting, that would be great as well.

The Hon. DANIEL MOOKHEY: Fair enough. Is work still underway in respect to any option that would see NSW Trains go to a ballot on the existing government offer?

MATT LONGLAND: That is not a question I can answer, given that I look after Sydney Trains.

ROB SHARP: We would like to get a mutually agreed position with the unions and take a ballot to our staff, but we would prefer to do that in conjunction with the unions. I have been working with NSW Trains on

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operating models and discussions on how can we bridge the gap in the detail of the differing operational models you can actually run the trains. We are very close on a lot of it. We do believe we are at a point where we can actually open that dialogue using some of these meetings that are coming up, to see whether we can close the final areas of disagreement. But there has been three or four months' discussion specifically around the Marayong, and that is a fairly significant issue for NSW Trains.

The Hon. DANIEL MOOKHEY: Indeed, but let me just unpack that a little bit, Mr Sharp. Is work still continuing on putting the EBA to a vote at NSW Trains without the support of the union?

ROB SHARP: No. As I just indicated—and the Minister spoke to this this morning—our negotiation approach here is that we do want to work with the unions for a mutual agreement and to have an agreed position we take to vote. That is our negotiating parameter.

The Hon. DANIEL MOOKHEY: Mr Collins, does that accord with your understanding?

HOWARD COLLINS: I believe so but just to remind people, in 2014 and 2018 we did not actually formally have an agreed position with the unions, but we worked pretty hard in getting it as close as we could and then we agreed in 2014 and 2018 that we would go on a roadshow. We did over 90 visits at various locations and then we put the vote to the members and also our staff.

The Hon. DANIEL MOOKHEY: True, but to be fair, the suggestion of a joint presentation and support came from Mr Sharp just then. But I understand that is different to what took place in 2014 and 2018.

ROB SHARP: If I can say, that is our goal but, ultimately, if there are parameters there that we cannot agree then we would look to get to a position that is as close as possible that we could go to vote. But the aim is to work closely to achieve that objective.

The Hon. DANIEL MOOKHEY: Let's just pause there. Could you repeat your penultimate sentence?

ROB SHARP: For example, the basic one would be a wage number. If we cannot agree on a number then we would have a disagreement. We can aim to, within our parameters, get to an agreed position with the unions and there are always trade-offs. But if we cannot agree then at some point we would want to work with the unions on how we would be able to take the matter to our staff.

The Hon. DANIEL MOOKHEY: I have got to say there is nothing illegal about this; you have that right under the Fair Work Act. But I am asking you: Are you retaining the option of going to a vote in NSW Trains even if the union is actively opposed to that course of action?

ROB SHARP: That is a hypothetical.

The Hon. DANIEL MOOKHEY: No, it is a specific.

ROB SHARP: At the moment we are aiming to get as close as we can with the unions. That is our goal at the moment.

The Hon. DANIEL MOOKHEY: Mr Sharp, last week you sent a text message to Mr Coutts-Trotter in which you said "Go to a vote in NSW Trains". I can understand that between you transmitting that advice or message to the secretary and now, there has obviously been a change, which is the nature of industrial negotiations. Things move fast.

ROB SHARP: No, that was in exactly the same premise. For quite a long time we have been working on the Marayong, because that is the biggest issue, and then putting a package together that we could, hopefully, close the gap with the unions and ultimately get to a staff vote. And look, as you said, the option is available, if we cannot agree, to go to that next step. But from a current negotiating perspective, our aim would be to work through the issues and try to close the gap with the union groups.

The Hon. DANIEL MOOKHEY: Which, of course, is welcome. But, equally, are you retaining the same rights and prerogatives when it comes to Sydney Trains?

ROB SHARP: With Sydney Trains, we would certainly like to arrive at an agreement as well. Probably the difference between the two is that there is a brand-new fleet that is associated with the enterprise agreement with NSW Trains, so that is a different parameter.

The Hon. DANIEL MOOKHEY: A distinguishing issue, yes.

ROB SHARP: A distinguishing issue. Thank you.

The Hon. DANIEL MOOKHEY: But you would otherwise retain the prerogative to go to a vote of Sydney Trains members, even if the union was actively opposed to that course of action?

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ROB SHARP: Look, the options are always there, Mr Mookhey. As you said, that is an option that is allowed. But, as I said, we would prefer to arrive at an agreed position. Now, whether we can get there or not, that is subject to the industrial discussions that we are putting in place and we are committed to weekly meetings and a structure there. The Minister is committing to meeting with the unions regularly as well. So I believe we are putting the structures in to try and facilitate that outcome.

The Hon. DANIEL MOOKHEY: Fair enough. But there is one option that has been taken off the table, and that is an application to terminate the agreement?

ROB SHARP: We are certainly not pursuing that.

The Hon. DANIEL MOOKHEY: Have you ever pursued it? Have you ever sought advice on that option?

ROB SHARP: No.

The Hon. DANIEL MOOKHEY: Can we guarantee, right now, no such work is underway?

ROB SHARP: There is no work underway. But, once again, options are options under the Act, right? So—

The Hon. DANIEL MOOKHEY: But the Minister has made it clear that he has made the discretionary choice and he has given us this commitment this morning, and he has given this panel his commitment to the unions. Mr Collins, did you witness that?

HOWARD COLLINS: I did.

ROB SHARP: Did you watch it?

HOWARD COLLINS: I did, yes.

The Hon. DANIEL MOOKHEY: So we can assure that at no point in the current dispute there is going to be an application to terminate the agreement coming from the Government? We can be absolutely certain of that?

ROB SHARP: Well, the Minister has made a comment on that. We provide advice to the Minister.

The Hon. DANIEL MOOKHEY: And you have got to follow the Minister's direction?

ROB SHARP: Yes, if the Minister directs us, we certainly follow that.

The Hon. DANIEL MOOKHEY: Mr Collins, do you agree?

HOWARD COLLINS: I think the important thing is, stepping back a little here, if—

The Hon. DANIEL MOOKHEY: Well, we can step back—

HOWARD COLLINS: But let me just—

The Hon. DANIEL MOOKHEY: —but can you first answer the step-forward question and then we will step back? Why don't we do that?

HOWARD COLLINS: I will answer the question, but let me give you a scenario. Because if, for example, the union said, "We want 25 per cent" and you would—

The Hon. DANIEL MOOKHEY: Well, now you are talking hypotheticals and I am speaking direct.

HOWARD COLLINS: You would not lock yourself in to say, "We're never going to termination."

The Hon. DANIEL MOOKHEY: Well, that is what the Minister said. So, to be clear here—he has said this, he said this to us a few hours ago—you are not taking any steps to terminate the agreement?

HOWARD COLLINS: It is factually true and certainly—

The Hon. DANIEL MOOKHEY: And you are not contemplating it either?

HOWARD COLLINS: —from my position, I have not been instructed or had any advice whatsoever to take that course of action that you are suggesting.

The Hon. DANIEL MOOKHEY: And right now the unions are not asking for a 25 per cent pay increase, to be clear?

HOWARD COLLINS: No, that is true.

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The Hon. DANIEL MOOKHEY: Thank you.

The Hon. JOHN GRAHAM: I was just going to return to that ferry issue, Mr Collins.

HOWARD COLLINS: Yes.

The Hon. JOHN GRAHAM: I was heading towards five o'clock, but we have slightly longer. What is the maximum swell height that those three ferries can currently operate in, with passengers, on the run to Manly at the moment?

HOWARD COLLINS: I believe the risk assessment will be to four metres, which is a similar swell height to the current Freshwater class. But, as masters would tell you—and I am not a master of vessel but a fairly experienced sailor—it is not just about swell height; it is about swell transmission and interval, and it is also about currents, weather conditions.

The Hon. JOHN GRAHAM: Yes.

HOWARD COLLINS: So, as you know, the important thing is—

The Hon. JOHN GRAHAM: I think you have answered—

HOWARD COLLINS: —it is the master's decision, but the assessment was to four metres.

The Hon. JOHN GRAHAM: I was going to invite you to give some rapid information on the light rail vehicles, if that is possible?

HOWARD COLLINS: With pleasure.

The Hon. JOHN GRAHAM: What is the time frame to repair the 12 vehicles that are currently off the tracks due to cracking?

HOWARD COLLINS: We have shared information to say that by 30 June six vehicles plus one spare we are hoping will be available of the original fleet, but we are in discussion at the moment with ALTRAC regarding the option of a mixed fleet operation. At the moment I am sure you are aware, Mr Graham, that we cannot do that because we have one tram line with a tram wheel profile and one with a heavy rail profile. We are in discussions with that; that has not been agreed yet. And then the final completion of all vehicles, Urbos vehicles, to be complete by the end of October, and at the moment we are on schedule.

The Hon. JOHN GRAHAM: Thank you. Have any of the vehicles been decommissioned as part of that?

HOWARD COLLINS: For the Urbos fleet, they obviously have all been temporarily taken out of service, as we know, from the end of October, and we are in the process of repairing those vehicles.

The Hon. JOHN GRAHAM: Yes. So they will all be repaired. None will be decommissioned?

HOWARD COLLINS: Absolutely.

The Hon. JOHN GRAHAM: That is not part of the consideration.

HOWARD COLLINS: That again was another rumour put around by the media. They are going to be all repaired.

The Hon. JOHN GRAHAM: Understood. Is it a consideration that you might integrate those two lines?

HOWARD COLLINS: I think it is a worthy consideration, ALTRAC, the owner, to come to us with proposals. It obviously would give more flexibility and they will obviously put that proposal to us.

The Hon. JOHN GRAHAM: Understood. Are the four additional vehicles which are ordered for the Inner West Light Rail still on track to be delivered and when?

HOWARD COLLINS: Absolutely. On the basis of that order being in line with the Parramatta stage one order, those additional four vehicles are on track. I think we are talking about 2023. Whilst they have the same name, Urbos, they are an all-aluminium design, significantly different from the current fleet.

The Hon. JOHN GRAHAM: Have any of the contractors admitted to any fault at all at the moment? What is the latest on that?

HOWARD COLLINS: Absolutely no. We are still in the testing and diagnostic phase of that through all parties—

The Hon. JOHN GRAHAM: Understood.

CORRECTED

HOWARD COLLINS: And I think we have got great progress in the fact we put those issues to one side, for the benefit of the customer, to do the repairs and then obviously in due course people will find out who is responsible.

The Hon. JOHN GRAHAM: Understood. Do you have an update on legal costs incurred to date?

HOWARD COLLINS: I cannot provide those at this stage.

The Hon. JOHN GRAHAM: Would you take that on notice?

HOWARD COLLINS: I will see what is available for us to provide at this stage on notice.

The Hon. JOHN GRAHAM: Why is it the case that there are still continuing issues with these vehicles on the Inner West Light Rail line, given that the overseas experience—and that is the Birmingham to Wolverhampton line—is that there they are operational? Here we are still having issues. Do you want to provide some context there?

HOWARD COLLINS: Well, the discovery of the significant cracks was much earlier in Birmingham than the discovery that was made by the maintainer, Alstom, and they had a much sort of improved lead time for that. They have only just started to return their fleet. They did try a temporary repair, but that failed, and they shared that with us. And I would say the progress we are making has been much improved through their support and the lessons they learned.

The Hon. JOHN GRAHAM: Thank you for those answers. I will stop there.

The Hon. DANIEL MOOKHEY: Mr Sharp, can we get, firstly—I presume you do not have this on hand so you might need to take this on notice—what was the cost of the application that was made last week?

ROB SHARP: I will have to take that on notice.

The Hon. DANIEL MOOKHEY: You retained three counsel for the matter last weekend?

ROB SHARP: I am not privy to that. I think it is actually through the specialist group that handles that. So I will have to take it on notice.

The Hon. DANIEL MOOKHEY: Sure. I believe one of them is MFC. Can we find out how much the costs were for MFC? Baroni was the other one. And can we also find out the cost to the third one, whose name I will certainly mispronounce, but it is available on the transcripts as to who represented you as well, for each of the three days that you were represented.

ROB SHARP: Yes.

The Hon. DANIEL MOOKHEY: Can we also on notice—I think this is my last question—get the full cost, legal cost to date in relation to the dispute around this enterprise agreement as at May 2021?

ROB SHARP: Yes, I will take all that on notice. Chair, if I could just table two documents?

The CHAIR: Please.

ROB SHARP: Mr Mookhey, you were wanting to have tabled the emails that I referred to earlier.

The Hon. DANIEL MOOKHEY: Yes, please. Thank you very much. Any further information on them that you have afterwards, you will provide that?

ROB SHARP: Yes. I will take those on notice as well and provide those.

The Hon. DANIEL MOOKHEY: Yes.

ROB SHARP: There was also some media around whether we have acted within the Transport Act. I did ask for some legal advice on that, and I am tabling that. The advice is that we have acted within the Act. I just want to make sure that is on the record because that is a very important question that was open at the moment.

The CHAIR: That brings us to the end of Opposition and crossbench time. Do Government members have any questions?

The Hon. SCOTT FARLOW: Yes, we do, Madam Chair. Mr Sharp, you indicated earlier to Mr Mookhey that you were provided with the Minister's contact number in the early days by the secretary of the Premier's office. Is that correct that you indicated that?

ROB SHARP: Yes, that is right.

CORRECTED

The Hon. SCOTT FARLOW: You further provided evidence that you only received the Minister's mobile number about a week or two ago by the Minister's office and before the shutdown, after follow-up emails which may be in that document bundle to Mr Mookhey. Is that correct?

ROB SHARP: There are a couple of things that have been raised today. The question was whether I had been provided in December the phone numbers. My recollection was that I had not because my secretary was chasing the details in early February. That was my recollection. I provided that feedback. Is that the question that you were after?

The Hon. SCOTT FARLOW: I just want to present to you, Mr Sharp—if we could hand this document up, please.

The Hon. DANIEL MOOKHEY: Point of order: Can I ask the member to identify, as is standard practice, the source of these documents?

The Hon. SCOTT FARLOW: The source of these documents is the Minister's chief of staff. This is a text message from the Minister's chief of staff—

The Hon. DANIEL MOOKHEY: Do we have a copy of that for tabling?

The Hon. SCOTT FARLOW: —to somebody who I will not identify out of respect for that person, similar to the—

The Hon. DANIEL MOOKHEY: Sorry, can we see that document?

The CHAIR: Order! If you could just wait till we have the documents. Thank you, Mr Farlow.

The Hon. SCOTT FARLOW: Sure.

The Hon. DANIEL MOOKHEY: It is annoying, isn't it?

The Hon. SCOTT FARLOW: The shoe is on the other foot now. Mr Sharp, can I just clarify that the person indicated at the top of that text message is indeed, or was indeed at the time, your chief of staff? Is that correct?

ROB SHARP: In December, yes, she was acting head of the office of the secretary, correct. I see the text message there. I certainly do not recollect that. It does coincide with my comments that I had asked my secretary to ask for the details later. I must admit, I was on leave at this time as well, so that could be part of it.

The Hon. SCOTT FARLOW: Just for those playing at home, effectively, this text message is the chief of staff of the Minister providing the Minister's mobile number to what was then your chief of staff on Friday 24 December at 12.38 p.m.

The Hon. JOHN GRAHAM: One of the Minister's mobile numbers.

The Hon. TAYLOR MARTIN: He has one.

The Hon. SCOTT FARLOW: I only know the Minister to have one. So, anyway, it is a mobile number of the Minister, provided—

The Hon. DANIEL MOOKHEY: To be fair, it says here to use this one.

The Hon. SCOTT FARLOW: I only know him to have one. But, anyway.

The CHAIR: Order!

The Hon. JOHN GRAHAM: But it is material.

The Hon. SCOTT FARLOW: It is one number, which is very different to the evidence that has been presented before this Committee.

ROB SHARP: Yes, and I acknowledge that. As I said, I have recollections of and I am sure there will be some email chains there with my secretary asking for the number. Clearly, there is a disconnect in terms of the communication around this.

The Hon. SCOTT FARLOW: Indeed, Mr Sharp. Further to that, as you expressed, you were on leave at the time that this was sent through, so that is completely understandable. You are entitled to leave, of course. And then you returned from leave on what date was it?

ROB SHARP: I would have to look back. I had two weeks' leave. We basically closed the offices, and then I caught Omicron and I was in isolation.

CORRECTED

The Hon. SCOTT FARLOW: As have many.

ROB SHARP: Yes. I was in isolation briefly. As soon as that finished, I returned from the holiday.

The Hon. SCOTT FARLOW: Your first day back on deck, so to speak, was around 24 January, when you sent that text message—

ROB SHARP: I would have to look up my diary to look at that, yes.

The Hon. SCOTT FARLOW: Thank you. I will just turn now to Mr Mookhey's tender bundle. Have you still got that?

ROB SHARP: I do.

The Hon. SCOTT FARLOW: We will just go through some of the sequences of events. The evidence you provided to the Committee is that there was a Teams meeting, I believe, between 9.30 p.m. and 11.00 p.m. Is that correct?

ROB SHARP: Yes. That is correct.

The Hon. SCOTT FARLOW: I think that is referred to as well in, perhaps, tender document 007.

ROB SHARP: Yes.

The Hon. SCOTT FARLOW: If we start off with the first document, there was a text message sent from Ms Bourke-O'Neil to the Minister's chief of staff. In that text message it indicated—and that is tender document 001 on the first page. In that text message at 10.43 p.m. it indicates that there will be massive disruption expected in the morning. Do you see that?

ROB SHARP: Yes.

The Hon. SCOTT FARLOW: Was there any mention in this text message of the network being shut down, from what you can see?

ROB SHARP: Not in the text message, no. As we tabled in our evidence, Ms Bourke-O'Neil's evidence was that she had conveyed that verbally. That has been tabled in that time line.

The Hon. SCOTT FARLOW: I think it was your evidence and Mr Longland's evidence that Ms Bourke-O'Neil, following that conversation, came back into that Teams meeting from 9.30 to 11.00 p.m. Is that correct?

ROB SHARP: Correct, yes.

The Hon. SCOTT FARLOW: The challenge comes down to this, in a sense—and it is not shown on this document bundle. At 11.10 p.m. was when Ms Bourke-O'Neil sent the text message saying, "You ok for call in 2 mins?"

The Hon. DANIEL MOOKHEY: Yes, it is there, actually. It is 001B.

The Hon. SCOTT FARLOW: Sorry?

The Hon. DANIEL MOOKHEY: It is there, actually. It is tendered document 001B.

The Hon. SCOTT FARLOW: No, in terms of the timing.

The Hon. DANIEL MOOKHEY: Yes, it is there.

The Hon. SCOTT FARLOW: I cannot see it.

The Hon. DANIEL MOOKHEY: It is on tendered document 001A. There is tendered document 001. There is also tendered document 001A, and that is the timestamps.

The Hon. SCOTT FARLOW: I cannot see that, at least in the printing that I have got in front of me, but fair enough. That was at 11.10 p.m., so after that meeting. Then a call took place, I am informed, at 11.12, between Ms Bourke-O'Neil and the Minister's chief of staff. Then the sequence of events is that, at 11.30 p.m., the Minister was spoken to by his chief of staff about the issue. They had not spoken prior to that point. Then you will see, in tendered document 001B, that the Minister's chief of staff then indicates to the Premier's chief of staff, "Sorry for the late text. There will be significant disruptions to the rail network tomorrow." She explicitly states in that text, "Advice is that we will not be able to run many trains." Why on earth would the Minister's chief of staff indicate that if the Minister's chief of staff had in fact been told that the network would be shut down the next day?

CORRECTED

ROB SHARP: Yes, that is the misunderstanding conversation that we talked about extensively this morning. You have got one person who indicates that she made these comments and has documented those—that is her view—and what she documented in the document went to the Premier. Then you have got a chief of staff who indicates that is not what she was told. There is clearly a misunderstanding—

The Hon. SCOTT FARLOW: That chief of staff, who has contemporaneous evidence, effectively, to show that was not her understanding at that point in time.

ROB SHARP: Yes. The Minister highlighted that this morning. The Minister and I absolutely agree on that. There has been a disconnect there. That was the subject of the discussion with the Premier on the process improvements around that particular activity. That aligns with what we spoke about this morning.

The Hon. SCOTT FARLOW: Mr Sharp, in contrast, you were very clear in your text message to the Secretary of the Department of Premier and Cabinet at 11.50 p.m. that evening, where you state in your text—I think this appears as tendered document 002—that, "The rail network will not operate tomorrow."

ROB SHARP: As I said, that is consistent with the evidence we have provided today.

The Hon. SCOTT FARLOW: In terms of the advice—and I am sure that this will be canvassed when we come to the Minister for Regional Transport and Roads' estimates—his evidence before the House to the Hon. Penny Sharpe's question was that the first he learned of it was in media reports the next day as well. However, we have heard evidence that there were briefings that happened with his chief of staff that night. Would it have been put to him in similar terms as Ms Bourke-O'Neil put it, that it would be a massive disruption rather than a complete shutdown of the network?

ROB SHARP: Just bear with me one moment. I have a note somewhere absolutely articulating the feedback from Deputy Secretary Fuller.

The Hon. DANIEL MOOKHEY: You can table that note.

The Hon. JOHN GRAHAM: I think it is in the documents he has been—

ROB SHARP: Deputy Secretary Fuller provided the chief of staff of the regional area with a briefing of the scenario. This included an update on the situation, advice received, network closure and anticipated disruption and comms. It confirmed that they would play a supporting role to the transport Minister's office and did not need to approve the comms but just wanted to be across them. That is the feedback that was documented from the deputy secretary for ROM. The communication was to the chief of staff, and that included that the regional operations would be continuing.

The Hon. SCOTT FARLOW: In terms of that 9.30 to 11.00 p.m.—and I think perhaps either 11.00 or 11.15 p.m.—it was indicated that Ms Bourke-O'Neil came back into that meeting and indicated that the Minister's officers had been what? Had they been briefed at that time? I think there was some view that they consented to the action. Is that correct?

ROB SHARP: She said she had spoken to the chief of staff in Minister Elliott's office and then subsequently indicated there was a text message confirming that the Minister had approved the position. We interpreted that as the Minister had approved or was aware of the position as we were articulating it. As discussed this morning, clearly there was a disconnect between the two chiefs of staff on that point.

The Hon. SCOTT FARLOW: Yes, and the Minister had of course indicated that his view was that was the listing at the Fair Work Commission, or the relisting at the Fair Work Commission.

ROB SHARP: Yes, he did say that. Yes.

The Hon. SCOTT FARLOW: Indeed. That was the Minister's evidence to the inquiry. But from this outline of events, the Minister was not told or communicated with from his chief of staff until 11.30, and then that text message came subsequent to that back to Ms Bourke-O'Neil. So that could not possibly have happened between that 9.30 to 11.00 p.m. Teams meeting, could it?

ROB SHARP: No. There were ongoing conversations right through till—it was up to 3.00 a.m. She came back and provided, as did Mr Fuller, that they had confirmed the verbal conversations and confirmed they had contacted the chiefs of staff, which was what we were wanting to do at that point in time. When the text came through she advised us of that, which gave us comfort that the Minister had been advised. Subsequently we sent the communications material, which very clearly set out that the rail system was not going to operate the next morning, and that was at 1.33, which is the next communication that took place.

The Hon. SCOTT FARLOW: Mr Sharp, there has been quite a bit of discussion today in terms of the communications protocol with the Minister's office. How was that advised to you? Who advised that to you?

CORRECTED

ROB SHARP: That was reinforced through the chief of staff in interactions in the early days, and also through my chief of staff as well.

The Hon. SCOTT FARLOW: Was that put explicitly that this was the form of communication?

ROB SHARP: No.

The Hon. SCOTT FARLOW: Did the chief of staff say that to you or to your chief of staff at the time? How did this come to an understanding?

ROB SHARP: It was not in writing. There was not a specified process, but it is a protocol. That has, as you can see through the evidence, played out in terms of the interactions that did or did not take place between the Minister and myself over recent months.

The Hon. SCOTT FARLOW: Mr Sharp, just looking at that, was that conveyed explicitly to you from the Minister's chief of staff or was that conveyed from the Minister's—or is the assertion that it was from the Minister's chief of staff to your chief of staff at the time, and then conveyed to you from your chief of staff? How did that come about?

ROB SHARP: As I said, it is not in writing. So it has been conveyed through—

The Hon. SCOTT FARLOW: But it was conveyed in some form—in verbal form, at least?

ROB SHARP: A lot of these things are through verbal conversations.

The Hon. SCOTT FARLOW: Or is the vibe or what?

ROB SHARP: Sorry?

The Hon. SCOTT FARLOW: I am just trying to—is it the vibe?

ROB SHARP: No, it is not the vibe.

The Hon. SCOTT FARLOW: What was this communication to you that led you to have this impression that there was a protocol in place in terms of communication?

ROB SHARP: Requests for meetings and meetings not occurring, reinforcing to go through Tanya. I can also ask others to provide some comments to give more colour to the protocol, but this was an operational behaviour, is how I would describe it, and reinforced. It is not a protocol as a documented process.

The Hon. SCOTT FARLOW: But this was just changed from—

The Hon. DANIEL MOOKHEY: Point of order: The secretary had not completed his answer. The Hon. Scott Farlow should practise what he preaches here.

The CHAIR: I uphold the point of order. Mr Sharp, could you finish your answer, please.

ROB SHARP: Thank you. The way that you interact with any chief of staff's office varies between each of those staffs, and that is through discussions. So the very first people you meet are the chief of staff. Very early on we were explicitly told to interact with Tanya—sorry, the chief of staff—and to provide information through her. That has been reinforced over time, particularly with meetings that were requested and did not get held, and that information was always passed through the chief of staff. So there is a pattern there that I would describe as a protocol, but it is a pattern there that reinforces that behaviour or that outcome that occurred.

The Hon. SCOTT FARLOW: But, Mr Sharp, this has gone from what was conveyed to the Committee as an explicit request or a protocol, now to a pattern of behaviour that you came to understand and, interpreted in a certain way, was a way of operating.

ROB SHARP: Correct. A protocol is that. A protocol is actually an expected way of operating. It is not a standard—

The Hon. SCOTT FARLOW: Usually with an explicit request, though.

The CHAIR: We have run out of time. Thank you very much for spending all day with us, again.

The Hon. DANIEL MOOKHEY: Let us do it again in a week.

The CHAIR: I think we will do it again in a week. Thank you very much. To the extent that there were questions taken on notice—I think there were quite a few—our Committee secretariat will be in touch to discuss those. Have a good weekend.

(The witnesses withdrew.)

CORRECTED

The Committee proceeded to deliberate.