

19 January 2022

The Hon David Shoebridge
Chair
The Public Accountability Committee
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Chair,

1. I write to answer my sole question on notice, arising from my subpoenaed testimony of 8 November last; taken at the request of Mr Khan and quoted below:

The Hon. TREVOR KHAN:

"Are you able on notice to identify ... emails, documents, correspondence that ... supports...what you say with regard to the pressure that was being applied?"

2. I note I am subject to the Committee's ongoing subpoena, compelling my response.
3. I further note I am subject to my continuing affirmation, made at the start of my testimony before the Committee.
4. In providing a complete answer, I have found it necessary to annexe relevant additional documentary evidence, discussed below and attached at Appendix one.
5. Separately, I also annexe very recent correspondence with Mr Coutts-Trotter, the new Secretary of the NSW Department of Premier & Cabinet (DPC), from November and December 2021 and relating directly to my evidence and your Inquiry; and attached at Appendix two.
6. Mr Coutts-Trotter's correspondence advises the findings of your Inquiry will be determinative in whether Messrs Pratt, Midha and Ms Wilkinson and others will be asked to account for their professional conduct regarding TAHE.
7. Noting that this is somewhat unusual, I have brought it to the Committee's attention such that you may pay due regard to the conduct of Messrs Pratt, Midha and Ms Wilkinson in your investigation and ultimate findings; alongside any subsequent referrals that you may make to other investigatory, regulatory or professional bodies in regard to both senior NSW Treasury and KPMG personnel.
8. As with other witnesses, in the interests of transparency I do not object to the publication of this answer on notice by the Public Accountability Committee and NSW Parliament.

Structure of my response:

9. As noted in my introduction above, a complete answer to Mr Khan's question on notice has necessitated a detailed and hence lengthy response, as well as the submission of some additional documentary evidence.
10. To assist the Committee in best understanding my evidence, my response is structured in the following Parts and subsequent Appendices, being:

Substantive answer:

- **Part one:** Provides a narrowed definition to address Mr Khan's substantive question.
- **Part two:** Provides settled definitions of bullying from the Commonwealth Parliament's 'Workplace Bullying Report'¹.
- **Part three:** Supplies an annotated digest of '*emails, documents, correspondence*' already tendered, which '*supports [my evidence of bullying by the named officials and KPMG personnel]*' as requested by Mr Khan.
- **Part four:** Supplies an annotated digest of '*emails, documents, correspondence*', attached hereto and not previously provided, which '*supports [my evidence of bullying by the named officials and KPMG personnel]*' as requested by Mr Khan. provides brief closing remarks and observations.
- **Part five:** Provides closing remarks and recommendations, for the Committee's consideration.

Relevant annexures:

- **Annexure one:** *Workplace bullying: We just want it to stop*, final report of the House of Representatives Joint Standing Committee on Employment & Education's inquiry into workplace bullying..
- **Annexure two:** Relevant correspondence with Mr Coutts-Trotter, Secretary of the Premier's department, regarding your Inquiry.

Part one: Defining the question

11. In the interests of clarity and seeking to maintain some brevity, I have found it useful to further interpret Mr Khan's question as:

"[Can you] identify ... emails, documents, correspondence that ... [evidence you were bullied and subject to 'repeated attempts to discredit [you] personally and to discredit [you] professionally' by the named Treasury officials and the named senior KPMG personnel, because of your work on TAHE]?"

¹ *Workplace bullying: We just want it to stop*, Standing Committee on Education & Employment, House of Representatives, Commonwealth of Australia 2012. (Attached at Annexure two).

12. Having regard to the context of Mr Khan's question within Hansard, this narrowed interpretation serves to fundamentally connects my substantive allegations with the substantive documentary evidence sought by Mr Khan and the Committee.

Part two: Defining workplace bullying

13. I testified that I was bullied and subject to '*repeated attempts to discredit me personally and to discredit me professionally*'.
14. I testified that the purpose of the bullying was to improperly suppress or frustrate my work for TfNSW, on the specific request of the NSW Cabinet.
15. I testified my treatment was a coordinated, joint enterprise between NSW Treasury and KPMG's most senior leaders and their subordinates.
16. I testified that the pressure to change my results and the later professional reprisals for refusing, were endorsed by the NSW Treasury Secretary Mike Pratt and KPMG's CEO Andrew Yates.
17. With the endorsement, involvement and support of Treasury's Mr Pratt and KPMG's Mr Yates, I testified that I was bullied and mobbed by Treasury's Deputy Secretary San Midha; and Executive Director Cassandra Wilkinson; and by KPMG's Heather Watson and Messrs James Hunter; among many others.
18. While the Committee will likely be familiar with definitions and examples of workplace bullying, I have relied on the settled definitions from the Commonwealth Parliament's Employment & Education Standing Committee report, "*Workplace bullying: We just want it to stop*"² (Workplace Bullying Report).
19. This provides a settled and uncontentious framework through which to consider the legitimacy of my allegations – and the legitimacy of my supporting evidence.
20. The Workplace Bullying Report cites the following as **bullying behaviours**:
- *undue criticism;*
 - *excluding, isolating or marginalising a person...;*
 - *withholding information...vital for effective work performance;*
 - *unreasonably overloading a person with work...;*
 - *setting unreasonable timelines or constantly changing deadlines;*
 - *denying access to information, supervision, consultation or resources such that it has a detriment to the worker;*
 - *spreading misinformation or malicious rumours; or*
 - *changing work arrangements, ...to the detriment of a worker or workers;*

² *Ibid.*

21. My evidence and this response show repeated, escalating examples of each bullying behaviour; and sees me make repeated reports and requests to have it stopped.
22. The Workplace Bullying Report finds bullying often occurs beyond the strict confines of a manager-employee relationship, more usually involving a range of internal and sometimes, external 'actors'.

23. The Workplace Bullying Report finds:

"...bullying is characterised by an abuse of power, where vulnerable targets are 'pushed into positions from which they have no avenue of escape'."

24. And that:

"...bullying is part of a 'continuum of severity of the misuse of authority or actual power'."

25. And relevantly to the matter at hand, that:

"Importantly, the concept of a power imbalance is not limited to traditional worker-manager hierarchies."

26. Noting that the bullying behaviours, mobbing and other pressures were led, supported and allowed by each the Secretary of the NSW Treasury and the CEO-elect of KPMG, I submit that it ought not be difficult for the Inquiry to establish a power imbalance and an obvious abuse of authority.

27. A notable aspect of the bullying and pressure applied to me, and my team is that the bullying was always conducted in or by a group, (e.g., meetings, group emails); rarely if ever with an individual.

28. The Workplace Bullying Report styles group bullying as '**mobbing**', which it describes as:

"... the Committee heard of psychologically abusive group behaviour, known as 'mobbing'."

"The intent of 'mobbing' is usually to try to drive a worker from the workplace...and is described in the international literature in ways such as these:

"Workplace mobbing is an emotional assault".

"One individual gathers others to participate in continuous, malevolent actions to harm, control or force another person out of the workplace."

"The victim feels increasingly helpless when the organisation does not put a stop to the behaviour and may plan, or even condone it. ..." (my underline)

"...Workplace mobbing targets people who are high achievers, are enthusiastic and volunteer at work, love what they do, have integrity and ethical standards, and promote human rights, dignity and respect."

"These are the people that are targeted by this brand of bullying."

29. The attached digest of emails show 'mobbing' by a group variously including KPMG and/or NSW Treasury officials, depending on the forum and content.
30. Examples of forums related to my work on TAHE which saw 'mobbing' include (but are not limited to):
 - KPMG's weekly 'Conflict Oversight Governance Committee' comprising CEO Andrew Yates, National Executive Committee members David Linke and David Heathcote; and partners James Hunter, Heather Watson, Joes Lucas ('risk partner') and Paul Low (my 'second partner')
 - Multiple 'ad hoc' TAHE-related meetings and interactions with senior KPMG partners
 - The weekly meeting 'TAHE steering committee' of officials
 - Consultation meetings and any meeting involving either Mr Midha and/or Ms Wilkinson
 - Group emails from Mr Pratt, Mr Midha and Ms Wilkinson instructing me to make changes, or to make complaints, copied to senior KPMG partners
 - Group emails within KPMG
31. Relevantly, the Workplace Bullying Report describes situations where unaddressed bullying and mobbing metastasise into a phenomenon it styles '**an escalating drama spiral**', described below:

"Bullying in workplaces can quickly escalate into a 'drama spiral'....

"What begins as bullying between two primary workers is unlikely to be contained to those people alone.

"Caponecchia and Wyatt discuss the 'escalating drama spiral' ...when inappropriate behaviour is not addressed early:

"What generally happens, over time, is an escalating drama spiral with a number of players, or stakeholders, in varying roles playing out the 'story'.

"The roles may include 'bully', 'target', 'bystander', people responsible for intervening, family and friends of the various stakeholders, other people who work in the organisation and possibly to organisation's consumers. ...

"The 'drama' attracts more players as time goes by and the situation will reach out and affect other stakeholders.

"Over time the original issue may well be lost sight of and the truth radically distorted."

32. As reflected in my documentary evidence, the substantive issue - Cabinet's request for detailed operational design and financial modelling to forecast TAHE's financial

and budget impacts was quickly forgotten; replaced by a united focus on changing my work and then, discrediting me.

Part three: Digest of supporting evidence

Page number	Description
1	<p>This email of 4 April 2020 shows KPMG's now head of government asking me to seek to address the conflict caused between Heather's February 2020 engagement for Treasury endorsing TAHE; and KPMG's >\$7m preceding contract starting I think in 2018 or 2019; to provide advice on Evolving Transport. This is the 'conflict' that was asserted by TfNSW - Treasury's repeated assertions that Ms Watson's work pre-existed my first scope of work are correct but are wholly misleading. Ms Watson's work for NSW Treasury on TAHE was the cause of the 'conflict' between TfNSW and Treasury engagements.</p>
2	<p>This email of 6 February 2020 sees Ms Watson outline that while she has done the work for Treasury so far that TAHE is far from a KPMG mission or idea. This was her assertion that she was able to be involved in my engagement from a conflict viewpoint; that it is</p> <p><i>'Incumbent upon us to do everything to promote clarity.'</i></p> <p>Making strong assertions that neither she nor KPMG were conflicted in KPMG taking on my engagement for TfNSW on TAHE. These assertions have been revealed to be wholly untrue.</p> <p>In hindsight, from this point forward I was exposed to KPMG's material ethical conflict where the firm's only interest was to satisfy Mike Pratt and others.</p>
3	<p>This email of 20 April shows my work received all KPMG risk and conflict approvals; with full disclosure that it was in response to the conflict created by Ms Watson's work for Treasury.</p>

4,5 &6	<p>These series of emails from May show members of Ms Watson's team urgently seeking a copy of the scope of services signed by KPMG and seeking to identify other errors in the risk approval or legal (OGC/Office of General Counsel) review of the contract. The purpose of this was to urgently mount an argument that the deliverable could not be provided because of a breach of conflict and risk processes; or otherwise, that it may not be provided as a branded KPMG output as required in the contract with TfNSW. This followed increasingly fraught relations between my engagement team and Ms Watson's staff as it became obvious that despite the mutually agreed objectives established in the first meeting (the TAHE objectives later adopted by Cabinet in June). This tension was brought about as our inquiries identified the fundamental weakness of the Treasury financial assessment of TAHE – performed by Ms Watson/KPMG in 2017; and over the 'traffic lights' used to characterise the risks in achieving of each. In this period, I had already phoned Ms Christine Wilcox my divisional risk partner, to discuss my concern over having a heavily conflicted second partner. On balance I decided to proceed without a formal complaint against Ms Watson - but on the understanding she would not continue in that role in the ensuing phase of detailed work.</p>
6	<p>This email later 14 May from Ms Watson provides her agreement to the first report's issue as a draft output, as she was then the second partner on TfNSW's work. Noting that just two hours prior Ms Watson's team were trying to find a technical compliance reason to halt the report reaching agreement that included traffic lights and case studies involving cautionary examples of safety risks had seen very high levels of conflict. At one point I was forced to take Ms Watson and her associate director [REDACTED] offline during an 'all hands' call due to the aggressive, condescending, and rude tone taken by Ms Watson, [REDACTED] and their subordinates in respect of the finalisation of our report. Ms Watson was unable to sustain her demand that we 'green light' TAHE against the objectives, providing her formal agreement to its release. This is notable given her later protestations and conduct complaints.</p>
7	<p>This email of 2 June 2020 relates to a text message received from James Hunter, enclosed as part of the additional evidence appended hereto. The email notes that my work corresponds precisely to the scope; and notes correctly that the draft report had gone to Cabinet - having been attached thereto by Andrew Alam; then a Treasury officer working for Ms Wilkinson.</p>

8	Email from James Hunter advising that KPMG had established a 'conflict oversight' committee. Unfortunately, I do not have the substantive document - but it contained a mix of motherhood statements about protecting the firm, serving the public etc and theoretically, was established to manage the conflicting engagements/conflict between me and Ms Watson.
9	Email to James Hunter accepting the oversight committee and referencing the bad behaviours from Ms Watson & [REDACTED] - which I describe as ' <i>internal problems of recent times</i> '.
10	This email of 4 June was sent to my Divisional Managing Partner David Linke. It shows Ms Watson asserting that TAHE posed no risk to the budget or state's finances - and that she was so confident in her advice there was ' <i>no plan b</i> '. The reference to page 5 is to the minutes of the minutes of the steering group of officials; a meeting attended by both Mr Pratt and Mr Staples and was very tense. IN my email I raise my concern that KPMG's unequivocal statements that TAHE 'works' indicates a lack of professionalism.
11	Email reporting the successful insertion of a return to Cabinet, prior to TAHE receiving any powers. Refers to the enormous safety risk of what Treasury were proposing to do to meet audit; notes again the risk of the accounting model and legitimacy of TAHE. The email underneath from Ms Hayes (then a TfNSW deputy secretary) discusses the conflict between TfNSW and Treasury over the TAHE chair - and shows Treasury's removal of TfNSW's preferred Chair [REDACTED], a highly respected transport official. I note that Mr Pratt denied any knowledge of this in his appearance at estimates; which appears to conflict with my recollection; and this email.
12	Given the ethical and behavioural problems posed by Ms Watson and her team I insisted on her removal as my second partner. This email shows David Linke instructing me to add Paul Low, the firm's head of government nationally. The email further down to Joel Lucas - the risk partner on the conflict group - refers to the poor internal behaviours experienced to that point.
13	These emails of 4 June show me accepting the conflict group and its conditions; and agreeing to appoint Paul Low as my second Partner as instructed above.
15	Scope

16	<p>This section of the 12 June email outlines the requirement for me to undertake a detailed financial model. The relevant section of the contracted scope says:</p> <p><i>"A weakness in the consideration of TAHE to date has been the reliance on a very rudimentary financial model, which lacks the capability to understand the impacts on various PNFC and GGS entities - or even the likely fiscal impacts".</i></p> <p>This section also shows that we were supposed to undertake a Discounted Cash Flow (DCF) model; allowing valuation of TAHE based on an 'income' rather than a DORC basis. The access pricing model suggested that TAHE's income would see the asset value increase; not reduce by 50 per cent as had been assumed to this point. My November report notes that this was removed at the instruction of Treasury officers. This scope was sent to the Risk Partner Joel Lucas and David Linke - then one of the firm's most senior Partners; showing full awareness that we were required to develop a financial model showing TAHE's performance; despite Mr Pratt's later protestations that I had exceeded my scope;</p>
19	<p>First page scope - sent to Joel Lucas, risk Partner. As the email notes, the scope was not sent further because of TfNSW's Dep Sec Fiona Trussell and Secretary Mr Staples had instructed that none of their confidential information was to be shared with Ms Watson or Mr Hunter; because of TfNSW's concern over the unresolved conflict and conduct issues they were experiencing from KPMG.</p>
20	<p>Email reporting the conflicts and behavioural issues of Ms Watson to the risk partner Joel Lucas and Mr Low; saying in part</p> <p><i>"Given that I and TfNSW's senior executive have observed independence and ethics challenges from Heather - and that I have also found her professionally very challenging to manage - my intention is <u>not</u> to have Heather along"</i></p>
21	Audit letter
22	Audit letter

23	<p>This email of 30 June to Paul Low encloses an email from the Audit Office's Ms Ahmed to TfNSW officers - discussed above. My email also references that I had sent it separately to Mr Linke, although I do not appear to have retained that email. In it I note that Audit's clearly articulated concerns and consternation over TAHE confirm my own warnings internally that TAHE and KPMG's actions on it pose an extremely high reputational risk to KPMG. It also says in part</p> <p><i>"It confirms the technical challenges and budget risks I have been flagging; and suggests the Auditor General is <u>not</u> relaxed about KPMG's advice'.</i></p> <p>This quote refers to Ms Watson's specific assertion to the conflict group at KPMG that Audit was aware and relaxed about her work - shown by this email to be materially untrue. At various times, Ms Watson insinuated or inferred that her supposedly close relationships in the Audit Office meant she had special insights and special relationships that would benefit TAHE. This email and the Audit Office's refusal to sign off the state accounts this year suggest that Ms Watson's claims of special or beneficial relationships with Audit officials were untrue.</p>
24	<p>This email of 2 July was sent from David Linke to Mr Staples and Ms Trussell; referencing a phone call the prior evening in which Mr Staples expressed his anger over KPMG's conflicts to Mr Linke. Despite Mr Staples concerns, Mr Linke again specifically requests that James Hunter and Ms Watson's boss and second partner Mr Andrew King have access to Transport's confidential information. Mr Linke himself acknowledges that <i>"I realise this is unusual"</i> regarding Mr King's proposed 'bridging' role. In related conversations with Mr Linke, he told me that Mr Hunter had to be included because of his 'special' relationship with Mr Pratt.</p>
25	Rodd's' response to KPMG

26	<p>This email of 3 July sees Rodd Staples rejection of KPMG's proffered conflict management plan; raising questions about its requirement to serve KPMG's and to:</p> <p><i>"...prioritise the interest of the state ahead of... demands of individual departments" –</i></p> <p>Relevantly Mr Staples asks how KPMG as a consultant would identify the public interest better than TfNSW responding directly to Cabinet's request.</p> <p>Relevantly, given the apparently large volumes of untendered additional work KPMG has subsequently performed for TAHE itself; Mr Staples email in s 5c requests that</p> <p><i>"The KPMG work to date has been on behalf of NSW Treasury or TfNSW; whereas TAHE as a SOC now sits outside that construct... if TAHE as a separate legal entity specifically seeks to engage KPMG for work, we would wish to be consulted for us to be satisfied...."</i></p> <p>It would be interesting to seek evidence that such disclosure occurred.</p> <p>On conflicts, he says</p> <p><i>"The rationale for the specific committee members is not clear to us.... to be clear, we would expect that no member of the committee has a senior ongoing relationship with either TfNSW or NSW Treasury, or is involved in the day-to-day work of any of the [conflicting] contracts..."</i></p> <p><i>"I do not know James Hunter or what ongoing role he has...we will reserve any comment on his inclusion until this is clarified."</i></p>
27	Mr Linke responding asking for a telephone call to discuss Mr Staples/TfNSW's concerns.
29	This email of 13 July to David Linke reports Ms Watson excluding my team from highly relevant information. This breached the 'rules' of the conflict committee - but given it was never addressed despite its continuing occurrence; these 'rules' were clearly applied only to me and my team.

30	<p>This email of 15 July sees Ms Watson circulating her accounting work to the conflict group; well after provided as above. She notes that AASB1059 is a challenge - but that she's provided technical advice that concludes there is no service concession under 1059. Notably, she qualifies her opinion saying it is only valid for 12 months - an inconceivably short timeline upon which to base such a radical change; arguing that future arrangements cannot be known as they are not agreed yet.</p>
31	<p>This email of 16 July shows Mr Linke asking questions regarding Ms Watson's advice.</p>
32	<p>This email of 17 July was sent to Messrs Linke and Low; outlining a range of issues that I sought to have addressed by them at the KPMG conflict group; which already had a combative, controlling and wholly unpleasant atmosphere.</p> <p>I say:</p> <p><i>"As part of my new Zen strategy of minimising interactions with people and things that don't make me happy, I am intending to say as little as possible at [KPMG conflict committee] meetings from now on."</i></p> <p>I then continue to outline the non-compliance and deepening conflict saying:</p> <p><i>"This continued lack of internal coordination and control does not support [David Linke's] discussion with Rodd and Fiona... this is an ongoing embarrassment to KPMG..."</i></p> <p>I continue to note the apparent expansion of Ms Watson's conflicting work for Treasury on TAHE –</p> <p><i>"The TAHE [steering group of officials] advise that [Ms Watson] is providing advice on the 'fiscal strategy' for TAHE... [TfNSW Dep Secretary Fiona Trussell] is very eager to ensure that there is alignment and not competing efforts regarding [KPMG's work for TfNSW]"</i></p> <p>I finish by requesting a scope of Ms Watson's new, and ultimately conflicting scope.</p>

34	<p>This email of Friday 17 July is sent to Ms Watson and the conflict group. It references an assertion by Ms Watson that she had circulated her new scope of work and thereby, it was agreed; with no record of such a notable event, I respond with:</p> <p><i>"You mentioned that the scope for the [new and ultimately conflicting work for Treasury] had been circulated...but I don't seem to have it.</i></p> <p><i>"I may have misplaced it.</i></p> <p><i>"Either way can you please resend - I have been asked by Fiona Trussell at TfNSW about this work"</i></p>
38	<p>This email of 19 July shows that Ms Watson could not produce a scope and had lied about its circulation.</p> <p>Despite this obvious and material breach of the supposed conflict management framework, nothing was done; suggesting the conflict management group was there to interfere with my work – not to control the conflict between TfNSW and Treasury.</p>
39	<p>My email to Fiona Trussell, asserting the Firm had no conflicting work with the TfNSW engagement on behalf of Cabinet, as I had been advised by Mr Linke and others.</p> <p>After confirming with Mr Linke (shown in an SMS in Appendix one), I asserted that any potential conflicting future engagement would be subject to his review and approval.</p> <p>On his and Mr Low's specific instruction I asserted that</p> <p><i>"KPMG has not accepted any new engagements related to the long-term fiscal strategy for TAHE...</i></p> <p><i>"[Ms Watson] has advised she has had preliminary discussions with Treasury along these lines....</i></p> <p><i>"Any potential engagement will be subject to the review and approval of David Linke's dedicated conflict committee..."</i></p>
42	<p>This page reports the internal conflict; and notes that KPMG is putting itself in a dangerously exposed position.</p>

43	<p>My email to David Linke and Paul Low which reports Ms Watson's breaches; notes that the conflict group has not controlled the conflict; and makes the first formal request for minutes to be kept due to the lies and accelerating conflict created through the additional and escalating scopes of work accepted by KPMG's senior Partners.</p> <p>Minutes were never kept, relayed by Mr Lucas, the risk partner. His reason, expressed in a call with me and Mr Low around this time was states as being "in case there's an inquiry or a court case" – I remember making an observation that that indicated that KPMG knew it was doing the wrong thing; nonetheless, minutes were never kept – ensuring that arrangements remained flexible for Ms Watson and Mr Hunter; with no record of prior decisions.</p>
44	<p>This email of 23 July from Ms Trussell (TfNSW) asks for an update on the conflict issue with Ms Watson/KPMG's new scope.</p>
45	<p>After speaking with David Linke and Paul Low, my response to Ms Trussell advising that</p> <p><i>"I am advised at senior levels of the firm that there has been no change [to my earlier reassurance that Ms Watson did not have a conflicting new scope]"</i></p>
47	<p>This email of 23 July is from NSWAO's Ms Renee Meimaroglou, asking highly relevant questions over TAHE's revenue, commercial status, level of return and notably, asks</p> <p><i>"What financial modelling is available by Treasury to support the continued intent to generate commercial returns from TAHE... please provide us with evidence of your calculations...."</i></p> <p>and</p> <p><i>"What do the State's forward estimates [the budget] include and assume re commercial returns from TAHE?"</i></p> <p>This email was sent by the Audit Office at 11.45 pm, suggesting heightened level of audit focus and concern over TAHE.</p> <p>Note that this initial email was sent literally 15 minutes to midnight, it suggests NSWAO was highly concerned over TAHE. The request for financial modelling is interesting, noting that Ms Watson asserts later that absolutely no modelling was done to assess TAHE since Ms Watson's prior work in 2017; and even more concerningly – that the numbers Treasury put to Cabinet in June 2020 were not modelled and were grossly misleading.</p>

49	<p>This email of 25 July provides contemporaneous notes, relaying an email from the Audit office and notes of the 'TAHE steering group'. Ms Watson had not shared the highly relevant letter from audit with the KPMG conflict group - despite her being in possession of it prior.</p> <p>I note in part</p> <p><i>"As with all matters relevant - I have been made aware by Transport - not by [Ms Watson] ...</i></p> <p><i>"I remain incredulous that this has not been immediately flagged by [Ms Watson] with the [KPMG conflicts group] and in turn, the highest levels of the firm - noting the very high level of risk to KPMG's reputation and commercial interests.</i></p>
50	<p>This email of 27 July is from Mr Linke to Mr Staples and Ms Trussell, attaching an updated 'communications plan' to manage conflicts between KPMG's work on TAHE.</p> <p>This notes that the Firm's current CEO Andrew Yates joined the committee from that point - <i>"I have asked Andrew Yates to join the committee to provide greater balance."</i></p> <p>Mr Linke then again restates the 'need' to have James Hunter on the conflict committee - this time noting</p> <p><i>"I do however need to discuss with you James Hunter's continued involvement principally because of Mike Pratt's position".</i></p> <p>This again shows both KPMG's lack of independence toward Mr Pratt's requirements - and the remarkably close relationship between Mr Pratt and Mr Hunter.</p>

55	<p>This email of 27 July from David Linke shows that he, without my permission, forwarded on my email regarding Audit and the meeting of officials. As shown in my SMS messages with Mr Linke at appendix one – my email was sent at his request. Mr King's response dismisses my concerns and risk warnings; and finishes by saying:</p> <p><i>"Finally, whilst I note that you will chat with Brendan in relation to his last comment [requesting that Ms Watson, Mr King and Mr Hunter be restrained in accordance with the 'rules' of the conflict committee] there are a number of inferences in his email which don't sit well. There is no hidden agenda in the work [Ms Watson/KPMG] are doing with Treasury/TAHE...</i></p> <p><i>I trust the committee would share this view'.</i></p> <p>This led to informal counselling not to use 'emotive' language; an increasingly strident theme used within KPMG - alongside ill-meaning offers of mental health support and ongoing counselling about being 'emotional'.</p>
56	<p>Point 14 shows why Mr King/Ms Watson/KPMG contend that fiscal sustainability is 'low risk', despite the obvious concerns expressed in the letters from audit</p>
58	<p>Following Mr King's response, this is a file note I gave to Mr Linke outlining the improper actions that had occurred in April, May, June and July 2020; and outlining the broad conflict and conduct issues. I specifically requested that: KPMG's conflicts and risks:</p> <p><i>"[KPMG's conflicts on TAHE] be brought to the attention of the National Executive Committee".</i></p> <p>I continue to outline the risks that I saw and presciently, conclude that:</p> <p><i>"[KPMG's conflicted role] is likely to result in an extremely high level of media interest.... political interest...professional and reputational risk to KPMG...</i></p> <p>Again, presciently I conclude that it would likely result in:</p> <p><i>"...'call for papers' and upper house inquiry, into the circa \$4billion -\$8 billion erosion in the NSW budget, due to TAHE and [KPMG's accounting advice].</i></p>

61	<p>This email of 27 July responds to the notion of being 'spoken to' as suggested by Mr King's earlier email. I revert to Mr Linke saying:</p> <p><i>"An artistic comment on [Mr King's] final point - [REDACTED]</i></p> <p><i>[REDACTED] I feel it has moved by a 'One KPMG' issue.</i></p> <p>'One KPMG' is the term referred to internally to refer to teamwork and collaboration; of which I saw little evidence beyond internal communications. I continue to observe:</p> <p><i>"Whether 'rogue' is the right word to use, a very appropriate question... in response would be '[Mr King], why was the NSWAO email not immediately disclosed to the [KPMG conflict committee] by [Ms Watson]?"</i></p>
62	<p>This email chain of 28 July to Mr Low says in part</p> <p><i>"It gets forgotten, but I've had a straight bat from the opening ball and only came in to try and help fix a problem... eventually, maybe there will be recognition that I'm not the one hiding things - or starting problems."</i></p> <p>In this instance I am referring to Ms Watson and Messrs King, [REDACTED] and James Hunter; alongside Messrs Pratt, Midha and Ms Wilkinson as 'people <i>'hiding things'</i> and <i>'starting problems'</i>.</p>

63	<p>This email of 28 July to Messrs Low and Linke responds to a request by Ms Watson, seeking to meet with Ms Trussell at TfNSW to explain herself; and undoubtedly, to seek to diminish me in some way.</p> <p>Point 1 and 2 in my email show that by this time I had become aware that Ms Watson's new scope of work on TAHE was highly likely to result in a direct conflict, noting her conduct and approach on the first stage of work for Cabinet.</p> <p>I recall her arguing successfully in the KPMG conflict committee that her conduct and acceptance of expansions of her conflicted scope with TfNSW was justified by her original scope containing <i>'other duties as directed'</i>; as referred at point 2. This is obviously a weak argument to circumvent the stated risk process; that there were no consequences shows the one-sided application of the 'rules' created by the KPMG conflict committee.</p> <p>Interestingly, whereas the preceding explanatory email from Mr King had suggested KPMG's role as much more limited; Ms Watson specifies a much enlarged, unapproved and ultimately, directly conflicting engagement.</p> <p>This exchange shows the deliberate obfuscation, confusion and lack of clear boundaries or minutes applied to govern KPMG's expanding professional conflict and loss of independence.</p>
64	<p>This email of 30 July was sent to Messrs Yates, Low, Linke, King, Hunter and Ms Watson - following NSW Treasury complaining about my designation of TAHE as facing a 'High Risk' of not achieving its objectives; part of my reporting requirement to my client TfNSW.</p> <p>I identified TAHE as being at a high risk of not achieving its fiscal objectives, noting the 'widening inquiry' at that time by the NSW Audit Office; and the problems we were identifying in its prior financial assessment by NSW Treasury/KPMG/Ms Watson; and the level of benefits that Mr Pratt had included in the budget's forward estimates.</p> <p>My increasing unease and sense of impropriety by KPMG saw me formally request minutes start being kept of the KPMG conflict committee – creating much-needed accountability for Messrs Hunter, King and Ms Watson, to a formal and proper record of decisions.</p> <p>This was declined on the basis that it may become discoverable - a decision and statement made by Mr Lucas the risk partner charged with ensuring proper process</p>

65	<p>My email of 31 July to Mr Lucas again restating that the minutes are needed; and at that point Mr Low agreed.</p> <p>The email below is Mr Lucas' response, declining to keep minutes due to 'action points' being kept.</p>
66	<p>My risk rating tables that led to the NSW Treasury complaint to KPMG.</p>
67	<p>My email of 4 August to Messrs Yates, Hunter, King, Linke, Low and Ms Watson addressing the umbrage taken by Treasury officials and KPMG personnel over my rating of TAHE as having 'high risks' - and sharing my proposed ratings.</p> <p>I noted in that email that I had consulted with Ms Brenda Hoang, the CFO of TfNSW following Treasury's and KPMG's negative reaction. My email says:</p> <p><i>"I have provided [the risk ratings] to transport and discussed it at the weekly TfNSW governance meeting today.... I asked TfNSW for their inputs and whether the appropriate rating is 'red' or 'orange'..."</i></p> <p><i>"...the CFO of TfNSW [Ms Brenda Hoang] believes the characterisation as 'red' is the only appropriate option..."</i></p> <p><i>"...TfNSW has reviewed the wording... and advised they believe it is 'factual and accurate...'."</i></p>

68 Mr King's response of 4 August expresses annoyance that I had (quite properly and appropriately) checked my risk rating with my client, observing that:

"Having already agreed wording and rating with TfNSW clearly makes it more difficult for us as a firm to now change it.... indeed, it may be best now if we do not."

In my response, copied to Messrs Yates, Hunter, King, Low, Linke, Lucas and Ms Watson, I note the impropriety and utter ethical conflict of conflicted KPMG personnel editing my risk register – and reject the notion, saying:

"It is important to note that the idea of the [KPMG conflict committee] ... or [Ms Watson or Mr King] editing my risk register was specifically discussed - and as I recall - rejected out of hand, reflecting the murky ethical and moral ground that would create....

"[Doing] that would also mean it's no longer a risk register for my engagement [for TfNSW] - but [instead Ms Watson, Mr King or the KPMG conflict committee's view or risks]

"...this is a very important ethical distinction to make..."

Again, noting my increasing unease over KPMG's conflicted and highly changeable and flexible approach to prior decisions and undertakings I also repeat again my (reasonable) request for formal minutes of the KPMG conflict committee - saying

"Joel the ongoing uncertainty about what is agreed or resolved suggests we should return specifically to discuss minutes from this committee... I continue to observe challenges posed by alternate understandings of what is agreed [at the KPMG conflict committee].

69	<p>Mr Low's email relays that there has been no response from KPMG partners to my email of my draft risk register. I express to him that:</p> <p>[REDACTED]</p> <p><i>"...In good conscience I do not believe that you or I can continue to report to [the KPMG conflict committee], in its current form..."</i></p> <p><i>"...we are all at risk of being morally exposed and professionally compromised - because no one is standing up."</i></p> <p>By 'standing up' in this context, I meant that no senior Partners or anyone beyond my team were willing or able to stop either the bullying; or the highly conflicted position KPMG placed itself in</p>
70	<p>After agreement about changes to the risk register (with which I was comfortable, noting it remained red/high risk) this email from Mr Hunter of 5 August and including all relevant KPMG partners says</p> <p><i>"...having met with San post your 10am coffee this am, is importantly more aligned with how Treasury would view this matter."</i></p> <p>That Mr Midha's opinion on the risks identified by TfNSW and its advisors in the return to Cabinet was 'important' to the KPMG conflict committee shows again the lack of independence to Treasury; and lack of regard for either the obvious conflict – or the legitimate interests of its (other and secondary) client, TfNSW.</p>
71	<p>This email of 5 August relays my notes of a meeting with Ms Wilkinson.</p>
74	<p>This email of 6 August to Mr Low notes that:</p> <p><i>"My team are not willing to work with [Ms Watson and [REDACTED]] again - and nor am I - given the way we were all treated, exposed and undermined..."</i></p> <p><i>"...it also means Treasury are directly engaged in the combined conspiracy to make TAHE work..."</i></p>
75	<p>This draft email was sent to Mr Low - and intended to be sent to Ms Watson outlining the way forward on my engagement.</p>

76	<p>Mr Low's response and mine of 6 August. Mr Low expresses surprise over the honesty of the language I used in my draft email; I acknowledge the same noting</p> <p><i>"This is an honest answer... ready...to tone down into a passive aggressive masterpiece...."</i></p> <p><i>".... If [KPMG] has chosen not to deal with [Ms Watson's bullying] behaviours I cannot do anything about it - but I am a 'sovereign partner' and do not recognise the requirement to work with bullies or brigands"</i></p> <p>In this context by bullied and brigands, I meant Ms Watson and Messrs King, Hunter and [REDACTED] in particular – and increasingly, Mr Yates the CEO.</p> <p>By 'Sovereign partner' I was invoking the phenomenon of 'sovereign citizens' - where people (as in my case with KPMG, incorrectly) believe they have a right not to opt in to sovereign powers of the State. In this instance, I meant that I would not accept a direction or instruction to work with or through Ms Watson or Messrs Hunter, King or [REDACTED].</p>
77	<p>This email of 9 August was sent to Ms Deb Yates, then the HR partner on the national executive committee; as well as the firm's head of risk Mr Jeff Cook and my divisional risk partner Ms Christine Wilcox.</p> <p>It requested an extension of mandatory workplace health and safety and EEO training, because</p> <p><i>"I am overworked; under-supported and up till all hours trying to my favourite TAHE problem."</i> Sadly, Ms Yates never involved herself beyond allowing vexatious processes to occur.</p>

78	<p>My email in response to Ms Yates granting the short extension on the mandatory training. I responded saying:</p> <p><i>"Thank you for [the mild extension] ...</i></p> <p><i>".... I had a 37-hour day to get TAHE [deliverables to TfNSW] in by Friday COB - so the Friday warning about my longevity due to internal training landed on a hollow, tired man :)"</i></p> <p>The irony that I was forced to request an extension to WHS training because of a 37-hour long day to meet client needs amidst an unmanaged conflict and unaddressed bullying appeared not to register with Ms Deb Yates.</p> <p>As shown in my new evidence in annexure one, the only result of this exchange was that I felt compelled to apologise to my practice group leader Mr Stan Stavros, for raising the issue of resourcing and pressure as he had had negative feedback. The actual issue – being overworked and under supported – was observably not addressed.</p>
79	<p>My email of 13 August, again showing vital materials not being shared by Ms Watson; on each occasion instead having to be sought via TfNSW.</p>
80	<p>This email of 13 August releases our first model runs to the KPMG conflict committee; revealing that the detailed model showed major and negative impacts on the budget.</p> <p>The assumptions applied at this time were agreed with Treasury prior to being modelled.</p> <p>The differences from Ms Watson's model refers to the 2017 KPMG model used by NSW Treasury, which had assumed TAHE's assets were worth half of their accounting value.</p>
81	<p>Aware of my increasing isolation within KPMG, this email shows me seeking to meet with Mr King; seeking to chat maturely about KPMG's problems over TAHE and seek a pathway to resolve; noting again the bullying by Ms Watson.</p>
82	<p>My email to Mr Linke of 17 August seeks to address the ongoing impasse whereby KPMG is unable to resolve the NDA with TfNSW, because of KPMG's insistence of providing Mr Hunter and Ms Watson with access to TfNSW's confidential information.</p>

83	<p>This email of 17 August shows the independent validation review of my financial model for TfNSW; by the head of KPMG's financial modelling group, Mr John Lim.</p> <p>This is important, noting Mr Pratt and other officials have repeatedly restated that my work contained 'persistent errors'. Rather, my modelling was released as a fully reviewed and approved output of KPMG.</p>
84	<p>This email shows me instructed to use Ian Jedlin, then a valuations partner at KPMG, to advise me and my team on the asset value issues we had identified with Treasury and KPMG's prior assumption of a 50 per cent (c \$20 bn) write off of public rail assets included in their prior assessments; and subsequently, on Treasury's novel 'contributed equity' ROE construct.</p>
85	<p>My email to Paul Low of 17 August, noting that Mr King had not responded to my offer of a mature chat. Mr Low notes in part that</p> <p><i>"[it's] difficult...for him [to chat offline to resolve a way forward because Ms Watson] is one of his colleagues"</i></p> <p>At the time, I took this a solid reminder that as a lateral partner in KPMG; I was clearly not '<i>one of the colleagues</i>'.</p>
87	<p>This email of 18 August from Mr Lucas also instructs me to use Ian Jedlin, then a KPMG valuations partner and well respected in his field.</p> <p>Mr Lucas' email asserts that while KPMG was involved in the 2017 financial model, that:</p> <p><i>"no one from KPMG is suggesting that [old model built by Ms Watson] is fit for purpose for use now, including [Ms Watson's] team...."</i></p> <p>and that:</p> <p><i>"No one from KPMG supporting Treasury has used that 50 per cent write down reference... so this figure was authored by Treasury..."</i></p> <p>Mr Jedlin concurred with my report's conclusions regarding Treasury's instruction to adopt the 'contributed equity' only as the denominator to calculate return on equity; and concurred with our DCF valuation approach; which was excluded at Treasury's instruction.</p>

88	<p>This email of 18 August responds to Mr Lucas as notes in part</p> <p><i>"Just some additional context on point 3 - while I agree - Treasury seem to an seem to be starting a bit of preparatory finger pointing from what I hear... I have kept [Mr Linke] verbally abreast of these issues."</i></p>
90	<p>This draft email from Mr Linke seeks feedback on his latest attempt to get access for the conflicted partners to TfNSW's confidential information. I noted objections to characterisation of the inputs I needed from KPMG - noting the advanced stage of my work, with these changes accepted by Mr Heathcote.</p>
91	<p>Emails with James Hunter and the KPMG conflict committee discussing the importance of Mr Pratt to KPMG's revenues.</p>
92	<p>Mr Linke's changed letter - now reflecting that any inputs from the conflicted parts of KPMG will come through NSW Treasury. By seeking this outcome, I was hoping to at least bring external transparency to the attempts to change my work; rather than have them continue to happen within KPMG conflict committee meetings. At least this brought the accountability of TfNSW in the room.</p>
94	<p>My email to David Linke and Paul Low; relaying notes of my appearance before the TAHE board on my work. Of relevance, this again revealed Ms Watson had been undertaking further work, without agreed scope - this time supporting TAHE.</p> <p>This contravened the KPMG conflict committee's 'rules'; and also, TfNSW's earlier requirement of approval before KPMG would undertake work for TAHE; noting its existing conflicts; and shows the increasing volume of money being given to KPMG in return for its work to make TAHE work at any cost.</p>
95	<p>My email responds to a complaint by Ms Wilkinson regarding my characterisation of TAHE as 'high risk' in my risk register.</p>
96	<p>IN this email, Ms Wilkinson responds by including Mr Hunter and Mr Midha, requesting a meeting over my risk register with Mr Hunter and Ms Watson in attendance.</p> <p>The inclusion of Mr Hunter and Ms Watson in this way was clearly an attempt by Ms Wilkinson to improperly apply further internal pressure to amend, alter and control the outputs of my work for TfNSW.</p> <p>I responded in turn by including Messrs Low and Linke in my response, agreeing to the meeting. My intention was to bring the matter to a head with all parties in the room.</p>

97	<p>By the time this email was sent, Messrs Low and Heathcote had agreed they would support my risk register designation – and would resist any change sought by Treasury.</p> <p>At the scheduled meeting time, none of Mesdames Watson, Wilkinson or Messrs Hunter or Midha turned up to the meeting they had requested; doubtless advised they were destined to ‘lose’ any attempt to instruct improper changes at this point.</p> <p>That this was considered a viable strategy reflects the degree to which Treasury officers felt KPMG was ‘on side’ with whatever was needed to make TAHE work; and the reliance on ‘mobbing’ to achieve Treasury’s improper outcomes.</p>
98	<p>My email of 21 August to Messrs Linke and Low, noting deteriorating behaviours by Treasury and TAHE officials; notes in part</p> <p><i>"We might go back into a conflict situation for a while - worth keeping an eye on and I <u>definitely</u> need the Firms backing over the coming weeks..."</i></p> <p><i>Desperate people try desperate things - and I really don't want to be put through internal stuff again, while trying to sort the firm's pretty big mess..."</i></p> <p>‘Internal stuff’ in this email refers to the vexatious ‘informal’ complaints and discipline following spurious complaints by Ms Watson and her staff member [REDACTED].</p>
99	<p>Mr Hunter seeking to organise an ‘alignment’ meeting prior to the planned meeting with Treasury on my risk register.</p> <p>As noted, the meeting with Ms Wilkinson and Mr Midha never happened; nor did the ‘alignment meeting’ prior; again, suggesting Mr Hunter and Ms Watson had conveyed that the planned instruction to alter my risk register would not succeed at this point.</p>
100	<p>IN this email, Mr Linke requests the dates that the risk wording was agreed, discussed amended etc. The timing of this obviously shows internal pressures being applied over my risk register by Mr Hunter and doubtless with the assent of Mr Yates.</p>

101	<p>This email reflects that Treasury did not show up to the meeting, after asking for it to be convened - as noted above, reflecting that they were not going to be able to change my risk register. Importantly, this email also shows that</p> <p><i>'[Ms Watson and Mr King's team] undertook a highly relevant engagement in 2017... this is a critical input to understand key aspects of the TAHE financial model... TfNSW have provided written instruction to release the model to us'.</i></p> <p>The failure to disclose this unmistakably relevant prior work by Ms Watson and Mr King again shows key information being deliberately withheld by KPMG; to the detriment of TfNSW.</p>
102	<p>IN this email of 26 August, I emailed Mr Yates asking him to seek external validation of my concerns from the CFO at TfNSW - whom he knew from her prior role at Perpetual, at which Mr Yates was the auditor.</p> <p>Despite this and several other approaches (including by SMS enclosed in my new evidence), Mr Yates declined to ever discuss my concerns - and in my observation supported Treasury's desired outcome at every point.</p>
103	<p>Email from Mr Yates on 26 August undertaking to speak to Ms Hoang at TfNSW and undertaking to call me the next day, to discuss how to approach the call.</p> <p>As shown in my new evidence Mr Yates never contacted me by telephone and never contacted Ms Hoang to seek validation of the risks I was raising.</p> <p>Importantly around this time it became known to the senior partners on the KPMG conflict committee that Mr Yates would be appointed CEO from 1 July 2021; making him absolutely powerful.</p>

104	<p>Email from Mr Low on 26 August - responding to my earlier email of the same date. In mine, I provide an update and note that it is provided without seeking to inflame the internal temperature. Mr Low also helpfully seek to remind the KPMG conflict committee that the actual issue is the risk I have identified, rather than the fact I have identified it. Mr Low responds also saying</p> <p><i>"Without wanting to prompt widespread email exchanges... seems to me... that... Transport and Treasury need to strengthen their conversation with each other....</i></p> <p><i>"...either one or both parties are in denial on the POTENTIAL for an adverse [audit] outcome; or there is a lack of open and transparent conversations between the two Govt depts senior team members... regardless of the KPMG risk register matters."</i></p> <p>The comments from Mr Low affirm both the internal and external pressures to which I testified.</p>
105	<p>This email of 27 August shows a Treasury officer working for Ms Wilkinson has reworded the risk register, which is being provided to all relevant KPMG partners with an intention that it will be inserted in place of my own risk identification.</p>

107 This email of 4 September to Messrs Linke, Low and the newly appointed National Managing Partner David Heathcote who joined the conflict committee around this time.

In this email I spend considerable time discussing my observation of the coordinated pressure applied within KPMG (Mr Hunter, Ms Watson, [REDACTED], supported by Mr Yates) and by Treasury (Mr Midha and Ms Wilkinson and others, at the instruction of Mr Pratt) to improperly access TfNSW's confidential materials to Treasury without transport's permission.

I conclude the email by noting:

"There is likely to be a lot of pressure on me/my team - noting... we will issue the [operating model] ...it does not paint good news re control... due to legislation.... we will issue the financial model.... [and]it does not paint good news [either]..."

"...we are going to face some pretty desperate [Treasury and TAHE] stakeholders and [KPMG] colleagues...."

"...I need you guys covering me as its likely to get worse, before it gets better...."

"I don't want to be hung out internally, again, or wedged by colleagues in front of officials and ministers I've known for a long time..."

Mr Linke responds on the following page and set up a phone call to discuss.

109 This email of Saturday 5 September forwards my email at 107 to core members of my team. This email shows that in the intervening period I had become aware of another attempt at an 'informal' internal complaint being lodged or facilitated by [redacted] (who works for Ms Watson); and I understand by Mr Alam - by then the company secretary at TAHE.

I am unsure of the substance as this time, it was shut down and no discussion was held with me. This does show the escalating and vexatious nature of internal complaints, rumours etc. being employed to distract me and my team and doubtless, to frustrate our analysis of TAHE.

My email notes in part:

"We are coming back into battle again and lots of indications of more internal [bull shit] to come..."

"...basically [there is] a fresh attempt to slur me internally by a [redacted]"

"...it's a good signal that we need to be very united... if we have stumbles [the most senior KPMG and Treasury officials will] be waiting to stomp me into the ground...."

"...while the next weeks will be hard; remember on our side we have dignity, fun and ethics...."

"I'd rather be us than the ones about to start throwing the muck."

110	<p>This email of Sunday 6 September was sent by me to James Hunter; essentially telling him why there will be no breach of the NDA to satisfy Mr Pratt and others.</p> <p>In this email I say:</p> <p><i>"I appreciate you are eager to please Mike, San and Cass; but in practice [the materials I was instructed to hand over improperly] are not ready and definitely not going to go across tonight...."</i></p> <p><i>"I also understand that San and Mike...are likely to be quite anxious, given Audit's focus on TAHE and the various challenges it faces - combined with the ongoing iCare issue (I think Mike is starring this week at the inquiry..."</i></p> <p>I continue in the email to note once again the bullying explicitly, saying:</p> <p><i>"Noting the quite nasty internal behaviours I've experienced...our exposure to two important agencies - and the reality that if things go wrong, some of our clients might be professionally impacted – it is extremely important we do things in the right order...."</i></p> <p><i>"...if treasury were expecting [to get improperly receive TfNSW's confidential information], they should have got a reasonably clear picture [from me] at the TAHE [steering group] meeting Friday that this was not the case."</i></p>
111	<p>This email chain of 7 September sees me seeking access to Treasury's modelling of TAHE's benefits, used in the June 2020 Cabinet submission. This request was important, noting the large deterioration between TAHE's performance in my detailed financial model and the numbers provided by Treasury to Cabinet – and those in the forward estimates.</p> <p>Ms Watson responds by saying the request will need to go to Treasury as she was not involved in the June numbers, but notes that:</p> <p><i>'... [KPMG/Ms Watson have] commenced our limited assistance to Treasury with its modelling, after the May submission was made.'</i></p> <p>Again, this shows that Treasury and KPMG's continued attempts to assert Ms Watson's directly conflicting work pre-existed Cabinet's request are incorrect.</p> <p>Ms Watson's original scope on TAHE was to conclude on 30 June 2020; but KPMG then accepted ongoing, directly conflicting work that followed; reportedly worth many millions of dollars.</p>

,1 12	<p>This email from Ms Wilkinson of 7 September responds to my urgent request for the model used to generate the June cabinet numbers. Rather than providing the model, Ms Wilkinson advises that</p> <p><i>"Treasury has engaged your colleague Heather Watson to review your model for consistency with various preceding advices [sic] from KPMG.</i></p> <p><i>"...I would be grateful if you could please make all your working documents including the spreadsheet of accountabilities available to Heather [Watson] for her review'.</i></p> <p>This is particularly blunt example of the repeated strategy by the senior treasury officers to diminish my findings, by demeaning me at each opportunity; in this instance refusing to provide their modelling and instead instructing me to hand over my workings to Ms Watson – in obvious and direct breach of KPMG's duties to TfNSW and in breach of the NDA with TfNSW.</p>
113	<p>My email of 7 September responds to Ms Wilkinson saying:</p> <p><i>"I may have misunderstood but I am asking for a copy of the Treasury financial model, which was used to generate the numbers that went to cabinet in June...</i></p> <p><i>"...could you please confirm regarding a final copy of the financial model, so we can understand why the numbers that went to cabinet are different"</i></p>
114	<p>Ms Wilkinson's response of 7 September makes the extraordinary admission that NSW Treasury did not model the financial impacts of TAHE provided to Cabinet, saying:</p> <p><i>"There is no model for the June Cab Sub. The only TAHE financial model was done in (I think) 2017 by KPMG..."</i></p> <p>The 2017 model was the one noted in my first report as suffering material weaknesses - and was the reason Cabinet requested a detailed financial model to provide a more accurate understanding of TAHE's actual financial performance.</p> <p>Ms Wilkinson reveals the numbers given to cabinet were a product of simple arithmetic that summed TAHE's assumed benefits; but excluded its costs once operational.</p> <p>Within my team, we came to refer to Treasury's June numbers to Cabinet as having been generated by the Treasury 'FNT model' - by which we meant '<i>fingers 'n toes</i>' It's hard to imagine any other \$40bn corporation would see some level of financial analysis.</p>

115	<p>An email to Messrs Linke, Low and Heathcote updating them on Treasury's revelation; alerting them that they are saying KPMG have done the prior work - and ask them to note in Ms Wilkinson's email that</p> <p><i>"Note Heather's new engagement, to review my engagement..."</i></p> <p><i>"Obviously, [Ms Watson's] not getting access to my files."</i></p> <p>Leaving aside each the highly improper notion that a highly conflicted partner in KPMG could ethically review my work for TfNSW – and the contractual breaches of KPMG's NDA with TfNSW - this statement shows further evidence that Treasury officers felt that KPMG would do 'whatever it takes' to make TAHE work.</p>
116	<p>My follow up email asking Ms Wilkinson for the workings, in whatever form, used to generate the numbers to advise NSW Cabinet in June.</p>
117	<p>My email of 7 September to Messrs Linke, Low and Heathcote noting that Treasury's numbers were not modelled - relevantly to Treasury's role I observe in this email that</p> <p><i>"The 'instruction' from Cass to hand over all my work papers to Heather [Watson] suggests the level of pressure James [Hunter] might have been under on the weekend...."</i></p> <p><i>"...it seems a bit frayed in [Treasury] just judging by the emails... anyway, a good admission [regarding the lack of modelling] that we should def save on file..."</i></p> <p>For context, the prior weekend was the period in which James and Treasury officers appeared to coordinate in seeking the release of TfNSW's confidential information.</p>
118	<p>In my email of 8 September, I repeat my request for the workings for the numbers Treasury put to Cabinet in June 2020; before following to outline the coming period of work and consultation.</p> <p>Relevantly, I explicitly request Ms Wilkinson and her subordinates cease their bullying behaviours, saying in part "</p> <p><i>"I am very eager to avoid the pressures that played out last time - it'd be really good if you could in setting a calm, collaborative tone as we move into the last weeks".</i></p> <p>This again evidences my testimony that I was subject to ongoing professional and personal attacks; and further, that I asked repeatedly and directly for it to cease.</p>

119	<p>In this email of 8 September, I send the email at 118 to Ms Trussell at TfNSW - noting the request for better behaviour saying</p> <p><i>"I am hoping that Cass will step up a little as per the below".</i></p> <p>I then continue to discuss the revelation that Treasury's numbers were not modelled and noting that we cannot replicate them; before turning to pressure from Treasury saying</p> <p><i>"...let's chat about Treasury - they're... more anxious and have been trying to bust out early drafts via other parts of the firm [Mr Hunter etc]</i></p> <p><i>"....it might be time for Rodd [Staples] to get ready for a chat with the Treasury secretary and you with San..."</i></p> <p>The discussion suggested at senior officer levels was to address the emerging reality that TAHE did not work financially, alongside its audit and operational risks.</p>
120	<p>This email of 8 September to Messrs Linke, Low and Heathcote outlines the continuing objection of TfNSW to KPMG's internal arrangements relaying that Ms Trussell</p> <p><i>"...made the point that Rodd never accepted James [Hunter's] membership of the [KPMG conflict] committee..."</i></p> <p>and that he should not receive access to TfNSW's confidential information; as well as a separate conversation that indicated that:</p> <p><i>"[TAHE is] now at a crisis level; with Mike Pratt meeting the <u>most</u> senior level of government [Premier Berejklia] for a dedicated meeting on it..."</i></p> <p><i>"This might also explain why James [Hunter] has been a bit erratic in seeking insights to our work early for San [Midha] etc..."</i></p>
121	<p>This email to Messrs Linke and Low of 8 September relays formally the feedback that:</p> <p><i>"[TfNSW approved circulation of my work within KPMG] ...with the exception of James Hunter, who they've advised again that they consider to be conflicted..."</i></p> <p>and continues to report that</p> <p><i>"TfNSW are reviewing the (substantial) additional changes we've made to accommodate Treasury and are getting comfortable with them, prior to circulation to TAHE and Treasury..."</i></p>

122	<p>This email from Mr Linke of 8 September forwards my file note on the TAHE operating model to the conflict group, except Mr Hunter.</p> <p>Mr Linke's careful language and the insistence that it was not for review reflected the pressure that was being applied to me in that forum on a weekly basis; and my warnings prior (and shown in my new evidence) that I would not accept improper changes to my work.</p>
123	<p>This email chain responds to the calling of the meeting to discuss my file note on TAHE; with Mr Low identifying that he is</p> <p><i>"...buying a couch for the [KPMG conflict committee] to lie down on... for therapy"</i></p> <p>This wry observation from one of the firm's most senior partners shows the psychologically charged atmosphere of that committee.</p>
124	<p>This email of 9 September from Mr David Russell - a chartered accountant and core member of my team. On reviewing the simplistic Treasury calculations, presented to the Cabinet in June 2020 in lieu of proper modelling Mr Russell observes:</p> <p><i>"This is a gross misguidance [of Cabinet] to the overall impact of TAHE."</i></p>
125	<p>In this email chain of 9 September 2020 Mr Russell continues to observe</p> <p><i>"...if we are reconciling, it ignores the large subsidies requires for Access/License Fees that have a negative impact on the budget..."</i></p> <p>This means that Treasury's June numbers to Cabinet excluded consideration of the budget funded cost of the fees charged by TAHE to NSW Trains and Sydney Trains; in other words, the added the avoided costs - but excluded the new costs being created.</p>

129	<p>This email from Mr Hunter shows a sudden focus on whether KPMG emails and documents are discoverable - which shows an awareness of the impropriety of actions and arrangements. He says specifically</p> <p><i>"Please be very careful will all communications which is [sic] discoverable.</i></p> <p>Interestingly, Mr Hunter continues to specifically identify that:</p> <p><i>"This includes any reference to [the KPMG conflict committee] reviewing/QA [quality assuring] these documents, or providing advice, which we are not doing."</i></p> <p>It is of course obvious from the preceding and proceeding information that that was precisely what the committee was seeking to do.</p>
130	<p>In this email of 10 September, I ask Mr Linke to find out what has panicked Mr Hunter about discoverability; noting the increasing pressure around TAHE and the meeting with the Premier. Again, reflecting Mr Pratt and Mr Hunter's close relationship and interactions I ask:</p> <p><i>"David [Linke], maybe ask James [Hunter] offline what he's heard from [Mr Pratt] ... he would def know about the meeting with the Premier I would say; and may have a view on audit."</i></p>

132 This email sent on 10 September to Messrs Linke, Low and Heathcote clearly shows the mounting pressures; noting in part:

"As forecast a few weeks ago, the Takenista hit squads are resuming and they're trying the same crap as last time."

By this comment I meant internal pressure, opprobrium and rude treatment at meetings etc. Takenista was a historical reference to the Sandinistas in Nicaragua.

I continue to relay a call from Ms Hayes - who I describe as being

"...emotional and stressed - a bit of a strange call really..."

I continue to relay that:

"[Mr Staples] warned me that TAHE and particularly, the most exposed Treasury official are starting to 'play the man' on him - and on me".

By most exposed Treasury official I meant Mr Pratt in this instance.

I then continue to relay discussions with TfNSW's Ms Trussell and Mr Perdikos - each of whom observed the highly unprofessional and aggressive treatment I received from Ms Wilkinson and others. I relay the discussion with Mr Perdikos as

"[Mr Perdikos] noted that I am being targeted by all the guilty parties again like last time... rang to make sure I was ok..."

My email to these senior partners concludes saying

"I need you to support me firmly and with great vigour internally.

"Everyone got to have the fun with me last time - this time I really need KPMG to be unyielding in the face of ongoing professional and personal attacks on me - internal and external."

This email very clearly evidences my continued reporting of inappropriate bullying and interference - and requests for help in the face of terrible behaviours. Sadly, this help never arrived.

- 134 This email of 10 September from Mr Midha to me also CC's Messrs Pratt, Staples and Mr Bruce Morgan - by then appointed as the Chairman of TAHE.
- Mr Midha's email attacks my work; saying in part
- "Our expectation of 'operating model' work was to provide a model on how to integrate TAHE within the transport eco system.... spell out how processes or policies were to be setup to operate successfully... from Operations, Safety and Fiscal objectives..."*
- "...this document does not attempt to do that, unfortunately this document's purpose escapes me..."*
- "Now, the challenge to deliver a highly quality operating model by October for ERC endorsement is bigger..."*
- Mr Midha's arrogant and dismissive tone and the inclusion of senior parties was a clear effort to discredit me and my work; and doubtless, seeking to intimidate me into compliance with NSW Treasury's views in all respects.

136 This email of 11 September copies the email from Mr Midha at 134 above to Messrs Linke, Hunter, Yates and Lucas. It relays the following:

"We had an interesting day... a lot of guilt and stress from TAHE and Treasury officers that played out..."

"...below is the email from San Midha...copying in Mike Pratt and also Bruce Morgan..."

[REDACTED]

I then continue to relay a direct phone call I made to Mr Midha, noting that:

"I had an honest discussion with [Mr Midha] for about an hour... and expressed to him my disappointment in [REDACTED] - and disappointment in his email..."

"[Mr Midha] apologised and said he'd send a clarifying email - but let's see if that happens."

I then turned to address an issue that had been raised persistently in the weeks prior, seeing Ms Watson, Mr Hunter and Mr Yates pressing for my engagement to 'collaborate' with Ms Watson.

I had refused each time - relaying that I had professional, personal and ethical concerns in working directly with Ms Watson given my experience with her specifically; and the pressures to change my work I was experiencing generally from KPMG; as well as the reality that this would have breached the NDA with TfNSW and their explicit instructions to protect their confidential information from conflicted partners at KPMG.

I was told by Mr Linke that this was characterised by Mr Yates and Mr Hunter as being 'uncollegiate'. My email to the senior partners including CEO Andrew Yates says in part:

"The issue of working with [Ms Watson and her team] has come up several times on the [KPMG conflict committee] ..."

"...my strongly negative response might not seem collegiate; but a little-known fact is that Heather was my second partner on this job; but that had to be changed due to challenges and conflicts that caused..."

	<p><i>"...neither me nor my engagement team would willingly work with Heather Watson or [REDACTED] again..."</i></p> <p>and then I continue to pose some options that would allow collaboration - insisting that any arrangements would include</p> <p><i>"[any interaction with Ms Watson must have] a PPC [human resources] representative at any meeting of discussion with that team, noting the history of vexatious complaint..."</i></p> <p><i>"I will circulate some suggested measures to allow collaboration...without... a return to the problems... in May and June."</i></p> <p>The problems in May and June were vexatious complaints and errant and bullying behaviours by Ms Watson and [REDACTED] in the first engagement - which warned of the need for an operating model and improved financial analysis.</p>
136	Email to all KPMG senior partners outlining the contact from Treasury and subsequent discussion.
138	Email showing that my financial model and output were fully endorsed by the firm and subject to all quality reviews.

139	<p>This email of 13 September was sent to Messrs Linke, Heathcote and Low, regarding my identification of the valuation problem facing TAHE. This is the issue whereby Treasury's prior analysis, with Ms Watson and KPMG in 2017, assumed a 50 per cent write down in TAHE's assets. As noted in my final report to Cabinet, on inquiry Treasury was unable to substantiate the basis for this assumption. My email advises the senior partners that:</p> <p><i>"The problem for NSW Treasury is the value of TAHE.</i></p> <p><i>"[Without] a write off it's a cash trap - and there's no write off on a DORC [replacement cost valuation] and appears little or no write off under a DCF [discounted cash flow model allowing valuation on an 'income approach'] as the [Full Economic Cost] is so high."</i></p> <p>Around this time, as noted in my November report to Cabinet NSW Treasury instructed us to remove the DCF model altogether, because it showed no write off was available under an income approach; although I note that subsequently a write down of this magnitude has occurred – and forms one of the matters that has seen NSW fail thus far to pass audit.</p>
140	<p>This email of 13 September saw me send PwC's report concluding that TAHE did not work to Messrs Low and Linke; I say</p> <p><i>"This is PwC's advice saying TAHE did not work..."</i></p> <p>Mr Low responding after reading it saying</p> <p><i>"Thanks Brendan – [PwC's] advice was pretty conclusive [that TAHE faces material accounting issues]."</i></p>
142	<p>This email chain shows my response to Mr Midha's email of 10 September - responding some 40 minutes later and including Messrs Pratt and Morgan included on the original email. I note in particular that:</p> <p><i>"I was hoping that this time there might be a more integrated process - but there's a lot of anxiety and stress about TAHE and it makes it much harder to resolve well...."</i></p> <p><i>"Perhaps it might be time for you, me and Mike [Pratt] to chat as I feel there's concern where there should be cooperation..."</i></p> <p><i>"...we are working harder than you might appreciate to fix a range of problems with how TAHE works..."</i></p>

142 Mr Pratt responds to my email on Sunday 13 September saying

"Sans's note is a good summary"

Continuing to say it is a collective responsibility and that

"This is not about whether we do or do not progress TAHE, we are!"

This ongoing email mobbing by senior officials again shows the mounting pressure and group nature of the improper interference I faced.

143 My response to Mr Pratt's email on 13 September seeks to correct key errors in his understanding and establish relevant fact - before specifically raising the behaviour of Treasury officers. I say in part:

"As with other points over the past few months, some of your people thought calls to my Partners about a supposed lack of professionalism was an appropriate response...."

"I understand there's a lot riding on TAHE for all involved; but this is not a helpful or professional way to respond to a thorough draft..."

"...interestingly, by late Friday the tone from TAHE and Treasury officers toward the draft tile note had changed quite markedly, with only minor edits suggested."

Eager to confront the bullying and poor treatment head on, I also requested that:

"Mike [Pratt]- I think it would be good to get together in person to discuss TAHE - I will send a formal meeting request to your EA tomorrow"

In my experience, Mr Pratt prefers to communicate hard messages through letters, emails or intermediaries. I hoped that as with other bullies, when confronted directly he would back down and instruct his intermediaries to cease the attacks on me and my team.

Unfortunately, Mr Pratt declined to take the meeting despite three requests. I continue to request specifically that:

"I would also appreciate if you [Mr Pratt] and Bruce [Morgan, TAHE Chair] would communicate to your relevant staff to maintain appropriate professional courtesies toward me and my team in meetings; and to respond professionally to drafts related to the Cabinet process...."

"This is a complex job... being made harder... by TAHE and Treasury at the moment..."

This direct request at the most senior levels to intervene and case the bullying behaviours was never acknowledged or responded to; showing Mr Pratt was aware of my allegations – but chose to do nothing.

144 This email of Sunday 13 September was sent by Mr Hunter some four hours after my response to Mr Pratt outlined at 143. Mr Hunter sends the email to Messrs Midha, Low and CC's me and says:

"As discussed, I have now spoken with Paul [Low] who is rescheduling other priorities so that he is able to fully support Brendan..."

"I encourage you [San Midha] to connect with him [Paul Low] on Monday."

The effect of this was an email to Treasury some hours after the email to Mr Pratt asking that the coordinated bullying stop, inferring that I was being replaced – obviously to discredit and remove me. Interestingly, Mr Hunter continues to note that:

"I also spoke with Mike [Pratt] this evening... and discussed as we did on Friday the necessity for a well-defined, collaborative approach to discuss, agree and document... the outstanding aspects of [TAHE]."

This suggests Mr Pratt and Mr Hunter spoke after my email - and as a result, Mr Hunter sent an email that effectively sought to replace me from my work.

This again evidences that the professional and personal attacks on me were a coordinated and in all regards, a joint enterprise between KPMG and NSW Treasury's most senior leaders.

146 This email was sent by Mr Hunter minutes after the email at 144 and was sent to Messrs Low, King, Heathcote, Yates, Linke, Lucas and Mesdames Watson and Davim. This email repeats in different language the intent to replace or supplant me, saying in part:

"I was working in Treasury on Thursday and had face to face meetings with San [Midha] and Mike [Pratt]... further discussions with San on Friday, and Mike called this evening as well.

"I have also spoken with Joel David Andrew and Paul on Friday and over the weekend... this note outlines the summary of key feedback and... steps I have agreed with David [Linke], Paul [Low] and with Mike [Pratt] and San [Midha]."

My exclusion from discussions - of which Mr Hunter's desired outcome as my effective removal from my work - is straightforward evidence that this was planned over days. He justifies this by saying in part:

"I indicated we needed to change the approach of TfNSW leading and writing... and other ...criticizing... San [Midha] had also agreed..."

"Mike [Pratt] also agreed we needed to change the approach...I indicated it is not helpful for Brendan to be holding the pen [on my report to Cabinet] ..."

"...we need everyone to agree section by section... with joint-leads... this...will be defined and shared week by week..."

This email confirms a coordinated and joint enterprise between KPMG and NSW Treasury's senior leaders, attempting to improperly remove me from my engagement for TfNSW and Cabinet; with Mr Hunter seeking to assume direct control 'week by week'.

Alongside the coordination to frustrate my report, the complicit KPMG senior partners entertained highly unethical breaches of the most basic professional ethics. Mr Hunter continues in the email to say:

"I reinforced to... San [Midha] and Mike [Pratt] this evening that we have the most knowledgeable team involved in TAHE...however we have discussed further last week and agreed with San that we would provide further second partner report'.

	This again evidences Treasury and KPMG were complicit and coordinated in seeking to frustrate my work's findings and completion.
147	My email some minutes after Mr Hunter's emails above relating succinctly that: <i>"This is <u>unacceptable</u> James.... this will need to be corrected by you - or I will do it... this must not happen again."</i>
148	This email shows Mr Low reviewing my financial model file note - again simply showing my ongoing compliance with all internal controls.

149	<p>In this email of 14 September, I share with Messrs Low, Heathcote and Linke some long-outstanding information needed from treasury for the financial model - before noting:</p> <p><i>"Thanks again for this morning's discussion - and sorry to be explicit about support - but it'd simply not be worth defending KPMG, if senior partners are not prepared to defend me while doing so..."</i></p> <p>I then note their agreement that they 'had my back', saying:</p> <p><i>"...glad you're all locked in..."</i></p> <p>The concluding section of the email says:</p> <p><i>"I look forward to Mr Hunter's explicit clarification."</i></p> <p>This refers to the agreement by David Linke that he would ensure Mr Hunter sent a clarifying/retracting email - explaining that I had not been removed from the job.</p> <p>In the end this did not occur - as shown in a later email - with Mr Hunter instead agreeing to use 'talking points' to correct the record when he 'next spoke to Mike and San'.</p>
150	<p>This email of 14 September reports to Messrs Heathcote, Linke and Low that</p> <p><i>"It would be fair to say Treasury are dangerously unclear about maintenance.... the issue that TAHE and Treasury melted down about last time...."</i></p> <p><i>"The [TfNSW] safety people ...[now] have the view that Treasury's position 'completely repeats Pink Batts' ..."</i></p> <p><i>"[this] shows the highly shiftable positions of Treasury... the latest plan is the Cabinet's ERC approves the level of maintenance [on rail assets]."</i></p> <p>Alongside the financial modelling results, the allocation of maintenance was a major issue of ongoing conflict – with Treasury not wanting to address the tension between accounting rules and the National Rail Safety Law.</p>

152 My response on 11 September to Mr Da Silva says:

"I had a discussion with San last night about... TAHE matters, including some concerns I have..."

These concerns were about the conduct of Mr Midha, Mr Pratt, Ms Wilkinson and others in that team. I continue to say:

"I note your comment about an updated 'fact based' draft..."

and continue to explain that:

"This is a concept of operations and business rules file note... by definition, it's a narrated opinion of how and who does what, based on the [1000+ rail functions, allocated in our RACI matrix to develop the operating model] ...

"...please clarify where you believe there are factual errors, and we will address these..."

"...otherwise, we will await your and Andrew Alam's detailed inputs, as agreed with Fiona [Trussell, TfNSW Dep Secretary] yesterday."

I then continue to say:

"I would also appreciate if today's [Treasury/TAHE consultation] session could move from general commentary toward detailed comments on whether the allocations and descriptions pose problems..."

Again, referencing directly, the ongoing errant treatment and bullying by Treasury officers I conclude by saying

"I look forward to the discussion this afternoon - and hope it might see a higher level of cooperation and respect....PS: for completeness I have copied San [Midha] in above."

This email on 11 September was sent to the entire public sector working group on TAHE by Mr Sajiv (Saj) De Silva - a junior official working for Ms Wilkinson and with a long history working on TAHE. While informing me that Treasury has no detailed comments to provide, Mr De Silva continues to say

"Can we please ensure the next draft speaks to facts backed by available evidence and not [your] views/interpretations..."

This email from any official on a group email would be considered at once rude and unprofessional; but given that Mr De Silva is quite junior, I submit that this evidences senior levels of the Treasury endorsing a culture and practice focused on bullying and discrediting me and my team's work on TAHE.

In Mr De Silva's response of 11 September he says

"Can I suggest if you want to move to more detailed comments [on your file note], we move this meeting to Monday afternoon as both my commercial and accounting colleagues at Treasury have not had sufficient time to digest the file note in detail..."

In context of several days of bitter opprobrium and internal repercussions based on criticism of my work by Messrs Pratt, Midha and Wilkinson over this file note; and Mr Da Silva's comment that the draft was based on opinion etc; Mr Da Silva's admission that my paper had not in fact been reviewed shows clearly that Treasury's mission at the point was solely focused on discrediting me and my work for TfNSW and NSW Cabinet.

- 153 This email sent to Messrs Heathcote, Linke and Low on 14 September attaches Treasury's detailed response - which confirms the maintenance is a 'key activity' of TAHE to satisfy the accounting standards. My email relays this as follows
- "[Treasury officers] have finally said it.*
- "Maintenance is a key activity of TAHE...*
- "VERY different to what they said to TAHE's directors - and shows the complete, utter and rank stupidity of Thursday's meeting; San [Midha's] carry on - and Mike Pratt's ongoing interventions via Mr Hunter."*
- The email continues to note that once they've reviewed the substance of my work, they agreed with its substance - but attacked first because I was raising problems to be dealt with; I reflected this in the email as *"Like last time, [Treasury/TAHE] agreed with everything [in my file note] - but not the vibe..."*
- "At [last Thursday's consultation meeting] we proposed precisely this. It's what saw all the drama..."*
- "...now, on Monday night they send a badly drafted memo that confirms last Thursday, we were spot on."*
- The email continues to note that
- "The second page is a rant from Cass [Wilkinson] about how TAHE is a huge economic reform, [rather than] a bad way to try and hide non-cash expenses".*
- Importantly from an internal perspective, the email finishes by saying:
- "IMPORTANT QUESTION: I've not seen the 'clarification' from James Hunter - can you update pls?" –*
- This refers to the email that Mr Linke undertook that Mr Hunter would send, retracting his email saying I had effectively been replaced.

154	<p>This email from Mr Low on 14 September shows that Mr Midha took the advice of Mr Hunter's email and contacted Mr Low to talk about my engagement for TfNSW; which he relays in some detail.</p> <p>Mr Low relays that:</p> <p><i>"San relayed the outcomes of a meeting with he, Fiona [Trussell], Ann [Hayes, then TAHE interim CEO] and Cass [Wilkinson]...at which they decided...KPMG would provide a 'single view' across the work of Heather [Watson] and Brendan [Lyon] on TAHE...</i></p> <p><i>"[Mr Midha] reiterated several times that TAHE will ahead based on the Premier having directed so last Friday...</i></p> <p><i>"[Mr Midha] said the NSW Government is open to [adjusting settings over time] but the model will fulfil the State fiscal and other objectives...."</i></p> <p>Mr Low's email continues to note that:</p> <p><i>"[Mr Midha] is awaiting advice from me that KPMG can [provide] integrated advice and upon that, he will communicate this to Rodd [Staples] and Mike [Pratt] as the way forward".</i></p> <p>This was again a coordinated scheme between KPMG and NSW Treasury, aiming to have me removed from the engagement to ensure that it 'aligned' with Mr Pratt's expectations.</p>
155	<p>In this email of 14 September, I note again that Mr Hunter's correcting email has not been issued.</p>

162	<p>This 15 September email from Mr Crimp, an experienced rail executive and TAHE's COO says</p> <p><i>"Brendan this is not TAHE's position... the discussion yesterday was that funding for maintenance... would go direct to the operators from TfNSW or Treasury..."</i></p> <p><i>"...maintenance is still an open matter from TAHE's perspective".</i></p> <p>This email again confirms that despite Mr Pratt, Midha and Ms Wilkinson's ongoing assertions that TAHE is fine to go save for the problems I was causing; reality saw fundamental disagreement over responsibility for maintenance of rail assets - the key determinant of asset safety; and a key lesson from Waterfall and others - more than three months after Treasury had created TAHE and give it ownership of the State's rail assets.</p> <p>In my email of the same Dave above, sent to Messrs Yates, Hunter, Linke, Low, Heathcote and Lucas - I note that</p> <p><i>"It's finally been revealed that the fight is between TAHE and Treasury over the operating model."</i></p> <p>This was important to me - after all the complaints about my work causing problems - it was actually revealing the lack of preparation, analysis and reality impacting Treasury in their desire to avoid the fiscal impacts. Also importantly, I report to the senior partners including CEO Mr Yates that:</p> <p><i>"James - relevantly, Treasury have now submitted their minor comments on the rest of the paper."</i></p> <p><i>"They are radically different to the emotional response that we saw last week.... this is a big issue and now out in the open."</i></p> <p><i>"We can now let [Treasury and TAHE] sort it out."</i></p>
167	Email providing KPMG's senior partners with my financial model results, before being shared externally.
168	Discussion about the errors and limitations in the 2017 model by KPMG/Ms Watson used by Treasury.

169	<p>This email was sent by me to Mr Staples on 15 September to arrange an urgent call with Messrs Linke, Heathcote and Low of KPMG.</p> <p>The purpose of the call was for Mr Staples to advise the KPMG partners directly that TfNSW had not agreed to Mr Midha's 'single report'. I note that</p> <p><i>"Rodd [Staples], Fiona [Trussell] can update you on her call with San [Midha] - but he suggested that arrangements had changed within KPMG".</i></p> <p>I recall that Mr Midha rang Ms Trussell to inform her that KPMG had changed arrangements, such that there was to be a single report led by Ms Watson – something strongly rejected by TfNSW. My Email continues to say:</p> <p><i>"This meeting is about confirming to you and Fiona the leadership and accountability for KPMG's TAHE engagement with you.</i></p> <p><i>"If would be helpful for me if this could be resolved quickly, noting your diaries Rodd and Fiona..."</i></p> <p>This call was about trying to re-establish my legitimacy - and righting the scheme by Mr Midha and others to have me taken off the engagement for Transport.</p>
170	<p>Email to all senior partners including the Mr Yates enclosing the TAHE model, results and a description of TAHE's problems at that point.</p>
172	<p>This email of 16 September is sent to Messrs Heathcote, Linke and Low - providing an update of Ms Watson's weekly call on accounting risks.</p> <p>By this stage, I was included in these meetings by TfNSW; with Ms Watson repeatedly and pointedly not including our team; despite the extreme relevance of the accounting workstream to the operating and financial models.</p>

174	<p>This email chain of 16 September shows my correspondence to the KPMG conflict group enclosing the results and my entire financial model of TAHE.</p> <p>In the email to all senior KPMG partners, I specifically note:</p> <p><i>"For clarity, this shows a large deterioration in the [forward estimate] benefits assumed by NSW Treasury in the June cabinet submission; of the order of circa \$6bn.....</i></p> <p><i>"...This is because Treasury did not model the inputs to the Cabinet submission; instead, they summed the avoided depreciation and capital expenses...</i></p> <p><i>"This obviously neglects the very large access charges that form costs to the budget."</i></p> <p>My email also outlines the approach I used in the meeting with Treasury and TAHE - seeking to ensure alignment ahead of the results which is noted in the email as:</p> <p><i>"Reach explicit agreement with Treasury on the assumptions... [agree again] the architecture of the model...[and] the scenarios applied.... then - reveal the modelled results."</i></p> <p>This approach was undertaken in the meeting - with agreement reached on each the form, function, inputs and assumptions to the model - ahead of revealing the highly negative results.</p> <p>As with other elements, despite agreement on the inputs, the revelation of the results saw Ms Wilkinson, Messrs Pratt and Hunter and others demand that the assumptions be radically changed, to prop up Treasury's forward estimates.</p>
175	<p>This email from Mr Hunter was sent some 90 minutes after the model and results were circulated - and shortly after they were sent to Treasury.</p> <p>Mr Hunter's email cancels the scheduled midday meeting of the KPMG conflict group, citing that:</p> <p><i>"...it is best to defer [the KPMG conflicts committee] until we have greater clarity on some procedural items between TAHE [NSW Treasury] and [TfNSW]"</i></p> <p>Noting the time, I can only imagine that the procedural items under discussion was Mr Pratt, Mr Midha and Ms Wilkinson seeking to pressure TfNSW to remove the results.</p>

176 In this email chain of 16 September (and preceding the above email in time) is an email from Mr Linke relaying contemporaneous notes of his discussion with TfNSW Deputy Secretary Ms Fiona Trussell. He relates in part that Ms Trussell said:

"She and Rodd are not agreeable to an integrated approach [put forward by Mr Hunter and Mr Midha]".

This shows that Mr Midha and Mr Hunter's coordinated machinations saw Treasury advise KPMG that TfNSW had agreed to my removal, while simultaneously telling TfNSW that KPMG had removed me from the engagement. This is a clear, obvious, highly improper and deeply unethical conspiracy to frustrate my work.

Mr Linke's email also notes that Ms Trussell advised "...*this will be a mike [Pratt]/Rodd [Staples] discussion*" reached.

Regarding my own conduct, Mr Linke relays that

"Ms Trussell[] was complimentary... the way [] handled the meeting yesterday in what was a difficult situation"

This refers to the meeting in which we provided the results of the financial model to treasury and TAHE - revealing the material hole in the state's finances, discussed above.

Importantly, my email in response to Mr Linke's reflects I had been advised that Mr Hunter would not issue the clarifying email as per Mr Linke's undertaking. Instead, I was advised that he had agreed instead to use 'talking points' and would be sure to clarify this issue with all stakeholders, when he saw them.

I asked Mr Linke why he was unable to secure a retraction, as he had earlier committed to do - his response was that "James [Hunter] is too powerful" - a phrase repeated often across TAHE.

Of this I say:

"After a few days of fury; I no longer care about James [Hunter sending a retraction email]; and do not care about any proposed [talking points]."

"The proposal that James [Hunter] would use 'talking points' to clarify his (disgraceful) email is really a bit sad."

I continued to note that:

"The damage has been done to me - and also to KPMG - Rodd [Staples] rang me last night and ...he's not particularly enamoured of KPMG's conflict management process or regard for [TfNSW's] interests.

My email finishes on a separate but fundamentally important issue, saying

"David Linke, I've asked Paul Low to speak with you today about a minor but important matter... regarding the vexatious complaints [by Ms Watson and [REDACTED] early in the engagement."

I asked Mr Linke, who advised me many times that he knew the complaint was baseless and vexatious - and said too that Ms Deb Yates, the head of HR also advised him that *'she could see straight through'* the earlier complaint.

By this time, I was deeply concerned about future reprisals, noting Mr Yates the CEO-elect was allowing the bullying to occur and the conflict to accelerate, with the firm's most senior partners involved. Noting my concern, I asked Mr Linke to provide me a letter - asserting his view that Ms Watson's complaints were vexatious and represented process bullying.

On this I continue to say:

"Noting the absence of wins for me... it is important to me with all the mud that been allowed to be thrown, this this one is clarified in writing before you leave."

Mr Linke later informed me that as the letter had no legal standing, he did not understand why he would do it; that it was irregular etc.

I told him in response the entire TAHE arrangement was irregular and that I was specifically concerned about either Treasury officers or KPMG launching subsequent complaints about me (as they indeed did). Mr Low was present for this discussion as was Mr Heathcote - should the committee wish to subpoena them to corroborate the substance of that discussion.

179	<p>This email chain of 21 September shows my email to Ms Watson and Ms Wilkinson; seeking clarifications over new assumptions provided to us by TAHE; at the behest of Treasury.</p> <p>These new assumptions served to reduce TAHE's ROE denominator by some 75 per cent using an approach with no precedent, a return below inflation and a permanent operating deficit for the rail operators.</p> <p>This was to become the last - and largest - area of pressure and dispute.</p>
180	<p>This email of 21 September responds to an email from Mr King, which is unfortunately cut off but included in full at 184, 183 and 182 below, which responds to the circulation of the financial model.</p> <p>In my response, including all members of the KPMG conflict committee and Ms Watson and Mr King I note the areas of agreement - saying</p> <p><i>"Treasury and [Heather Watson] each minuted that there were no accounting issues visible in our operating model; and saw Treasury minute they are happy with the structure and function of our financial model; with a meeting on Wednesday to refine the previously agreed assumptions..."</i></p> <p>This is important to note, given Treasury's subsequent assertions of 'persistent errors' in the model; and my corresponding observation that Treasury agreed with the financial model's inputs and function - but were to stridently disagree with its outputs.</p> <p>Put another way, they agreed with everything except the answer from the detailed financial analysis.</p>
181	<p>This email from Mr Russell of 21 September responds to my request that the team review Mr King's lengthy email. Mr Russell notes that</p> <p><i>"This is really just an iteration of Andrew Alam's questions - are they working together?"</i></p>

- 184 My email in response to Mr King on 21 September and sent to Messrs Yates, Hunter, Heathcote, Linke, Low and Lucas and Ms Watson, regarding Mr King's response to my circulated Financial Model and accompanying file note.
- I note the consistency between TAHE, Treasury and KPMG - saying in part
- "Your questions/comments are essentially the same as TAHE's..."*
- As most of the questions could not be answered without Treasury input - and noting Ms Watson/Mr Hunter/KPMG's work with Treasury - I continue to say
- "I have written to Andy [King], Heather [Watson] and Treasury to seek their direct guidance to resolve the substantive questions raised..."*
- I then request that KPMG generally communicate to Treasury that the release of the model should not lead to recriminations (as each former part of the project had), saying
- "Re your comments... I'll take each on board; but it would be useful if Treasury are uncomfortable [with the results of the detailed financial model] to confirm again that: we used... agreed assumptions, data and inputs...agreed model architecture...[and] provided Treasury's preferred scenario as the main option..."*
- The email continues to seek KPMG colleagues to keep Treasury calm, while the highly negative fiscal impacts could be considered.
- In terms of Mr Pratt's testimony and assertions of 'persistent errors' in my modelling of TAHE, I again note that
- "...it was pleasing that [my financial] model itself (not the results) were well received by Treasury and TAHE.*
- Interestingly, my comment to the KPMG conflict committee also reassures everyone that:
- "I am very cognisant of the audit office overlay...we are seeking to limit visibility so these sensitive issues can be discussed and agreed, before wider circulation..."*
- This at once evidences both my sensitivity to ongoing attack by Treasury and KPMG colleagues - but also shows the major internal pressure to 'make TAHE work' - to the point that a

statement of faith in that outcome was necessary on an email to partners.

185 This email from Mr Low on 23 September is sent to Messrs Heathcote, Linke and CCd to me - and provides contemporaneous notes of a Treasury/TAHE meeting to take feedback on the model - and address the deterioration of the modelled results. He relates

"I attended the TAHE financial model feedback session... Anne [Hayes], Cass [Wilkinson] et al were in attendance..."

"...the meeting was productive and positive and... continued the process... to flush out... [final] assumptions.... these remain with Treasury for advice..."

Again, this shows that Messrs Pratt, Midha and Ms Wilkinson's concerns were not over the form or inputs of the model; but rather the assumptions as published in my report. Mr Low supports this when he continues

"There were questions in 1-2 areas around model methodology... but in my modelling layman's view these ultimately came down to needing clarity from Treasury in 6 or so areas of assumptions... and agreement between Fiona [Trussell], San [Midha]/Cass [Wilkinson] and Anne [Hayes]..."

Critically, Mr Low continues to confirm Treasury's gathering intention to change the numbers, noting

"An over-riding theme from Treasury (and to some extent TAHE) was that... the current model may provide too much detail..."

"Treasury maintained a view that the Cab Sub should be careful on...financial model impacts..."

Mr Low continues to relate my answer to this contention that the model did 'too much'; which he reports as

"Brendan [Lyon] noted that our scope (and file note purpose) was to provide as much detail and insight re financial model that aligned with... [TAHE's operating model] and that it was for NSW Government stakeholders - namely TfNSW, Treasury and TAHE - to agree how much and which financial model outputs are relevant..."

This point is again important. While Mr Pratt and his colleagues continue to discredit my work - it was finalised with the full agreement of my client - TfNSW; developed with excessive consultation with rail operators, transport planners and project arms of the transport department; and with an 'open book' to Treasury and others.

And it was attached to the Cabinet submission by Transport for NSW. Also relevantly, Mr Low notes

"Brendan [Lyon] also noted that KPMG was maintaining a change log...[of] advice received on the model assumptions and final agreements reached....

[The change log is recording] any specific directions around those assumptions and who that was provided by.... [to] ensure the model is supported by good documentation for those that follow after..."

My decision to maintain and publish this change log was both to create a mechanism to make Treasury and TAHE accountable for decisions (which had been highly variable to this point) - but pointedly, because by this time I was of the view that both Treasury officials and KPMG personnel were going to 'cross the line' between seeking to meet government desires, and maladministration.

I was also by this point genuinely concerned about my own professional welfare - noting the ongoing consequences from senior partners - and failure to address errant behaviours or provide me with support.

This log is appended to the full report - but I did not retail a copy and was therefore not able to provide in my subpoena; but assume that it has been made available to the Committee and the NSW Audit Office from the call for papers and the separate audit process, respectively. Mr Low concludes his email by saying

"Another important point...relevant to the conversation with James Hunter last night re risks to KPMG is...our deliverable will be branded... and this deliverable ... would accompany the Cab Sub... FYI Andy [King] and Heather [Watson] were observers on the call."

This reflects ongoing attempts at the conflict group by Mr Hunter to frustrate my work and to continually undermine me by painting me as an aggressor; due to Mr Pratt and the other officials' improper complaints and aggressive responses to my work; and the same with Ms Watson internally.

- 186 This email of 21 September from Ms Watson seeks to refute my earlier report that Ms Watson and Ms Wilkinson had minuted no accounting concerns with my operating model. Ms Watson's email, to all KPMG conflict committee partners recharacterizes this; saying
- "In terms of me saying there is nothing insurmountable [in your work for TfNSW] at this stage... it is...important to note that... I agree with Andy's points."*
- These are the same points above, common each between TAHE, KPMG and Treasury.
- This again shows the lack of accountability to what was said/agreed across the project; the gaslighting and generally nasty behaviours within the KPMG conflict committee.

187 IN this email of 23 September to Messrs Heathcote, Linke and Low, I relay that I was on the weekly accounting risk call which included officials from TfNSW, Treasury and TAHE - but largely led by Ms Watson. It relays that:

"Everyone on that call now appears to think Audit is most likely to clear [TAHE] this year; but audit have apparently indicated that next year is the end [of TAHE] –

"[NSW Audit Office] have said they'll do TAHE's audit properly next year and they've made that very clear' was the quote from Elise [Naylor]..."

In my observation and experience, Ms Naylor is a highly experienced professional accountant and highly diligent public servant. I then provide observations that:

"If [TAHE] does survive this year - other than the damage to [KPMG's] reputation at transport and treasury over the past six months... for the senior [partners]... I'd say ... [KPMG] do not want to be at the TAHE party at the end."

This reflected ongoing risk warnings I had provided across the engagement that TAHE would prove damaging to KPMG's professional reputation. I also offered that:

"...if [TAHE] is to pop next year... NSW Cabinet may want to have a discussion about whether COVID19 is the year to let it go..."

By this I meant that with NSW already facing a previously unimaginably large deficit due to COVID - and with the State's AAA rating already downgraded - the case for TAHE to be maintained at any cost appeared weak. Indeed, it is unlikely that an extra few billion atop the multi-billion deficits would not have been particularly notable.

Rigorous and professional Treasury officers would have advised NSW Cabinet on options to this effect; in my recollection, either Messrs Pratt, Midha or Ms Wilkinson has testified to either estimates of this inquiry that Treasury never advised Cabinet on options and impacts of cancelling TAHE's creation.

Atop the admissions in my evidence that TAHE was not modelled between 2017 and its creation; and that Cabinet was provided numbers in June 2020 based on overly simplistic, misleading and flawed calculations; I submit that there are legitimate questions to be asked over the competence and proper performance of the Treasury.

Relevantly to the question at hand, my email concludes by asking the cc'd senior partner to ascertain what was relayed at the meeting and ensure that

"[KPMG]...should make judgements about where [it positions itself on TAHE] on that basis".

In other words, I was relaying that in my opinion that KPMG had a final opportunity, perhaps, to get off the (dying) TAHE horse. At that time, I was not aware of the very large untendered contracts and contract extensions being advanced to KPMG via Mr Hunter; (detailed in part in a recent Crikey.com article).

188 In my email of 24 September, I explain to Messrs Heathcote, Low and Linke

"The reason Treasury went mental appears to be that Mike Pratt was... told it was a high priority for him to fix the meeting with the Premier" –

This was the meeting including the Premier, Transport Minister and Treasurer and their respective heads of department. It continues to relay:

"The premier was not negative on transport or me...rather, I understand she raised questions about Treasury's professionalism...."

I then relay to the senior partners the rather obvious coordination and joint efforts against me by KPMG and Treasury noting that

"...shortly after [the meeting with the Premier] was when Pratt and the James [Hunter] sent [their] emails...."

By 'their emails' I am referring to the emails above; wherein Mr Pratt emailed his list of concerns; and where shortly after Mr Hunter sent his email suggesting I had been replaced by Mr Low.

Relevantly, I also advise that

"Rodd [Staples] is emailing San [Midha] today to reject an integrated report... he will advise San to [provide Treasury input] through the process with the take steer co.... he wants [KPMG] to deliver our work as contracted."

This again shows Treasury's deception of the Committee in their evidence; and shows the active programme of misinformation and outright lies being pursued to frustrate my work and denigrate me.

This also shows the impossibility of my position; wherein TfNSW properly expected the work they needed for Cabinet would be delivered as per the scope; but where KPMG's most senior partners, including the CEO-elect Andrew Yates, Messrs Hunter, King and Lucas were actively and openly seeking to frustrate its delivery; while Messrs Low, Heathcote and Linke were at this point highly supportive of my work and cognisant of the challenges I faced; their support proved passive to the point of silence, during key meetings of the KPMG conflict committee and other key meetings which followed; and impotent to stop the later reprisals.

The pressure from Mr Pratt is reinforced by Mr Low's email in response, also of 24 September where he notes

"[TfNSW and Treasury] ... will need to discuss the extent of financial model outputs...in the final cab sub....I can imagine we'll get another round of challenges with Mike Pratt once San [Midha] briefs him."

Mr Low is KPMG's head of government; his identification of Mr Pratt as the originator of the pressure/bullying from Treasury is legitimate and valid.

189	<p>This email chain of 30 September sees Mr Crimp advise in an email that includes me, members of my team and the CFO of Sydney Trains; and says:</p> <p><i>"...we are clear that TAHE does not play a role in approving... the quantum of maintenance funding... important that we resolve."</i></p> <p>Maintenance was the key issue of contention that led to Mr Pratt's email, essentially accusing me of generating problems rather than solutions and instructing me to 'get on with it'.</p> <p>It is hard to complete your advice on the allocation of responsibilities in rail - when there remains no alignment over who and how the maintenance of rail track, signalling, trains and every other capital asset are to be maintained.</p> <p>This was an issue because the accounting rules require TAHE to demonstrate independent control of its assets, which logically includes maintaining them.</p> <p>Despite the opprobrium and ongoing suggestions that I was causing trouble and raising issues that were beyond my brief, Mr Low responds on 30 September to Messrs Heathcote, Low and Linke; saying</p> <p><i>"Agreed - this maintenance position has been oscillating over the past 4 weeks particularly..."</i></p> <p><i>"...it'll be an important matter for [the national rail safety regulator] too, given the maintenance v safety balance."</i></p> <p>Mr Low's email also shows KPMG's awareness of the safety impacts; and refutes in part KPMG's evidence to the inquiry that my work had no safety element. That is materially wrong - noting that it specifically required my operating model be capable of passing independent safety review.</p> <p>I had insisted on that TfNSW provide an independent safety certifier to assess our operating model work - because I am very aware of the tragic prior history, where accounting outcomes have been put before operating outcomes on rail networks here and elsewhere in the OECD.</p> <p>I wanted to ensure that the operating model we provided was understood by rail safety experts; and that I had the comfort of that oversight and interrogation of our work. Mr Low's reference to oscillation reflects the rapidly shifting and often contradictory</p>
-----	---

	inputs from Treasury and TAHE about maintenance and safety generally.
--	---

190	<p>This email of 30 September sees me respond to Mr Low's email above, including Messrs Heathcote, Low and Linke and says of the oscillating position on control of maintenance, I observe that:</p> <p><i>"Maintenance is...unresolved...because anyone from transport land knows this is all madness."</i></p> <p>I continue to say:</p> <p><i>"[Mr] Crimp is a rail man.... he's annoyed at me, because we keep maintenance allocated to them which is wrong [for rail safety] - but it's 'right' for [Treasury]..."</i></p> <p>This reflected again the mounting tension over key aspects of the model, which is continued in my concluding observation that:</p> <p><i>"The benefit of [the final draft of my report for Cabinet] being out is all the sick cats are out - and [Treasury, TAHE and TfNSW] can fight it out with each other from now on."</i></p> <p>This again shows the continuing pressure on me; and my desire that government stakeholders resolved the issues between them.</p>
192	<p>This late-night email chain of 30 September sees a discussion after TfNSW have asked me to issue the draft final of my report to Treasury and to TAHE, for comment that night.</p> <p>I observe in my final email in the chain sent at 10:02pm that transport wanted it issued asap due to its length and complexity. I note to Messrs Heathcote, Low and Linke that</p> <p><i>"[issuing my final draft report] will flush out the modelling issue - noting Treasury have not seen the application... of their suggestions [on model assumptions] as yet..."</i></p> <p>This again reflected my hope that the draft would force a real discussion and resolution between the departments; and signal the end of my work on what had been a terrible, conflicted and highly stressful engagement.</p> <p>Regarding Mr Pratt, I continue to relay that:</p> <p><i>"I am told [Mr Pratt] was informed today of the preliminary final outcomes of [my TAHE financial model] - apparently he was a little rattled.... sounds like another fun week on...TAHE."</i></p> <p>This again shows the pressure being applied by Mr Pratt and the open discussion of it with the senior partners.</p>

193	<p>This email from Mr Low responds to my final email at 192 above, saying that</p> <p><i>"Agree with David [Heathcote]... Fiona Trussell should do circulation..."</i></p> <p>This reflected that by this time, Mr Hunter had confected a view among the committee that I should no longer send emails on TAHE; ostensibly to limit the opprobrium in response.</p> <p>Obviously, the true intent was to continue to erode my standing with internal and external stakeholders. My frustration is noted in my response to Mr Low, whereupon I ask:</p> <p><i>"What if I told you Fiona [Trussell] is in bed and that TfNSW asked me to send it out... like you know, a Partner in a global firm...."</i></p> <p>By this point, I was extremely frustrated at KPMG's unwillingness to intercede to stop what was an obvious, brutal and continuing process of bullying and professional denigration.</p>
194	<p>This email shows Mr Low's review of my final draft in his role as second partner, a normal process in finalising any output as a partner. He made some minor comments; observed on the potential internal pressures over accounting implications and observations; observing</p> <p><i>"I've completed a rapid review [of my final draft report to Cabinet...a huge amount brought together by the team...well done Brendan [Lyon] and all."</i></p>
195	<p>This email chain of 1 October shows David Heathcote responding to my final draft saying that:</p> <p><i>"I have also finished a quick high-level review... looks factual and rational..."</i> also providing minor comments, which were adopted.</p>

196 This email chain of 1 October sees Mr Low email me, Messrs Heathcote and Linke saying of my now reviewed draft final report to Cabinet:

"...it would be good to get this across to [Ms Watson, Mr King and [REDACTED] this morning particularly if heading to treasury etc"

This comment once again acknowledges the extremely high level of pressure from KPMG and Treasury over my report and findings.

More explicitly, Mr Low observes that:

"Good job getting it [to] this point Brendan [Lyon]... it/we will get tested so it will be important for us...to be respectively confident in outlining rationale for certain aspects while ultimately acknowledging that...NSW Govt colleagues will determine...the actual cab sub..."

Mr Low continues with further acknowledgement of the legitimacy of my report - and the high degree of inappropriate pressure finishing with:

"...a huge effort from the team given the complexity... please pass on my thanks..."

197 This email on 2 October, the day following the release of my draft final report sees me email Messrs Heathcote, Low and Linke and relevant administrative staff that:

"...I need an urgent call with Heathcote, Linke and Low... needs to be literally in the next 20 mins pls - re TAHE."

The cause of this urgency was that Mr Saj de Silva - a relatively junior official in Ms Wilkinson's team in NSW Treasury had sent an email to one of my team that morning. Noting we were waiting on various long outstanding inputs from Treasury, this was forwarded and opened by all my team and revealed a range of comments in a table intended for Ms Watson and her team

It was apparent from this email that Ms Watson and her team were working on a directly conflicting new scope of work.

I no longer have that email as we reported it to risk partner Christine Wilcox; and were subsequently requested to delete all copies which we sadly did.

Over this period Mr Staples and Ms Trussell also became aware of a separate branded KPMG report and raised fundamental questions about KPMG's ongoing conflicts and sought written assurance that my work for Cabinet was not going to be 'torpedoed' by another, competing piece of work by Ms Watson.

- 198 This email chain of Saturday 10 October shows my email to Mesdames Wilkinson, Hayes and Trussell; and cc'ing Messrs Hunter, Low Heathcote and Linke and Ms Watson; as well as Mr Peter Perdikos of TfNSW containing an updated final draft of my report to Cabinet, circulated for final comment.
- Importantly, the transmittal email notes:
- "...the final draft of our deliverable...responds to our scope and to the originating Cabinet request..."*
- "...for absolute clarity for all our colleagues - this draft final output and the underlying financial model are products of KPMG and warranted by the Firm...."*
- This assertion again reflects the substantial internal pressures being applied at the behest of Mr Pratt and his colleagues; my hope that this very clear assertion of the status of the report as an output of KPMG - and direct response to Cabinet - with the email cc'd to various of KPMG's most senior partners including Mr Hunter, would dissuade Treasury and KPMG from further attempts to suppress my work and demean my professionalism.
- I subsequently forwarded this to the entire KPMG conflicts committee; as shown.
- Again, I hoped that this assertion/reminder of the status of my work would lead to a cessation of the internal interference and bullying, with my work now all but complete.

201 This email chain from 10 October commences with me saying:

"It's been extremely quiet since last night... could you please advise what's occurred?"

and is sent to Messrs Linke, Heathcote and Low; and clear from the pages which follow that it is concerning the letter sought by TfNSW regarding the status of my work versus Mr Watson's now partially revealed and directly conflicting work.

Mr Heathcote responds by saying

"Dave [Linke] has reached out to James [Hunter] but no response as yet... he is moving house...so may be a little hard to get..

"Our intention is to draft a note for Rodd [Staples] which confirms [my financial model] is the 'KPMG model' and the only [financial] model which addresses the scope in the engagement [for TfNSW and NSW Cabinet]".

Mr Heathcote concludes by saying that:

"We intend to advise James [Hunter] this is our intent and get confirmation from him to ensure there is consistency and no other contrary messages... [in his] discussions with Mike [Pratt]".

That Mr Hunter need be consulted on KPMG confirming it would honour its agreed contract and scope with its client, TfNSW, shows the improper and completely conflicted arrangements within KPMG.

I raised this in my responding email to the same recipients - which observes that

"...I would expect that [KPMG] would find it very easy to confirm that my (approved, contracted and extremely well scrutinised work is a KPMG output..."

"...noting I am a Partner [in KPMG] with an approved, contracted scope - why does James [Hunter] need to give an opinion on that before the email is sent to Rodd [Staples]?"

I then continue to say

"You could just [Mr Hunter] a copy of what's sent [to TfNSW] and... talk to him about it when he's finished moving house; and then he should be instructed that this is an output of [KPMG]."

The tone of this email reflects my continuing exasperation that KPMG was not applying the 'rules' to the work for Treasury; and that Mr Hunter, Ms Watson and others could act with total impunity, despite their wholly improper actions.

I note this particularly by saying

[REDACTED]

"...put in those terms James [Hunter] might realise...an email to my client [TfNSW] stating fact - that my work is a KPMG output - is... the least-worst outcome of how things might flow."

In terms of bullying specifically, I say to Mr Heathcote, Low and Linke that:

"I have been bullied and discredited by certain partners of the firm for almost a year now - without anyone doing anything much about it... while [working on TAHE] ... a terrible job we never wanted to do... [which I did] at the request of the firm - to protect [KPMG] from major financial loss from TfNSW..."

I then remind the senior partners that: *"the reason [KPMG] needed [reputational] protections was because of James [Hunter] and Heather [Watson's] (stupid) work with Treasury - and failure to follow [KPMG's internal] conflict and risk processes..."*

I finish on bullying by saying

"...consequently, I do (very) much care about how quickly the firm (finally) shows that it supports me and my team –

"[My team] has been charging the trenches, but we are still full of KPMG-shaped bullet holes in our backs - and it needs to be stopped once and for all..."

By charging the trenches, I meant progressing our report in the face of withering criticism and reprisals; and by KPMG shaped bullet holes in our backs, I am conveying my ongoing annoyance at the improper and coordinated efforts between the most senior leaders of Treasury and KPMG to frustrate my work.

I then provide a clear and succinct draft as requested by Mr Linke, for circulation by the senior partners to Mr Staples and TfNSW. It reads:

"For clarity, Brendan Lyon's engagement for TfNSW is... [KPMG's] sole financial model... a branded output of KPMG... and warranted for the professionalism of the work and approach..."

This draft continues to relate the various risk and review processes that my work was subject to.

I note that by this stage I was feeling so unsafe/unsupported that I sent a copy of this email to my Hotmail to retain a record - fearing some form of professional reprisals and once again, noting that CEO-elect Andrew Yates was a key member of the conflict committee; I felt by this stage that my position was likely to prove untenable.

211	<p>By this stage, TfNSW had resolved that the best approach was to reach alignment with TAHE over the financial model; and then present this as an agreed position to Treasury.</p> <p>The gathering alignment on the model is shown in Ms Brenda Hoang (TfNSW's CFO) in her email of 13 October in which she advises Ms Trussell and Mr Perdikos that</p> <p><i>"We just finished the TAHE financial model walkthrough session with Anne Hayes [A/CEO of TAHE]</i></p> <p><i>"...it was very useful and hopefully we can all agree on the resulting numbers from the financial model..."</i></p> <p>Following a few small adjustments, TfNSW's Mr Lawson confirms that my financial model</p> <p><i>"Looks good (and significantly complex!) ..."</i></p> <p>I then forward this chain to Messrs Heathcote, Linke and Low relaying that</p> <p><i>"The financial model is now finalised... we have worked line by line with TfNSW and with TAHE - who each agree on the model..."</i></p> <p><i>"TAHE's CEO [Ms Hayes] and CFO [Mr Crimp] are each part of the email chain and were involved in said meeting..."</i></p> <p>I again refer to the bullying and pressure to these senior Partners saying:</p> <p><i>"I feel very proud of the professionalism and content of my team's work - which has withstood vicious scrutiny by some stakeholders..."</i></p> <p>By vicious scrutiny here I am referring both to Mr Pratt and his officials and to Messrs Hunter, Watson, Yates and the other conflicted partners. I then conclude by saying:</p> <p><i>"I hope this provides you with some further comfort - noting the ongoing pressure and gaslighting of the professionalism of [my] work".</i></p>
212	<p>This response to my email at 211 from Mr Low acknowledges the 'vicious scrutiny', concluding:</p> <p><i>"Thank you for keeping [your] team on task given the intense scrutiny on their work..."</i></p>

214	<p>This email relays a call from Ms Trussell expressing that:</p> <p><i>"[TfNSW] is very happy with where things are at on [my financial] model; [operating] model and said she had reflected the same to David Linke yesterday..."</i></p> <p>This shows that KPMG's senior partners were directly aware from TfNSW of the appreciation and legitimacy they placed on my work.</p>
215	<p>This email of 14 October from Mr Heathcote also acknowledges the bullying and pressure saying:</p> <p><i>"Please also pass on my appreciation to [your] team for their enormous efforts under difficult circumstances."</i></p>
216	<p>This email of 15 October to Messrs Heathcote, Linke and Low once again reflects the internal and external pressures. It relates to that afternoon's meeting of the KPMG conflict committee and says:</p> <p><i>"Noting that I am not wanting to get into an emotional tit for tat this afternoon my comments are: 1) [my financial model] is now fully supported by TAHE and TfNSW 2) I would appreciate all concerned ensuring that Treasury understands that my outputs are KPMG outputs..."</i></p> <p>This reflected my intention to state that all KPMG partners - particularly Mr Hunter and Ms Watson - now had a critical role to play in stopping further bullying; given the model was finalised.</p> <p>The unpleasant 'mobbing' nature of those conflict meetings is reflected in my last comment in which I relay that despite not wanting to get into a 'tit for tat' - that</p> <p><i>"Of course, if my legitimacy is questioned, I will respond legitimately."</i></p> <p>This reflected the reality where these meetings saw me report and then saw Ms Watson or Mr Hunter engage in conflict or disparagement; and upon my response I would be characterised as 'emotive' or overly 'emotional' or even 'aggressive'.</p>

218	<p>This email of 15 October in response shows Mr Low asking that I not raise the meeting with Audit or that Mr Yates ring one of the TAHE directors; saying</p> <p><i>"Brendan - I suggest we let Andy [King] chase it through...unless either David [Heathcote or Linke] wishes to do so..."</i></p> <p>Highly relevantly, Mr Low discusses the issue of the new scope taken on by Ms Watson for NSW Treasury (to which we were alerted by the accidental email from junior Treasury official Mr Saj Da Silva), I had obviously demanded clarity and an understanding of how, despite what we'd seen in the Treasury email, Ms Watson's new work would not conflict with our now draft final report to Cabinet. Mr Low says of this</p> <p><i>"I asked [Mr King] re the status of the [new work by KPMG for Treasury] ... he said the scope as per the [KPMG conflict committee] discussion earlier this week..."</i></p> <p>I recall that at this meeting Ms Watson and Mr King each asserted that there was no conflict; that their work was completely different and 'limited to accounting'.</p>
219	<p>This email chain of 20 October sees Mr Low respond to say that the CEO elect Andrew Yates will be given a 'heads up' of TAHE risks; and sees me respond to ask a specific question:</p> <p><i>"David Linke - what did you report to [KPMG's national executive committee] today?"</i></p> <p>Mr Linke had provided me repeated assurances that KPMG's full executive committee and the outgoing CEO Gary Wingrove were fully abreast of my work; understood the difficulty and were supportive; indeed, he said several times that Mr Wingrove was grateful and even wanted to meet with me; shown in my new evidence later in this response.</p> <p>Interestingly, I never met Mr Wingrove until the day I signed my exit deed from the Partnership; after more than three years as an equity partner in the Firm. I recall Mr Linke reporting verbally that he had fully briefed the National Executive Committee on the risks and conflicts; if he briefed them properly, questions should be asked about why the management committee did not intervene to stop the bullying or unethical behaviours.</p>

221 This email to Messrs Heathcote, Linke and Low of 3 November relates my telephone calls with each Mr Staples and Ms Trussell. I was requested to make these calls and given a form of words to explain the coming release of Ms Watson's new report. Of the content of the calls, I note that:

"After discussion with Paul Low, I have advised [Mr Staples] and [Ms Trussell] separately of the existence of a KPMG branded report by [Ms Watson/KPMG] considering the accounting aspects of key assumptions....

"I used the words suggested by Paul Low...

"[Mr Staples and Ms Trussell] were surprised and uncomfortable...

"I advised... [Ms Watson's new] work is... limited to accounting advice, as per the discussion at the [KPMG conflict committee] meetings."

I then continued to note my own deep professional discomfort - saying

"I also advised each that I had flagged my concerns over conflicts, and this was noted... that there were a series of professional reviews over the weekend to ensure clarity across [Ms Watson's new] work to avoid any misconstruction or perceived/actual conflict...

"I also advised that I have not seen [Ms Watson's] work or the scope, nor will I until it is released..."

After relaying the content, I then document the reactions of each Ms Trussell and Mr Staples. Of Ms Trussell, I relay that she:

"[Ms Trussell] immediately asked if David Linke and the [KPMG conflict committee] are aware of the scope... I said that they were..."

This reflects that the scope had been shared and agreed at a meeting of the KPMG conflict group, from which I was excluded entirely.

Indeed, I only found out about it by accident later - again showing my growing exclusion by KPMG's most senior partners - despite being the most exposed to any new conflict. I continue by relaying that:

"[Ms Trussell] asked if [Ms Watson's new work for Treasury] dealt with [Return on Equity] ... I confirmed that... that it did... [Ms Trussell] expressed a view that this was not consistent with her discussions with David Linke... he assured her... any work by [Ms Watson/KPMG] would be 'limited to accounting' and would specifically not place [KPMG] in a position of conflict with our work for TfNSW on TAHE...

"[Ms Trussell] appeared...deeply unhappy and very concerned - and thought this was 'terrible'....

"I advised that Paul Low and David Heathcote had undertaken to ensure that any potential misrepresentation would be appropriately caveated...

"... [Ms Trussell] I observed that she will be 'very interested' to see how accounting advice can legitimately contemplate non accounting issues, such as the ROE, with the assurances she was given by [KPMG, over Ms Watson's new scope of work for NSW Treasury]".

I then more briefly relay my discussion with Mr Staples and observe that

"If [Mr Staples] is ambushed today... by a branded report that strays from David Linke's assurance that [Ms Watson's new work for NSW Treasury] is limited to 'fiscal accounting' - then I believe that [KPMG] will be in a very difficult position."

I conclude this email with my own observation saying:

"My view: the denominator for ROE calculation is very clearly not an 'accounting'.

This reflected the key dispute that was to arise after the release of Mr Watson's report - which directly conflicted - as it was clearly designed to do.

226 This email of 4 November provides Messrs Linke, Low and Heathcote with the scope of my work for TfNSW; following further complaints from Mr Pratt over the financial modelling results. IN my email I say:

"Paul - our agreed scope is below... worth noting that I have maintained all the way through my scope; it's not changed."

By this - I was making the point that all I had done was simply execute my agreed scope with TfNSW - or rather, KPMG's agreed scope with its client, TfNSW. Importantly - page 224 of the same email provides the most relevant portion of my scope of work, saying in part:

"Stage 4: Detailed financial impacts and modelling: A weakness in the consideration of TAHE to date has been the reliance on [Treasury/KPMG's prior] very rudimentary financial model, which lacks the capacity to understand the impacts on various [NSW Government] entities... or even the likely fiscal impacts..."

"...a detailed and robust financial model, including a [Discounted Cash Flow] is a foundation stone of our approach.... [allowing] TfNSW to have confidence in articulating the financial impacts [of TAHE]".

Again, this utterly refutes the assertions by Messrs Pratt, Midha, and Ms Wilkinson that I had exceeded my brief - showing instead that I delivered what was contracted by TfNSW - and required by the NSW Cabinet.

The one area in which I gave ground, as noted elsewhere, was Treasury's demand that I remove the DCF and resulting income approach valuation; TfNSW and I together decided there were enough areas of conflict over the model on a status quo basis.

229 This email was sent to Ms Christine Wilcox, my divisional risk partner - and the person to whom I am supposed to turn when there are ethical, risk or other related issues. I rang Ms Wilcox after being advised that KPMG's conflict committee had now decided that no clarification would be sent to Transport - as per the draft Mr Linke asked me to prepare.

In my email I say:

"Further to our discussion Christine... I have warned [KPMG] about the risks of TAHE - and asked repeatedly for the bullying to be stopped..."

"[KPMG] has done zero either to stop it - or to deal with the ethical conflicts and obvious disciplinary actions that should have been taken"

On the clarifying email to TfNSW itself I say:

"On the [draft email to TfNSW to clarify KPMG's conflicts] ...nothing was clarified by the firm; they left me swinging."

"As [KPMG's senior partners] have each time, internal and external..."

"...noting all the crap we have to swallow [in internal training] about risk management, ethics and [KPMG's] global behaviours etc - no wonder everyone thinks I am 'emotive' 'emotional' etc, but I am not...."

"Rather, I am a very angry, disappointed Partner in the Firm who has been subjected to repeated structural bullying and harassment...."

"...the ongoing descriptions of me as 'emotive' are a device to avoid discussing the risk, conflicts and ethical problems I have raised continually, since April 2020...."

I then continue to report that:

"I have been bullied, belittled, sidelined and dismissed - and everyone looked the other way.... very different to the training...and the [KPMG] global behaviours... and very, very disappointing."

As with all points throughout my work on KPMG, I followed the rule book on what to do when faced with ethical problems; with reporting it to risk being the next step. Obviously, I knew this was

futile, given the CEO-elect's active support for the Ms Watson and Mr Hunter, seeing their resulting impunity.

230 This email of 5 November follows the release of Ms Watson's new work for Treasury - the 'surprise' scope agreed without my knowledge by the Firm's CEO elect Andrew Yates and the KPMG conflict committee.

My email is sent to Messrs Heathcote, Low, Linke and following my call and email to Ms Wilcox some 19 minutes earlier; I also included Ms Wilcox - with the email providing a rapid conflict assessment by Mr David Russell, a key member of my team. My email says:

"Attached is a... summary of the conflicts.... note... [Ms Watson] applies an inconsistent numerator and denominator to describe ROE..."

"This is both technically wrong and has the effect of being dishonest...[and] is the clearest example of [Ms Watson's] scope, and capability, being exceeded - and shows how far beyond an accounting scope [KPMG] has gone [on Ms Watson's new work for Treasury]."

I continue to note that

"There are so many conflicting points in [Ms Watson's new] work that we've not dealt with them all - but sought to highlight [Ms Watson's] technical error and dishonest effect of [Ms Watson's new and conflicting report]."

Relevantly to Mr Linke's ongoing assurances that I was protected and covered, I note at the conclusion that

"I am sure that [redacted] will understand this quite clearly..."

I made this point because the outgoing [redacted] - and presumably would not have agreed with the erroneous construct in Ms Watson/KPMG's new conflicting work for Treasury.

234 This email chain from 5 November shows a draft letter of clarification, sought by Mr Staples and Ms Trussell - with the Cabinet process having stopped because of two competing, KPMG branded reports. The email shows me circulate the suggested draft to Messrs Heathcote and Low and Ms Wilcox from risk. Ms Wilcox reverts with some minor revisions only; largely seeing reordering - she notes of my draft that

"I have comments and will...send around ASAP for David [Heathcote] and Paul [Low] to also provide input... I know you are keen to get this out Brendan, but please do wait for the review comments..."

In response I refer to the gaslighting by saying

"...despite my generally unhinged and unpredictable nature.... I in fact sneak up on people with large bell - and lots of consultation... I certainly don't shoot off disparaging emails to clients..."

A reference to Mr Hunter and Ms Watson's ongoing efforts to discredit me externally, continuing with

"[and I also do not] accept or provide conflicting engagements..."—

a reference to the KPMG conflict committee's acceptance of Ms Watson's new, contradictory, and conflicting report for NSW Treasury - used to discredit my work. I close the email by making the somewhat obvious statement

"I do however know some people who do business that way - but they're not in [my team] ...".

Importantly, Ms Wilcox then sent her suggested edits - which were minor and changed the ordering - not the substantive language; while I no longer have the attachment, she acknowledges this saying:

"Some suggested markups... I have just moved the order around...needed to soften some of the wording where we are still forming a view [over the existence and degree of conflict created by KPMG's new report for Treasury.

The key point from this is that a clear, succinct, and agreed clarifying email was ready, with risk and my senior Partners in agreement.

236	<p>My email in response of 5 November to Ms Wilcox further confirms her edits were minor and agreeable, saying</p> <p><i>"Love it - I'll send this @ 6pm [to TfNSW] if no response [from Messrs Low and Heathcote] ... as it's already a few days overdue [to TfNSW]."</i></p>
238	<p>This email chain of 6 November shows the eventual and much watered-down version; and also, that it was sent by my superior Mr Heathcote - not me; continuing the process of discrediting me.</p> <p>I forwarded this to Mr Linke - by then off the KPMG conflict committee due to his coming appointment to a global role - and I related to him that</p> <p><i>"My draft [clarification] was agreed with Paul Low and Christine Wilcox - but was blocked when David Heathcote discussed with Andrew Yates and whomever else..."</i></p> <p>This shows that Mr Yates was an active participant in the process of frustrating my work.</p>

239 This email chain shows my correspondence with Ms Louise Capon, the General Counsel of KPMG.

It refers to an email I sent to the risk partner on the KPMG conflict committee; of which I do not appear to have retained a copy. The effect of that email was to advise that I would be seeking external legal advice as I was concerned that KPMG and NSW Treasury personnel at the most senior levels were engaged in a potentially corrupt conspiracy to maladminister the state's finances

I had formed this view given the by-now exceedingly obvious joint efforts to frustrate my work being provided to the NSW Cabinet. At the time I emailed a senior partner at a major law firm; but was contacted by Ms Wilcox and convinced to seek advice from KPMG's internal legal resources - with me saying

"After discussion with [Ms Wilcox] I am feeling much more comfortable about internal conflict management and have elected not to proceed with external advice on that basis..."

My next comment says

"I think [Ms Wilcox] is organising a chat so that I can reduce my reliance on email..."

This was a reference to Ms Wilcox asking me not to document contentious issues, as it was concerning to senior partners. I advised her words to the effect that

"When I find myself in a murky, unethical place where I might go missing, I find it's good to leave traces so people can work out what happened to me..."

but then continued to agree to reduce my noting of key issues.

Ms Capon advises that she is on leave and will pass to KPMG's head of ethics and risk, Jeff Cook - someone I had previously respected.

240	<p>This email chain shows my interactions with Mr Cook and Mr Spencer Hulme - a lawyer within the General Counsel function at KPMG and someone later to be involved in the wholly vexatious complaints and investigations launched into me by KPMG.</p> <p>In my response to Ms Capon, I ask:</p> <p><i>"Can we [meet about this issue] today?... I'm wanting ... to have the protection of a legally protected discussion and maybe a file note or advice on legals and ethics on an engagement that's very complex and all a bit unclear..."</i></p> <p>Mr Hulme responds offering a meeting first thing the following Monday.</p>
242	<p>This email on Sunday 8 November issues my finalised report for Cabinet; sent to Ms Wilkinson and Messrs Midha and Saj De Silva of NSW Treasury; alongside Messrs Staples, Perdikos and Ms Trussell of TfNSW; and Ms Hayes and Mr Andrew Alam for TAHE; and copying in Messrs Heathcote and Low of KPMG. This approved release of the final report again noted:</p> <p><i>"This is provided as a branded output of KPMG, delivering the long-term operating model, detailed financial model and objective assessment requested by Cabinet - and required by our scope of work."</i></p> <p>I also sought to remind Treasury, TAHE and some KPMG colleagues that we had maintained the detailed change request log; evidencing the requests accepted - and those denied or not implemented; again, noting the likelihood of ongoing reprisals in some form. I advised in that covering email that:</p> <p><i>"For transparency, we have appended the detailed change request logs to transparently show the evolving stakeholder requests and how we have addresses these, across the length of [our work]"</i> -</p> <p>With my work finalised - the bullying and harassment would cease, and I could move on with life.</p>

243	<p>This email chain shows me thanking my team and copying in Messrs Heathcote and Low. In it I say:</p> <p><i>"We should all be very proud... this has not been an easy job in any respect..</i></p> <p><i>"we've all had to put with internal and stakeholder behaviours that we shouldn't have....</i></p> <p><i>"...but our work's been very important to the public interest, and it'll prove to have been very much in [KPMG's] interest too, however resistant some colleagues may have been...."</i></p> <p>I continue to say <i>"Let's see what happens now.... I'm extremely grateful to every one of you... despite everything they've thrown at us, we've done an amazing job."</i></p> <p>This obviously and clearly referenced the bullying and harassment suffered to this point; a point evidenced by Mr Russell's response:</p> <p><i>"Brendan you've been an absolute tree they couldn't move."</i></p>
244	<p>Again, the bullying and harassment is evidenced by Mr Low's response of 8 November, in which he says:</p> <p><i>"Well done all and thank you for staying the course.</i></p> <p><i>"Engagements don't get more complex technically and challenging in terms of internal and external relationships...</i></p> <p><i>"...thanks again to Brendan and you all."</i></p>

248 This email of 11 November from Mr Midha included Messrs Linke, Heathcote, Low, Hunter and was CC'd to Mr Pratt. It attached a letter to me from Mr Midha on NSW Treasury letterhead instructing me to remove key elements of my work, justifying this by saying that

"[your report] contains a number of hypothetical scenarios which are based on suppositions regarding decisions not yet taken..."

Given that our core scope was to develop a future operating model and develop a detailed financial model to forecast its performance - the absurdity of this was not lost on me at the time.

Mr Midha continues to assert that:

"Treasury will provide fiscal advice to Cabinet that supports our forward estimates... Treasury [has] been supported by KPMG accounting specialists... I'm sure you acknowledge the expertise KPMG Accounting Partner Ms Watson and her team bring..."

"...we are therefore comfortable with the advice provided and do not require unsolicited advice from another part of KPMG..."

"Please confirm you will remove all reference to Treasury's model."

This confirms once again that the purpose and intent of Ms Watson's conflicting new engagement from Treasury was to continue to frustrate Transport's return to Cabinet, by frustrating my work.

The passive aggressive language and the copying in of KPMG's most senior partners and Mr Pratt show that this was endorsed - and it is a clear abuse of authority by the Treasury.

249	<p>This email chain of 12 November responds to Mr Midha's letter and sees Mr Heathcote respond to me and Messrs Low and Linke - who by now had reappeared on the conflict committee - asking</p> <p><i>"Brendan it would be good to understand Rodd [Staples] view on whether [Mr Midha's letter] warrants a response" –</i></p> <p>Again, pointing to the unpleasant internal dynamics, Mr Heathcote finishes by saying:</p> <p><i>"Think it would be a good idea if we got together to discuss options give it has been sent to a wide group at KPMG"</i></p> <p>This again evidences the intent, and the effect of Mr Midha's letter was to exert improper pressure to change a report that he knew was finalised - and an output of KPMG.</p> <p>The top email in the Chain sees me respond to the same group saying</p> <p><i>"Yes [Rodd] will [require a clarifying response from KPMG]" –</i></p> <p>I knew this as at this time I was in Woomera in South Australia and clearly recollect my call to Rodd advising him of the letter from Mr Midha - where he advised me that he received in effect the same letter, but from Mr Pratt rather than Mr Midha.</p> <p>This again shows Mr Pratt, despite his protestations of no involvement in bullying - was in fact very 'hands on'. Mr Pratt's letter is referenced in my comment:</p> <p><i>"[Rodd] also got [a letter from Treasury] himself and will want me to respond with some advice on the one to him."</i></p> <p>I then say</p> <p><i>"When we do respond - it's pretty straight forward given we are following Cabinet's instruction to the letter."</i></p>
253	<p>This email sees me forward a draft of a clarifying statement which I had drafted and then agreed with Messrs Heathcote and Low, to answer Transport's demand of clarification of the obvious and direct conflict - and the resulting freeze on the Cabinet process.</p>
254	<p>This email of 15 November from Ms Trussell confirms that the draft text is satisfactory to TfNSW to proceed with the Cabinet process; and asks that it be sent from Mr Heathcote to Mr Staples in the form of a letter.</p>

258	<p>This email of Sunday 15 November is sent from me to Messrs Staples and Pratt and CCs Mesdames Trussell, Wilkinson and Messrs Midha, Heathcote, Low and Perdikos - attaching the clear clarifying letter approved and issued under Mr Heathcote's signature.</p> <p>Most relevantly the letter confirms that:</p> <p><i>"[Ms Watson's] report does not undertake any financial modelling and does not consider the long-term operating model... KPMG asserts that [Ms Watson's] report cannot be used to construct alternate financial outcomes to those provided by KPMPG in [Mr Lyon's] report."</i></p> <p>I was exceptionally grateful at the time - noting that this was the first time that KPMG acknowledged and supported my work. The key factor in this occurring was an active decision not to consult Mr Hunter, Mr Yates, or any of the other conflicted partners - on the basis that Mr Heathcote was responding to a direct inquiry from one of KPMG's clients - TfNSW.</p> <p>Mr Heathcote described the reaction by Mr Yates and Mr Hunter as one of extreme anger as I recall him describing it as having <i>'lost a testicle over that letter'</i>.</p> <p>No doubt Mr Heathcote's call with Mr Staples would have stiffened his spine.</p>
259	<p>This email of 15 November was sent to my core team members; showing the email sent to Mr Pratt and Mr Staples - presciently, I observe that:</p> <p><i>"It begins. Or ends."</i></p>
260	<p>This email of 19 November sees Mr Midha mobbing me to reply to his demand of 11 November despite the clarifying email and again copying in KPMG's senior partners and Mr Pratt.</p>
263	<p>This email from Mr Pratt was sent six minutes after Mr Midha's; providing me an ultimatum that I either</p> <p><i>"Correct the errors or removal all references to Treasury's model which is not for you to comment upon..."</i></p> <p><i>"...please revert asap as this matter needs urgent resolution."</i></p>

265	<p>By this stage, I was thoroughly tired of Messrs Pratt, Midha and the KPMG personnel involved in KPMG; who ranged from wholly complicit in my mistreatment and bullying; through to passively turned silently supportive.</p> <p>Accordingly, after seeing Mr Midha's and Mr Pratt's latest coordinated attempt to frustrate my finalised report; I responded by saying:</p> <p><i>"Mike, I am sick of being bullied by you...grow up [and] tell the truth..."</i></p> <p>The reason I said this was because it is precisely true in each part.</p>
266	<p>Mr Pratt responded to my email some nine minutes later; saying:</p> <p><i>"To the senior partners on this email, you obviously have a partner who refuses to take counsel and is out of control..."</i></p> <p><i>"We engaged KPMG (Heather Watson) earlier this year to provide fiscal and accounting advice... in support of the TAHE work... [which] provides the basis for Treasury advice."</i></p> <p>Mr Pratt finishes by instructing KPMG, saying:</p> <p><i>'To the senior partners on this email, I expect you to take action.'</i></p> <p>I note Mr Pratt testified that he was not asking for my dismissal; instead, simply asking for a senior partner to change my work.</p> <p>Either construct is unethical and inappropriate; but noting the reprisals to flow immediately after TAHE passed Cabinet, it is obvious Mr Pratt was instructing my termination; and subsequent events show that Mr Pratt, Mr Yates, and others were pleased to execute it.</p>

267 This email of 2 December is from Mr Cook and Mr Hulme, copying in Mr Heathcote. The letter refers to the substantive content of my meeting with Messrs Cook and Hulme when they say

"I have not seen evidence that would suggest to me that [NSW Treasury officials] are engaged in corruption, or that [KPMG] is engaged in a conspiracy."

The letter continues to advise me on the other substantive point I asked - which is whether I have a duty to report public corruption when I suspect it; to which they answered:

"In the current circumstances, no reporting obligation [to ICAC] appears to exist..."

In the meeting I had spent considerable time telling Messrs Cook and Hulme that I had been extensively bullied. It was therefore not in the least bit reassuring that his email concludes:

"I have reviewed an email from you that I note raises allegations of bullying and harassment..." and then provides a name of a-then unknown HR representative, which I read as a clear statement that Messrs Cook and Hulme as with all before them - did not care and would not do anything positive.

268 This email was sent by me to Mr Pratt the following day; apologising for my tone in my email and phone call (discussed later); and resigning from the TAHE job (which had completed anyway).

A critical point to note is that I agreed to send this on the basis that there would be no reprisals; with Mr Heathcote saying that if I sent the email all the internal nastiness and problems would "go away".

At that point I was very tired; had new engagements starting and had my upcoming wedding to prepare for and so agreed.

Notably I would not agree to text that withdrew my substantive points - that I was bullied by him and his officials (and my colleague partners); and that he should stop obscuring the true risks.

Instead, the wording simply noted an apology for the 'tone' - saying it was unprofessional, with which I could live.

This apology was required by KPMG; discussed with me first by Mr Heathcote; and then with Ms Deb Yates. At this meeting, I again relayed that I was bullied and that nothing had been done - and that the reason I regretted contacting Mr Pratt was because it *"necessitated this meeting [with Mr Heathcote and Ms Deb Yates, head of HR] – not because I regret what I conveyed."*

269 This letter was received from KPMG's [redacted] on 11 March; advising that a conduct complaint had been made. I was advised that morning in a telephone call from Mr Heathcote that it was coming. I recall that the previous day, Mr Heathcote had taken me for lunch at the Mosman Rowers Club; in which we talked about the future - about moving on at KPMG etc. I recall too that I asked him for a reflection on avoiding similar circumstance in the future and recall him saying "*pick your battles*" and we talked also about the trouble/pressure Mr Heathcote received for issuing the clarifying letter to Mr Staples; and the difficulty of my work on TAHE given Mr Yates, Mr Hunter and Ms Watson's total dedication to make TAHE work - at any cost.

The following morning, Mr Heathcote rang to advise that this conduct complaint had been lodged. I asked him if it was serious - he kept saying

"I'm not going to sugar coat it, it's real" and at this time, he said that he did not know the origin, whether it was a complaint from Mr Pratt or a complaint from Mr Hunter on this behalf.

I then rang [redacted] and said to him that

"I am very surprised that KPMG wants to reopen the TAHE matter - because the firm's done a lot of bad things"

or words to that effect.

I was summoned to a 'compulsory' meeting held the following day from memory, which was recorded. The key point question they asked is

"Why did you assert that you were bullied by Mr Pratt" –

I recall that my response was to the effect of:

"I told Mr Pratt to stop bullying me, because he and KPMG have bullied me all the way through, and no one from KPMG did anything about it."

At this point Mr Heathcote had advised that he still supported me; as did Mr Low; and noted that asking Mr Pratt to stop bullying me and ringing him to say the same were 'not a sackable offence'. I continue to find it extraordinary that asking for bullying to stop; after months of inaction/endorsement could ever be considered a disciplinary issue - but TAHE and KPMG was full of many surprises.

299 This email of 18 March was sent to my solicitor Ms Giles; at that point I had spoken with each Mr Low and Mr Heathcote; and at Ms Giles request had provided a timeline of TAHE events - which is commences from 298 and provides a detailed timeline. It is worth noting that in this email I relate to my lawyer that

"I've done a bit of sniffing and my division managing partner [Mr Heathcote] and my practice group lead [Mr Stan Stavros] are both saying it's not the firm getting rid of me - that it's a process. I am not sure I agree, but let's see...."

"[Mr] Heathcote suggested a caution letter was most likely - said even without context that is not sackable and with context [of my treatment by Mr Pratt and KPMG] its def not...."

"[Mr Heathcote] said he's def still got my back for what it's worth...thanks again... I've slept a lot better since we chatted...".

301 This email of 20 November shows KPMG facilitating my apology to Mr Pratt, with Mr Heathcote saying tellingly

"Brendan... this needs to go...to all in the original email to close this out and ensure we can move forward positively".

Mr Heathcote was never involved in bullying me - but the counterfactual of his statement can only be read to support my contention that had I not issued an apology, KPMG would have 'moved forward negatively'. Once I had sent my apology email, I thought it important to record the content of my call; and presciently, noted that my phone call and correspondence with Mr Pratt that day would be used against me by

"Noting that the phone call [to Mr Pratt] will have been 'emotively' described by some of our colleagues... it thought it worth... arming you up to understand... what I said..."

I relay my conversation to Mr Pratt as:

"...I said to Mike [Pratt] yesterday... in 20 years I've not seen the types of behaviours [seen from Messrs Pratt, Midha and Ms Wilkinson]

"...that the continued mischaracterisation of [my] work and personal attacks were deeply inappropriate....

"...that Treasury had not advised of errors in any of [my finalised report] ... and that I do not appreciate the efforts to discredit... my team.... [and] our professional work....

"...I told [Mr Pratt] the efforts to hide [my] results are inappropriate and unprofessional..."

Tellingly, I also relay that

"I asked [Mr Pratt] why he thought it was ok.... to behave [this way] ... he said '[I] had not listened to us'... I said, 'I'm listening now, what do you disagree with?'... he said that he agrees with Heather Watson's [conflicting] work (which is being used precisely to discredit [my] work [for TfNSW and Cabinet] ..."

Again tellingly, I relay continuing to press Mr Pratt on the 'persistent errors' to which he persistently referred, saying

"I asked [Mr Pratt] which part of the financial or model Treasury disagrees with... [Mr Pratt] struggled for words and then hung up..."

I continue to note that

"I am not surprised that [Mr] Pratt went mental [about being challenged directly] ... he's passive aggressive, a real fan of 'tough' letters - but has the minor problem of having a dog that ate about \$7.3bn of homework. Whoops!"

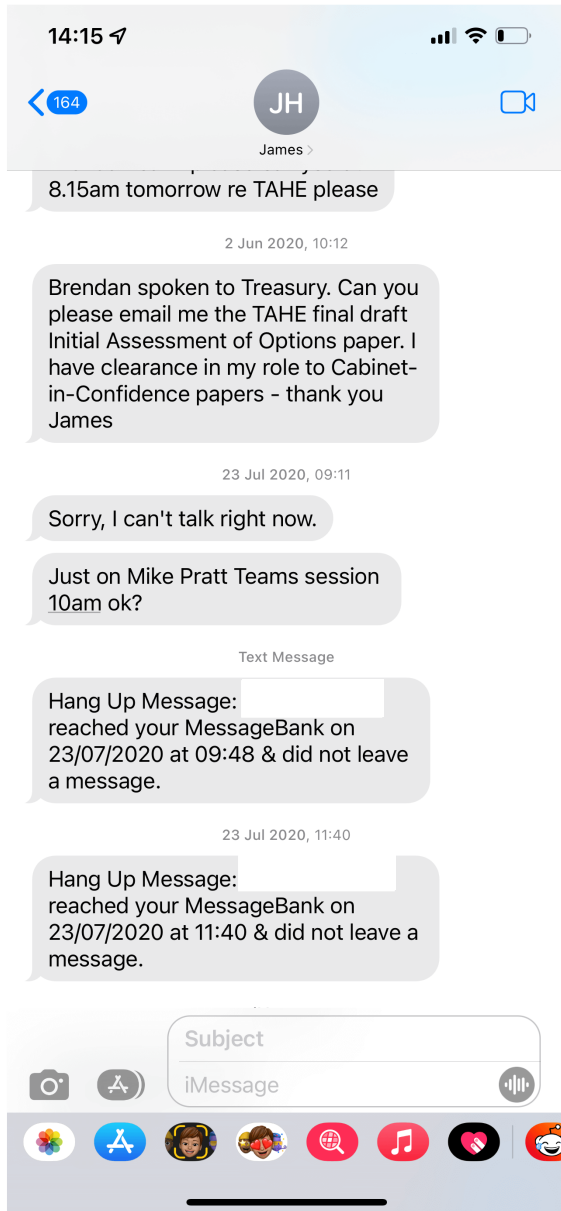
This reflects my genuine thoughts of Mr Pratt, and my recollection of the call.

In terms of Mr Pratt's assertions that my facilitated/required apology to him reflected my poor behaviour, I note my comment that

" With the benefit of [knowing what I said to Mr Pratt], I am not sure either of you would disagree - noting that the delivery was not ideal....".

Part four: Digest of new evidence

June 2020

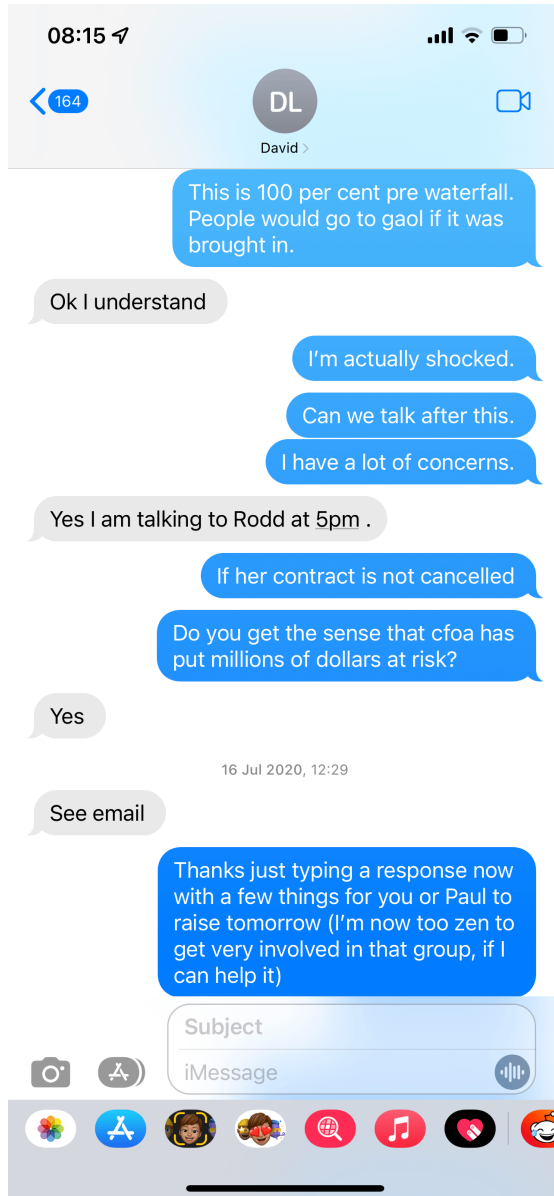


NE1: SMS of 2 June shows Mr Hunter inserting himself at the behest of Mr Pratt; wanting a copy of my initial report to Cabinet.

The reference to 'clearance' reflects a view Mr Hunter seems to hold that 'cabinet in confidence' is a designation; like a Commonwealth security clearance – and allowed him access to anything cabinet related; a notion of which he was never disavowed.

The later July text shows Mr Hunter's close relationship to Mr Pratt; as was his usual practice, Mr Hunter was eager to demonstrate his proximity to Mr Pratt.

July 2020

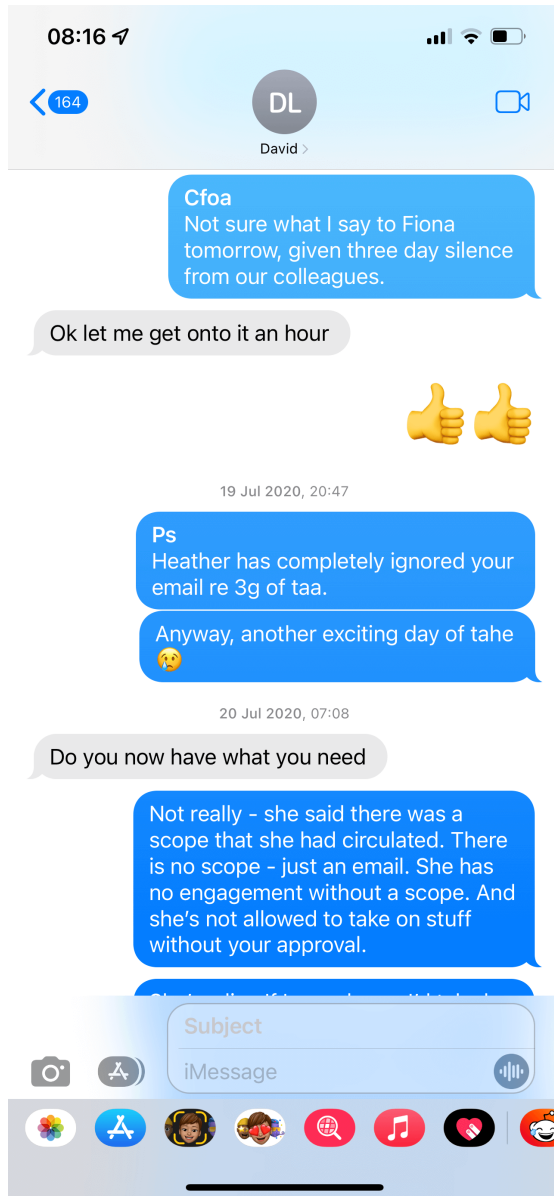


NE2: This SMS chain starts with me warning Mr Linke during a conflict meeting that Ms Watson's explanations of how and what TAHE would do were highly dangerous; repeating precisely the arrangements pre Waterfall.

I inform him of my deep concerns, which I recall we discussed – and Mr Linke shared.

Note that Mr Linke references a call with Mr Staples in regard to KPMG's conflict created by Ms Watson's initial work – conflicting with KPMG's major contract working on TfNSW's 'evolving transport' reform programme.

Ms Linke also confirms that he believes Ms Watson and Mr Hunter's engagement has put the firm at significant risk



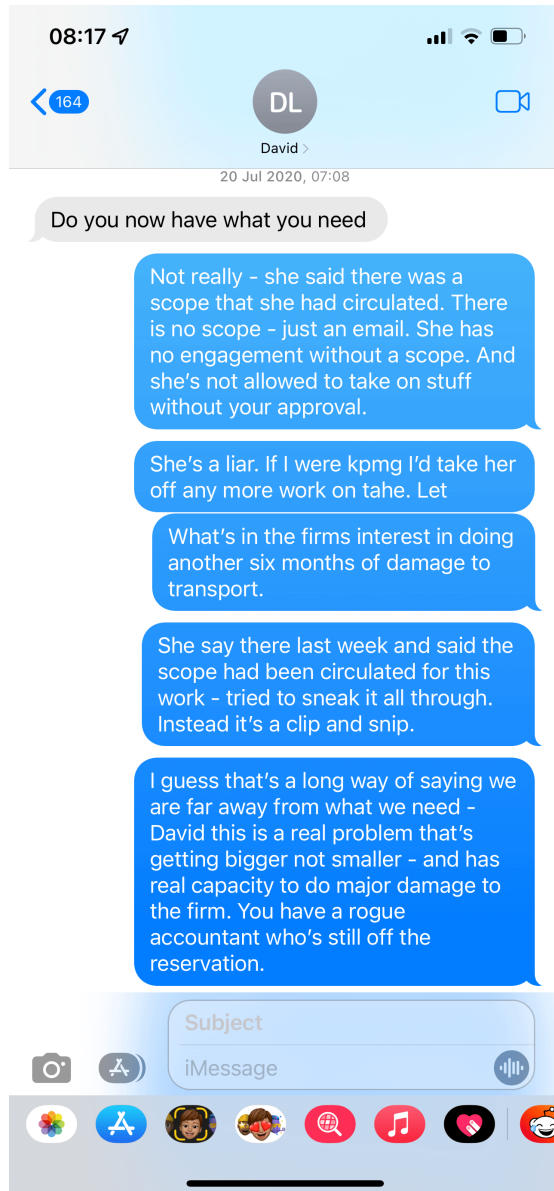
NE3: this SMS chain with Mr Linke starts on 18 July and sees me forced to ask him to intervene, after Ms Watson, Mr King et al ignored my email requests for Ms Watson's new scope of work for NSW Treasury.

I needed this for a meeting with TfNSW's Ms Trussell, at which she was presciently seeking to be reassured that Ms Watson's new scope of work did not conflict with my report – for TfNSW and NSW Cabinet.

Mr Linke asks on 20 July 2020 if I now 'have what you need' in terms of being able to answer TfNSW's request for assurance that KPMG was not taking on a further conflicting engagement.

I respond that I do not – because she has not provided her new scope of work for Treasury.

As her subsequent and directly competing scope was also not shared.



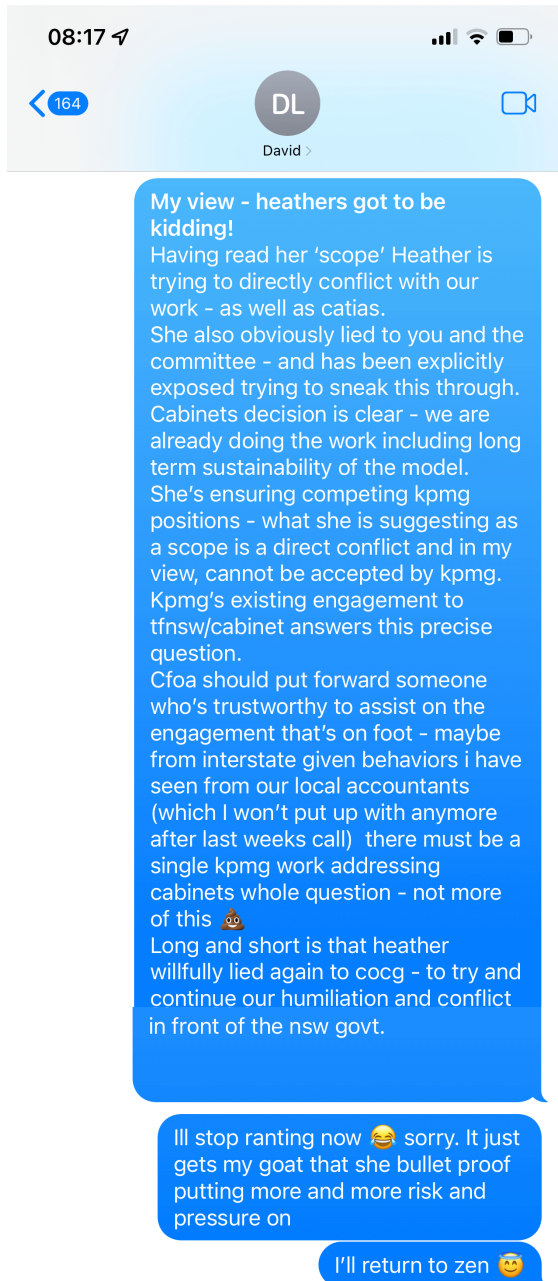
NE4: This SMS chain with Mr Linke continues the discussion, seeing me report my strong concerns about Ms Watson's work; her ongoing deception – ultimately reporting to Mr Linke that

“David, this is a real problem that’s getting bigger not smaller...”

Given at that time there was pretence that KPMG was seeking to manage the conflict – I reported Ms Watson as acting against those stated objectives saying

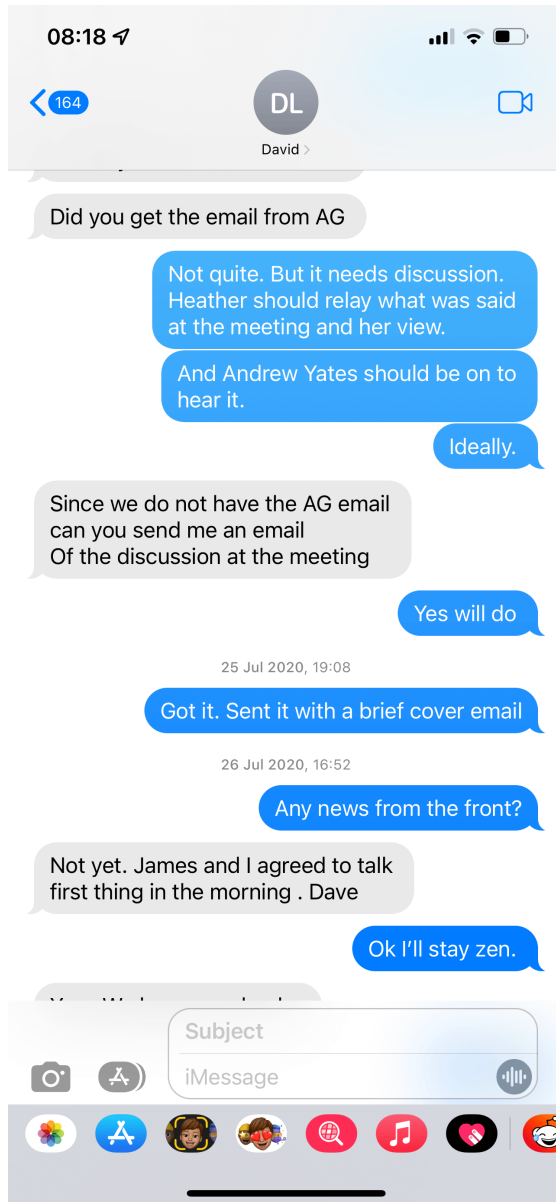
“You have a rogue accountant who’s still off the reservation”.

Obviously, it was later revealed that KPMG at the most senior levels were committed to ‘whatever it takes’ to satisfy Mr Pratt – and that it would be me deemed to be the rogue partner; despite never departing from my approved scope.



NE5: this SMS chain with Mr Linke shows my response in a conflict meeting to Ms Watson and Mr Hunter's proposed new and conflicting scope for Mr Pratt.

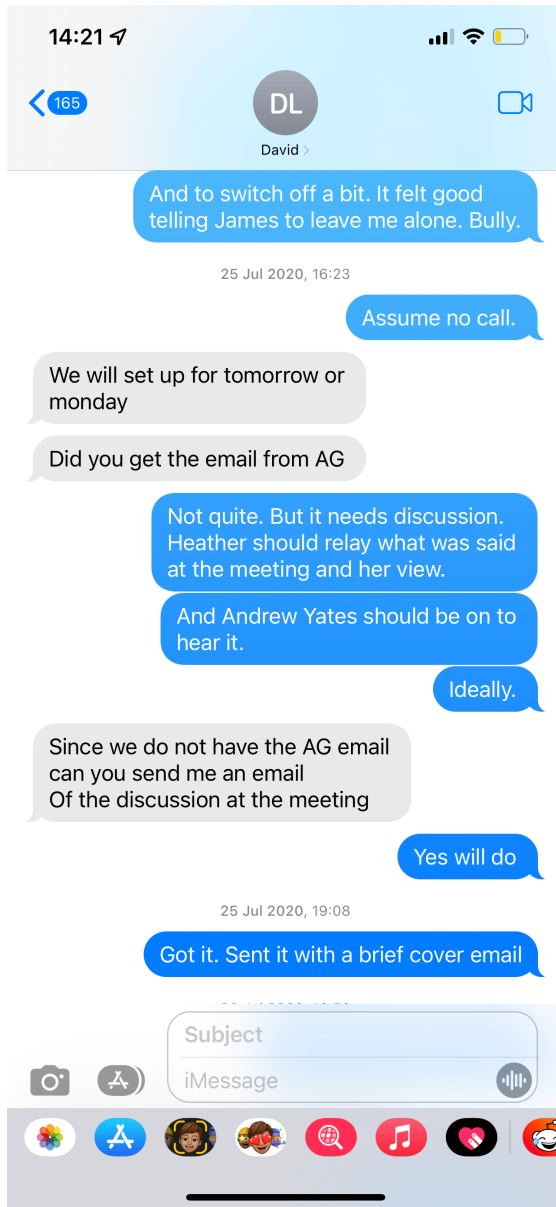
The continual expansion of Ms Watson's scope by KPMG and related interference seeking to frustrate my work for TfNSW and NSW Cabinet shows a highly improper joint enterprise between Messrs Pratt, Midha, Ms Wilkinson and KPMG's most senior leaders; designed ultimately to frustrate Cabinet's request for detailed financial assessment.



NE6: This SMS chain with Mr Linke on 24 and 25 July see him ask me to provide him with a copy of one of the letters received from NSW Audit Office, questioning TAHE's bona fides; and also sees me insisting that Mr Yates be on the call for the discussion.

At this point, I believed Mr Yates to have integrity; and assumed that we would be able to hold Ms Watson and Mr Hunter accountable for their professional and interpersonal actions. Sadly, this proved to be wrong.

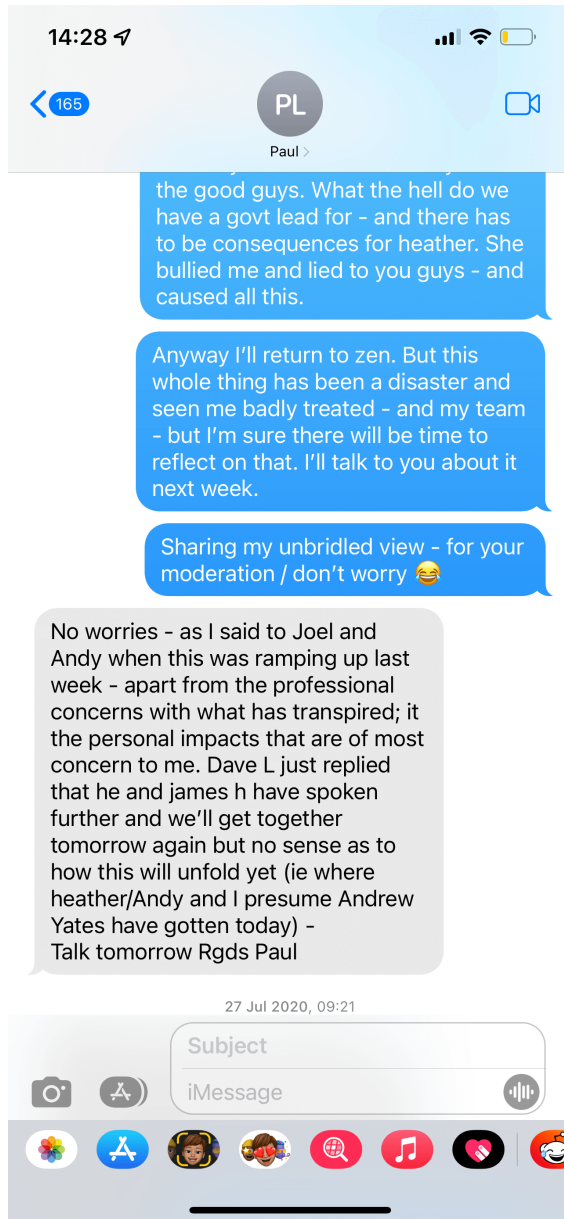
This request is also notable, given that Ms Watson's vexatious bullying complaint in April 2020 references this briefing; requested by the head of my division; as a key example of the bullying she alleges.



NE 7: this SMS chain with Mr Linke continues from above.

Specifically I say that

"It felt good telling James [Hunter] to leave me alone. Bully".



NE8: This SMS chain with Mr Low of 27 July again expresses my ongoing concerns about being bullied.

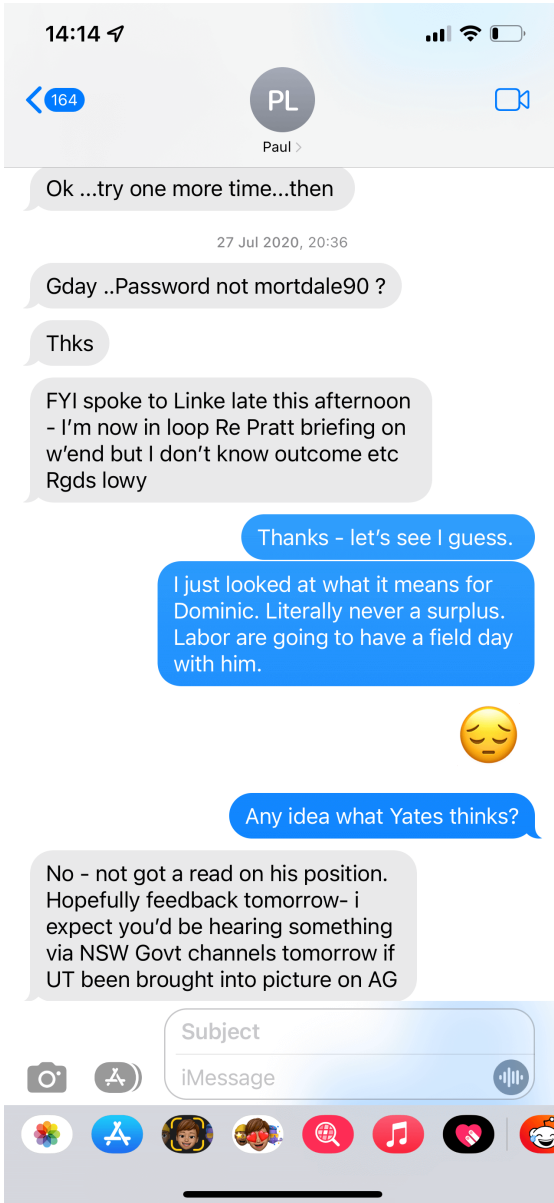
Mr Low responds by acknowledging the personal impacts and stress; before turning to the decision regarding my objection to Ms Watson and KPMG accepting the new and directly conflicting scope of work for Treasury; saying that he has

“...no sense of how this will unfold yet (i.e. where Heather/Andy and I presume Andrew Yates have gotten today)...”

This shows Mr Yates determinative role in KPMG’s improper decisions over TAHE.

This evidence also refutes Mr Pratt’s ongoing assertions that Treasury and Ms Watson’s work on TAHE pre-dated my work for the NSW Cabinet.

This is materially untrue; as shown by the KPMG approval process that was required for this new scope; and the ones which followed.



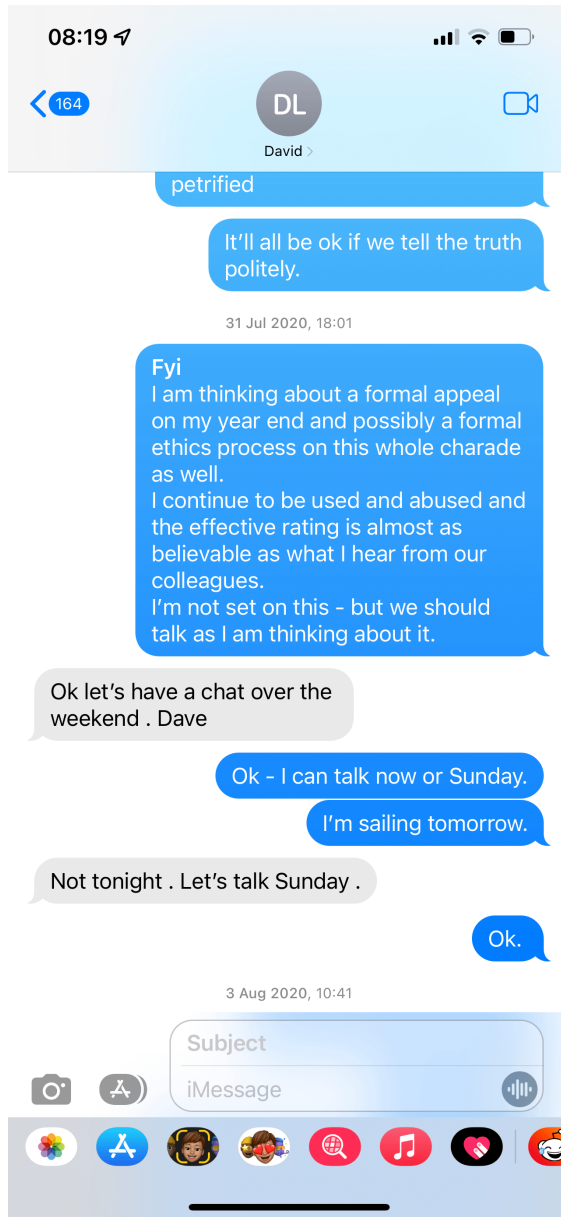
NE9: This SMS chain with Mr Low advises of being:

"Now in loop re [Mike] Pratt briefing on the w'end but I don't know outcome etc..."

I continue to express the risks of TAHE to KPMG; before asking Mr Low if he yet understands what Mr Yates, CEO-elect would do/allow regarding Ms Watson's proposed new and conflicting work.

Mr Low says

"No – not got a read on [Andrew Yates] position. Hopefully...tomorrow..."



NE10: This SMS chain with Mr Linke on 31 July sees me say to him that KPMG will be ok; as long as we deliver our scope honestly.

Importantly, I then note that

"I am thinking about a.... Formal ethics [complaint] about this whole [TAHE] charade... I continue to be used and abused... we should talk..."

As happened on each occasions that I contemplated making a formal complaint, I was talked out of it variously by Messrs Linke, Heathcote and Low seeking me to be a 'team player'. That I backed down each time is a source of enduring regret to me.

August 2020



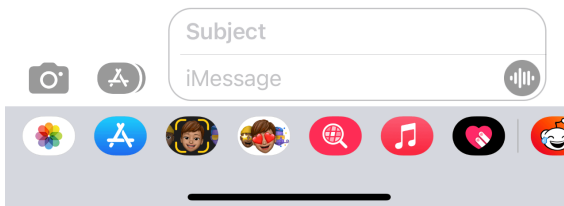
NE11: This very brief text exchange of 28 August 2020 sees Mr Yates apologise for not calling me; as he had undertaken to do (as shown in my evidence already tendered).

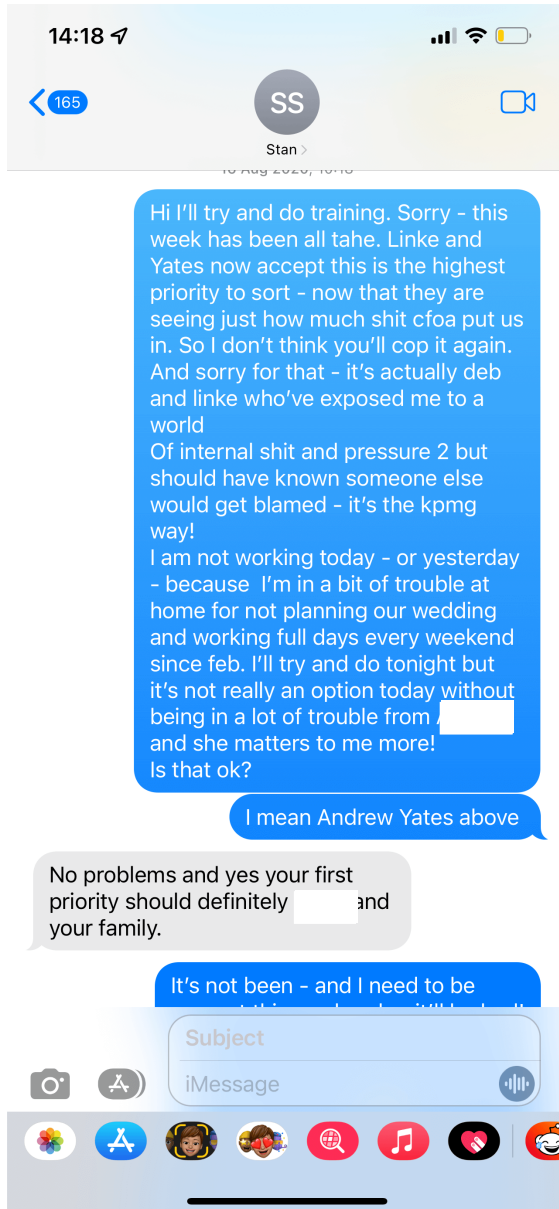
He then displaces the expectation that we would speak by saying:

"Sorry I haven't called... lets pick this up in this afternoon's meeting. Thanks Andrew Yates."

Thereafter, I had no direct contact with Mr Yates whatsoever; he never inquired as to the ethical, moral and behavioural issues I repeatedly raised; was an active participant in bullying me over my work; and ultimately, forced my removal from KPMG.

Noting that until the 'weekend briefing with Mike Pratt', Mr Yates had intended to speak with me directly – I can only assume that the content of that discussion with Mr Pratt was determinative in KPMG accepting the new, directly competing scope; and in my isolation and eventual constructive dismissal.



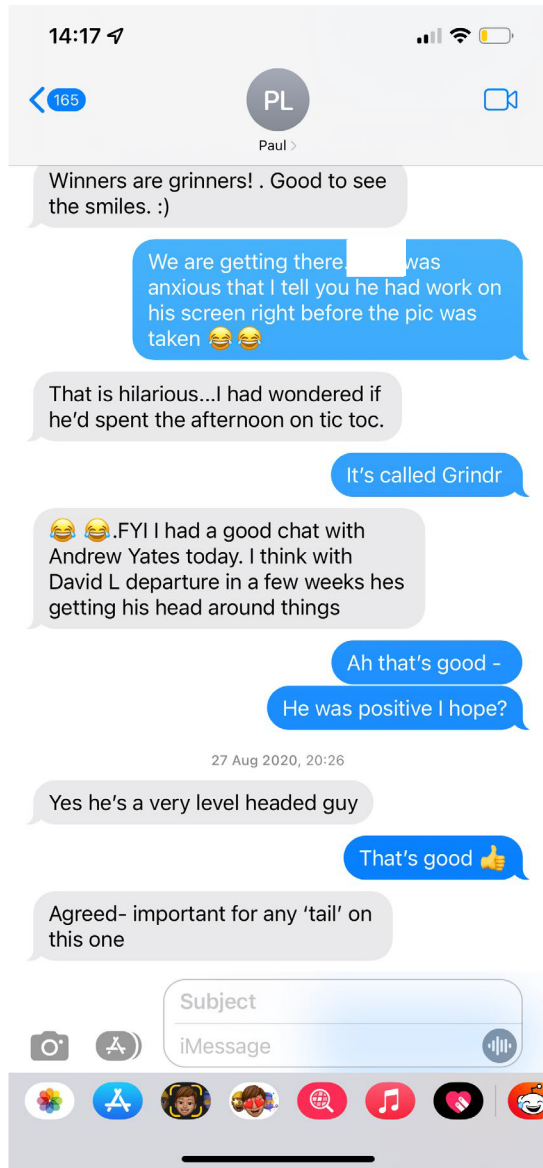


NE12: This SMS chain with Mr Stavros, my practice group leader based in Melbourne relates my apology to him for having raised my lack of resources and support with Ms Deb Yates.

After seeking the extension for my compulsory training to Ms Deb Yates – which I explained as being caused by being overworked and under supported – Mr Stavros was angry because he'd had a call from Ms Yates and been reprimanded for not supporting me adequately.

I note that Ms Deb Yates, a member of the National Executive Committee and the lead HR partner, also never involved herself helpfully to end the bullying and pressure; instead giving it a veneer of credibility.

Sadly, despite repeated reports of my poor treatment and explicit discussion with Mr Stavros about the ethical and potentially, legal breaches by KPMG personnel and others; but Ms Stavros expressed that he couldn't help due to the seniority of the personnel involved and that he was Melbourne based.



NE13: This SMS chain of 27 August sees Mr Low reveal that:

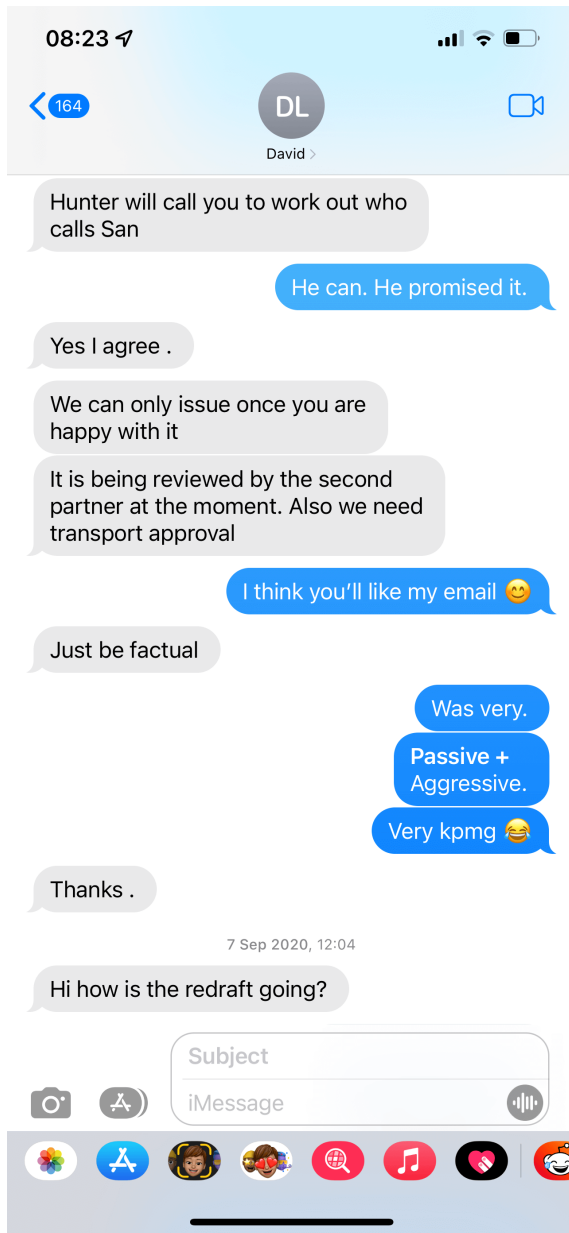
“FYI had a good chat with Andrew Yates today...he’s getting his head around things.”

Noting Mr Yates cancellation of the planned discussion with me, I ask whether he was positive - to which Mr Low replies that he’s ‘very level headed’ – and presciently, he acknowledges the view of CEO-elect Andrew Yates would be important.

“agreed – [Mr Yates will be] important for any ‘tail’ on this one”

In this context the ‘tail’ refers to future ramifications or reprisals against me, noting he was by then known to be the incoming CEO.

September 2020



NE14: This SMS chain of 6 September discussion relates to who would ring San Midha to conveying that despite Mr Hunter, Ms Wilkinson and Mr Midha obviously coordinating to seek improper access to TfNSW's confidential information – in breach of the NDA KPMG had signed with TfNSW.

The reference to 'passive aggressive' being 'very KPMG' refers to a professional development discussion with Mr Linke where he expressed words the effect that to be successful at KPMG I had to:

"Become more passive aggressive"

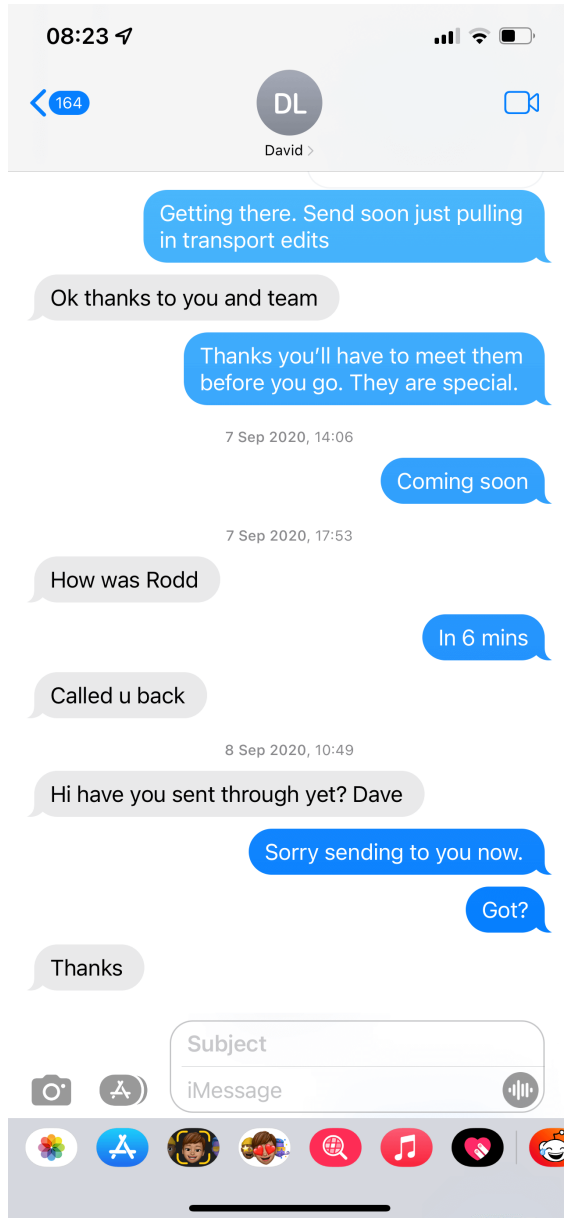
I recall asking him at the time

"you do realise that means the place is broken" –

Mr Linke said something along the lines of

"That's just the way KPMG is";

I would observe on that last point of Mr Linke's, I now fully agree.



NE15: This SMS chain with Mr Linke sees on 7 September sees him inquire of my next draft file note; but also shows that while I was being bullied and harassed by Ms Watson, Mr Hunter and increasingly, Mr Yates.

Mr Linke, Low and Heathcote were showing passive support –using me to seek to ameliorate Mr Staples and TfNSW's anger at KPMG's conflicted position.

This reflects that KPMG have a circa \$50m contract to provide transaction advisory services – which could have been jeopardised by the conflict.

Mr Staple's various letters to KPMG in my already tendered evidence show that KPMG's contracts were at risk of cancellation by Mr Staples because of KPMG's bad faith in not managing its conflicts on TAHE.



NE 16: The start of this SMS chain with Mr Linke on 10 September refers to a meeting with Gary Wingrove.

I had told Mr Linke that I was no longer willing to work on the TAHE engagement because of KPMG's conflicts and my treatment; and that he could explain to TfNSW why I had resigned from their work. He implored me to stay on – reflecting a fear that KPMG would lose its major contracts if that occurred.

I that context he relayed to me at this time that KPMG's outgoing CEO Gary Wingrove and national executive committee were fully aware of the situation I was in; and grateful for the work I was doing – and wanted to meet me to talk about my concerns, my future etc.

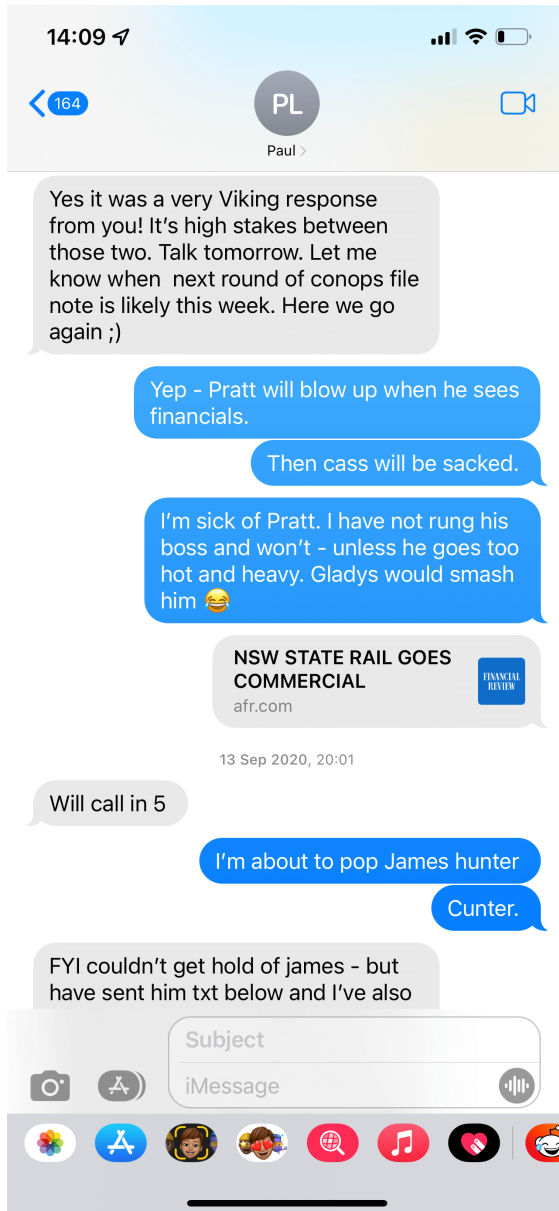
I did not believe this at the time; and this meeting – if it was ever real – never happened. The first time I met Gary Wingrove was when he came in to sign my exit papers from KPMG in late June 2020. He showed no awareness at all – saying words to the effect of:

"It's a shame it didn't work out, we probably need to learn about how to better mainstream lateral partners into our culture"

By lateral – he meant someone who'd had a job outside of KPMG. I said something to the effect of:

"I am not sure that's the right lesson for KPMG to take from this given the lack of ethics, conflicts and terrible behaviours I've been exposed to"

Mr Wingrove seemed surprised at my response; either he was not aware – or he was aware and endorsed the behaviours. The unusually generous waivers of commercial restraints and financial settlement he approved in my exit deed must have given him some insight that all was not 'right'.



NE 17: The start of this SMS chain of 13 September refers to the pressure and 'high stakes' between Mr Pratt and Mr Staples – with Mr Low asking for a heads up of when my next piece of work was to be released to Treasury, reflecting the ongoing reprisals and bullying; saying:

"Let me know when...[your next file note on TAHE] is likely this week. Here we go again ;)"

I agree saying that

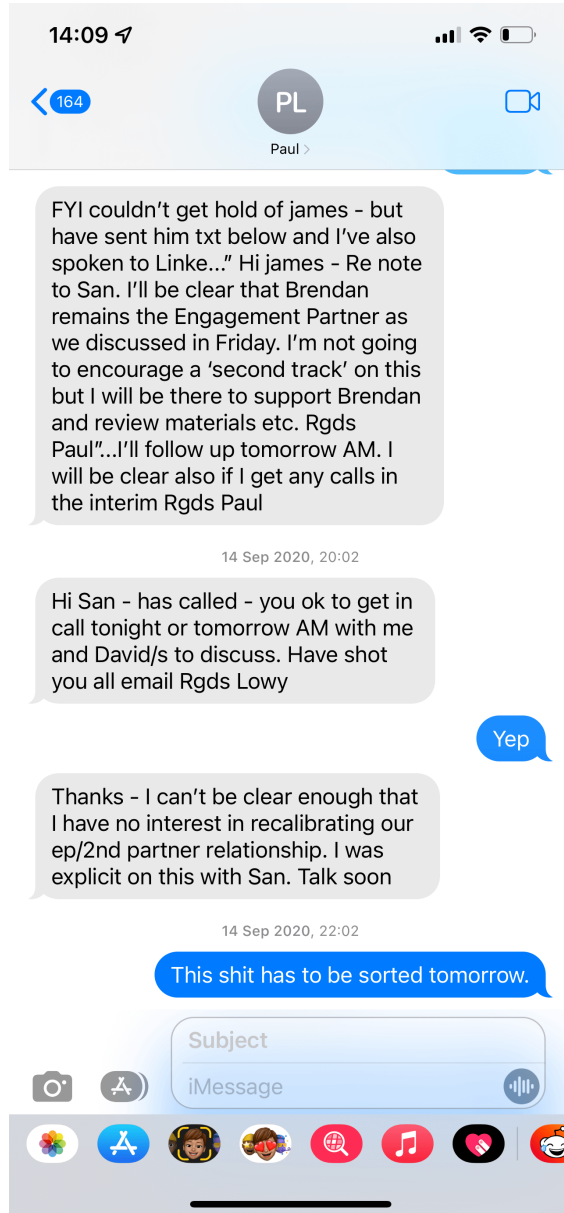
"Pratt will blow up when he sees financials... I'm sick of Pratt. I have not rung his [political masters] and wont...unless he goes too far."

Other than Mr Constance, I never spoke to Ms Berejiklian or Mr Perrotet about Mr Pratt's actions.

Later that evening, I text Mr Low saying I am

"about to pop James Hunter"

This reflects that it was at that time Mr Hunter sent his email seeking to remove me in favour of Mr Low; as evidenced by papers I have already provided and discussed in the digest of evidence in Part three above.



NE18: This SMS chain of 14 September continues with Mr Low relaying that he could not contact Mr Hunter; but includes a text message Mr Low sent to Mr Hunter regarding over his coordinated email, seeking to remove me from my work.

He then relays that San Midha had contacted him, as invited in Mr Hunter's email (already in evidence).

"This [attempt by Mr Hunter and Treasury to remove me] has to be sorted tomorrow."

Mr Low also relays to Mr Midha in that call that arrangements were not changing and that I remained KPMG's lead on the work for Cabinet.

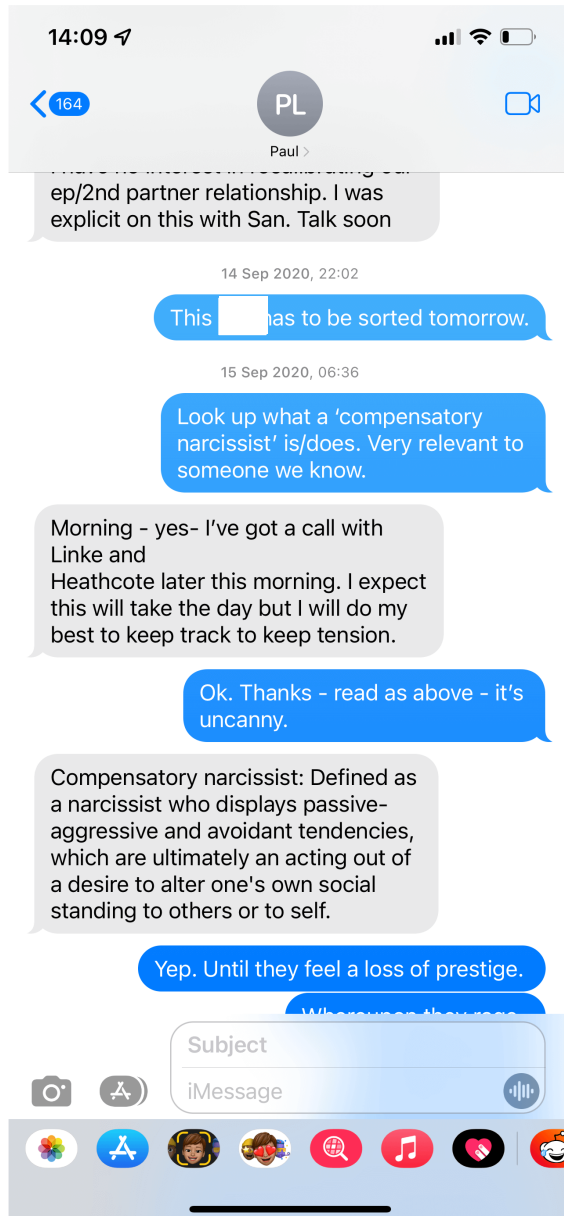
Mr Low relays in his emails (already in evidence) that he does not have the expertise needed to lead the complex operating model or financial analysis; and I daresay, Mr Low would not have wanted to lead the engagement noting the pressures on me.

In a conversation around this time Mr Low had expressed words to the effect that

"I've never seen behaviour or conflicts this bad before in KPMG"

I recall jokingly saying words to the effect of:

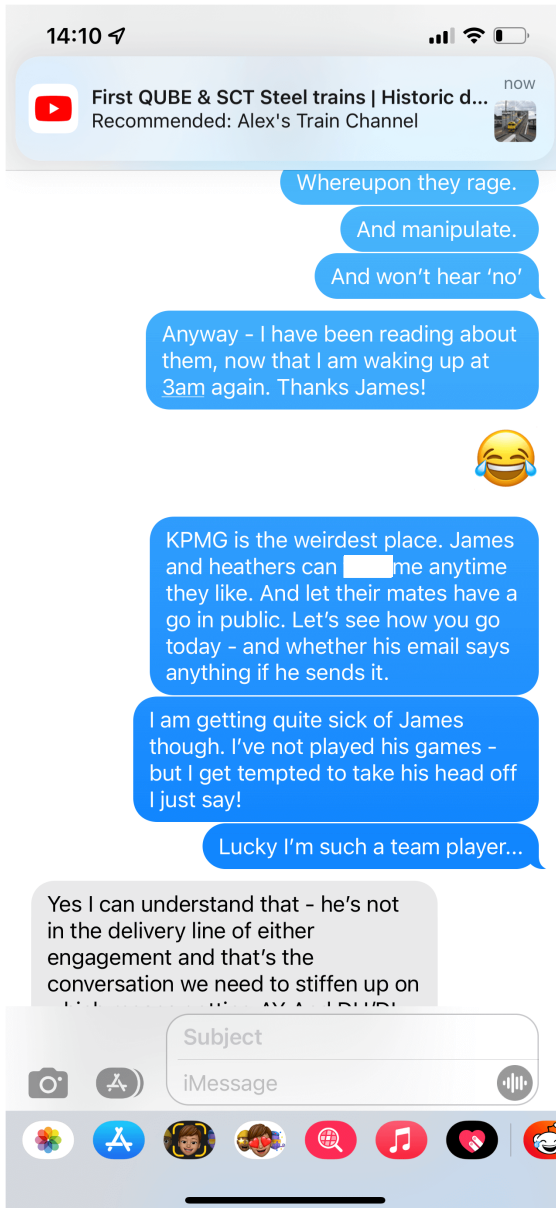
"Thanks for pulling out your best bullying and biggest conflicts just for me"



NE19: The conversation regarding Mr Hunter's intervention reprised with Mr Low the next day 15 September; he advised me that the issue of a clarifying email from Mr Hunter was not resolved; and wouldn't be until late in the day.

I then shared an inference that I believe Mr Hunter to be a compensatory narcissist.

This 'amateur diagnosis' is baseless and reflects my dislike for Mr Hunter and his actions; but the behaviours I observed of Mr Hunter more than casually align with those attributed to compensatory narcissists.

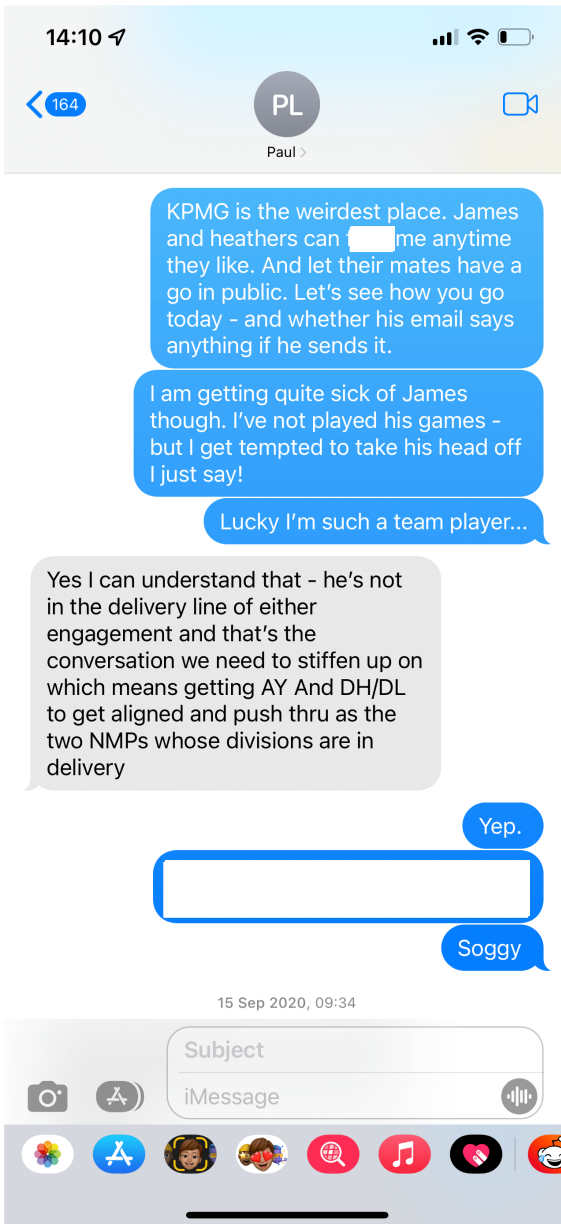


NE20: This SMS chain continues from the one above with Mr Low on 15 September; and references again the bullying behaviours inflicted on me by KPMG; saying

“KPMG is the weirdest place. James [Hunter] and Heather [Watson] can [bully] me anytime they like... and let their mates [Pratt, Midha, Wilkinson and others] have a go in public.”

While I regret the expletives used in many of my texts, these simply reflect the high levels of impact from TAHE; and my growing incredulity at KPMG’s failure to intervene.

Nonetheless, in plain language I continue to say that I am sick of being attacked by Mr Hunter... and reference that it’s lucky I am a ‘*team player*’. This references the appeal used each time to stop me making formal complaints over the improper arrangements between the most senior NSW Treasury and KPMG leaders; and the unaddressed bullying I continued to experience.



NE21: This SMS discussion continues from the page above again on 15 September; and sees Mr Low acknowledge the bad treatment I have received from Mr Hunter; and says that it needs to be resolved by Mr Yates and by David Linke/ David Heathcote.

This again shows that the bullying and conflicts were acknowledged; but not resolved or addressed – and again shows that as KPMG CEO-elect – Mr Yates was heavily involved in KPMG’s improper actions.

The last section refers to a discussion I had had with Mr Hunter earlier in the week. In that discussion Mr Hunter had told me words to the effect that

“I am one of Sydney’s most respected businessmen...”

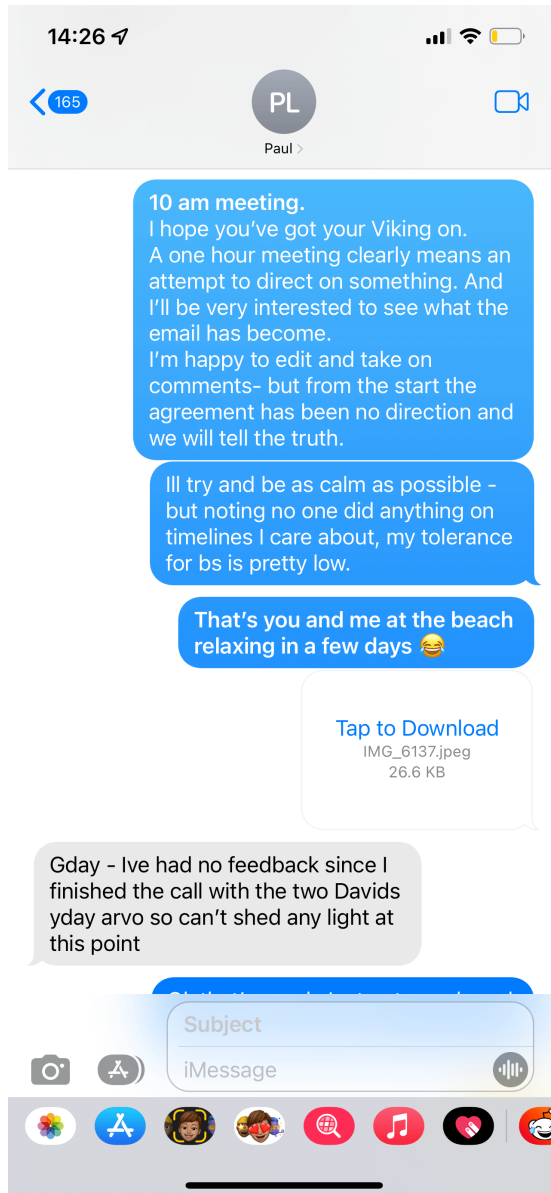
By now entirely tired of Mr Hunter I had responded to him words to the effect that:

“I thought I knew all of Sydney’s respected businessmen, but I’d not heard of you until I joined KPMG and didn’t now you were a big deal until you told me...”

“Having met you I regard you more as

This had occurred in a rare one on one teams meeting where Mr Hunter was seeking to brow beat me over some issue relating to Mr Pratt and Treasury. I had told Mr Low of my (crude) statement to Mr Hunter to test my amateur theorem that he is a compensatory narcissist; my hypothesis that he’d not relate this to anyone, because in doing so it would show my lack of respect for him – was borne out. No complaint was forthcoming.

October
2020



NE22: The start of this SMS chain with Mr Linke on 10 October refers to a meeting with Gary Wingrove. I had told Mr Linke that I was no longer willing to work on the TAHE engagement because of KPMG's conflicts and my treatment; and that he could explain to TfNSW why I had resigned from their work.

He implored me to stay on – reflecting a fear that KPMG would lose its major contracts if that occurred.

He also relayed to me at this time that KPMG's outgoing CEO Gary Wingrove was fully aware of the situation I was in; and grateful for the work I was doing – and wanted to meet me to talk about my concerns, my future etc.

This meeting – if it was ever real – never happened. The first time I met Gary Wingrove was when he came in to sign my exit papers from KPMG. He showed no awareness at all – saying words to the effect of:

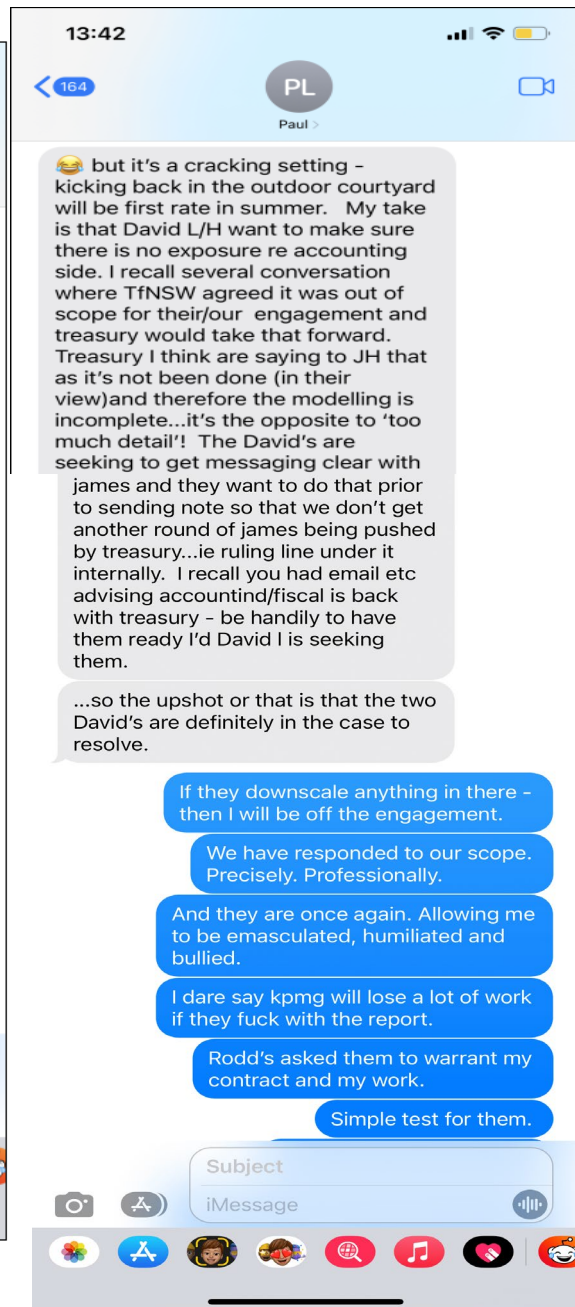
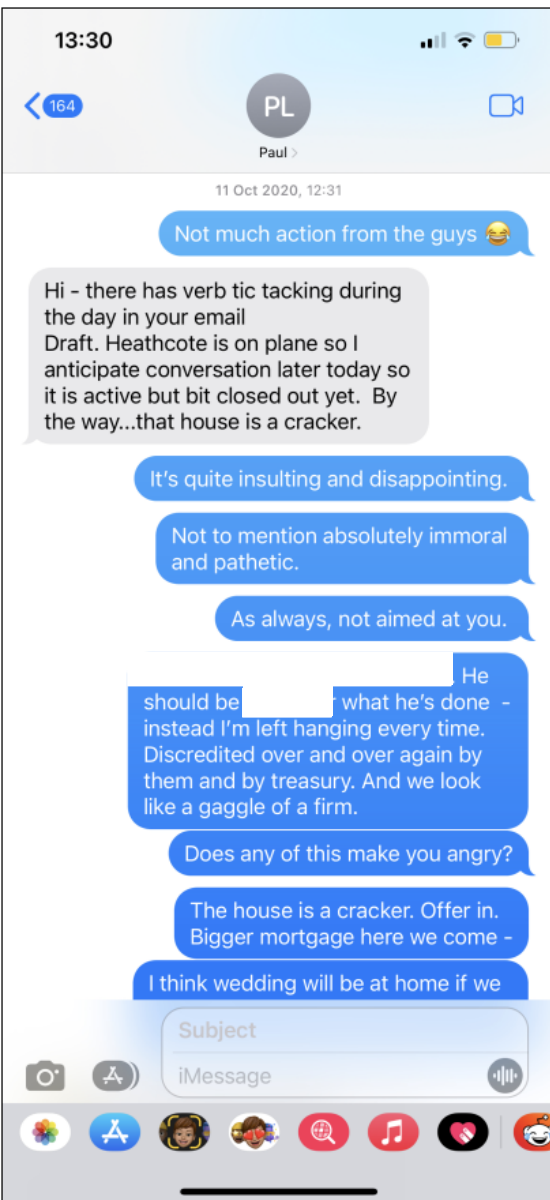
"It's a shame it didn't work out, we probably need to learn about how to better mainstream lateral partners into our culture"

By lateral – he meant someone who'd entered as a partner rather than starting as a graduate.

I said something to the effect of:

"I am not sure that's the right lesson to take from this given the lack of ethics, conflicts and terrible behaviours I've been exposed to"

Mr Wingrove seemed surprised at my response; meaning either he was not aware, or did not care; although presumably the unusually generous waivers of commercial restraints and financial settlement that were approved by him must have seen him aware that bad things had happened.



NE23: This SMS chain with Mr Low of 11 October commences with him advising that no clarification or resolution of Ms Watson's directly and deliberately conflicting scope has been achieved; of which I say:

"Its..insulting... disappointing....not to mention absolutely immoral and pathetic.

Referring to the KPMG conflict committee and Ms Watson and Mr King I say:

"he should be in [trouble] for what he's done.... "

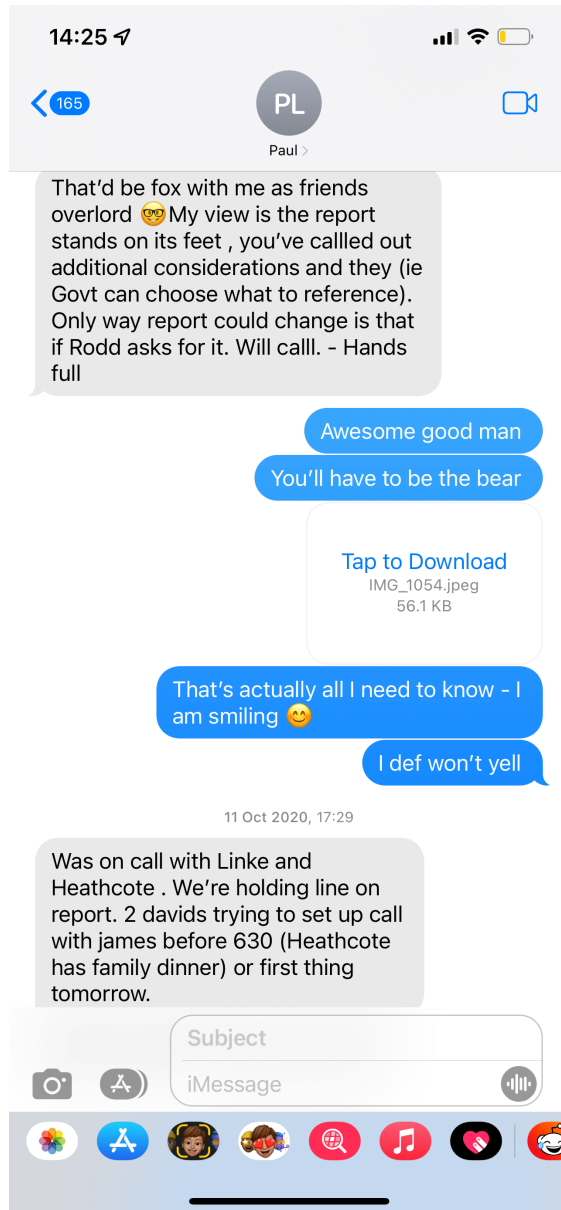
Instead I am left hanging every time, discredited over and over again by [KPMG and Treasury]."

Mr Low acknowledges Mr Hunter being instructed and controlled by Treasury; I respond by noting again that

"We have responded to our scope. Precisely. Professionally."

And continue to note that post the release of the new, directly and deliberately conflicting work; that TfNSW will be expecting a strong letter of clarification; with the Cabinet process stopped because of competing numbers.

Note that for clarity I have stitched the top of the second screenshot to keep the relevant messages together.

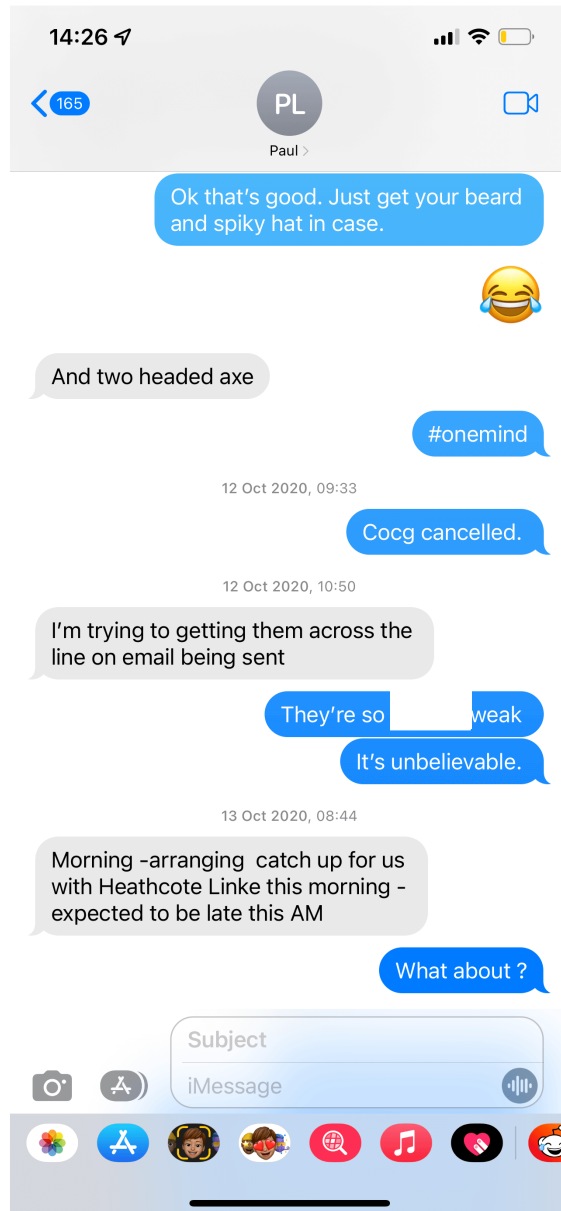


NE24: This SMS from Mr Low on 11 October shows the pressure that was being exerted; and his regard for the professionalism of m work. He notes that

“My view is [your] report stands on its feet, you’ve called out additional considerations and... the Govt can choose what to [include in the Cabinet Submission]....

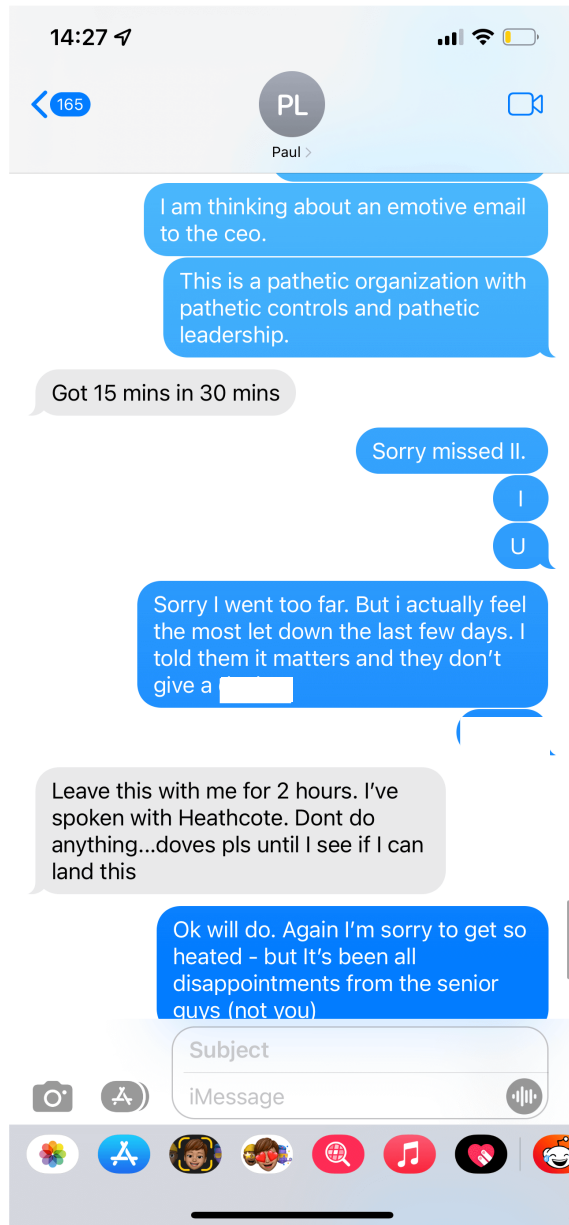
“...[the] only way [your] report could change is that Rodd [accedes to Mr Pratt’s demand that modelling results be removed].”

I respond by saying that I am relaxed that that’s the case; however Mr Low again responds to say they’re ‘*holding the line*’ over the content of my report and the pressure from Mr Pratt and the KPMG conflict committee to accede to Mr Pratt’s improper requests.



NE25: This SMS chain of 12 October shows that Mr Low cannot even get the KPMG conflict group to correct the record on Mr Hunter's email; which I describe as:

“[KPMG’s most senior partners] are so weak...it’s unbelievable.”

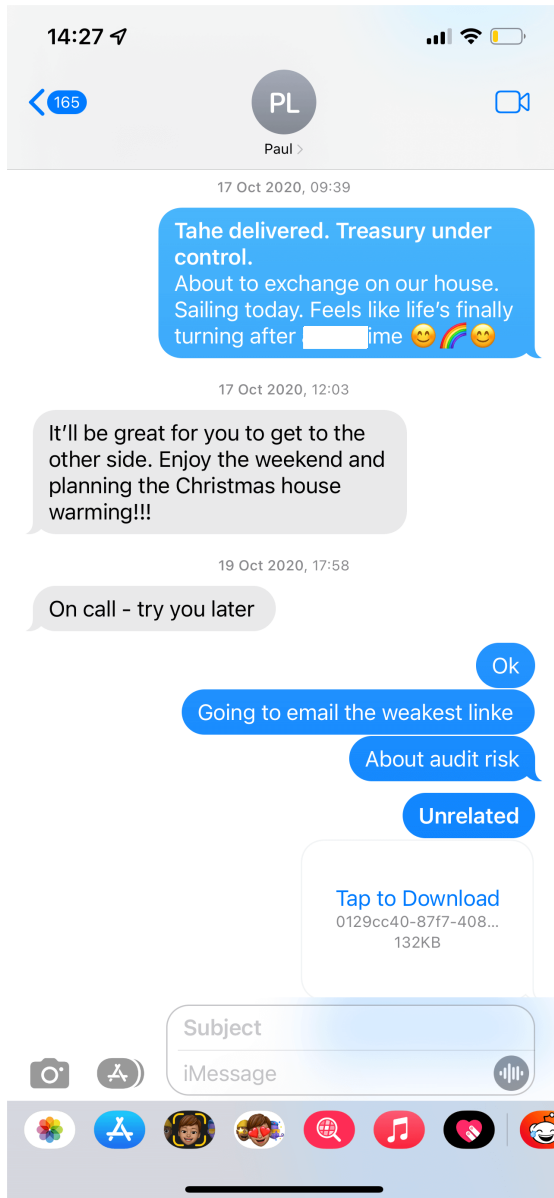


NE26: This SMS chain of 13 October follows the one above; and sees me contemplating an email to Gary Wingrove, the outgoing CEO to report what was a wholly improper and unethical state of affairs; overseen by the next most senior partners in KPMG; saying:

"I am thinking about an emotive email to the [Gary Wingrove to make an ethics complaint over TAHE]..."

"[KPMG] is a pathetic organisation with pathetic controls and pathetic leadership..."

Once again, I was talked down, sadly.

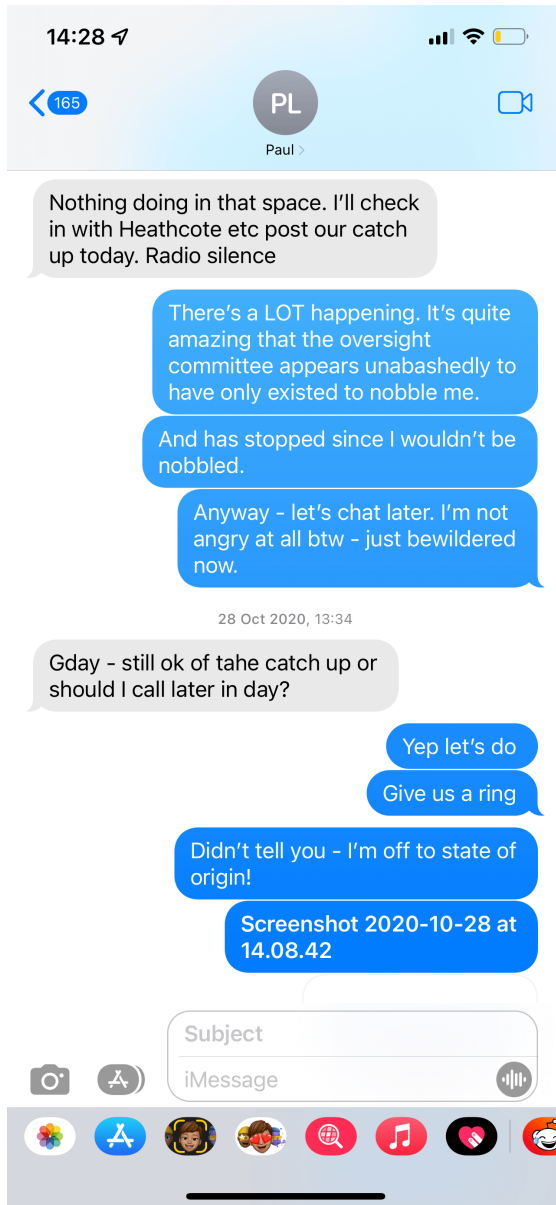


NE27: This email of 17 October shows the delivery of our final draft; and also sees me erroneously assume that this would signal the end of my engagement – and hence, my persecution by KPMG and Treasury’s most senior personnel; saying:

“[Final report on TAHE] delivered. Treasury [officials] under control.....about to exchange on our house...”

“...it feels like life’s finally turning after a time...”

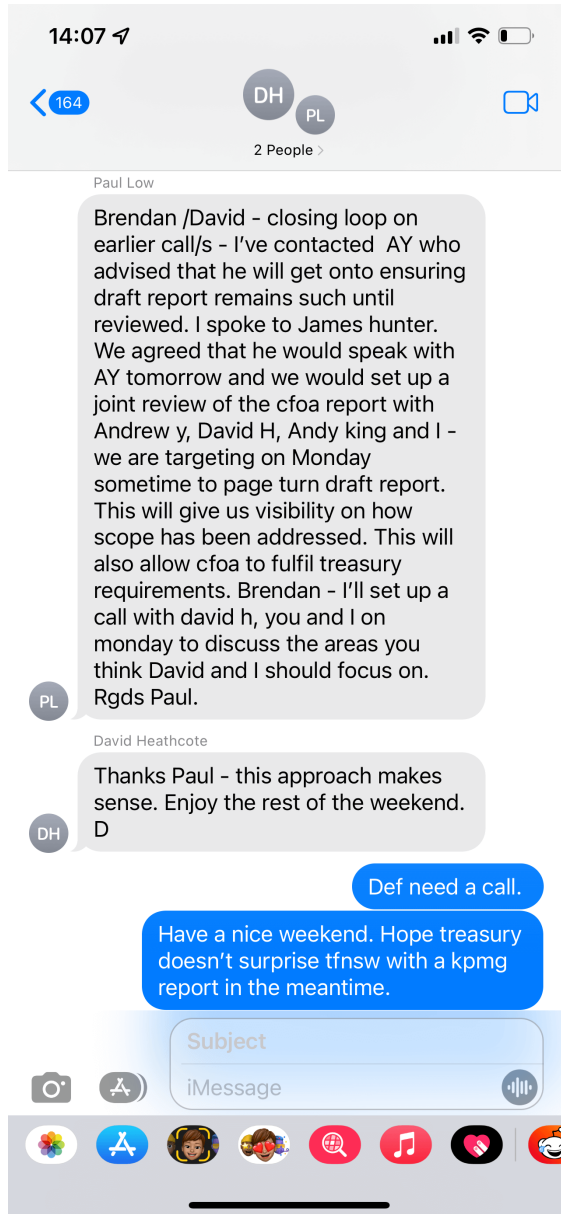
My optimism that Treasury were under control, or that life was turning, were quickly shown to be wildly optimistic.



NE28: This SMS exchange of 28 October with Mr Low shows that with my final draft report delivered for comment, in accordance with my scope and Cabinet's decision, the conflict group's forward meetings were all cancelled.

I make the observation that while on TAHE:

"There's a LOT happening. It's quite amazing that the [KPMG conflict committee] appears to unabashedly only existed to nobble me... and has stopped since I wouldn't be nobbled [and filed my final draft report]."



NE29: This SMS chain of 31 October is discussing the conflicting new report undertaken by Ms Watson and approved by the KPMG conflict group.

In his message, Mr Low conveys that the firm's CEO-elect Mr Yates had told him:

"[Andrew Yates] will get onto ensuring [Ms Watson's new, conflicting] draft report remains such until reviewed".

As it transpired, Mr Yates did not ensure it remained in draft; and refused to contemplate the amendment or withdrawal of Ms Watsons directly conflicting work; unethically approved and taken on by the KPMG conflict committee.

I remember saying words to the effect of:

"Andrew, I doesn't matter if you are the new CEO of KPMG – if you do the wrong thing it will follow you."

I also at that meeting sought to remind people that the originating conflict from Ms Watson had been accelerated massively by the new work – whereupon Mr Yates told me words to the effect of

"This is ancient history, I am sick of talking about it..."

Again this shows clearly that Mr Yates was complicit in KPMG's joint enterprise with Treasury to bully and discredit me; to satisfy Mr Pratt.

November
2020

From: Linke, David
To: Capon, Louise
Cc: Lucas, Joel
Subject: TAHE - Subject to legal professional privilege

Louise

This note documents my conclusions, actions and the discussions in the COCG on 4 November 2020:

1. On 4 November I received and reviewed the CFOA report to Treasury. This is the first time I had received that report.
2. I have not received the final scope agreed with Treasury on the CFOA advice. This scope was the subject of the discussion at the meeting on 12 October and the outcome of that meeting was communicated to TfNSW on 13 October 2020.
3. While I have not reviewed the final scope and I understand that CFOA are arguing that the reports are in relation to separate matters, it is my view that the reports are in conflict and that the Treasury report issued is, at least so far as the intent of the discussion on 12 October 2020, in excess of that scope and is being used in a way that everyone was concerned to ensure did not occur in that meeting. This is regardless of whether the advice is considered to be within the strict words of that scope (a matter on which I cannot conclude given the point above).
4. I also re-read elements of the IPG report. My sense is the different approaches comes down to three issues:

* Is there a floor on the Access fees or not? In the CFOA report the point is made that there is no penalty or compliance action taken should the fees be below the IPART floor. In fact the same point is made in the IPG report. The IPG report assumes the floor, the CFOA report does not. This is a matter on which we need advice from the respective Government departments.

* The next point is the ROE point. It is worth noting that this issue is not unrelated to the Access fee issue. The CFOA report concludes that the benchmark return of 1.5% is reasonable and in accordance with the accounting framework. The use of the 1.5% benchmark is in accordance with Federal Government guidelines and therefore this rate of return seems appropriate. The issue seems to be that given the level of Access fees assumed to be below the floor, TAHE will sustain losses for the period of the reform and therefore negative returns are crystallised and not a 1.5% ROE. The response to this is that certain decisions are to be made by Government and therefore there is no bright line period in which this assessment needs to be made. If that is the case then the question is how can we conclude that the assumption is reasonable without understanding what the import of those decisions or the financial outlook may be or look like. The analogous example is the question as to whether an asset value is reasonable having regard to future anticipated returns. What work would ordinarily be undertaken to conclude that such a position was reasonable?

* The final point is a serious conflict issue for the firm. A financial model has been prepared based on a sustainable view of the TAHE operating model. That model shows certain consequences. The CFOA advice is now being used to defer the financial hit to the State budget. It is difficult to see how both these pieces of advice can stand since this aspect is difficult to reconcile.

5. My recommendation is that an independent review of the positions be undertaken. The composition of that review will need some different skills so perhaps _____ should be involved.
6. The above was the substance of my contribution to the meeting on 4 November 2020.

NE30: This email from Mr Linke is sent to Ms Louise Capon, the General Counsel of KPMG.

Mr Linke was the National Executive Committee member who gave the undertakings to TfNSW; both about KPMG's support for my work for TfNSW; and who explained Ms Watson's directly conflicting scope to TfNSW and undertook to ensure no conflicts; alongside Messrs Heathcote and Low.

Mr Linke reports that after his review: :

"The [fact my and Ms Watson's reports conflict on ROE] is a serious conflict issue for the firm.

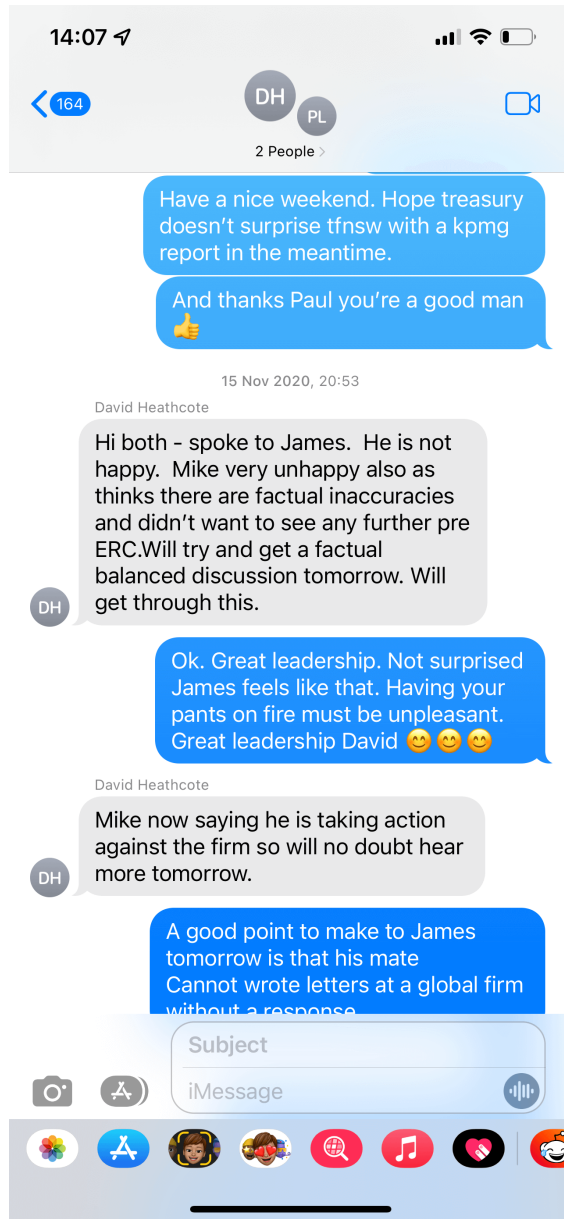
"A financial model has been prepared based on a sustainable view of the TAHE operating model.

"That model shows certain consequences.

"[Ms Watson's] advice is now being used to defer the financial hit to the State budget...

"It is difficult to see how both of these pieces of advice can stand since this is difficult to reconcile..."

As the National Executive Committee member who both made the undertakings after relaying his understanding of Ms Watson's scope, Mr Linke's opinion of a direct and deliberate conflict forms very strong evidence of KPMG's impropriety.



NE31: This SMS discussion of 15 November comes in the wake of Mr Heathcote's clarifying letter, and sees Mr Heathcote relay that James Hunter rang and was angry; that he and Mike Pratt had assumed that there would be nothing further from KPMG on TAHE before Cabinet

"Hi both.. Spoke to James. He is not happy.

"Mike [Pratt] very unhappy also... didn't want to see any further [correspondence to correct the conflict] before ERC...:

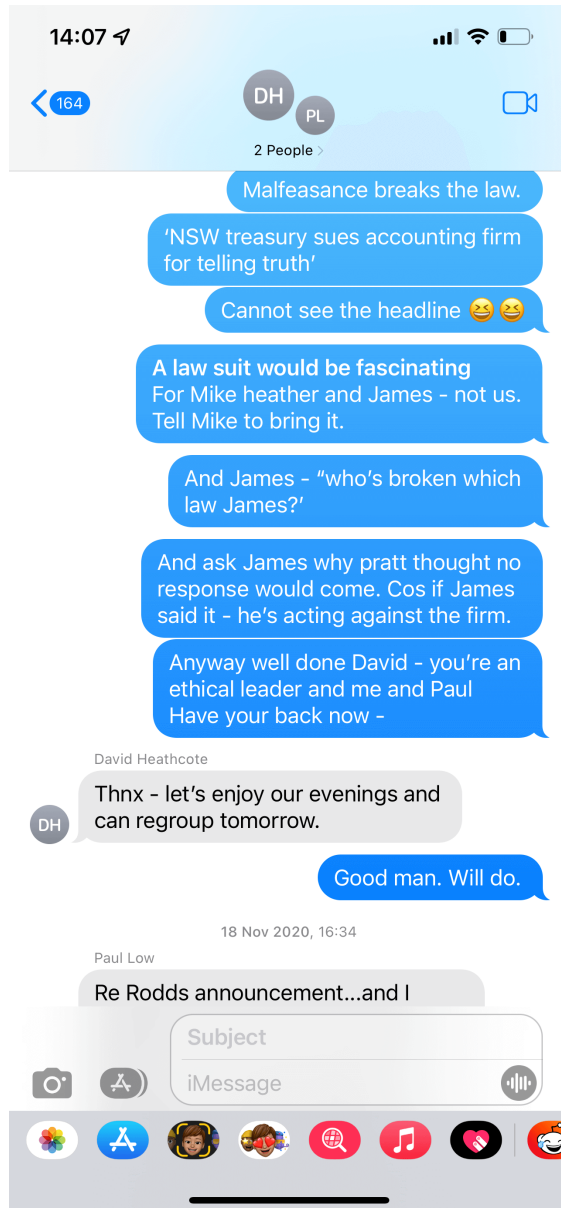
This shows again the obvious conspiracy whereby KPMG sought to discredit my work with a directly and materially conflicting engagement; and then expected that KPMG would not warrant or support its work for TfNSW.

It is to my mind also evidence that Mr Pratt and Treasury felt they could 'do as they pleased' in regards to KPMG.

Mr Heathcote continues to note that:

Mike [Pratt] now saying he is taking [legal] action against the firm so will no doubt hear more tomorrow..."

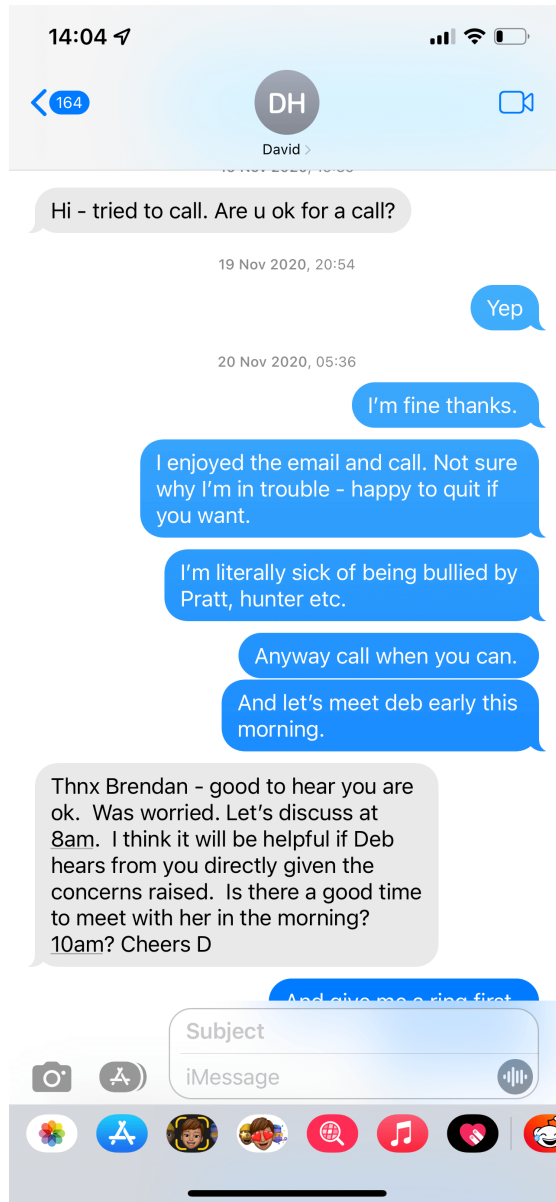
This again shows the improper level of pressure being applied by Mr Pratt and his agents on the KPMG conflict committee.



NE32: This continuing exchange of 15 November sees me respond that Mr Pratt should indeed sue KPMG over my work; noting he was neither my client; nor in view was he acting lawfully.

It also raise the obvious coordination and conspiracy between Mr Pratt and Mr Hunter to frustrate my work; and sees me thank Mr Heathcote for signing the letter to Mr Staples.

This was the only time that someone from KPMG acted to help me.



NE33: This SMS discussion of 20 November follows my call and email the prior day to Mr Pratt; asking him to stop bullying me and tell the truth. I say:

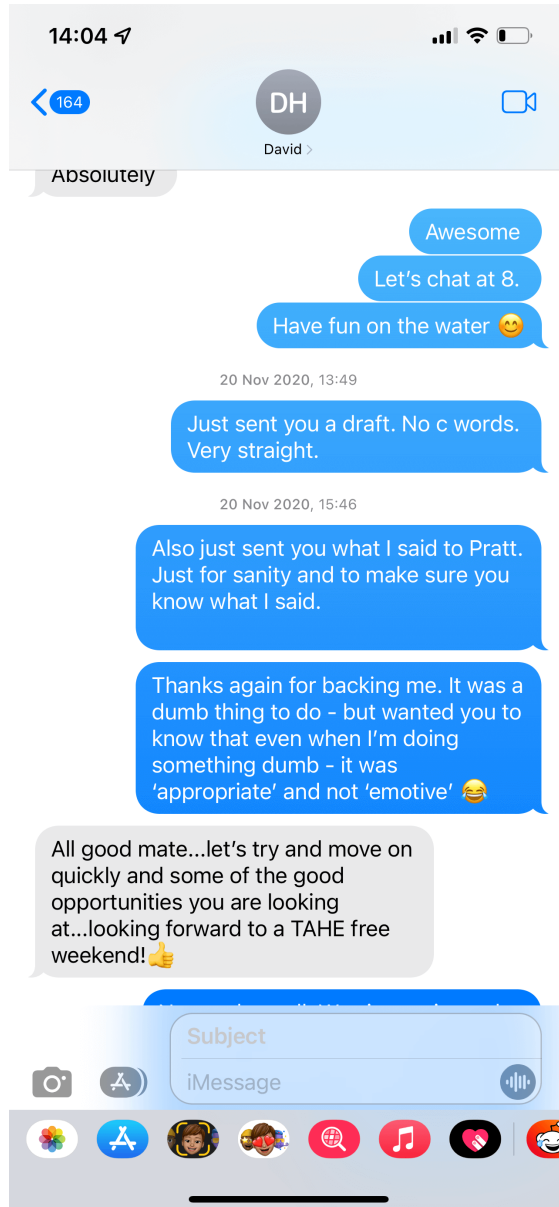
"I enjoyed the email and call [to Mr Pratt]... not sure why I'm in trouble – happy to quit if you want..."

This reflected that overnight Mr Pratt and KPMG had reacted very strongly to my request that Mr Pratt cease bullying me over work that was now completed and final.

I again note:

"I'm literally sick of being bullied by Pratt, Hunter etc..."

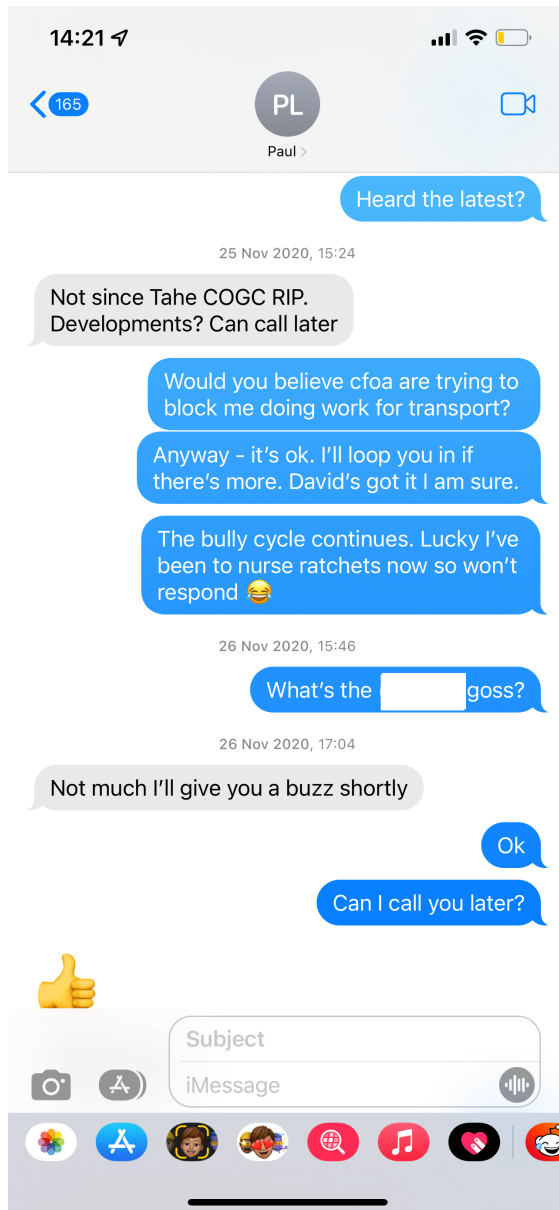
By this stage, I was exhausted and thoroughly dispirited after months of appalling treatment; again the irony of me now being bullied for asking for the bullying to stop was not lost.



NE34: This SMS discussion of 20 November follows the request that I issue a retraction to Mr Pratt to make it all 'go away' – again supported by Mr Heathcote's references to the future.

I took him at his word; and believe that he meant it.

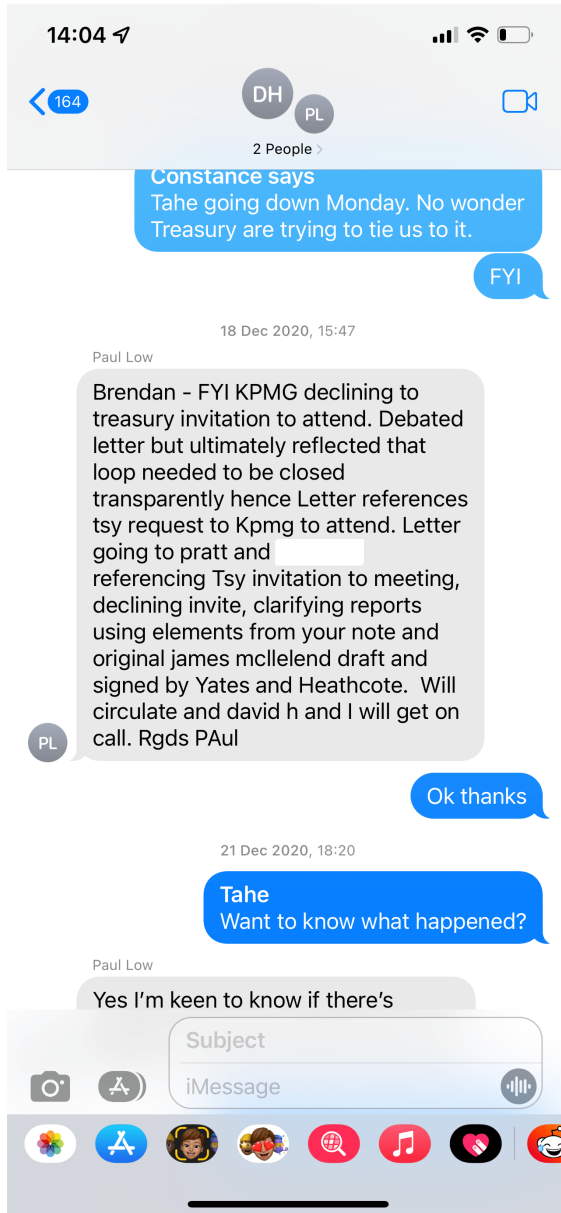
The reference to wanting him to know even when I do something 'dumb', its appropriate. This refers to my email and call asking Mr Pratt to cease bullying me the day prior.



NE35: This SMS discussion of 25 November sees me alert Mr Low that suddenly I was being blocked from pursuing work; which was explained to me by Mr Heathcote as resulting from a (corrupt) request by Mr Pratt that I face reprisals; including be restricted from pursuing work from the NSW Government.

Noting I am was an infrastructure partner; mostly working for government – this was a material reprisal and signal that I was to be further victimised by KPMGs most senior leader.

December 2020 & 2021



NE36: This SMS discussion of 18 December refers to a demand by Treasury that Mr Hunter attend ERC to explain how the two KPMG reports did not conflict. Noting that they did conflict and that TfNSW were fully across my work, findings and model – KPMG were notably keen to avoid having to attend that meeting.

From: Cook, Jeff A
Sent: Wednesday, 24 March 2021 3:58 PM
To: Lyon, Brendan
Cc: Heathcote, David
Subject: RE: Independence training extension

Hi Brendan,

Apologies. It seems I jumped the gun on the letter. You will receive it this afternoon.

With regard to extensions, you were granted an extension in relation to the WHS/EEO training, but you did not have extensions approved for late completion of the firm's annual declaration or the We Do What Is Right: Integrity at KPMG 2020 training.

Kind regards
 Jeff

From: Lyon, Brendan
Sent: Wednesday, 24 March 2021 3:08 PM
To: Cook, Jeff A <
Cc: Heathcote, David < ; Percival, Dana <
Subject: Re: Independence training extension

Also Could you also send me a copy of the letter - I do not think I've received it.

Brendan Lyon
 Partner
 Infrastructure & Projects Group
 KPMG

From: Lyon, Brendan
Sent: Wednesday, March 24, 2021 3:03:14 PM
To: Cook, Jeff / . [\[mailto:jeff@kpmg.com.au\]](#)
Cc: Heathcote, David < ; Percival, Dana <
Subject: Re: Independence training extension

Thanks Jeff. As I recall I had permission for those for the same reason - TAHE.

Anyway will do my best.

Brendan Lyon
 Partner
 Infrastructure & Projects Group
 KPMG

NE37: email chain shows me asking for a training request, before being advised that I had been issued another warning; although in fact it had not been issued.

The warning was for not completing KPMG's acting with integrity training; which given the circumstances I had been exposed to – I felt was mildly amusing; albeit part of a vexatious and cruel process designed to eradicate me to satisfy Mr Pratt's request that I be 'dealt with' and the no doubt, in reprisal for me resisting the internal and wholly improper pressure to abandon my client and ethics.

This warning is from the same Mr Cook who deemed KPMG's work to be ethical and legal; and who did nothing despite my formal report of bullying and victimisation.



NE38: This SMS discussion of 26 March to my lawyer, Ms Rebekah Giles, relays the commencement of the investigations into me; with Mr Low informing me that he and Mr Heathcote had each reported their view that I was bullied.



Level 38 Tower Three
300 Barangaroo Avenue
Sydney NSW 2000

P O Box H67 Australia Square
Sydney NSW 1213
Australia

ABN: 51 194 660 183
Telephone: +61 2 9335 7000
Facsimile: +61 2 9335 7001
DX: 1056 Sydney
www.kpmg.com.au

Our ref RGLR01

29 March 2021

To
Director. People Performance & Culture

Dear

I refer to the investigation referred to in your letter dated 11 March 2011 and our recent discussions in relation to a separate matter.

I am in the process of seeking legal advice in relation to these matters.

I am also getting married in less than 2 weeks and taking a short period of leave. As such, I propose we defer advancing these matters until late in April.

Please let me know if you are agreeable to this.

Yours sincerely

Brendan Lyon
Partner, KPMG

NE39: My response resisting being compelled to attend compulsory interviews, while on leave in the immediate period before my (already COVID delayed and TAHE impacted) wedding.

KPMG's unseemly haste to execute me, prior to my nuptials – and refusal to hold off until after until Ms Giles' visible appearance as my solicitor speaks volumes about the cruelty of KPMG's actions; and their repeated cowardice.

From: BRENDAN LYON
Sent: Tuesday, 30 March 2021 4:17 PM
To: Rebekah Giles
Subject: Re: Strictly private and confidential

Hi I'll send this later tonight. I'm getting sick of being marched around and bullied- so thought respond later and they are less likely to push the issue.

Thanks again for the help. Let me know if any of my small additions are a problem otherwise I'll send.

Also I note that all of Heather's allegations are actually reflected in my file notes. They are me raising risks and problems.

She helpfully notes my assertion of ethical and professional hesitations working based on my experiences with her. That's true.

Brendan Lyon
 Partner
 Infrastructure & Projects Group
 KPMG

From: Rebekah Giles
Sent: Monday, March 29, 2021 17:36
To: BRENDAN LYON
Subject: RE: Strictly private and confidential

Okay here we go.

I would propose the following response.

I refer to your letter.

I am seeking legal advice and representation in relation to this matter. As a result I will not be able to meet with you and Mr Fox on the proposed date.

I will however revert to you as soon as possible, with the view to progressing your investigation.

I expect that I will respond to you after the Easter break.

Finally, as previously advised please note that I am getting married on 11 April and will return to the office from 19 April.

Sincerely

*Brendan Lyon
 Partner, KPMG*

NE40: This correspondence shows Ms Giles assisting me to resist KPMG's demands that I appear from leave to be interviewed over bullying Ms Watson.

From: Lyon, Brendan

Sent: Friday, 23 April 2021 12:04 PM

To: Yates, Andrew J < >; Yates, Deborah < >; Heathcote, David

Subject: TfNSW engagement, clarity on 19 November email

Importance: High

Dear Andrew, Deb and David,

Noting TAHE and David's email of 19 November last, David has asked me to email you to advise of an opportunity to undertake a strategic business case for TfNSW for a port community system; and to seek your confirmation that I may lead the engagement.

For background, I led KPMG's engagement with TfNSW to develop the internal business case/scoping for TfNSW – which is attached.

I also submit that:

- I am the logical Partner to lead the engagement, noting my own and my team's expertise in the area
- We have supported TfNSW to scope the project meaning we know the most about this project
- I have a strong and positive reputation with TfNSW; and
- The business case will not involve NSW Treasury or Mike Pratt

The digitisation of supply chains is a major forward opportunity in infrastructure; and will see significant fee opportunities over time.

Accordingly, I would appreciate your advice on whether I can proceed with this opportunity – noting the email of 19 November last.

I am happy to discuss with you if needed.

Regards

Brendan Lyon

Brendan Lyon | Partner

Deal Advisory – Infrastructure & Projects Group

International Towers
300 Barangaroo Avenue
Sydney NSW 2000 Australia

NE42: This email of 23 April was sent to Mr Yates to clarify that his blockage of me doing work had ceased.

I had no response from him or from Ms Deb Yates, then the head of HR at KPMG; instead I was advised by Mr Heathcote that I was not able to do work; because of the agreement with Mr Pratt's unlawful request in November 2020.

From: Heathcote, David
Sent: Friday, 23 April 2021 9:42 AM
To:
Subject: TfNSW opportunity

Hi Brandan,

Thanks for taking time to catch up briefly earlier in the week.

I have not had an opportunity to speak to Andrew Yates in detail regarding the above, and as you know I am out of the office on annual leave for a few days, but subject to timing on the response to the rfp, I would recommend you do the following:

- Acknowledge the email I sent to you on the 19th Nov re contact with NSW Government
- Send an email to Andrew, Deb and myself advising there is an new opportunity for TfNSW
- Express your desire to lead this engagement and provide detail as to why you are person to lead it
- Provide any comments on whether the engagement will need to involve engagement with other parts of NSW Govt beyond TfNSW

This approach should ensure we can get clarity on whether there has been enough distance to now reengage with NSW Govt. Otherwise I can pick up when I return to the office on Tuesday.

Rgds
David

NE43: This email shows Mr Heathcote trying to assist me to clear the blockage.

He invites me to email Mr Yates directly, which I do on the page which follows.

At this point Mr Heathcote was trying to find out who was driving it all; and believed I was still 'viable' as I recall.

From: BRENDAN LYON
Sent: Friday, 28 May 2021 9:44 AM
To: Elisha Lorizio
Cc: Rebekah Giles
Subject: FW: Brendan Lyon - Execution Retirement documents
Attachments: Retirement Deed - Brendan Lyon 30 June 2021 (Final)(65773593_65773598_1(ADMIN).pdf; Lyon_B - NAB Redemption Notice_65773615_1(ADMIN).pdf

Hi Elisha;

As below they've accepted all changes but are obviously wanting to exclude mental disease (cos they know what they did last summer).

They are very motivated to sign today, because they've now been contacted by Adele Ferguson who's investigating TAHE and are keen to lock me down.

Elisha – could you pls review asap and advise if you're happy – then I'll come in and sign.

Apparently the CEO of the firm will meet me to sign when I am ready. That'll be the first time 😊

Thanks again team – this is a great outcome.

From: Heathcote, David
Sent: Friday, 28 May 2021 9:06 AM
To:
Subject: Brendan Lyon - Execution Retirement documents

Hi Brendan,

As discussed, please find attached your Retirement Deed together with the embedded Retirement Statement for execution. You need to sign the Deed in the presence of a witness (second last page), the witness may be anyone. You are also required to sign the Power of Attorney contained as Schedule 2 within your Deed, again in the presence of a witness, however **the witness must be a solicitor external to the Firm**.

Please note, we have accepted all the requested changes, with the only change being the following addition in bold and underlined to the scope of release proposed by your lawyers; "compensation or damages for personal **physical** injury".

Also attached is an Application for Redemption Notice: KPMG Finance Trust. This notice is required by Treasury which enables the redemption of your Units in the KPMG Finance Trust and also the repayment of your equity loan funding as at 30 June 2021. Accordingly, can you please arrange for the Unit Holder, being the authorised officers of Trust to sign the notice. Please do not date the section "will be repaid on" as Treasury will date accordingly.

If it is possible to get these executed this morning, I can arrange for Gary to also sign so we can wrap this up by lunchtime today. Let me know what is possible and I can meet you in the office if that works.

Many thanks
David

NE44: This email fast forwards to the negotiation of final terms for my forced retirement from KPMG.

While KPMG were by this point very keen to execute, noting growing media interest in TAHE and the cover up by Treasury and KPMG; I note that they excluded any forward liability for mental impacts of my treatment.

This is perhaps the most cynical of the acts I saw by KPMG; as I reflect to a solicitor working with Ms Giles:

"[KPMG] have accepted all changes but are obviously wanting to exclude mental disease (cos they know what they did last summer..."

By this I am relating that KPMG clearly knew the level of impact they were having; and did not want to be responsible for any damages.

I also note never having met Mr Wingrove – calling into question KPMG's risk reporting and disclosure – or Mr Wingrove's capability and morality as a leader.

Part five: Concluding comments and recommendations

1. My evidence provides an unusually transparent and obvious case study of workplace bullying, endorsed by the most senior leaders in NSW Treasury and KPMG.
2. The digest of supporting evidence shows repeated and clear examples of:
 - Undue criticism.
 - Exclusion, isolation, and progressive marginalisation.
 - Withholding information relevant to my work.
 - An unreasonable work overload and no meaningful support.
 - Unreasonable and changing deadlines, approaches, and priorities.
 - Denial of vital resources and information.
 - The spreading of misinformation, malicious rumours, and malicious internal disciplinary processes.
 - Detrimental changes to my working arrangements.
3. My evidence shows KPMG's Chief Executive Andrew Yates and NSW Treasury Secretary Mike Pratt with directional control and personal involvement, providing the Inquiry with unambiguous evidence of a serious and sustained '*abuse of power or authority*' by these two men – and their subordinates.
4. My evidence shows KPMG placed me in a position from which I could not escape.
5. My evidence shows that KPMG did nothing to support me, despite multiple reports of my treatment; with Messrs Heathcote, Low and Linke each agreeing with my work and findings and acknowledging the improper state of affairs; but remain passive and eventually, silent, in defending me from internal recriminations and reprisals.
6. My evidence shows Messrs Pratt, Midha and Ms Wilkinson bullying me directly – and bullying me indirectly, through Mr Yates, Ms Watson and Messrs Hunter, King, and others within KPMG.
7. My evidence shows a joint enterprise or conspiracy between NSW Treasury and KPMG's most senior leaders, aimed at hiding material risks to the State's finances, rail operations and rail safety from the NSW Cabinet.
8. Acceding to Mr Pratt's inappropriate and unethical demand to change my work required me to abandon my client, ethics, and morals, which I was demonstrably unwilling to do, despite the massive internal pressure to do so.
9. For their part, Messrs Pratt, Midha, and Ms Wilkinson have sought to justify their actions against me by arguing that:
 - I. I exceeded my scope by providing detailed financial analysis of TAHE;
 - II. My modelling contained '*persistent errors*'; and that

III. I was '*recalcitrant*' in not removing these '*persistent errors*', because Mr Pratt is the Cabinet's primary budget advisor.

10. On the first point, Mr Pratt and his colleagues have obviously and wilfully misled your Inquiry; with Cabinet's June request, my scope and KPMG's contract with TfNSW each requiring new, detailed financial modelling and analysis of TAHE to remedy flaws my June report revealed in Treasury/KPMG's prior analysis of TAHE.
11. On the second point, Mr Pratt and his colleagues have obviously and wilfully misled you; with no errors identified in the model whatsoever; but with significant conflict over the results and the ensuing attempts to radically change the model assumptions.
12. On the ultimate point that Messrs Pratt, Midha and Wilkinson are the Cabinet's primary budget advisors, I agree completely. But I also observe that primacy does not equal exclusivity, nor does Mr Pratt's position supplant Cabinet's specific request that TfNSW engage me and my team to produce a new, detailed and thorough financial assessment of TAHE's performance.
13. In terms of the quality of Mr Pratt's primary advice to the NSW Cabinet, I also observe that:
 - a. My evidence reveals Mr Pratt has based the NSW Budget's current forward estimates on flawed modelling of TAHE more than six years out of date, and which contains known and material errors.
 - b. My evidence shows Mr Pratt's financial assessment of TAHE presented to Cabinet in June 2020 used figures that were not even modelled, and so flawed as to be "*essentially made up*" and "*thoroughly misleading*" to the Cabinet.
 - c. Even before TAHE's updated impacts reach the Budget, Mr Pratt's advice has seen the AAA credit rating lost, material taxpayer losses from iCare; repeated, material downward revisions of the Budget forward estimates as optimistic assumptions (e.g. agency land/property sales targets etc) have failed to materialise.
14. Mr Pratt, as the primary budget advisor, is also accountable for NSW being unable to produce audited financial statements, as at the date of this answer.
15. This failure to pass audit is unprecedented in more than 200 years of Treasury's service to the State.
16. The auditor general's refusal to sign off on the state accounts reflects the key issues and risks identified in my report, which NSW Treasury and KPMG improperly sought to suppress from Cabinet.
17. In considering the Committee's coming task of making findings and recommendations, I have taken the liberty of suggesting a range of areas which I feel would benefit from your focus.
18. I have segmented these into three groups, the first being relevant concepts and definitions; the next being substantive issues; and the concluding section logically being findings and recommendations; outlined below.

Concepts and definitions:

- i. Conceptual discussion and definition of the elements constituting public corruption, maladministration, malfeasance, misfeasance, and other relevant legal and administrative concepts; and applying these concepts to the Committee's work on TAHE.
- ii. Inquire into expectations, responsibilities, and accountabilities of relevant NSW Treasury personnel generally, and in specific regard to TAHE.
- iii. Inquire into expectations, responsibilities, and accountabilities of relevant TAHE directors and personnel generally, and in specific regard to TAHE's creation.
- iv. Inquire into expectations, responsibilities, and accountabilities of relevant TfNSW personnel generally, and in specific regard to TAHE.
- v. Inquire into expectations, responsibilities, and accountabilities of the NSW Audit Office in regard to TAHE.
- vi. Inquire into expectations, responsibilities, and accountabilities of KPMG as a consultant/contractor to the NSW Government.
- vii. Inquire into expectations, responsibilities and accountabilities of particular KPMG personnel, in respect of their professional, contractual, and legal obligations and duties to their NSW Government clients; and any gaps between observed behaviours and KPMG's 'global behaviours' and other stated values.

Substantive issues:

- viii. Were arrangements generally between senior KPMG and NSW Treasury personnel transparent and proper?
- ix. Could particular Treasury officers or KPMG personnel have breached any relevant policies, regulations or laws in regard to their actions on TAHE?
- x. Were consulting and related contracting arrangements between KPMG and NSW Treasury and TAHE transparent and proper?
- xi. Could the unusual award of large Treasury consulting contracts without tender and beyond those related to TAHE, have conceivably impacted KPMG's independence and professionalism?
- xii. Could particular Treasury officers, TAHE staff or KPMG personnel have breached any relevant policies, regulations or laws in regard to irregular procurement practices – for example, ICAC's guidance, Treasury and DPC guidelines, etc?

Findings & conclusions:

- xiii. If appropriate, findings on the conduct of relevant NSW Treasury officials, to inform Mr Coutts-Trotter's consideration of his next steps.
- xiv. If appropriate, findings on the conduct of individuals or entities and subsequent referral to professional, regulatory, or investigative bodies (e.g., Institute of Chartered Accountants, CPA Australia, ICAC, NSW Ombudsman etc), as necessary.
- xv. If appropriate, findings on structural, regulatory or policy reforms governing audit and accounting firms, including current professional standards and enforcement.

- xvi. Concluding recommendations of legislative, regulatory, structural or policy reforms that would address the improper arrangements that gave rise to the matters subject of your Inquiry,

Conclusion:

19. TAHE has been in all senses, a life-defining project for me, my family, and friends; and for many of my former staff at KPMG.
20. As the Committee members might appreciate from my testimony and documentary evidence, my work on TAHE has inflicted a period of sustained stress, anxiety, and uncertainty that is unprecedented in my professional life.
21. Beyond being forced from my employment, I have lost valuable time with my aging parents, neglected friendships, as my work and subsequent reprisals have overshadowed major life events, including my recent marriage.
22. Despite these impacts, I remain proud of the quality and depth of the work of the core members of my team – and thank them for their resilience and commitment - despite vicious, coordinated and wholly improper efforts to frustrate and discredit our work.
23. I hope that my response provides a complete answer to Mr Khan; and in so doing, that assists the Committee to reach meaningful findings about measures to better maintain the integrity of the professional public service and their consultant advisors.
24. Finally, through the Chair I thank each Member of the Committee for your decency during my compelled examination on 8 November last.

Yours sincerely,

 Brendan Lyon

Appendix one: Workplace Bullying Report

Workplace bullying: We just want it to stop. Inquiry report of the House of Representatives Standing Committee on Employment & Education, Commonwealth of Australia 2012



Adobe Acrobat
Document

Appendix two: relevant correspondence with Mr Coutts-Trotter



Ref: A5177389

Mr Brendan Lyon
c/- Ms Rebekah Giles
By email: !

Dear Mr Lyon

Allegations concerning NSW Treasury

Thank you for taking the time to speak to me yesterday and for your email of last night. I note your request that Ms Giles be included in our correspondence.

The NSW public service is committed to the government sector core values of integrity, trust, service and accountability, as set out in section 7 of the *Government Sector Employment Act 2013* (the **Act**).

Should you decide to make a formal complaint to me concerning the actions of the Secretary of Treasury following your recent evidence to the Public Accountability Committee, I would propose that an inquiry be conducted under section 83 of the Act into the matter.

Under section 83 of the Act, the Public Service Commissioner or the Secretary of the Department of Premier and Cabinet may conduct an inquiry into any matter relating to the administration or management of a government sector agency.

The Public Service Commissioner is an independent statutory officer appointed by the Governor. Her statutory objectives include to promote and maintain the highest levels of integrity, impartiality, accountability and leadership across the government sector.

The inquiry, whether conducted by myself or the Public Service Commissioner, would engage external assistance in relation to the conduct of the inquiry. I assure you that any such inquiry would be conducted in a fair and impartial manner.

I would be grateful if you would advise whether you would like to proceed with a formal complaint to be managed in accordance with the inquiry process set out above.

Please let me know if you would like to discuss this matter further.

Yours sincerely

Michael Coutts-Trotter
Secretary

10 November 2021

cc:

Ms Kathrina Lo, NSW Public Service Commissioner

52 Martin Place, Sydney NSW 2000 ■ GPO Box 5341, SYDNEY NSW 2001
Tel: (02) 9228 5555 ■ www.dpc.nsw.gov.au

brendan lyon

From: brendan lyon
Sent: Wednesday, 1 December 2021 3:46 PM
To:
Cc: Rebekah Giles
Subject: IMPORTANT: REGARDING CONDUCT OF CERTAIN OFFICIALS
Importance: High

Dear Mr Coutts-Trotter,

Having returned from my offshore sail and considered the matter, I am now equipped to provide a considered response to your email of 10 November last.

I decline your invitation to submit a complaint for the simple reason that it is not required; and invites opinion on what happened to me – rather than properly focussing on what was done by certain officials; and for what reasons.

Instead, I respectfully invite you to commence a transparent investigation under your own initiative; demonstrating your stewardship of the values you reference Part 2 Section 7 of the *Government Sector Employees Act 2013* (NSW).

In support of my position, I make the following points.

1. The statements by the Premier endorsing said officials; and the statement of the Leader of the House 'victim blaming' by typing my subpoenaed testimony as 'cowardly'; make it difficult to understand how 'procedural fairness' can be maintained or how this process can be anything other than political.
2. I have already been traumatised enough by the events relate to TAHE and am simply not prepared to endure further needless stress or expend further energy or cost on these issues.
3. There does not appear to be a basis or requirement for a complaint under the *Government Sector Employment Act 2013* (NSW) Part 2 Section 7, or any other part.
4. Part 4 Section 41 and Part 3 ss 68, 69 and 70 of the same Act appear more relevant to the issues at hand and outline the powers relevant to misconduct.
5. While TAHE has had profound impacts on my health, happiness and employment – it is in fact a problem facing the NSW Government, not me.
6. Similarly, while I have been substantially impacted, the proper conduct of senior officials is a matter for you; not for me.
7. In noting that you may simply commence an investigation I note that you have access to:
 - a. My sworn testimony;
 - b. My subpoenaed papers; and
 - c. Mr Staples sworn testimony.
8. Should you decide to pursue an investigation, you also have ready access to dozens of transport officials witness to the behaviours to which I referred in my testimony.
9. I stand by each word of my sworn testimony and suggest that you review the supporting evidence contained in my papers.
10. As the head of the public service, questions of ethics, culture and the practices of senior members of the professional public service are matters firmly within your remit.
11. Finally and without prejudice, should I decide to seek redress against the named officials or others, it will be under other protections and laws; not the *Government Sector Employment Act 2013* (NSW).

Michael, I will watch with interest any action that you might decide to take and as always, regret that our interaction could not be on more pleasant matters.

In the meantime, again my congratulations on your appointment to lead the NSW public service.

1

Sincerely,

Brendan Lyon

Brendan Lyon
 Principal





Ref: A5241235

Mr Brendan Lyon

By email:

Dear Mr Lyon

Thank you for your email dated 1 December 2021 in reply to my letter dated 10 November 2021.

In my letter, I asked whether you would like to proceed with a formal complaint in relation to conduct of the Secretary of Treasury, so that an inquiry may be conducted under section 83 of the *Government Sector Employment Act 2013*. You have declined to make a formal complaint and instead invited me to commence an investigation on my own initiative into alleged conduct of senior Treasury officials.

I note that on 8 November 2021, you gave evidence at a hearing of the Public Accountability Committee (Committee) for the purposes of its inquiry into the Transport Asset Holding Entity and produced certain documents to the Committee. By letter to the Committee dated 30 November 2021, Treasury provided its response to evidence given by you and other witnesses at the Committee's inquiry.

After careful consideration, I am writing to advise that I intend to await the outcomes of the Committee's inquiry, and any recommendations made by the Committee, before taking any further action in relation to the allegations of inappropriate behaviour by Treasury staff that were made by you during the Committee's inquiry.

I have arranged for a copy of this letter to be provided to Ms Rebekah Giles consistent with your previous request that she be included in our correspondence.

Yours sincerely

Michael Coutts-Trotter
Secretary

14 December 2021

cc: Ms Rebekah Giles