

Document tendered by
 HON DANIEL MOOKHEY MLC
 Received by
 YAJUN MA
 Date: 04 / 03 / 2022
 Resolved to publish Yes / No

soon - need to jump on call with Secretary and the Dep sec of regional plus our head of HR to confirm some facts - then I'll call straight after. Trevor Seymour working on comms.

10:43

Thanks Meg

10:50

You ok for call in 2 mins ?

11:10

Yep, no problem

11:10

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

11:37

Delivered

Thank you so much
We are working on Comms now and will make sure your guys get the clear lines for minister tonorrow.

11:39

Text Message
Yesterday 10:08 am

You missed a call, but the caller didn't leave a message.

10:08

iMessage

Morning Tanya
Could you give me a quick call re

Thanks. Good to keep this operational. Well done

8:12 pm

Sunday 11:43 pm

Hi Bran and Miranda - sorry for the late text. I just got off a teleconference with TfNSW. TfNSW and DT will re-submit an application for termination tomorrow morning given the games that the RTBU have played all day.

There will be significant disruptions to the rail network tomorrow.

Advice is that we will not be able to run many trains.

Matt Longland, CEO Sydney Trains, will do media very early tomorrow morning advising people to avoid using trains. TfNSW med rel is currently being drafted, which I'll share.

It's going to be a rough one or two days. Will keep you posted. Thanks.

11:43 pm

Monday 5:23 am

Bran Black

Thanks Tanya

5:23 am

Monday 8:02 am

Screenshot 2022-02-28 at 2.45.36 PM

Tender documents 002

From: Personal Information
To: [Redacted]
Date: Mon, 28 Feb 2022 14:45:56 +1100

CAUTION: This email or text from an external source. Do not click any links or open attachments unless you recognize the sender and know the content is safe.

2:45



Michael



Fri, 18 Feb, 11:00 AM

Running three mins late



Sun, 20 Feb, 11:50 PM

Michael. Apologies for texting late. The RTBU today has taken an approach in conflict to the agreed arbitration outcome from Saturday. An

urgent commission hearing was called for 8pm tonight however the unions have purposefully not attended. The rail network will not operate tomorrow. Ministers have been informed. Another conciliation session has been called for 9am. We continue to work with the Minister for IR and team. We will be in tandem lodging an application for termination of



iMessage



Screenshot 2022-02-28 at 2.46.17 PM

From: Personal Information
To: [Redacted]
Date: Mon, 28 Feb 2022 14:46:32 +1100

CAUTION: This email is sent from an external source. Do not click any links or open attachments unless you recognize the sender and know the content is safe.

2:46

4G



Michael >

to work with the Minister for IR and team. We will be in tandem lodging an application for termination of all industrial action across all unions. Rob

Mon, 21 Feb, 7:15 AM

Morning MCT

Media management is in occurring for the rail strike this morning but In related



David Elliott

February 20 at 11:10 PM

Mardi Gras is a celebration of tolerance, and I applaud that! Having police mock the Catholic Church as part of that celebration is hardly in the spirit of Mardi Gras. I'm not a member of Catholic Church but I have to say seeing them vilified by my own Government like this is not something I can condone. One wrong turn does not deserve another. A sad day.

9:45



Instagram



Liked by m4n1_____ and others

nswpolice Had so much fun at today's #MardiGras2022 #FairDay - thanks for coming down and saying hello!

View all 81 comments

Screenshot 2022-02-28 at 2.50.27 PM

From: **Personal Information**
To:
Date: Mon, 28 Feb 2022 14:50:44 +1100

CAUTION: This email contains information that may be confidential or otherwise subject to legal privilege. If you have received this email in error, please do not disseminate, distribute or copy this email. If you have received this email in error, please notify the system manager.

2:50

4G

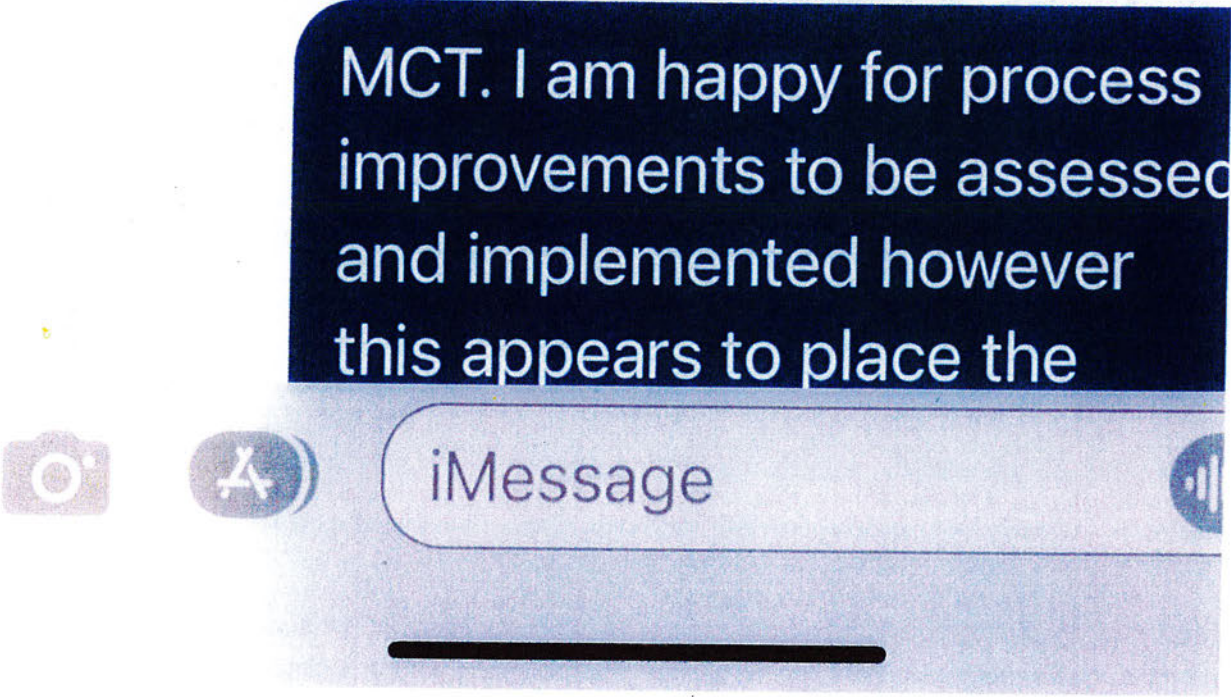


Michael >



Premier is going to be asked what happened and what he's done about it. He proposes to say that there's been a failure of process and as a result both TFNSW and the minister thought they'd done the right thing and were clear about the agreed course of action. The advice that the network had to be shut down for safety reasons should have been put in writing and

should have been endorsed by the minister in writing. DPC will work with TfNSW to ensure there are appropriate communications between the agency and MO on major issues affecting customer service.

A screenshot of an iMessage conversation. The message is contained within a dark blue bubble. The text of the message is white. Below the message bubble is a light blue input field with the word "iMessage" in a grey font. To the left of the input field are icons for a camera and a microphone. To the right is a signal strength icon. A black horizontal bar is visible at the bottom of the screenshot, likely representing the home indicator on an iPhone.

MCT. I am happy for process improvements to be assessed and implemented however this appears to place the

Screenshot 2022-02-28 at 2.52.24 PM

From: Personal Information
To:
Date: Mon, 28 Feb 2022 14:52:38 +1100

CAUTION: This email is sent from an external source. Do not click any links or open attachments unless you recognise the sender and know the content is safe.

2:52 ↗

📶 4G 🔋



Michael >



DPC will work with TfNSW to ensure there are appropriate communications between the agency and MO on major issues affecting customer service.

MCT. I am happy for process improvements to be assessed and implemented however this appears to place the blame on Transport. You are aware of the "process" issues I have raised with you. I think a more balanced position is that processes in the both Ministers Office and

Transport will be reviewed.

Agreed- it's end to end

Wednesday 1:34 PM

Trudi Mares

TM



Dep Sec Corp Services



iMessage



Screenshot 2022-02-28 at 3.55.24 PM

From: Personal Information
To:
Date: Mon, 28 Feb 2022 15:55:35 +1100

CAUTION: This email is sent from an external source. Do not click any links or open attachments unless you recognise the sender and know the content is safe.

3:55

4G



Tracey >

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.

Can we grab you for a call with Meg and Matt?

Yes

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



Text Message

Tanya Raffoul



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 the Dep sec of regional plus our head of HR to confirm some facts - then I'll call straight after. Trevor Seymour working on comms.

10:51 pm

Chronology

From: Susan Carroll
To: Rob Sharp
Date: Wed, 23 Feb 2022 11:35:49 +1100
Attachments: Chronology Requested by MO Elliott.docx (42.11 kB); FW: FOR REVIEW - Rail network shutdown media materials (288.26 kB); FW: FOR REVIEW - Rail network shutdown media materials (151.55 kB)

Hi Rob,
Please find attached final chronology and also the media material sent to MO Elliott for approval along with Tanya's approval at 1.33am Monday.
Regards,
Susan

OFFICIAL

Chronology

Thursday 17 February

- **12.30pm** - Minister Elliott and Chief of Staff briefed by TfNSW Executive and legal on situation, discussions with unions and options. Recommendation to lodge an application to suspend or terminate industrial action proposed and supported.

Friday 18 February

- **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 RTBU to commence 21 Feb. Noted hearing timing may occur today or over the weekend, awaiting confirmation from FWC. Minister’s Chief of Staff advises will update the Minister.
- **Circa 3pm** - FWC application filed with interim orders sought.
- RTBU releases media statement to members advising application filed.
- **6.24pm** – Minister Elliott’s Chief of Staff advised application filed and hearing listed for 12pm Saturday.

Saturday 19 February

- **12pm** - FWC Hearing commences.
- **3.28pm** – Minister Elliott’s Chief of Staff advised hearing underway and RTBU appears open to conciliation.
- Following the Fair Work Commission on Saturday, the RTBU confirmed that its members would operate the master roster weekend timetable from 21 to 27 February 2022, “as is presently scheduled.”
- **7.51pm** – TfNSW sends Minister Elliott’s Chief of Staff a report prepared by the Crown Solicitor’s Office to brief on the outcome of the hearing.

Sunday 20 February

9am – Following the Fair Work Commission conciliation between Sydney Trains, NSW TrainLink and the RTBU on Saturday 19 February, a meeting was held between Sydney Trains and union representatives.

At this meeting, it became apparent that the following point in the FWC outcome was interpreted differently by Sydney Trains and the RTBU:

- 2.1.1 *“Operating the master roster weekend timetable from 21 to 27 February 2022, as is presently scheduled”.*

Sydney Trains interpreted this as running the current enhanced weekend timetable and the schedules associated with that (as is presently scheduled).

The RTBU interpreted this as running the master rosters associated with the standard working timetable from November 2021. The result of this is we are not able to match train crew with train services. To do this would be deemed “altered working,” which is subject to a union ban.

After conducting a risk assessment, Sydney Trains and NSW TrainLink concluded the impact to the network and operations would mean an unsafe, unreliable, and unpredictable environment that would pose an unacceptable risk to customers. This risk was not mitigated by the FWC outcome due to the different interpretation.

Tender Documents 007

The matter was escalated internally at TfNSW and a number of discussions occurred through the day on progress on engagement with the unions.

- **9.30am - Sydney Trains and RTBU representatives reconvened** to try and reach agreement on this interpretation, however the RTBU maintained their position.
- **Between 11am and 3pm - Sydney Trains Executive Director, Train Crewing Hayden Donoghue made regular calls to representatives of the RTBU to seek a lift on the ban on altered working**, which would allow Sydney Trains to run the current timetable. This was in line with the Sydney Trains' request to the RTBU during conciliation, which they refused. The RTBU proposed that they would lift the altered working ban for the current Protected Industrial Action period if Sydney Trains and NSW TrainLink agreed to a number of enterprise agreement claims related to financial incentives. This proposal would require a broader RTBU caucus.
- **3pm - The RTBU's final position was communicated** to Hayden Donoghue. TfNSW, Sydney Trains and NSW TrainLink did not agree to this as it was outside of the previously agreed position across all parties.
- **4:25pm** – After receiving an update on the FWC matters from both the Chief People Officer and CE Sydney Trains, and consulting with the Secretary, Deputy Secretary Greater Sydney updated Minister Elliott's Chief of Staff there had been no satisfactory resolution to the differing interpretations making providing services very challenging and the need to go back to FWC for assistance that night.
- **7.30pm Comms update** - Trevor Seymour, Executive Director Media, spoke briefly with Minister Elliott's Chief of Staff to let her know TfNSW would prepare media materials updating on the situation post the outcome of the FWC hearing which was listed for 8pm, and that our media team would be sending these materials once completed for review.
- **8pm-9.30pm – Fair Work Commission Hearing**
No RTBU officials attended. Update provided by the Union Legal Representative at the conference before the FWC that she did not have the delegates on the line that she had on Saturday to instruct properly. Conciliation was unable to be progressed, as the subject of the disagreement was quite technical and relates to the Union interpretation of "roster as presently scheduled".
Conciliation was relisted for 9am on Monday morning.
- **10.28pm - Sydney Trains Executive Director, Train Crewing Hayden Donoghue attempted to contact an RTBU representative but could not make contact.**
- **From 9:30pm - 11pm - Transport discussions on outcome of FWC, risk assessment and options.**
Discussed FWC proceedings and outcome to date plus options on way forward in preparation for discussion with Ministers' offices. CEO Sydney Trains confirmed completion of risk assessment and confirmed impacts: network wide unsafe, unreliable, and unpredictable environment posing unacceptable risk to customers (see below). Further discussion of impacts and decision that rail services would not be able to be run for Greater Sydney and inter-city services; very limited replacement bus (Chief Operations, Greater Sydney to be investigated to confirm from earliest possible).
Confirmation of 3-5 days to program in a new rail roster; Unions have not agreed to accept altered work – sustaining rail services safely and reliably not possible. Other rostering

OFFICIAL

Tender documents 007

approaches used in recent disruptions also considered. Timeframe did not allow these to be pursued and union agreement needed. Bus replacement extremely limited (not a substitute for rail). There are no train timetables for any staffing alternative. No union delegates could be contacted (union contact ceased Sunday afternoon) to proactively explore options. The late hour on a Sunday night left the team no other options to explore.

Recommendation was that Sydney Trains would be unable to operate trains safely. This was endorsed by the Secretary TfNSW after discussing the potential alternative options that had been explored. The Deputy Secretaries were asked to brief Ministers' Chiefs of Staff on this position. Calls made (approx. 10:45pm).

- **10.43pm – Deputy Secretary Greater Sydney briefs Minister Elliott's Chief of Staff on outcome of FWC hearing and next steps**
 - Deputy Secretary Greater Sydney sends Chief of Staff a text message to advise update on outcome of FWC and also that massive disruption is expected in the morning.
 - Deputy Secretary Greater Sydney telephoned Chief of Staff, conveyed ST has assessed 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 filing for action/returning to FWC in morning; comms to be developed tonight. Advised that the CEO of Sydney Trains would try to reach the Secretary of the RTBU to ensure they are aware of the situation.
 - Minister Elliott's Chief of Staff subsequently confirmed by message that the Minister had been briefed and that he was comfortable with the position proposed.

- **From 11.35pm – 11.53pm - Sydney Trains Chief Executive attempted to contact the Secretary of the RTBU four times** at 11.35pm, 11.40pm, 11.42pm, and 11.53pm on Sunday evening, 20 February 2022. This contact was not successful.

Monday 21 February

- **12.26am** - Following the discussions on the updated risk position which was undertaken during the evening, the Sydney Trains Chief Executive wrote to the Sydney Trains Executive Leadership Team to advise that rail services could not be operated safely on Monday.
- **12.45am** - the Sydney Trains acting Chief Customer Officer briefed key operational leads on the advice from the Sydney Trains Chief Executive that rail services would be suspended.
- **1.28am - 1.33am** – TfNSW shares media release with Minister Elliott's office Sydney Trains and NSW TrainLink intercity rail passenger services will not be operational today (Monday) due to ongoing union action by the Rail, Tram and Bus Union (RTBU) making it impossible to safely operate services. Approved by Minister Elliott's Chief of Staff.
- Media engagement by TfNSW:
 - 1.53am – Media release sent out advising no trains operating on the Sydney Trains or NSW TrainLink intercity network
 - 4am - Social media posts (Twitter advising of loss of service)

Tender documents 007

- 5.20am – Matt Longland proactive ring around to radio stations with messaging about trains not operating today
 - 5.40am – Matt Longland interviewed on Ben Fordham (2GB)
 - 6am – TMC live radio crosses start with messaging about no trains operating
 - 6am – VMS and Live Traffic messaging updated to include trains messaging
 - 6.35am – Transportnsw.info updated to include messaging about trains
 - 6.45am – Dale Merrick interviewed on Triple M Central Coast
 - 7.05am – Dale Merrick interviewed on ABC Illawarra
 - 7.10am – Matt Longland interviewed on ABC Radio
 - 7.20am – VMS near affected roads updated to reflect Transit Lane messaging
 - 7.25am – Messaging provided to Minister Ward's office about Transit Lanes
- 9am – FWC conciliation resumes.

Tender documents 007

Safety risk assessment

After conducting a full risk assessment for the period of protected industrial action on Thursday 17 February, Sydney Trains updated the risk position during executive operational discussions during the evening of Sunday 20 February as the extent of industrial action became clear, resulting in the conclusion that the impact to the network and operations would mean an unsafe, unreliable, and unpredictable environment that would pose an unacceptable risk to customers.

The key risks included:

A) Timetables for trains not matching train crew schedules or rosters

The lack of an agreed roster for train crew (drivers and guards) would require the allocation of schedules to train crew in real time, while trains were being dispatched into operational service across multiple train crew depots across the network. The allocation of this scale of work to operate a rail timetable with more than 2,500 services in real time has never previously been undertaken by Sydney Trains and would be considered very high risk.

Allocation of work to train crew without an agreed roster for staff would result in compounding delays when trains entered service, as a result of the need for drivers and guards to take meal breaks without relieving train crew to continue service on that train, particularly without the ability to apply alterations to the working pattern of shifts, transpositions to allow timetabled services to be amended on the day of operations or the use of train crew from other depots (foreign depot working) which were all included as part of the industrial action.

What would result is trains and passengers stranded at different parts of the rail network as timetabled services progressively deteriorated throughout the day, ultimately leading to the full suspension of services – leaving all customers (including children and school students) unable to complete their trips.

B) An inability to adequately respond to incidents on the network

One of the first safety measures undertaken when responding to incidents on the network is the stopping of normal train running, making the section of line safe and re-routing of trains around the incident.

Examples of incidents that can occur regularly across the rail network include medical incidents experienced by customers, trespassers in the rail corridor, infrastructure faults, signal faults, level crossing incidents, rollingstock failures and other emergency services events like self-harm incidents.

The ban on altered working and ban on issuing or receiving transpositions would result in trains becoming congested across the rail network with no way of re-routing around incidents and result in cascading delays until whole sections of the rail network would need to suspend operations.

C) Overcrowding at stations

Running a heavily reduced service due to industrial action would likely result in crowding at CBD stations including Town Hall and Wynyard. Along with the risk of COVID transmission, the following safety issues should be considered:

- Increased Fire Life Safety risks at underground train stations. Sydney Trains may also not be able to open stations if qualified people are unable to attend work

Tender documents 007

- Difficulty identifying and caring for vulnerable customers in a crowd
- Crowding leading to customer-initiated violence and anti-social behaviour – arguments, fights, threats to station staff (which occurred today)
- Difficulty boarding and alighting customers with mobility issues
- Limited services requiring frequent termination of trains at end points like Bondi Junction.

Terminations increase the risk of customers being overcarried into yards and tunnels which are hot and can be dangerous.

Further, in April 2020, the NSW Audit Office released a report into platform crowding. Recommendations included implementing Customer Management Plans which instruct staff in how to effectively move and manage crowds. Effective control relies on a frequency of service. It also relies on a minimum number of staff. If travel is difficult this will become difficult to resource.

D) Customers left at risk by being left stranded at stations for long periods of time for services that don't arrive.

The wait time on stations is variable to the particular situation. Customers at Parramatta and Westmead stations waited over 3 hours when a trespasser threatened to jump onto the track from an overhead bridge. Access to the track is dependent on many factors but none more important than the attendance of the Incident Rail Commander (IRC) and the make safe of the line by the signaller. Any Industrial action that increases the response time of the IRC or decreases the efficacy of the signalling staff will detrimentally impact on the wait time for the customer.

From: Michael Coutts-Trotter
Sent: Tuesday, 22 February 2022 6:44 AM
To: Bran Black
Subject: Fwd: Rail Industrial Action Summary Note Feb 20-21 22
Attachments: Rail Industrial Action Summary Note Feb 20-21 22.docx

Hi Bran,
Sent again.

With my best regards,
Michael Coutts-Trotter
Secretary
NSW Department of Premier and Cabinet

From: Rob Sharp
Sent: Tuesday, February 22, 2022 1:07:47 AM
To: Michael Coutts-Trotter
Subject: Rail Industrial Action Summary Note Feb 20-21 22

MCT

Attached is a summary of the Chronology for Sunday evening 21/2/22 and related context.

There was ongoing consultation with the COS throughout the day. I have included text message confirming Minister Elliott's approval. The context of this briefing / discussion is also included.

The meeting where other operational considerations were assessed is noted. Also included is more detail re the operational and safety risk assessment considerations.

Thanks
Rob

Rob Sharp
Secretary
Transport for NSW

M E



Transport
for NSW



I acknowledge the Aboriginal people of the country on which I work, their traditions, culture and a shared history and identity. I also pay my respects to Elders past and present and recognise the continued connection to country.

Please consider the environment before printing this email.

This email is intended only for the addressee and may contain confidential information. If you receive this email in error please delete it and any attachments and notify the sender immediately by reply email. Transport for NSW takes all care to ensure that attachments are free from viruses or other defects. Transport for NSW assume no liability for any loss, damage or other consequences which may arise from opening or using an attachment.

Consider the environment. Please don't print this e-mail unless really necessary.

OFFICIAL

Chronology Sunday evening 21/2/22

Sunday

2.04pm – Background updates to COS (Tanya)

From: Tanya Raffoul

Sent: Sunday, 20 February 2022 2:04 PM

To: Tracey Taylor

Cc: Nat Openshaw

Rob Sharp

Susan Carroll

James

Zeng

Subject: Re: Applications by Sydney Trains, NSW Trains and Minister for Employee Relations to terminate or suspend protected industrial action

CAUTION: This email is sent from an external source. Do not click any links or open attachments unless you recognise the sender and know the content is safe.

Thanks Tracey.

Kind regards

Tanya Raffoul
Chief of Staff
Office of the Hon David Elliott MP
Minister for Transport
Minister for Veterans Affairs

Tel:

Mobile:

On 19 Feb 2022, at 7:51 pm, Tracey Taylor

wrote:

OFFICIAL: Sensitive - Legal

Evening

Please see below report back from Crown Solicitors on the FWC Conciliation that occurred today on the application made by Sydney Trains, NSW Trains and Minister for Employee Relations to terminate or suspend the upcoming protected industrial action.

Should you have any queries, please give me a call.

Kind regards, Tracey

Tracey Taylor
Chief People Officer
People and Culture Division
Transport for NSW

Tender Documents 008

M E

transport.nsw.gov.au

7 Harvest Street
Macquarie Park NSW 2113

6.20pm Further background briefing of COS (Tanya)

From: Tanya Raffoul
Sent: Sunday, 20 February 2022 6:20 PM
To: Susan Carroll
Cc: Rob Sharp Tracey Taylor
Subject: Re: [UNSCANNED CONTENT]IR submissions - OFFICIAL: Sensitive - NSW Cabinet

CAUTION: This email is sent from an external source. Do not click any links or open attachments unless you recognise the sender and know the content is safe.

Thanks Susan

Kind regards

Tanya Raffoul
Chief of Staff
Office of the Hon David Elliott MP
Minister for Transport
Minister for Veterans Affairs

Tel:
Mobile:

On 17 Feb 2022, at 2:20 pm, Susan Carroll

wrote:

OFFICIAL: Sensitive - NSW Cabinet

OFFICIAL: Sensitive - NSW Cabinet

Dear Tanya,

page 4 of 11

OFFICIAL

Tender Documents 008

Please find attached the cabinet submissions we noted (IR related ERC considerations). Remaining documents to follow shortly.

Kind regards,
Susan

7.30pm Comms update

Trevor Seymour, Executive Director Media, spoke briefly with Tanya to let her know we would prepare media materials updating on the situation post the outcome of the FW hearing which was slated for 8pm, and that our media team would be sending these materials to their on call person once completed.

The talking points and media releases were then prepared and following input and sign-off by executive team were sent early on Monday morning to the MO for final approval, which followed shortly afterwards.

8pm – Fair Work re-convened

FWC hearing ended at 930pm.

9:30pm – Transport EA team next steps discussion

Attending: Deputy Secretaries GS and ROM, CEOs Sydney Trains and NSWTL, Chief People Officer, Director Legal and Industrial Strategy and other members of IR, ST and NSWTL teams

- Update provided by the Union Legal Representative at the conference before the FWC that she did not have the delegates on the line that she had on Saturday to instruct properly. Conciliation was unable to be progressed, as the subject of the disagreement was quite technical and relates to the Union interpretation of "roster as presently scheduled". At the end we were faced with two options – one was to enforce the agreement and two to press on with termination of protected industrial action applications. Either way conciliation was relisted for 9am on Monday morning.
- Impacts presented by rail CEOs re provision of services tomorrow – risk assessment finalised in parallel by Rail Ops teams, analysis is the safety and operations risks render the network inoperable tomorrow, unacceptable impacts for customers (refer below safety notes). Discussion of scenarios.
- Consideration of any alternatives for rail and other PT alternatives to provide service. Confirmation of 3-5 days to program in a new rail roster; Unions have not agreed to accept altered work – sustaining rail services safely and reliably not possible. Other rostering approaches used in recent disruptions also considered. Timeframe did not allow these to be pursued and union agreement needed. Bus replacement extremely limited (not a substitute for

Tender Documents 008

rail). There are no train timetables for any staffing alternative. No union delegates could be contacted (union contact ceased Sunday afternoon) to proactively explore any creative options. The late hour on a Sunday night left the team no other options to explore.

(Small group break out)

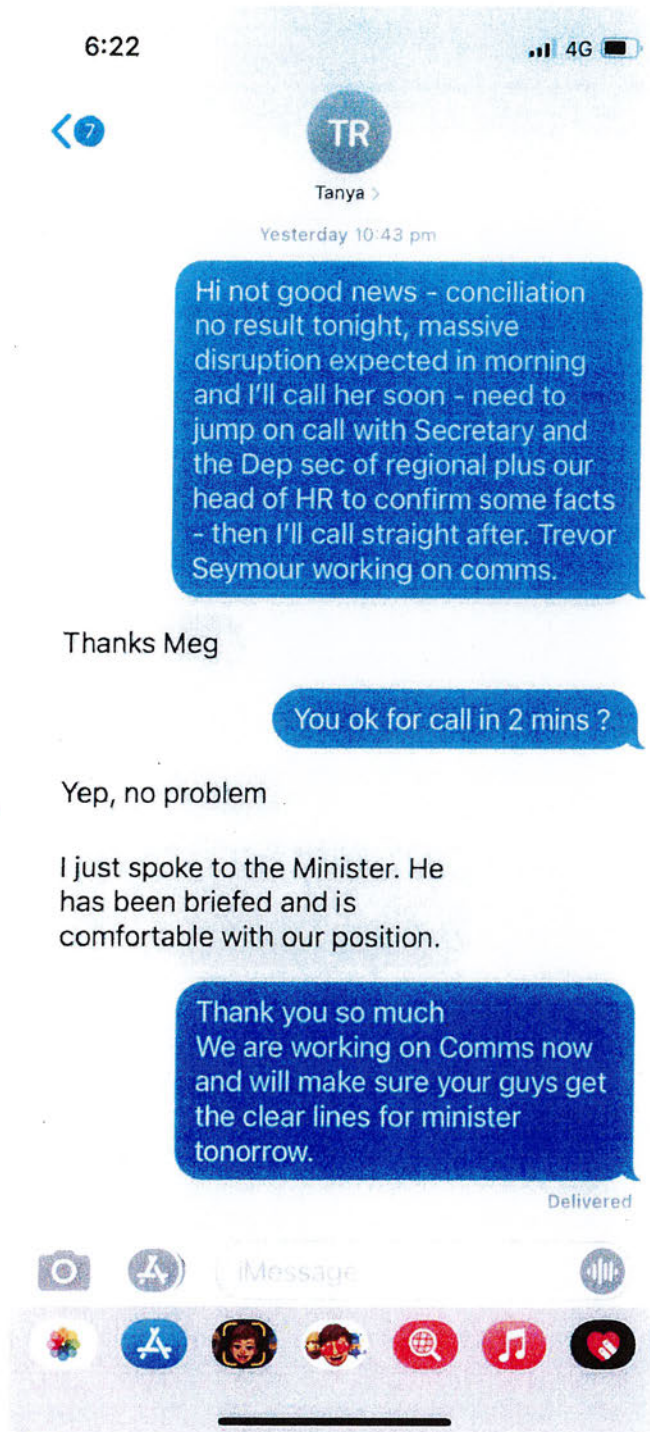
Attending: Deputy Secretaries, CPO and Sydney Trains CEO met with Secretary TfNSW

- CEO Sydney Trains confirmed completion of risk assessment and confirmed impacts: network wide unsafe, unreliable and unpredictable environment posing unacceptable risk to customers
- Further discussion of impacts and decision that rail services would not be able to be run for Greater Sydney and inter-city services; very limited replacement bus (Chief Operations, Greater Sydney investigated to confirm from earliest possible)
- Discussed FWC proceedings and outcome to date plus options on way forward in preparation for discussion with Ministers' offices
- Continued calls made from Sydney Trains CEO to Union – unanswered
- Recommendation was that Sydney Trains would be unable to operate trains safely. This was endorsed by the Secretary TfNSW after discussing the potential alternative options that had been explored). The Deputy Secretaries were asked to brief Ministers' Chiefs of Staff on this position. Calls made (approx. 10:45pm).

Matt Fuller provided COS ROM with briefing of scenario. This included update on situation, advice received, network closure (ST and intercity) and anticipated disruption, and coms strategy. COS confirmed that they would play supporting role to Transport Minister's office and did not need to approve coms, but wanted to be across them.

Meg Bourke-O'Neil contacted COS (Tanya) at 10.43 pm 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 filing for action/returning to FWC in morning; comms to be then developed. Support confirmed.

Below is the text communication between Meg Bourke-O'Neil, Dep Sec Greater Sydney, and Mr Elliott's Office when the decision was made that operations could not occur on Monday.



Safety risk assessment

After conducting a risk assessment, Sydney Trains concluded the impact to the network and operations would mean an unsafe, unreliable and unpredictable environment that would pose an unacceptable risk to customers.

Safety incidents could include:

- A) *An inability to adequately respond to significant incidents on the network*

One of the first safety measures undertaken when responding to incidents on the network is the stopping of normal train running and making the section of line safe. This can take the form of:

- stopping trains,
- isolating power to the overhead wires,
- warning other trains of people or debris in the rail corridor.

These actions are performed by signalling staff who are responsible for the orderly movement of trains. Effective running of the signal boxes currently requires regular overtime. The ban on overtime creates situations where panels may not adequately be covered and as such the first safety element is removed. Many suicides, for example, have been prevented by the quick actions of signalling staff that have notified train drivers of trespassers in the area. In the event of a derailment, it would be the initial actions of the signalling staff that would make the area safe to allow the first responders to enter and effect the rescue of victims. The recent derailment at Kembla Grange is an example.

- B) *Overcrowding at stations*

Running a heavily reduced service due to industrial action would likely result in crowding at CBD stations including Town Hall and Wynyard. Along with the risk of COVID transmission, the following safety issues should be considered:

- Increased Fire Life Safety risks at underground train stations. Sydney Trains may also not be able to open stations if qualified people are unable to attend work
- Difficulty identifying and caring for vulnerable customers in a crowd
- Crowding leading to customer initiated violence and anti-social behaviour – arguments, fights, threats to station staff (which occurred today)
- Difficulty boarding and alighting customers with mobility issues
- Limited services requiring frequent termination of trains at end points like Bondi Junction.

Terminations increase the risk of customers being overcarried into yards and tunnels which are hot and can be dangerous.

Further, in April 2020, the NSW Audit Office released a report into platform crowding. Recommendations included implementing Customer Management Plans which instruct staff in how to effectively move and manage crowds. Effective control relies on a frequency of service. It also relies on a minimum number of staff. If travel is difficult this will become difficult to resource.

- C) *Customers left at risk by being left stranded at stations for long periods of time for services that don't arrive.*

The wait time on stations is variable to the particular situation. Customers at Parramatta and Westmead stations waited over 3 hours when a trespasser threatened to jump onto the track from an overhead bridge. Access to the track is dependent on many factors but none more important than

Tender Documents 008

the attendance of the Incident Rail Commander (IRC) and the make safe of the line by the signaller. Any Industrial action that increases the response time of the IRC or decreases the efficacy of the signaling staff will detrimentally impact on the wait time for the customer.

- D) Customers left at risk due to an inability for Sydney Trains to adequately respond to significant incidents on the network

If industrial action causes trains to be stopped mid-section (ie not at a platform) this will require the passengers to be detrained onto the tracks. They will then need to walk along the ballast to the nearest stations. This is a time consuming and potentially dangerous situation, and one that will significantly impact those less mobile. A closing of a panel due to insufficient staff is an example of when this may occur.

10:45pm – midnight - Transport EA team next steps discussion

Attending: as above including Secretary

- Briefing to full group on outcomes of risk assessment, Secretary and MO positions, actions needing to be put into train, communications and customer information needed
- Path forward for comms, and tasks confirmed to implement
- Development of key messages for customers and community; steps taken through yesterday and today that resulted in this; Central media team to transact comms documents and approvals with MOs
- Discussion of options resuming at FWC listed for 9am

Monday morning

1.33am Comms material stating the rail network would not be operating approved by COS (Tanya).

From: Tanya Raffoul <>
Sent: Monday, 21 February 2022 1:33 AM
To: Rommel Varghese <>; Trevor Seymour
<Stefania Kubowicz

Subject: Re: FOR REVIEW - Rail network shutdown media materials

You don't often get email from

[Learn why this is important](#)

CAUTION: This email is sent from an external source. Do not click any links or open attachments unless you recognise the sender and know the content is safe.

Approved. Thanks.

Kind regards

Tanya Raffoul
Chief of Staff
Office of the Hon David Elliott MP

OFFICIAL

Tender Documents 008

Minister for Transport
Minister for Veterans Affairs

Tel:
Mobile:

On 21 Feb 2022, at 1:29 am, Rommel Varghese

wrote:

For approval.

Sent from my iPhone

Begin forwarded message:

From: Stefania Kubowicz

Date: 21 February 2022 at 1:28:39 am AEDT

To: Nat Openshaw

Rommel Varghese

Luke O'Donnell

Cc: Mitchell Compton

Trevor Seymour

Peta Gamon

Subject: FOR REVIEW - Rail network shutdown media materials

Hi Rommel,

Apologies for the ungodly hour.

Please find media comms attached for approval. Plan is to go out ASAP tonight alongside internal comms.

Many thanks,
Stef

Stefania Kubowicz
Media Manager
Rail Operations and Infrastructure

24-Hour Media Hotline: 02 9219 1285

1.53am – Media release sent out advising no trains operating on the Sydney Trains or NSW TrainLink intercity network

4am – Social media posts (Twitter advising of loss of service)

5.20am – Matt Longland proactive ring around to radio stations with messaging about trains not operating today

5.40am – Matt Longland interviewed on Ben Fordham (2GB)

6am – TMC live radio crosses start with messaging about no trains operating

6am – VMS and Live Traffic messaging updated to include trains messaging

OFFICIAL

Tender Documents 008

- 6.35am – Transportnsw.info updated to include messaging about trains
- 6.45am – Dale Merrick interviewed on Triple M Central Coast
- 7.05am – Dale Merrick interviewed on ABC Illawarra
- 7.10am – Matt Longland interviewed on ABC Radio
- 7.20am – VMS near affected roads updated to reflect Transit Lane messaging
- 7.25am – Messaging provided to Minister Ward's office about Transit Lanes

Screenshot 2022-02-28 at 4.05.06 PM

From: **Personal Information**
To: Rob Sharp
Date: Mon, 28 Feb 2022 16:05:18 +1100

4:05

4G



Matt



Hi Matt. Keen for any feedback from the union meeting. Thanks Rob

Hi Rob - a very long meeting, around 2hr15m. 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 stated it is 'too late' to avoid the industrial action next week. 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.



Thanks and noted. Just spoke with a Dale and got his perspective. Will call Tracey now and agree next steps. Should get Min Elliott feedback this afternoon. Thanks Rob

Text Message
Monday 5:35 pm

You missed a call, but the caller didn't leave a message.

iMessage

Hi Matt. Can you call? Need an estimate on when we would know if we can stand up an operation tomorrow. Thanks Rob

Sorry I missed you. On with Meg and Howard now. I'll get an estimate on timeframes and get back to you asap.

Monday 8:19 pm

Matt. Any feedback from Alex?
Thanks Rob

Thanks for the update Matt



iMessage

Tender documents 010

Update

From: Susan Carroll
To: Rob Sharp
Date: Mon, 21 Feb 2022 20:26:35 +1100
Attachments: Re: Applications by Sydney Trains, NSW Trains and Minister for Employee Relations to terminate or suspend protected industrial action (338.94 kB); Re: [UNSCANNED CONTENT]IR submissions - OFFICIAL: Sensitive - NSW Cabinet (4 MB)

Hi Rob,

Update since Friday afternoon as follows:

- Email of Fri at 2.48pm – advising context to date and grounds for application to FWC (inc notation on safety rationale) – see below
- Text message of Fri at 6.24pm – confirming application lodged and hearing 12pm Saturday. Attached RTBU media and advised media points of contact for the weekend.
- Email of Sat at 7.51pm – legal advice on outcome of hearing (attached)
- Text message of Monday 7.30am – further to media updates from the early morning, advised media engagement for the morning.
- Text message of Monday 5.17pm – confirming hearing listed for Wed, no interim orders. Advised calls shortly to update further.

MO Elliot thanked us for the advice of Saturday evening and as well as the ERC submissions on Sunday afternoon and evening.

Regards,
Susan

From: Susan Carroll
Sent: Friday, 18 February 2022 2:48 PM
To: Tanya Raffoul

Cc: Rob Sharp
 Freytag
 Fuller (Dep Sec ROM)
 Meg Bourke-o'neil
Subject: IR Update

Tracey Taylor
 Trevor Seymour
 Matt Longiano

Kathryn
 Matt

Dear Tanya, Nat,

Update from our IR team as follows:

The RTBU notified the rail agencies of an intention to take 9 separate industrial actions on 9 February 22. The actions comprise a number of limitations on the way rosters changes could be implemented and included bans on overtime use.

Given the complexity of the interrelationship between the various bans, the operational impact of the 9 actions has taken time to ascertain.

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

A letter requesting the RTBU's withdrawal of the proposed actions was sent to the RTBU at 8.30pm on 17 February 2022 – noting that if no withdrawal was received by 12 PM on 18 February 2022, an application to the Fair Work Commission would be made seeking termination or suspension for a period of 6 weeks of the industrial action under s 424 for the Fair Work Act (or s 425 in the alternative).

The strategy with respect to seeking termination of industrial action as a priority and suspension in the alternative for a period of 6 weeks occurred after discussions with Public Sector Employee Relations, DPC on behalf of the Minister for Employee Relations.

It is considered that this strategy provides the best opportunity for the introduction of Mariyung into service.

At 12.25pm on 18 February 2022, the RTBU responded to this correspondence seeking further details about Sydney Trains internal assessment of its proposed industrial action.

Given the RTBU's failure to withdraw, the Minister for Employment Relations, Sydney Trains and NSWTL have made separate applications which are to be filed imminently with the Fair Work Commission under section 424 of the Fair Work Act, seeking to terminate or, in the alternative, suspend the RTBU's proposed industrial action which is due to commence on 21 February 2022.

It is envisaged that given the industrial action will be commencing on Monday 21 February 2022 and timing as to the filing of our application, interim orders would be sought either on the afternoon of 18 February 2022 or heard over the weekend.

If an interim order is granted, this will have the effect of suspending the proposed action until the 3 applications can be properly determined.

Sydney Trains and NSW TrainLink will be seeking to join the AMWU and ETU in any Hearing before the Fair Work Commission on whether protected industrial action should be terminated or suspended. Our intention is to notify these unions once the Interim Order issue is determined by the Commission. That is, in case the RTBU withdraws industrial in the interim. It is considered the threshold for a successful application may not be reached in regard to the ETU and AMWU industrial action on its own at this time.

Further updates to follow as developments occur.

Tender documents 011

M E

transport.nsw.gov.au

7 Harvest Street
Macquarie Park NSW 2113

6.20pm Further background briefing of COS (Tanya)

From: Tanya Raffoul

Sent: Sunday, 20 February 2022 6:20 PM

To: Susan Carroll

Cc: Rob Sharp

Tracey Taylor

Subject: Re: [UNSCANNED CONTENT]IR submissions - OFFICIAL: Sensitive - NSW Cabinet

CAUTION: This email is sent from an external source. Do not click any links or open attachments unless you recognise the sender and know the content is safe.

Thanks Susan

Kind regards

Tanya Raffoul
Chief of Staff
Office of the Hon David Elliott MP
Minister for Transport
Minister for Veterans Affairs

Tel:

Mobile:

On 17 Feb 2022, at 2:20 pm, Susan Carroll

wrote:

OFFICIAL: Sensitive - NSW Cabinet

OFFICIAL: Sensitive - NSW Cabinet

Dear Tanya,

OFFICIAL

Tender documents 011

Please find attached the cabinet submissions we noted (IR related ERC considerations). Remaining documents to follow shortly.

Kind regards,
Susan

7.30pm Comms update

Trevor Seymour, Executive Director Media, spoke briefly with Tanya to let her know we would prepare media materials updating on the situation post the outcome of the FW hearing which was slated for 8pm, and that our media team would be sending these materials to their on call person once completed.

The talking points and media releases were then prepared and following input and sign-off by executive team were sent early on Monday morning to the MO for final approval, which followed shortly afterwards.

8pm – Fair Work re-convened

FWC hearing ended at 930pm.

9:30pm – Transport EA team next steps discussion

Attending: Deputy Secretaries GS and ROM, CEOs Sydney Trains and NSWTL, Chief People Officer, Director Legal and Industrial Strategy and other members of IR, ST and NSWTL teams

- Update provided by the Union Legal Representative at the conference before the FWC that she did not have the delegates on the line that she had on Saturday to instruct properly. Conciliation was unable to be progressed, as the subject of the disagreement was quite technical and relates to the Union interpretation of "roster as presently scheduled". At the end we were faced with two options – one was to enforce the agreement and two to press on with termination of protected industrial action applications. Either way conciliation was relisted for 9am on Monday morning.
- Impacts presented by rail CEOs re provision of services tomorrow – risk assessment finalised in parallel by Rail Ops teams, analysis is the safety and operations risks render the network inoperable tomorrow, unacceptable impacts for customers (refer below safety notes). Discussion of scenarios.
- Consideration of any alternatives for rail and other PT alternatives to provide service. Confirmation of 3-5 days to program in a new rail roster; Unions have not agreed to accept altered work – sustaining rail services safely and reliably not possible. Other rostering approaches used in recent disruptions also considered. Timeframe did not allow these to be pursued and union agreement needed. Bus replacement extremely limited (not a substitute for

Tender documents 011

rail). There are no train timetables for any staffing alternative. No union delegates could be contacted (union contact ceased Sunday afternoon) to proactively explore any creative options. The late hour on a Sunday night left the team no other options to explore.

(Small group break out)

Attending: Deputy Secretaries, CPO and Sydney Trains CEO met with Secretary TfNSW

- CEO Sydney Trains confirmed completion of risk assessment and confirmed impacts: network wide unsafe, unreliable and unpredictable environment posing unacceptable risk to customers
- Further discussion of impacts and decision that rail services would not be able to be run for Greater Sydney and inter-city services; very limited replacement bus (Chief Operations, Greater Sydney investigated to confirm from earliest possible)
- Discussed FWC proceedings and outcome to date plus options on way forward in preparation for discussion with Ministers' offices
- Continued calls made from Sydney Trains CEO to Union – unanswered
- Recommendation was that Sydney Trains would be unable to operate trains safely. This was endorsed by the Secretary TfNSW after discussing the potential alternative options that had been explored). The Deputy Secretaries were asked to brief Ministers' Chiefs of Staff on this position. Calls made (approx. 10:45pm).

Matt Fuller provided COS ROM with briefing of scenario. This included update on situation, advice received, network closure (ST and intercity) and anticipated disruption, and coms strategy. COS confirmed that they would play supporting role to Transport Minister's office and did not need to approve coms, but wanted to be across them.

Meg Bourke-O'Neil contacted COS (Tanya) at 10.43 pm 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 filing for action/returning to FWC in morning; comms to be then developed. Support confirmed.

Below is the text communication between Meg Bourke-O'Neil, Dep Sec Greater Sydney, and Mr Elliott's Office when the decision was made that operations could not occur on Monday.

Tender docs 012

TSP 5003 0001 0089

Screenshot 2022-02-28 at 3.55.03 PM

From: Personal Information
To: Rob Sharp
Date: Mon, 28 Feb 2022 15:57:16 +1100

CAUTION

3:55

4G

< 2

Tracey >

Sun, 20 Feb, 10:23 PM

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.

V/B

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

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



Text Message

Screenshot 2022-02-28 at 3.55.24 PM

From:
To:
Date:

Personal Information

Rob Sharp

Mon, 28 Feb 2022 15:55:26 +1100

CAUTION

3:55

4G



Tracey >

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.

Thanks

3/6

Can we grab you for a call with Meg and Matt?

Yes

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



Text Message

Screenshot 2022-02-28 at 3.56.00 PM

From
To
Date

Personal Information

Rich Sharp

Mon, 28 Feb 2022 15:56:00 +1100

CAUTION

3:56

4G



Tracey >

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

Noted... we would need to message this clearly

Do you want to do phone or can you come onto teams?

Either is fine

5/6

Either is fine

Okay will send an invite for teams

Sun, 20 Feb, 11:44 PM

Thanks for looping me in Tracey. Tough weekend for you ... definitely like herding cats!

Hi Tracey. What are the next steps tonight? Ding me any



Text Message

Tender docs
013

Screenshot 2022-02-28 at 2.49.03 PM

From: Personal Information
To: Rob Sharp
Date: Mon, 28 Feb 2022 14:49:20 +1100

CAUTION: This email content from an external source. Do not click any links or open attachments unless you recognise the sender and know the content is safe.

2:49

4G



Michael >



Tuesday 10:26 AM

MCT. 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 Rob

Tuesday 4:03 PM

Sorry, I can't talk right now.



iMessage

