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FAIR WORK COMMISSION

Commission Matter No.: 2022/

Applicant: Minister for Employee Relations

Respondent: Australian Rail, Tram and Bus Industry Union

AFFIDAVIT

I, Stephen Walters, of 52 Martin Place, Sydney, affirm:

1. I am currently the Chief Economist for the New South Wales Treasury ("Treasury").
2. As the State's Chief Economist, I am responsible for overseeing the research activities of a team of macroeconomists. These activities include forecasting and monitoring conditions in the state economy, with a particular focus on implications for state tax revenue outcomes. I also generate, write and edit macroeconomic research for internal use and for external publications. The role frequently briefs senior government ministers and other executives on economic conditions and issues, including from overseas. I frequently present at external public conferences and have significant media engagement. I coordinate the Treasury's macroeconomic social media engagement.
3. Prior to joining Treasury, I was the Chief Economist at the Australian Institute of Company Directors and, for 14 years, was Chief Economist for investment bank J.P. Morgan. I was also previously a Senior Economist with Access Economics in Melbourne and an International Economist with Norwich Union and Alliance Capital in the United Kingdom. Additionally, I spent 7 years as an Economist with the Treasury in Perth.
4. To assist me in preparing this affidavit, I asked some colleagues at Treasury to collate and provide me with certain information and modelling. The contents of this affidavit are true and correct to the best of my knowledge, information and belief.

Proposed industrial action

5. On 9 February 2022, the Australian Rail Tram and Bus Industry Union ("the RTBU") provided Sydney Trains with notice of protected industrial action to be undertaken by RTBU members for a period of 14 days between 12.01am on 21 February 2022 and continuing to 12.01am on 7 March 2022 ("the Notified Action").
6. The notice was provided through two letters dated 9 February 2022, which are annexed and marked "A".
7. I have been informed and verily believe that the cumulative effect of the notified industrial action is that there will be a complete stoppage of train services for the period of the Notified Action.

8. I understand that there may still be some services running on the first morning of the Notified Action. However, services will be halted shortly after the Monday morning peak.

Economic impact of industrial action

9. **On the 16 February 2022, I oversaw the modelling of the immediate economic impact of Notified Action.** The calculated economic impact is based on the Greater Sydney metropolitan area only. The immediate economic impact was calculated by determining the loss of gross state product per hour worked, multiplied by the number of hours lost due to relevant travel constraints. Additional costs from lost spending by CBD workers was also taken into account.
10. It should be noted that the costings below will not fully reflect the fact that many of the commuters who cannot rely on flexible working arrangements may be essential workers, meaning the prolonged disruption could lead to other unforeseen consequences, including adverse health outcomes on the community. Some of these consequences could have economic impacts, compounded by confidence effects, but are difficult to quantify.
11. Table 1 summarises the daily cost estimates for a complete Sydney Trains network shutdown.

Table 1: Estimated cost of industrial action (per day)			
Action taken	Average impact (\$m)	Total workers (000s)	Total work hours lost (000s)
24-hour stoppage (weekday)	33.3	150.1	354.9
24-hour stoppage (weekend)	8.1	23.9	56.5
2 week stoppage	370	1,597.2	3,774.7

12. Based on train patronage data, and its anticipated level during the Notified Action, the economic impact is estimated to be around \$370 million for a two week network shutdown. **This is equivalent to 1.5% of fortnightly Gross State Product ("GSP").** I note that this assumes there is a stoppage of all Sydney Trains services (in the Greater Sydney area) and that the stoppages are occurring against the backdrop of the removal of working from home guidance and mask mandates from 18 February 2022, which would lift patronage from current levels.
13. The patronage levels for the period of the industrial action have been estimated based on Opal data from the first half of 2021, prior to the Delta lockdown. More recent Opal data is unlikely to be accurate because it relates to periods when Sydney was in lockdown, or, when there has been working from home guidance and mask mandates. As noted above, the working from home guidance and mask mandates are being lifted from 18 February 2022 (today).

14. Table 2 summarises the daily cost estimates for an overtime ban on the Sydney Trains Network.

Table 2: Estimated cost of overtime ban (per day)			
Action taken	Average impact (\$m)	Total workers (000s)	Total work hours lost (000s)
24-hour stoppage (weekday)	11.7	107,059	130,593
24-hour stoppage (weekend)	1.8	17,059	20,809
2 week stoppage	135	1,138.8	1,389.2

15. Table 3 summarises the daily cost estimates for partial stoppages or substantial delays.

Table 3: Estimated cost of partial stoppages or substantial delays (per day)			
Action taken	Average impact (\$m)	Total workers (000s)	Total work hours lost (000s)
24-hour stoppage (weekday)	30.0	134,998	319,045
24-hour stoppage (weekend)	4.7	21,511	50,837
2-week stoppage	330	1,436	3,394

16. My team has undertaken this calculation based on 90% of the cost impact of a full network shutdown. The actual cost of a partial stoppage or substantial delays will depend upon the proportion of the Sydney Trains network that is taken offline and whether the delays are protracted. I note further that the economic impact will not be linear. That is, a 10% reduction in the network capacity does not necessarily equate to a 10% economic impact of a full network shutdown.
17. In preparing the modelling, my team made the following key assumptions:
- The analysis was confined to only the immediate economic impact (measured by lost nominal Gross State Product). Secondary economic impacts, or the flow on effects to the broader economy, from disruptions to rail services are not included, beyond an estimated reduction in spending by workers in the CBD. Welfare losses, such as a loss of leisure time and inconvenience, were not included.

- b. The hourly value of lost work has been estimated to be \$97.43. This is an estimate of NSW Gross State Product per hour worked for 2020/21— calculated at the time of the 2021-22 NSW Budget.
- c. Estimates for the number of commuters impacted by industrial action were based on data from the 2016 Census and Opal Card 'Tap Ons'. The Census estimates that almost 379,000 commuters catch the train to and from work in New South Wales, with a little over 1 per cent of these travelling to work outside Greater Sydney. Two adjustments were made to this Census data. First, the number of commuters was scaled upwards to reflect an increase in employment since the last Census was undertaken (in line with the increase in total employment over this period). Second, this scaled number was then reduced to reflect an increased tendency of employees to work from home, particularly due to the COVID-19 pandemic (the degree of which was informed by recent Opal data).
- d. This results in an estimate of over 350,000 commuters. The costings provided are focused on this group of workers only.
 - i. Based on Opal data from the first half of 2021, when COVID restrictions had largely been removed, the total number of workers travelling to work by train is assumed to be almost 40 per cent lower than these pre-COVID levels, potentially reflecting an increased utilisation of flexible working arrangements.
 - ii. For the proposed two week shutdown, it is assumed that anyone who can work from home will do so. Therefore, a higher proportion of the remaining commuters are expected to be negatively impacted by industrial action.
- e. It is assumed that there will be no assessed productivity losses from public sector workers due to essential public service obligations and flexible working arrangements. This reflects the following assumptions:
 - i. All public sector workers, except for those in essential service delivery roles (nurses, police officers, emergency workers), are assumed to have flexible working arrangements and will utilise their flexible hours on the days impacted by industrial action.
 - ii. Public sector workers in essential service delivery roles are assumed to make alternative travel arrangements to get to work such that their hours worked will not be affected by industrial action.
- f. Private sector workers (86.2 per cent of employees) are assessed in four separate categories: *those who travel to work as normal, those working from home/remotely, those that will be late to work or leave early due to rail shutdown and those that will be absent without leave* as a result of the action. The last two categories are assumed to have the largest negative impact on the economy as they result in a loss of aggregate working hours.
- g. In addition to any disruption to work hours, workers who stay at home are assumed to reduce their daily spending on ancillary items such as coffee, lunch,

dry cleaning and consumption of other such goods and services that typically are associated with working in the city. The reduction in spending is assumed to be just over \$30 per day per impacted worker; this is based on available estimates of the daily spend of CBD employees which range between \$10-\$45 per day.

18. In relation to the proposed two-week stoppage, my team assumed that of expected train patronage:
 - a. Around a quarter of private sector workers who travel by train to and from work will still attend a physical workplace and work normal hours (that is, there is no adverse impact on the economy from this cohort due to the planned industrial action).
 - b. A further 30 per cent of all impacted private sector workers will work from home. This is in addition to those who would usually work from home on that day.
 - i. Workers electing to work from home are assumed to provide a positive offset as usual commute times are used more productively. This impact is modelled by assuming an increase in daily productivity of almost 7 per cent. This is equivalent to an additional 30 minutes of working time for a usual 7½ hour workday (9am-5pm workday excluding lunch break)
 - c. Around a quarter of private sector workers who travel by train to and from work will attend work but lose some productive hours, as a result of having to leave early or arrive late. For the purpose of estimating the impact, it is assumed that those workers will lose an average of 2 hours of productive time per worker per day.
 - d. Around 20 per cent of private sector workers who travel by train to and from work will not attend work in any capacity.
 - e. The length of the industrial action will likely mean people will not make alternative arrangements to travel to their office and will instead remain working from home (or take unpaid leave). This may cause additional knock-on effects across the economy.
19. In relation to the proposed overtime ban, my team assumed that:
 - a. 45 per cent of private sector workers who travel by train to and from work will attend work and work normal hours
 - b. 15 per cent of private sector workers who normally travel by train to and from work on any given day will work normal hours from home (this is in addition to those who would usually work from home on that day).
 - c. 35 per cent of private sector workers who travel by train to and from work will attend work but lose some productive hours, as a result of having to leave early or arrive late. For the purpose of estimating the impact, it is assumed that those workers will lose an average of 2 hours of productive time per worker.
 - d. 5 per cent will not work.

20. In addition to the impacts of industrial action on the economy raised above, these estimates do not account for several other factors that are difficult to quantify. For example, in the current environment it is particularly imperative that essential workers such as health care workers are able to get to the place of work.
21. The Omicron outbreak, which commenced in December 2021, has had a significant impact on the economy. Labour force data showed that total hours worked declined by 13.5 per cent in the month of January compared to December, with around 250,000 workers unable to work at least some of their normal hours due to own illness or sick leave during the month.
22. Activity in the Sydney CBD has been especially adversely affected by the COVID pandemic, including restrictions used to control the spread of the virus, given the higher "remotability" of office jobs, especially in sectors such as finance and IT. This, in turn, has had a particularly pronounced impact on sectors which derive a benefit from these office workers, namely the hospitality and personal services sectors.
23. This has been exacerbated by the closure of State borders, which has stopped the flow of interstate tourists into the Sydney area, along with the prolonged closure of international borders which have constrained international tourism and students and disproportionately impacts the CBD area. This has had particularly large impacts on the hospitality and arts & recreation sectors.
24. Occupancy rates in Sydney hotels stood well below their historical norms in July. Meanwhile, domestic tourism spending in Sydney in the three months to June was around 21 per cent lower than was seen in the same period of 2019 prior to the onset of COVID.
25. The City of Sydney LGA is critical to the performance of the NSW and national economy. It accounts for almost 20 per cent of NSW GSP (more than 25 per cent of Greater Sydney GSP). It accounts for around 20 per cent of NSW hospitality activity and almost one third of the arts and recreation sector's gross value added.
26. There are around 74,000 businesses in the City of Sydney. A large proportion of these are reliant on foot traffic for generating income. The network shutdown will be especially negative for those sectors and CBD businesses which have already been disproportionately affected by the pandemic and have yet to recover from the Omicron outbreak.
 - a. According to mobility data from Google, the City of Sydney has suffered to a significantly greater extent from a drop off in mobility around workplaces and retail & recreation than the State as a whole. Workplace mobility is currently 46 per cent lower than pre-COVID levels in the CBD: this is around double the decline seen for NSW as a whole. Meanwhile mobility around retail and recreation venues in the City of Sydney is 43 per cent lower in the week ending 14 February 2021, around seven times worse than for the State as a whole.
 - b. A Small Business Commission survey of businesses in the Sydney LGA shows that business confidence remained low in February 2022 – outside the Delta lockdown in August, confidence is at its lowest level in the last 12 months.

27. The Government is committed to ensuring a smooth return of workers to bring the flow of economic activity back to these areas. The length of the planned industrial action is expected to have an accumulated impact that will hinder economic activity. A two-week delay to the return to the office will mean businesses in these areas will continue to struggle, putting them (and potentially jobs) at risk which will undermine the recovery.
28. The two-week stoppage will likely in turn hamper the government's policy efforts to help support the recovery in activity in the CBD, and the Greater Sydney and NSW economy more generally, as it emerges from the significant disruption caused by Omicron.

AFFIRMED at Sydney

On

Signature of deponent

.....

Name of witness

Alexander Polden

Address of witness

60-70 Elizabeth Street

Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1. I saw the face of the declarant/deponent; and
2. I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was:

Signature of witness

.....

18 February 2022

9 February 2022

John Mcauliffe
Director of Workplace Relations
Sydney Trains

Jasmin Streimer
Director of Transformation
NSW Trains

By email: john.mcauliffe@transport.nsw.gov.au
jasmin.streimer@transport.nsw.gov.au

Dear John and Jasmin

Notice of Protected Industrial Action

Pursuant to Section 414 of the *Fair Work Act 2009* and in conjunction with the Orders made in B2021/455 (**the Orders**), we provide Sydney Trains and NSW Trains (**the Employers**) with notice of protected industrial action to be undertaken by RTBU members as follows:

Nature of action: A periodic ban on the performance of Foreign Depot working for Train Crew

Day on which action commences: 12:01am on 21 February 2022 continuing to 12.01am on 7 March 2022.

Nature of action: A periodic ban on Overtime

Day on which action commences: 12:01am on 21 February 2022 continuing to 12.01am on 7 March 2022.

Nature of action: A periodic ban on working with non-Sydney Trains / NSW Trains direct hire employees.

Day on which action commences: 12:01am on 21 February 2022 continuing to 12.01am on 7 March 2022.

Nature of action: A periodic ban on the issuing of transpositions

Day on which action commences: 12:01am on 21 February 2022 continuing to 12.01am on 7 March 2022.

I take this opportunity to remind you that the Employers are prohibited by law from taking adverse action or in any way hindering our members from exercising their workplace right to take protected industrial action in accordance with the Orders.

Yours sincerely,



Toby Warnes
Director of Organising

9 February 2022

John Mcauliffe
Director of Workplace Relations
Sydney Trains

Jasmin Streimer
Director of Transformation
NSW Trains

By email: john.mcauliffe@transport.nsw.gov.au
jasmin.streimer@transport.nsw.gov.au

Dear John and Jasmin

Notice of Protected Industrial Action

Pursuant to Section 414 of the *Fair Work Act 2009* and in conjunction with the Orders made in B2022/26 (**the Orders**), we provide Sydney Trains and NSW Trains (**the Employers**) with notice of protected industrial action to be undertaken by RTBU members as follows:

- | | |
|---------------------------------------|--|
| Nature of action: | A ban on the manner in which work is performed in the form of a ban on Train Crew accepting altered working |
| Day on which action commences: | 12:01am on 21 February 2022 continuing to 12:01am on 7 March 2022. |
| Nature of action: | A limitation on the manner in which work is performed in the form of Train Crew only signing on and off at their appointed Home Depot. |
| Day on which action commences: | 12:01am on 21 February 2022 continuing to 12:01am on 7 March 2022. |
| Nature of action: | A limitation on the manner in which work is performed in the form of Train Crew only working to their current Master Roster |
| Day on which action commences: | 12:01am on 21 February 2022 continuing to 12:01am on 7 March 2022. |
| Nature of action: | A ban on the manner in which work is performed in the form of a ban on Train Crew accepting transposition slips |
| Day on which action commences: | 12:01am on 21 February 2022 continuing to 12:01am on 7 March 2022. |

Nature of action:

A ban on the manner in which work is performed in the form of a ban on Regional Drivers working to changes to current timetabled stopping patterns.

Day on which action commences:

12:01am on 21 February 2022 continuing to 12.01am on 7 March 2022.

I take this opportunity to remind you that the Employers are prohibited by law from taking adverse action or in any way hindering our members from exercising their workplace right to take protected industrial action in accordance with the Orders.

Yours sincerely,



Toby Warnes
Director of Organising