

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 6 - TRANSPORT

PRIVATISATION OF BUS SERVICES

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At 814-815, Parliament House, Sydney on Tuesday 31 May 2022

The Committee met at 9:30.

PRESENT

Ms Abigail Boyd (Chair)
The Hon. Mark Buttigieg (Deputy Chair)
The Hon. Wes Fang
The Hon. Shayne Mallard
The Hon. Chris Rath

PRESENT VIA VIDEOCONFERENCE

The Hon. Adam Searle

* Please note:

[inaudible] is used when audio words cannot be deciphered
[audio malfunction] is used when words are lost due to a technical malfunction
[disorder] is used when members or witnesses speak over one another.

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The CHAIR: Welcome to the third hearing of the inquiry into the privatisation of bus services. Before I commence, I would like to acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past, present and emerging, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today and anyone watching the live stream.

Today we will be hearing from Waverley Council and several private bus operators in New South Wales. I thank everyone for making the time to give evidence to this very important inquiry. While we may have many witnesses with us in person, some will be appearing via videoconference today. I note that some members of the Committee are appearing via videoconference today as well. I ask for everyone's patience through any technical difficulties that we may encounter. If participants lose their internet connection and are disconnected from the hearing, they are asked to rejoin the hearing by using the same link as provided to them previously by the Committee secretariat.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. The proceedings are also being recorded and a transcript will be placed on the Committee's website once it becomes available. In accordance with the broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments that you may make to the media or to others after you complete your evidence today.

Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily. All witnesses have a right to procedural fairness according to the procedural fairness resolution passed by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided within 21 days. In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into the microphones. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

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Councillor PAULA MASSELOS, Mayor, Waverley Council, affirmed and examined

Mr CLINT YABUKA, Manager Sustainable Transport, Waverley Council, affirmed and examined

The CHAIR: I now welcome our first witnesses. Would you like to begin by giving a short opening statement?

PAULA MASSELOS: Yes, thank you, Chair. Thank you very much for the opportunity to appear, because I know this has been an extra session that was put on. I am very appreciative. Waverley Council is actually only nine square kilometres but, with a population of about 75,000, it is one of the most densely populated LGAs in Australia. During summer Waverley plays host to significant numbers of visitors to our beaches, including Bondi and Bronte beaches, and backpackers when the borders open a bit more and tourism really starts coming back.

In addressing you this morning, I really do want to emphasise that our community has a high reliance on public transport and, in particular, buses. We fall within region 9, which also includes the Waverley Bus Depot and the Bondi Junction Interchange and which during morning peaks is the third busiest behind Central and Town Hall, with approximately three million commuters a year. Region 9 has the highest patronage of any region in the Sydney bus network, with 68 million trips or 21 per cent of the total across the network, so very high patronage.

A major challenge for Waverley is traffic congestion, which continues to rise as more and more multi-unit dwellings are built and summer temperatures continue to rise. Public transport, therefore, is a major strategic transport mode to help take cars off the road, to move people around and to help us meet our net zero 2030 emissions target. Key corridors in Waverley such as Bondi Road and Old South Head Road, before COVID, carried the same number of people daily via bus services as by all private vehicles. At Waverley we've been fighting to save our buses since 2017, when bus routes began to be cancelled or consolidated and bus stops moved in preparation for privatisation. We can go into those examples a bit later on if you wish. But significantly it's the social contract and equity considerations provided by public transport that are most important for us.

Buses—the most flexible of public transport modes—ensure people can move around our LGA. People used to be able to get to their medical appointments at the War Memorial Hospital and St Vincent's easily—but no more. The 361 was cancelled because, according to Opal data, this route failed to meet their high patronage targets, that is, buses were not full enough for enough of the time. The implications of this type of thinking are scary. The profit imperative has not been offset by the social, health and wellbeing benefits of keeping this service when it was in public hands. I thought that this is why we pay taxes: to have services. Now that our services have been privatised, how many more bus routes will be cancelled because they have been deemed unprofitable? Where is the community's guarantee of service? The contractual obligation for on-time running has seen serious ramifications for Waverley. The target of 95 per cent is unrealistic in such dense urban environments and high patronage, resulting in reduced service levels and poor ride experiences and forcing more people into cars.

We also have serious issues with our bus depot constantly under threat. It is a major key piece of infrastructure and Transport for NSW has actually admitted there are fewer buses in our bus depot now. This is very serious. If the bus depot goes, where are the remaining buses going to go? Further afield? Which means potentially increased fares in order to cover the extra petrol that the private bus operators are going to have to actually meet. And what happens when electrification actually comes? Where are the buses going to be able to charge? Where is the room? The eastern suburbs is full. In closing, the experience of other privatised networks such as area 6 demonstrates an incremental diminution of services, which impacts upon the livability of our LGA. We strongly object to the public purse being used to subsidise commercial operations that are geared to making a profit rather than fulfilling a social contract, which is what our public utilities are meant to provide. I humbly request that our buses come back into public hands. Certainly, while it could be improved, the system wasn't broken, but it is now—we think. Thank you.

The Hon. MARK BUTTIGIEG: Thank you for appearing, Mayor Masselos and Mr Yabuka. It's much appreciated and very valuable evidence. I just wanted to take you to the level of consultation, to the degree that there was any, between Transport for NSW and the community prior to this outsourcing, privatisation—whatever we wish to call it. Could you outline to the Committee what level of consultation there was?

PAULA MASSELOS: Well, very little consultation in fact. This is one of the reasons why we've been fighting so hard since 2018. The 378 was stopped. The 440 bus service was cancelled. There was no direct bus service into the city. The 379 was introduced without consultation. All of this was done without consultation and Mr Yabuka has even more of this and this has been one of the major concerns. We did have a meeting recently with some high-level members of the community engagement team from Transport for NSW. They did admit that their community consultation was poor. Again, we had this very recently with the change of entrance to the bus

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depot to allow the cycleway and, again, there was very little or no community consultation. In fact, it was after the fact and it was actually consultation to validate their position rather than to determine what the best approach would be.

The Hon. MARK BUTTIGIEG: The information I have is that Transport for NSW cut 25 bus routes from the eastern suburbs—I can read them all out—some of which you've already mentioned. Does that sound right?

PAULA MASSELOS: Yes, it's potentially more, I think. Mr Yabuka can probably validate that. But it's not only the bus routes; it's the bus stops as well. People have to travel further to actually catch a bus and there are fewer services as well.

The Hon. MARK BUTTIGIEG: So 25 routes or more. In terms of bus stops, do we know how many of those have been eliminated?

PAULA MASSELOS: I've heard the figure of 50 but that would need to be validated. Mr Yabuka?

CLINT YABUKA: We would need to validate that.

PAULA MASSELOS: We can come back to you and confirm that.

The Hon. MARK BUTTIGIEG: So no consultation on what seems to be quite a drastic cut in routes and stops. We heard evidence in earlier hearings that there was a motivation behind this because Transport for NSW was concerned about doubling up with the light rail. Have you got any information to that effect?

PAULA MASSELOS: Waverley is not—we don't use the light rail service because our commuters would have to double back in order to catch the light rail. The bus services that we have in Waverley, as I said, we used to actually have services that would go direct into the city. All our bus services now go into the Bondi Junction Interchange. We have over three million commuters using that per year. It is also a very dangerous interchange. In fact, we had a death there a couple of years ago when a woman was run over by a bus. It is extremely crowded. So the attempt to push people onto the light rail is a problem because we also have people who pass through Waverley. It is very serious. The impact is significant, and we have seen a diminution of services since the light rail was introduced.

The Hon. MARK BUTTIGIEG: That interchange issue, have there been any indications from the Government that it is concerned about this or willing to help?

PAULA MASSELOS: We have moved notices of motion to actually improve signage. It is on the agenda; it has been raised. There is a plan for council to sell Rowe Street, which goes into the interchange, as a way of trying to change the entrance to a safer approach, but that is taking a long time. It is on the agenda, but I don't believe it is moving fast enough.

The Hon. MARK BUTTIGIEG: In terms of those cuts, there is also other evidence we heard whereby they were contrived to, if you like, make the market more attractive or make it more justifiable to outsource for a prospective buyer. What is your view on that?

PAULA MASSELOS: Given that we have had so many services cut, particularly services that go within Waverley like the 361 where people are ferried to services, the impression is that, yes, that would be the case. That is one of the reasons why we have been fighting so hard since 2018, including writing letters to the Minister. The community was so concerned. We actually hired a bus to Bega to protest to the Minister. Unfortunately, he wasn't available to see us. So, yes, the view was that the services have been cut so that it is the profitable routes that are the ones that remain. The question is whether they will remain.

The Hon. MARK BUTTIGIEG: To be clear, those cuts were made prior to the privatisation—in other words, you reduce the services, presumably the complaints to council from the community rise, and then it's like, "Well, the previous service weren't doing that well anyway, so what are you complaining about"?

PAULA MASSELOS: Exactly. They were relying on Opal data and, as we know, the Opal readers weren't always reliable. Mr Yabuka has actually compiled a number of bus routes that are cut. Perhaps I could ask him to itemise those.

The Hon. MARK BUTTIGIEG: Sure.

CLINT YABUKA: Indeed. So what's important to recognise is that this has been occurring since a review of bus operations in region 9 since 2018. We are aware that privatisation has been on the agenda for a number of years.

The CHAIR: Could I ask you to bring the microphone slightly forward?

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CLINT YABUKA: Yes.

The CHAIR: Thank you.

CLINT YABUKA: In 2018 we in fact began losing bus routes and bus stops just within Waverley. We lost six routes as part of that review, and these were routes that were highly utilised. These were express routes from Bondi Beach through to Bondi Junction, the rail interchange, and there were modifications to other routes. This again occurred in late 2021, with the modification of routes, where we lost another eight direct routes just within Waverley. That is part of the larger number of 26 routes and others that were modified. It concerns me that this will continue. That process in 2021, in fact, consolidated a number of routes along key corridors. Bondi Road and Bronte Road are both transit corridors. They now operate less bus services that reach less destinations. They now operate as high-frequency routes—so, arguably, the capacity is still there—but the public benefit has been diminished because people cannot reach the destinations that they used to be able to reach via those bus services.

The Hon. MARK BUTTIGIEG: So in order for these companies to remain profitable, essentially you truncate the routes to the main arterials and maximise capacity. Basically, the poor old person living down in the backblocks might have to walk for 20 minutes to get to the same bus that they would otherwise have got near their door.

CLINT YABUKA: Indeed. So a route that may have distributed through a suburb south of Waverley—I acknowledge that the routes within Waverley are substantially unchanged. But for either a Waverley resident travelling south into Randwick or for a Randwick resident travelling through Waverley, the accessibility of those bus services has been reduced, yes.

The CHAIR: Can we pause to unpick a couple of things that Mr Buttigieg has been discussing? The first one is the Opal data being used as a substitute for consultation. I raised that issue a few years ago in relation to a Cherrybrook service, where the department of transport had told me that it had done consultation. It ended up being that the consultation was looking at the Opal data, which of course is not the same as true community consultation. Did you ask the Minister or Transport for NSW as to exactly which data they were using? Were they looking, for example, at where a person was changing buses, or were they looking purely at numbers of trips registered on particular routes?

PAULA MASSELOS: I certainly tried to get that information, but they were not forthcoming. Mr Yabuka, I do not know whether, at an officer-to-officer level, you were able to glean that. It has been so very opaque. We certainly did challenge the use of Opal data but to no real effect, unfortunately. As we know, the Opal readers aren't always reliable. As I said—again—there is a social contract here; there are obligations. I think that that has been completely swept aside in actually understanding why we are providing bus services in the first place.

The CHAIR: I'd like to pick up on that as well because I think that came through clearly in your opening statement. We had a budget estimates session yesterday with some of the more senior Transport officials. As part of that, we were talking about their fare-free days and how the driver behind a fare-free day was obviously not about making money from transport but about getting people into the city or to tourist locations where they were able to spend money and reinvigorate the economy. That is a prime example of what you're talking about: We expect transport services not to make a profit by themselves but to contribute to the broader ongoing operation of society. Is that what you're getting it?

PAULA MASSELOS: Exactly. That's why we pay taxes. We expect the Government to provide services. We are, happily, able to do that. However, when it is the public purse that is actually subsidising a private operator who, on top of that, is running a commercial enterprise and is making profits, and at the same time we are seeing a diminution in service and that social contract being undermined so that it is in fact making it a lot more difficult—not only for our most vulnerable but also for our schoolchildren going to school and for our environment, health and wellbeing—and when there is so much congestion and people are being forced into their cars, we are leading to a community that will, in time, be dysfunctional because it is just too stressed.

The CHAIR: Have you got any sort of data or have you done any research on what the impact of the reduced routes has been on visitors to the area or on local businesses?

PAULA MASSELOS: I've been gathering some data since 2018. Some of the testimonials that we've had—people are saying things like they have to walk a lot further in order to get to Oxford Street and Newland Street. There are very dangerous crossings for the elderly or those who are a bit slow to get across. People are confused, but on top of that, people are saying that they also have had up to an extra hour added to their commute times because they are all now having to go into the Bondi Junction interchange rather than have direct routes into the city. I presume that is now trying to force people onto trains, and I am very suspicious about what that means and whether it means that the eastern suburbs line is also going to be slated for privatisation. We are concerned to

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collect data, and so we have now just set up an email address: buscomplaints@waverley.nsw.gov.au. It is only very new, and we will be advertising it because we want to make sure that we get the data, but we are also taking calls from our customer service centre because people see council as their first port of call. Council seems to get blamed for everything, so we are very serious about being an advocate for our community.

The Hon. MARK BUTTIGIEG: Can I just take you up on that, because I think this is a very important point. In theory, I don't think the travelling public would have an issue if the service levels were maintained and they were getting a good provision of service. For example, on the Central Coast I understand things are going quite well there because it is a small boutique operator who services the requirements of the community. But under the previous regime that was operated by State Transit Authority, what was the mechanism for a member of the travelling public saying that there was an issue? Were they in touch with council and then you had direct liaison with Transport for NSW? What I am trying to get at is was there a more direct interface when STA were running the show?

CLINT YABUKA: Yes, there was. At that time, we encouraged residents to approach council, but there was also a direct line and a direct email—I believe a web form, even—for STA customers or patrons to directly respond to the operator. Anecdotally, the 339 that runs along Clovelly Road was one of the most vocal routes within the Sydney bus network.

The Hon. MARK BUTTIGIEG: Yes. So now you have got this situation where the private operator is running the show. What is the accountability mechanism for the travelling public?

PAULA MASSELOS: Well, that's the question, isn't it? We do have the Waverley Traffic Committee and the private operator has been invited to attend. They have yet to attend. There have been at least two opportunities now. This is the challenge. I think it is quite opaque.

The Hon. MARK BUTTIGIEG: Can I just get that right: The traffic committee for council invites the private operator to come along in a circumstance where it is known to have been controversial and there are issues and complaints, and they have not turned up.

PAULA MASSELOS: Yet.

The Hon. MARK BUTTIGIEG: Right, yes.

PAULA MASSELOS: They've had two opportunities now, so we will be following up with them to see what the issue is. But certainly it is the lack of accountability that is the concern for us, and the representation on the Waverley Traffic Committee is important because that opens up the relationship, and it gives us a much more direct opportunity. But it really is through council and through the councillors that I think people will have recourse.

The Hon. MARK BUTTIGIEG: I am assuming that if we had the operators here they would say to you, "Look, the Government specifies the bus stops and the routes, they give us the KPIs, we have got service levels to meet—95 per cent—and we are doing all that. So, what is the issue?" What would be your response to that?

PAULA MASSELOS: I think part of the challenge is whether the service levels are appropriate. Being set at 95 per cent in areas that are very dense is a challenge, particularly when you are dealing with roads like Bondi Road and Old South Head Road, where we have high patronage. It has a significant impact on the timetables and the routes. By having them at the table, it allows us to discuss these issues so that they can perhaps advocate for themselves to Transport for NSW and to the Government about whether some of their KPIs are realistic. We know that there are impacts in terms of the quality of the drive, the bus drivers themselves, because we know that there is a pay discrepancy, but also, potentially, cutting of routes because if they're not meeting their KPIs, what's the first thing that will happen? They will either stop more bus routes, or they will advocate for the reduction of certain routes. So we're very concerned about what this all means. Also, if they're finding that some of these routes are not as profitable as they were led to believe, for whatever reason, there is no guarantee that those routes will remain in the longer term.

The Hon. MARK BUTTIGIEG: Is it the case that, in order to realistically try to meet levels of service provision and KPIs, you've got less routes and less stops, which makes it more achievable so that the cross-subsidisation under the previous regime—the STA, if you like, of bus stops in backstreets and different routes servicing people who would otherwise have to walk a long distance, for example—is like a false parameter, isn't it? It looks good on paper but what about all those people off the main arterial roads who aren't getting serviced. Is that it in a nutshell?

PAULA MASSELOS: Absolutely. But even on the main arterial roads, like Bondi Road, for example, where there has been a reduction in bus stops—it's a major shopping area—you have people carrying shopping,

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you've got mothers with prams, you've got elderly people. The fact that they have to walk much further makes it very difficult. So people say, "Fine. I won't go there. I'll drive into Bondi Junction at Westfield", which is a nightmare, to go up there. So we need to ensure we have our shopping strips and our local areas.

The Hon. MARK BUTTIGIEG: Councillor Masselos, have those high street businesses raised this as an issue with you?

PAULA MASSELOS: There have been potential issues, particularly around things like clearways and those sorts of things and the impacts it has on buses. But when we were actually fighting to not have a tram go down or a light rail go down Bondi Road, the shopkeepers were very concerned because it also meant a complete reduction of stops. I think it was only three in the whole of Bondi Road. The store owners were extremely concerned about that, as were people who use those high streets, because it meant that they would be less accessible to them.

The Hon. MARK BUTTIGIEG: You touched on the by-product of bus drivers. I think you said "less experienced bus drivers coming into the system as a result of pay disparities". Did you want to elaborate on the effects that's having on the service?

PAULA MASSELOS: Yes. It's very interesting because it's the quality of the ride. We experienced that with one of the bus drivers we hired to go down to Bega. He was probably a casual driver. We had some STA-trained drivers on the bus with us. There was a noticeable difference in terms of the quality of the ride and also the knowledge of the routes in the areas as well. I don't know, Mr Yabuka, whether you've got other insights into that. But certainly anecdotally that's some of the information that I've been provided.

CLINT YABUKA: Yes. I'll support that. Anecdotally, that has been my experience as a bus patron. The variability of drivers' skill level across the routes I've caught recently has been far greater than in the past. There are drivers who are clearly inexperienced and undertrained operating buses right now. I caught a 350 the other day. The driver struggled to manoeuvre that bus down Bronte Road, which is a bus corridor.

The Hon. WES FANG: In that case, Mr Yabuka, what did you do? Did you report to the bus company? Did you make a complaint or did you report it in any way? I note that, obviously, you can highlight the route, you can highlight the time. You can do all that. You've probably got it on your Opal data. Did you make any complaint whatsoever?

CLINT YABUKA: I'm unaware of the current mechanism to report that.

The Hon. WES FANG: Did you seek to find out how to make a complaint?

CLINT YABUKA: In fairness, no, I have not sought.

PAULA MASSELOS: However, it does point to the fact that Mr Yabuka is a transport expert. If he is experiencing this and wasn't readily available then it would be a lot more difficult for our residents who perhaps are not used to this bureaucracy. That's one of the reasons we've set up the bus complaints email at Waverley Council; we see ourselves as advocates for our community.

The Hon. WES FANG: On the same point, if he is a transport expert and saw unsafe or untrained drivers operating a bus but did not report it, then I would say that that is more a reflection on you, sir, and your failure. Given that you're testifying to this Committee that you were a witness to this—

The CHAIR: Order! Is this a question?

PAULA MASSELOS: Mr Fang, I just don't think that that's a fair summation.

The CHAIR: I ask you, Mr Fang, to come to a question. Is this an assertion you're putting?

The Hon. WES FANG: It's an assertion followed by a question, and I haven't quite got to the question yet. Would you agree that it's perhaps a failure of your role to have not reported it if you had concerns?

CLINT YABUKA: Under the circumstances, no. However, I think that's a valid point that we will be exploring what the complaints mechanism is with the operator and making that available to our residents.

PAULA MASSELOS: Because the other thing that we need to be looking at is the frequency of this, as well—so how often this is happening. This is why we're setting up complaints mechanisms so that council can actually collect the data.

The CHAIR: I caution members to try to stay close to the terms of reference.

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The Hon. CHRIS RATH: I have a slightly different set of questions. Mr Yabuka, I think you said you had a map of the 20 bus routes that have been cancelled. Would you be able to either table that or take that information on notice and provide it to the Committee?

CLINT YABUKA: A tally of those changed bus routes?

The Hon. CHRIS RATH: Yes.

CLINT YABUKA: Yes.

The Hon. CHRIS RATH: That could be quite useful. Obviously, bus routes need to be constantly reviewed, and just because there's a way that it's always been done doesn't mean that that's necessarily the most efficient way of doing it in the future. If a bus were to go down a certain street or stop at a certain place that it always has for years and years, then of course it will annoy some people if you change where the bus stops. But you might annoy, say, five but benefit 50, but you don't hear from the 50 that it might give a slight benefit. You might get the five people that complain about their service not being as good as it perhaps was previously, but you often don't hear about the 50 that benefit. Is that fair?

PAULA MASSELOS: We're not saying you don't review buses, but a number of the buses that were cut were buses that were highly popular and very well used, like the 378 that went from Bronte Beach into Town Hall. There was no reason to cut that, because it was well used and moved a lot of people. The big issue here, though, is that there was no consultation. It's fine to look at reviewing your buses, but do it in consultation with your community. That way you can actually work out exactly what's going on on the ground, whether a bus should be removed or not, or modified, or whether a bus stop should be removed. Then you actually have the community with you, and you can then bring the community with you in the changes. That has not happened; it has been imposed by people who don't really understand what's going on on the ground.

The CHAIR: Can I just interrogate that point? My understanding of Mr Rath's question is you make changes and some people will be unhappy and other people will be happy, and you're trying to get something that makes more people happy than not. But when you were referring in your evidence to the changes you've seen to bus routes and bus stops, were you talking about new routes coming in and replacing old ones and new bus stops replacing old ones, or there just being fewer routes and fewer bus stops?

PAULA MASSELOS: It's a bit of a mix, actually. If we take the 378, for example, that was actually cut way back in 2015, I think it was. That was a very, very popular bus route that was carrying lots of people, and it went right into the city so people didn't have to get off at Bondi Junction. That was replaced by the 440, which went from Rozelle initially into the city and then it came across to Bronte. People were very frustrated with that because it took a lot longer.

It not only had to go across Parramatta Road, it also had to go down Bondi Road and Oxford Street—some very significantly busy, major routes. Of course, that was a disaster because a lot of people were delayed. There were lots of delays. Then the 440 was replaced by the 379, which went from Bronte to North Bondi. The worst bit about that was it was not clearly labelled. People thought they were going to Bronte but they were in fact ending up in North Bondi. I mean, we do not need a service like that. It went from Bronte to Bondi Junction and over to North Bondi, so there was a lot of confusion. A lot of people still say to me, "I don't need to go to North Bondi from Bronte. What's the point of this?" Again, if there was consultation and there was a good reason to do that, then fine. The community would have understood. But it was imposed. Even to this very day people are still complaining.

The CHAIR: Just to round that out, Mr Yabuka, when you referred to the 20 routes that have been lost, are you able to also tell us new routes that have replaced those routes, or have there not been any?

CLINT YABUKA: There have been a number of routes that have been consolidated. If I describe it as the head of the route—beginning at the Bondi Junction interchange—the corridor that runs through Waverley has remained the same. The tail of that route, where it distributes through Coogee and Maroubra et cetera, has been cut and pasted—that's the most direct way to put it. In that cutting and pasting process—where three or four routes have been consolidated and then had the second half of the route amended—there has been a loss of coverage.

The CHAIR: That's the point, is it? It is servicing a smaller area.

CLINT YABUKA: Indeed. To return to Mr Rath's point, where there may be a small number of people who are complaining about being disadvantaged, the challenges of the consolidation of those routes along key corridors is that it in fact reduces the overall network coverage.

The Hon. CHRIS RATH: But you would agree, wouldn't you, that there also needs to be value for money? I understand that we need to provide a service to people within the Waverley LGA, but if only three

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people are getting on the bus and it's not good value for money, perhaps there are reasons why certain services were cut. I understand, Councillor, your point that for certain routes, if they were highly popular and incredibly well used, why were they being cut? And if they were not being replaced with any alternate service, that is potentially a fair criticism. But there is also an issue of value for money where you can't continue to provide services that are not well used as well. Those people are the ones who are more likely to complain—not the overall benefit to the system.

PAULA MASSELOS: I just wanted to ask the question: Value for money for whom?

The Hon. CHRIS RATH: To the taxpayer.

PAULA MASSELOS: It could also be value for money for the people who need to get around. While it might have three people on one schedule, it could very well have a bus full next, depending on what the needs are. I think we must never actually get away from the fact of this social contract, that it's swings and roundabouts and you're never going to have a full bus all the time. As a government we have an obligation to our community. It cannot always be run by the profit imperative.

The Hon. CHRIS RATH: I live in the eastern suburbs as well. I am not in the Waverley LGA, but I get the 311 bus. We are the last area—or I think one of the last areas—in the entire State to have a private bus service. All of the other areas, or a lot of the areas, seem to be okay with the private bus service. In fact, some areas have only ever had a private service. The eastern suburbs is one of the last. But you said in your opening statement that how the Government should take back—I think you said put these bus services back into public hands. It's incredibly unrealistic, when the Government has contracts with private bus providers, whether it is in the eastern suburbs or western Sydney or the Central Coast or whatever, to suggest that the Government should basically take back control, rip up these contracts and renationalise the service. I can understand some of your—

The Hon. MARK BUTTIGIEG: Point of order: Is this a proposition or a question?

The CHAIR: I don't know. I liked where it was going there.

The Hon. CHRIS RATH: Why do you think that that is a realistic proposition that you would put in your opening statement—that the Government can simply just take back control of the service? Surely that's unrealistic.

PAULA MASSELOS: Well, I would dispute that it is unrealistic; I think that it is completely realistic. But I'm not necessarily suggesting that we rip the contracts up straightaway—although, why not?

The Hon. CHRIS RATH: That's a sovereign risk.

The CHAIR: Well, no. It's how you do it, Mr Rath.

PAULA MASSELOS: I'm sure there must be out clauses and whatever, but I would think that the reality is that not all the regions have been happy with the rollout of the privatised service. I know there have been significant issues with region 6 and it continues to be so—and the ongoing potential diminution of services. It's going to get to a point where it will become an issue for the Government, I'm pretty sure, because it already is. I know, with the level of complaints that I'm getting from people, it is a concern. As I've said, while there may have been the need to perhaps fix aspects of the bus network, it was working very well when it was in private hands and I would like to see it return.

The CHAIR: Public.

PAULA MASSELOS: Sorry, in public hands. Apologies. I can't see why it can't return, because I don't believe that we are actually going to get the level of service that we've had and I don't believe that the public purse should be supporting commercial operations to make a profit. That also is a risk.

The Hon. MARK BUTTIGIEG: Can I just pursue this because I think it's a very important point. Essentially, this is the value proposition. Council is the closest form of government to the people and is in touch with what they're saying and hearing and their needs. What you're saying with this social contract is that there will be a situation where you cannot necessarily treat every individual as an equal economic unit. Someone with a disability living in a backstreet or someone who is elderly has a disproportionate requirement for those services compared to someone who is able-bodied or young or lives on a main arterial road. Therefore, the value propositions are inherently unequal if you want to have a society where everyone is provided for. This is essentially what we are saying. And if that's the case, then it follows that there has to be some cross-subsidisation, which means that, if you're running a company purely for profit, it's not going to work, is it?

PAULA MASSELOS: Absolutely. The profit imperative is there and you're not going to be running lines that are unprofitable.

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The Hon. MARK BUTTIGIEG: We've heard from the Government today that, if that's the decision that a government makes based on their values, that's fine. But as a council—

The Hon. WES FANG: Point of order: The Deputy Chair has indicated that we've heard from "the Government". You've heard from two members of the upper House.

The CHAIR: I uphold the point of order. We will refer to "the members of the Government on the Committee".

The Hon. MARK BUTTIGIEG: The question is that you would prefer a system of values which caters to those people who are disadvantaged or don't live in an appropriate location rather than a system which rewards profit over public provision.

PAULA MASSELOS: Absolutely, and in fact—

The Hon. CHRIS RATH: Point of order: That's not what we said.

The Hon. MARK BUTTIGIEG: I'm sorry. That's the way I interpreted it.

The Hon. CHRIS RATH: That's not what I said.

The CHAIR: Order! This is not an opportunity for members to talk across one another. The transcript will show what has been said. Members will please be careful about representing what others have said. We only have a little bit of time left. If you could finish and make it a question, that would be great.

The Hon. MARK BUTTIGIEG: Very quickly, just to finish off, there was a survey regarding community feedback on region 9 on privatisation. Has that been made available to Waverley Council?

PAULA MASSELOS: Are you aware of that?

CLINT YABUKA: I have not received that.

PAULA MASSELOS: No, I'm not aware of that.

The Hon. WES FANG: Is that the one under SO 52?

The Hon. MARK BUTTIGIEG: It probably is.

The Hon. WES FANG: Well, there you go. You can give them a copy, then.

The CHAIR: Going back to the actual subject matter and just rounding out that discussion about the idea of bus routes needing to be profitable or value for money, do you think that in the privatisation of bus services the Government has unnecessarily segmented parts of society in a way that is actually damaging to the whole of the functioning of the local economy?

PAULA MASSELOS: I would say absolutely. The reality is, if you look at the bus network—you have to look at it as a holistic system, which actually does cross-subsidise those areas that perhaps aren't as profitable, and I think that's why having an integrated system becomes really important. That does have impact on the local economy, and it does allow for the broader distribution of people in the way they live and the transport network.

The Hon. WES FANG: On that same topic, then, in that case, given that you're talking about equity and the spread, would you be prepared to forego further services to ensure that regional people had perhaps increased services so that across the State we all had more equity? I think you said you had a nine-square kilometre council area and you have 75,000 people, yet you have bus services that my community—I live in Wagga—wouldn't even have. If you are so prepared to have equity, would you be prepared to forego some of those services so that we could have—

The CHAIR: Is that the only way the Government will give things to regions? Really?

PAULA MASSELOS: Well, no, but equity—

The Hon. WES FANG: I am just wondering how far we're going to spread this concept.

PAULA MASSELOS: I think that that is actually a flawed logic, with respect, Mr Fang.

The Hon. WES FANG: Why?

PAULA MASSELOS: Because it is not about one area foregoing another; it is about whether there is enough service and capacity that is put into the system to be able to accommodate the needs. With privatisation, we are—well, I personally am challenging that, because the experience that I'm seeing is that it is not happening. In fact, there is a diminution of services. So maybe it's Wagga that needs to subsidise the eastern suburbs, perhaps.

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The Hon. WES FANG: I bet that will be the quote that will come out of this inquiry.

The CHAIR: Order! That does bring us to the very end of this session. Thank you very much to both of you for what has been a lively and interesting discussion. To the extent there were questions taken on notice or we have supplementary questions, you will have 21 days to respond to those; the Committee team will be in touch with you. Thank you very much.

PAULA MASSELOS: Thank you very much for the opportunity. I agree it has been a very interesting and spirited discussion. Thank you.

(The witnesses withdrew.)

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Mr JAMIE SINCLAIR, Managing Director NSW, Transit Systems, before the Committee via videoconference, affirmed and examined

Mr GREG BALKIN, Chief Operating Officer, Transit Systems, before the Committee via videoconference, sworn and examined

Mr BYRON ROWE, Managing Director, Busways Group, affirmed and examined

The CHAIR: I now welcome our next panel of witnesses. Mr Rowe, I invite you to make a short opening statement.

BYRON ROWE: Thank you. Good morning and thank you for the opportunity to present and participate in this hearing. Busways is Australia's largest private bus operator. We are a family business, and we are celebrating our eightieth birthday this year. We have a fleet of around 1,300 vehicles and 2,800 people spread across New South Wales and South Australia. We took over the STA region 7 contract on 9 January this year. We certainly have a firm view that private operators are able to deliver the same services more efficiently and to a high quality. We certainly support the Government's decision to franchise the STA's contracts.

The CHAIR: Thank you. Mr Sinclair or Mr Balkin, do you have an opening statement?

JAMIE SINCLAIR: Thank you, Chair. I will make a statement, if I could. I am Jamie Sinclair, managing director, NSW Transit Systems. I am joined today by Greg Balkin, our chief operating officer. We thank the Committee for giving us the opportunity to contribute to the inquiry today. Transit Systems provides urban passenger transport services under contract to governments in Australia and Singapore and we have a long history of successful and efficient service provision. Many of Transit Systems' bus operations have been transitioned from government, and there is no other operator in Australia with comparable experience in successfully transitioning government transport contracts to the private sector.

We have been operating competitive tenders, performance-based bus contracts in Australia since 1996. We have been providing bus services to New South Wales since October 2013 and operate two networks in Sydney: the first covering Liverpool, Fairfield and the Parramatta areas, known as region 3, and the second, the largest region in New South Wales, covering the inner west of Sydney, which includes a permanent and fully integrated on-demand service, known as region 6. In New South Wales we have a fleet of 822 buses with a staff of close to 1,900 people operating out of six depots. Since winning the contracts Transit System's major focus has been on delivering a better customer experience. We are confident we have made significant improvements. In region 6 our December 2021 certification from the Customer Service Institute of Australia provided the highest level of certification, the score amongst the best achieved by any organisation assessed against the International Customer Service Standard. Additionally, a Transport for NSW survey in May 2021 showed an 8 per cent increase in customer satisfaction with a 93 per cent score. Customer complaints have also declined by 40 per cent since the transition of the contracts on 1 July 2018. Our on-time running performance has seen continuous and steady improvement in reliability.

Additional trips have been added to the network at no cost to the Government or taxpayers and new bus stop locations have been introduced to provide greater access to bus services for the whole community. We are supporting the New South Wales Government's move to a lower carbon future with a fleet of 55 battery electric buses operating out of our Leichhardt depot. We are extremely encouraged by the response the rollout of the electric fleet is receiving and we look forward to supporting the Government to continue this important work across our network and the State. Thank you.

The Hon. MARK BUTTIGIEG: Thank you all for appearing to give what I am sure will be very valuable evidence to this important inquiry. Mr Balkin, I will commence with a question to you about the issue which has been raised in previous evidence that we have heard, that Transit Systems has refused to pay back pay to drivers, which was ruled on by the Federal Court. Isn't this simply a case of outright wage theft?

The Hon. WES FANG: Point of order—

GREG BALKIN: I totally disagree with that statement, sorry.

The CHAIR: Order! Apologies, Mr Balkin, Mr Fang has taken a point of order. What is the point of order?

The Hon. WES FANG: I think the way the question was framed is prejudicial to the witnesses and I ask Mr Buttigieg to reframe the question.

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The CHAIR: There is no point of order. The question was in order and I believe the witness was about to respond to it. Please go ahead.

GREG BALKIN: It has certainly been a very difficult situation. It is very complex law, something we have never experienced before and I don't think many other businesses have experienced such a set of circumstances. We have done a detailed audit of what the underpayment values are. But we really do struggle with what we believe is double dipping, where a certain employment group of people can receive two lots of wage adjustments in one year, one under their annual wage review and another one under the instrument that we have in region 6. We are working through that now. We hope to have some work going on with the Fair Work Commission to understand whether that was the intent. I am sure it wasn't the intent, that people would be getting two lots of pay rises in one year. That is currently with the Fair Work Commission. We will wait for their decision and based on that decision it will go back to Judge Rares and he will make a decision on what payments should be made, if any.

The Hon. MARK BUTTIGIEG: Correct me if I am wrong, regardless of what your interpretation of the law is about pay rises, Judge Rares has ruled that you have underpaid your workers some \$3½ million over the three previous financial years, has he not? Are you disputing that fact?

GREG BALKIN: What I am saying is that Judge Rares has not handed down his final decision yet. He is waiting for information from the Fair Work Commission, proceedings going there, and that will go back to Judge Rares to make a decision on what that is.

The Hon. MARK BUTTIGIEG: You are talking about the appeal now. I'm talking about the original decision that said that you owed your workers three years' worth of back pay. That is a fact that is on the public record, isn't it? Is that not true?

GREG BALKIN: I'm not familiar with that, I'm sorry. No.

The Hon. MARK BUTTIGIEG: You're not familiar with the decision that was made to say that you owed your workers back pay due to a misapprehension, in your words, of what you were liable to pay in terms of rises passed on by the national wage case?

GREG BALKIN: When we took over region 6, it was specified under the contract that we must abide by all of the conditions that the State Transit Authority had in those days. It was the second time, I think, that a State Transit Authority region had transitioned. We complied with that to the law. We paid the increases in December or January of every year. We complied with everything that was expected of us. We weren't aware of this situation where the AWR applied for July. That's why we then needed to do a lot of detailed work to understand how that has come about, because we didn't believe that was the intent of those sorts of increases.

The Hon. MARK BUTTIGIEG: But we're not just talking about the underpayments from July, which you originally agreed to pay and then subsequently did. We're talking about the back pay over the previous three financial years. These are your words, Mr Balkin, in an email to Mr Feuerherdt, who I think is the managing director or the owner of the company.

The Hon. WES FANG: Chair, can we make sure that the witness has a copy of the email provided to him?

The Hon. MARK BUTTIGIEG: I have a copy of the email.

The Hon. WES FANG: Can we make sure that is in front of him before we actually ask questions?

The Hon. MARK BUTTIGIEG: Absolutely. I will table it.

The CHAIR: Order! To the extent that Mr Balkin would like to have it in front of him, we can provide that. But he may already be familiar, so we will allow the witness to let us know what he needs. Finish your question first, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: Mr Balkin, you're quoted as saying in an email to Mr Feuerherdt:

I think we have no alternative but to pay the increase—

that is the increase you are talking about from July—

and associated back pay and then double down on any other increases for [ex-State Transit Authority] drivers in the first year of the EA.

Otherwise, we will have the very real possibility of being accused of 'wage theft', which would be extremely damaging from a reputational perspective.

Are they your words, Mr Balkin?

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GREG BALKIN: Without seeing the email, I can't comment.

The Hon. MARK BUTTIGIEG: You don't recall that email ever being published by the Financial Review?

GREG BALKIN: I believe it has been published, but I haven't got it in front of me.

The Hon. MARK BUTTIGIEG: Is it your evidence here, Mr Balkin, that you haven't seen that email and you know nothing about it?

GREG BALKIN: I did not say that at all; I said I don't have it in front of me. I can't confirm that word by word, as you're putting it across there, is correct. I don't have it in front of me, I'm afraid.

The Hon. MARK BUTTIGIEG: I put it to you that they were your words and that was your email, and you yourself have characterised this as potential wage theft if the company didn't make good. Now your evidence to the Committee is that this is still up for interpretation.

GREG BALKIN: As I mentioned before, there is a process we're going through with the Fair Work Commission to understand what the intent was for those particular wage increases. The fact that we have complied with every payment we're required to under the copied State award 2018—we have complied with that. I have not been involved with the Fair Work Commission in that case there, I'm sorry.

The Hon. MARK BUTTIGIEG: But don't you employ legal counsel to advise you on these things? I quote from that ruling:

The *Fair Work Act 2009* requires the Panel to review:

- minimum wages in modern awards and transitional instruments
- the national minimum wage order from the previous annual wage review.

The decision and order usually come into operation on 1 July of the following financial year.

The review directly affects employees in the national system—

which is your copied State awards, the transitional awards—

who are:

- covered by a modern award or a transitional instrument, or
- not covered by either an award or an agreement.

How could something like that be misinterpreted as not being a requirement to pass on those minimum rises? Isn't it the case, Mr Balkin, that the company made a conscious decision that it wasn't going to interpret it that way and simply give the mandated rises in the transitional instrument from the copied State award? In your words, it's double dipping, but they were not the words of the judge.

The Hon. WES FANG: Chair, the question has been asked—

The CHAIR: Is there a point of order?

The Hon. WES FANG: Yes, I'm going to take a point of order. Mr Buttigieg asks a question. Then he makes a further statement. Then he asks another question on top of the question he has already asked. Then he makes another statement. Then he asks another question. He has asked three questions while making two statements in between. I would ask that the witness be provided procedural fairness and that Mr Buttigieg asks the question and waits for a response before asking a subsequent question.

The CHAIR: Order! I uphold the point of order. Could you pause after asking your questions, Mr Buttigieg, in order for there to be a response.

The Hon. MARK BUTTIGIEG: Well, the question is very simple: How could a company of Transit System's size and capacity that employs legal counsel misinterpret something so explicitly defined in the Fair Work Act?

GREG BALKIN: This came as a surprise to us. As I said earlier, we have complied with every part of the transition agreement between State Transit—the New South Wales Government—and ourselves. We were advised in July 2019 by the union that—when will we be paying the next increase. That was the first time we'd heard of it. The union had not raised it with us for the previous two or three years. I think they have found something that is sort of unusual and we just wanted to test it. We regret that it has taken four pay periods to pay them and we do regret that. This is the first time it has ever happened to us—as far as this set of circumstances.

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We regret it. We made that very clear in the Federal Court. I think that Judge Rares also accepted that they are very unusual sets of circumstances to deal with.

The Hon. MARK BUTTIGIEG: But, on top of the \$500,000 that you didn't pay your employees, which you subsequently paid for those four pay periods, Judge Rares also ruled that in the previous three financial years, as a result of not abiding by the Fair Work Act, you also owed those workers and now you're appealing that. Is that not a statement of fact?

GREG BALKIN: I didn't appear in the Federal Court so I can't speak exactly to what was said. All I know is that Judge Rares, I understand, is waiting on a decision from the Fair Work Commission before he revisits the need and then gives orders—the decision to pay the money.

The Hon. MARK BUTTIGIEG: Mr Balkin, you're the chief operating officer of Transit Systems. The bloke who's running the show, Feuerherdt, hasn't appeared and you're telling me you don't know that there's an appeal on that \$3½ million back pay?

The Hon. WES FANG: I'm going to take a point of order on that one—

The Hon. MARK BUTTIGIEG: We have workers who have had their wages stolen and we can't get a straight answer on this Committee.

The CHAIR: Order! I hate to interrupt the flow. Yes, Mr Fang?

The Hon. WES FANG: Mr Buttigieg has just impugned a witness who's not here by stating that—

The Hon. MARK BUTTIGIEG: No, I didn't. I said he wasn't—he didn't turn up. He's not representing the company. I didn't impugn him.

The CHAIR: Order! Again, we're not talking across each other.

The Hon. WES FANG: We have witnesses from the company. We have two witnesses, actually, in fact, who are here to represent the company. I don't think there's any need to, through procedural fairness, indicate that another witness is not here and impugn them by—

The CHAIR: Order! I think I've understood your point of order. We do have a procedural fairness resolution of the House that the Committee secretariat can provide to any witness or to any other person who feels that they need to avail themselves of it. There are procedures within that resolution for how you respond if you do feel that you have been unfairly impugned. Please proceed, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: Before I tie off on this line of questioning, Mr Balkin—and, Mr Sinclair, if you care to contribute, I'm more than happy for you to do so—in that same *Australian Financial Review* article which blew the lid on this caper, Mr Feuerherdt responded with this to your email, Mr Balkin. This is all on the public record. I quote:

... "I think you know clearly my view on this", calling it a "big unbudgeted blow".

"If attached to the agreement, I was hoping that you could at least get something for it – reduce a penalty, get longer working hours or something," he said.

"Do what you need to do to avoid the court case but I would encourage you to get the new agreement in place and leverage this as soon as you can because it will soon enough fade in people's memories and you will end up paying even more to get the agreement over the line.

What do you say to those workers who have been underpaid some \$3½ million when we have the owner of a company making those sort of statements to try to leverage off a subsequent agreement negotiation over money that they were owed? What do you say to those workers?

GREG BALKIN: I'm not going to comment on someone else's words. They are not my words, so I'm not going to comment on them. As I said before, and I will say it again, the employees have received their increase under their instrument out in region 6 every December-January. They received 2½ per cent.

The Hon. MARK BUTTIGIEG: I think you will find—

GREG BALKIN: [Disorder].

The Hon. WES FANG: Chair, the witness is trying to provide an answer.

The CHAIR: I uphold the point of order.

The Hon. MARK BUTTIGIEG: I think you will find, Mr Balkin, that Justice Rares doesn't agree with you, but let me move on. The Federal Court has also found, is this not true—perhaps you are aware of this particular anomaly; I'm not quite sure of your level of awareness of the previous one—that Transit Systems has

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wrongly docked the pay of drivers of some \$250,000 during legally protected industrial action whereby Opal card readers were turned off? We are all aware of this industrial action whereby bus drivers were turning off Opal card readers, and your company was found to have illegally docked their pay of \$250,000. Is that correct or not?

GREG BALKIN: There was an assessment made about the value of that noncompliance as far as what the percentage of the work day is. We relied on some information from the previous case in Australia. We applied that same sort of philosophy. It was found to be incorrect. We adjusted it as soon as we were made aware of it to the agreed level of deduction.

The CHAIR: Given the time and that this line of questioning has been going for quite a while, I will interrupt now to ask a few questions, and we will come back. Mr Rowe, you have been sitting there very patiently. I have a few questions. In your opening statement, you said words to the effect that privatised services—or services run by private corporations—can be quite effective. Busways is a family business. Obviously not all corporations are created equally. What do you think it is about Busways that perhaps distinguishes you from your competitors in terms of being able to provide what I'm sure in your opinion is a better service?

BYRON ROWE: I think my comment was probably more around that private operators overall can generally provide a more efficient service than a government can. This is not something certainly unique to the bus industry. A private business has arguably stronger leadership and more decisiveness, which ultimately allows them to make the hard decisions needed to operate efficiently.

The CHAIR: Is your evidence then that all private operators would provide a more efficient and better service, or does it depend on the way that that private operator is behaving?

BYRON ROWE: Look, I can't speak for all private operators but certainly many of the larger and more capable private operators would be able to deliver a more efficient service than governments can.

The CHAIR: Do you believe then that Busways is a better provider of bus services than your competitors?

BYRON ROWE: I would hope so. That is why we won the contract.

The CHAIR: I guess what I'm asking is why is that? Compared to your competitors, why do you believe that you create a more effective and efficient service?

BYRON ROWE: We obviously weren't privy to the assessment of the tender, but we certainly would guess that it is around our ability to deliver the services more cost-efficiently and that we convinced the Government that we could operate them to a higher quality.

The CHAIR: I note that you talked about cost, which obviously is the cost to the Government. With respect to the customer experience, what do you think, specifically, makes Busways a better provider of services to a customer than your competitors?

BYRON ROWE: I often describe our industry as the sum of lots of little things that equal a quality experience. Often it is little things like the presentation of the buses; how we deal with the graffiti and how we dedicate resources to that; the timeliness of the services; our driver training; and how we work with governments to design better bus networks that are more usable to our people. So there are lots and lots of little things that we do to provide an overall better experience. Engagement with councils—I've been working with councils on improving infrastructure, on fixing potholes and providing better bus stop infrastructure.

The CHAIR: When we look at the picture of prioritisation of all the bus regions in the Greater Sydney area, as far as I know there's no overlap between provider and—one provider having two regions that are adjacent to each other. We have this picture where we have—apologies, I do not have it in my folder; otherwise I would be able to describe it better. But say there are seven regions or nine regions, and there are different providers all adjacent to each other in that structure. Do you think that there would be efficiencies? What opportunities would there be for Busways to provide a better customer service if you had two adjacent regions, rather than being surrounded by competitor bus operators?

BYRON ROWE: I would say the first thing is that the map is a little bit arbitrary. The reality is that contracts are made up based on a group of routes. Many of those routes will go across the little borders around a contract that is written on a map. Across the years there certainly hasn't been, necessarily, a lot of thought as to which route should belong in which contract. In terms of the opportunity, if an operator was to operate two adjacent contracts, it is probably more around the efficiency that an operator could derive by scheduling those contracts together as a whole, rather than individually. From a customer service perspective, I don't think there's any increased ability. I think an operator can operate any standalone contract to a higher level, whether that is standalone and surrounded by other operators or whether they also operate the adjacent contract.

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The CHAIR: So by extension then, if you were to have three regions or four regions, there could be those greater efficiencies of putting those contracts together. Is that what you're saying?

BYRON ROWE: That's right, and that's something that Transport for NSW has contemplated. They are the ones dictating which regions could potentially be combined together and which ones are unable to be combined together.

The CHAIR: That begs the question as to how a bus network that has so many different operators holding so many different segments could be as efficient as one bus region or one commonly owned bus region—say, by the Government. Your earlier evidence was that these things are always better run by a private company, and yet you're also now saying that if one entity were to hold all of those regions, it would naturally be a more efficient service. So how do those two things fit together?

BYRON ROWE: I guess that I would say that that is one aspect of efficiency, and that efficiency may come about or may not come about depending on where depots are located and specifically which routes there are. But in terms of being able to provide a contract as efficiently as possible, there are many, many factors at play, particularly around an operator's ability to schedule those services. That varies significantly from operator to operator and certainly to the previous State Transit Authority.

The CHAIR: Is there any benefit to the Government in having outsourced the bus services to so many different providers as opposed to just one provider?

BYRON ROWE: Yes, absolutely. Having the entire city potentially operated by one operator makes it very hard to go to market and find another operator. There's no competitive tension; there's no market. I think what's needed, and certainly the approach that's taken by almost every city around the world, is a mix of several operators to operate the companies.

The CHAIR: There's no competition within each region, is there? I understand that there's a competition in terms of people competing for government contracts.

BYRON ROWE: Correct.

The CHAIR: But in terms of users of services being able to choose between providers, it's not like if you're living in Waverly you can say, "This service is rubbish; I'm going to use this one instead". There's no competition at the user level, is there?

BYRON ROWE: No, there's not, and that's the way that our contracts work. As a government contractor, we don't derive our revenue from the fare box, and so there is no competition between operators.

The CHAIR: If you're not held accountable through people choosing to use somebody else, what ways are you held accountable for your service—by the customer, not by the Government?

BYRON ROWE: Our contract has lots of sticks and carrots, if you like. We have very stringent KPIs around on-time running and cancelled trips, presentation of our vehicles, major defects, minor defects—all those sorts of things—to ensure that we're doing a good job.

The CHAIR: How long does your contract run for?

BYRON ROWE: We operate a number of different types of contract that have different lengths. Typically, they are between five and eight years.

The CHAIR: Okay, so region 7 would expire in 2028 or something like that?

BYRON ROWE: Something like that.

The Hon. WES FANG: Thank you, Mr Rowe, for coming in today and providing insights to the Committee from the private bus operators, which I think is very important given that there's been some one-sided testimony to date. In one of the last hearings, I spoke about the fact that I'm from Wagga and we have private bus operators. That private bus operation allows the operator to know their customers, and the family operation that was there before allows that close connection. Is that the experience you've found with your family-operated company—that you perhaps have a closer connection to your customers?

BYRON ROWE: I think that's something that comes with how long you've been operating in an area for. Certainly, the longer you've been operating in an area, the more that you've been able to understand the community and what the community values and doesn't value. You've been able to build up the relationships with local council and local community groups. It's probably more associated with tenure. In the areas where we have operated for a very long time, like in western Sydney for 80 years, it's certainly something that we would like to

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think that we have a deep understanding of. As we move into a new area and a new contract, that's something that we look to learn and develop.

The Hon. WES FANG: With the engagement you have with your workforce, given that you are a family-run company, do you find that in a lot of ways you probably have a closer connection to your employees than what there might have been through a government-run, bureaucracy-type transport organisation?

BYRON ROWE: I would like to think so. Certainly family values and caring about our people are part of our core values and something that we invest in heavily. Having said that, from what I've seen, potentially compared to some of our competitors, the STA certainly did value their staff. That's not something that they were terrible at.

The Hon. WES FANG: That's not what I was suggesting at all; I'm just trying to get a picture of how private operations perhaps may differ from a more bureaucratic, government-led organisation. You spoke about the bus system being a sum of many small parts, and I note you've already had questions today about how it is that a private bus operator can be more efficient than a government-run organisation. Is it perhaps that a number of the small things that come about from a private bus operator—like you said, it might be the appearance of the buses and the way that things are done, that you might do in your organisation that might lead to efficiencies—is part of how that efficiency comes? The fact that you've actually done things for a long time but perhaps do them in a different way is how those efficiencies can be gained for the Government.

BYRON ROWE: Probably not. I would say our efficiencies largely come from two things. The first is how we schedule our services. It's actually much more complicated than people think about how to build an efficient shift and an efficient roster. We have very complex software. We have a very large team to look at how to link everything together as efficiently as possible. The difference between a set of efficient shifts and an efficient roster compared to an inefficient one can be enormous, despite providing the exact same services to the public. We're talking about all the dead time, if you like, and how efficiently we can deal with that time. There's that bucket. The other bucket would just be in our overhead components and how we're able to leverage that and operate on a lean model.

The Hon. WES FANG: In your opinion the public is unlikely to see, on face value, the difference between a public operator and a private operator. Would that be fair?

BYRON ROWE: From an efficiency perspective. I would certainly like to think that, from a quality perspective, we were able to deliver more reliable, cleaner, better maintained services.

The Hon. WES FANG: I noted you were asked questions about the need for a competitive nature in the contractual arrangements that exist between the different regions. There's one view that, if a single operator perhaps operated all the regions, there might be efficiencies that are gained there. Could you talk a little bit about the risk that might happen if a single operator was given all the regions and other operators were perhaps—I'll say "starved"—not provided an opportunity to have a component of that. What would that do to the other operators, come a future contract time, and what competitive position might the other operators be in in order to be able to provide value for money for the Government?

BYRON ROWE: I'll answer that by going all the way back to 2012 and 2013, which is the first time that private operators were put to tender in Sydney. There were a number of private operators who were small family businesses who only operated maybe one contract and when they lost that contract their business disappeared. So you could imagine that, if Sydney was operated by a single contract, we would have private operators disappear. Certainly that would be something that would take away from the competitiveness of the market.

To answer the other side of your question around risk, one of the key things that comes to mind on the theme of industrial relations is, if you could imagine, if the entire bus workforce fell under a single enterprise agreement and if there was industrial action for that enterprise agreement we could end up in a situation like we've just had with Sydney Trains, where the entire bus network across the city could stop overnight, which would be extremely damaging. That's certainly one of the things. There could be others.

The Hon. WES FANG: In your experience, does the mix that currently exists of a number of different private operators operating the regions provide a reliable service to the Government and the population? Does it provide value for money for the Government? And does it provide a leveraging of risk that the Government carries on a number of issues, for example, like you said, industrial relations, the ability to have competitive tendering and the provision of services across a wide area?

BYRON ROWE: Without a doubt, some operators are more efficient than others and some operators certainly can deliver higher quality service than others. That's always going to be the case. The question, from a

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taxpayer or a government perspective, is whether all the operators are meeting the minimum expectations or the minimum thresholds that we set. I would certainly say that there is opportunity to improve and for some operators to perform better.

The Hon. CHRIS RATH: Mr Balkin and Mr Sinclair, I want to ask you a question about the customer experience. I think you run regions 3 and 6, which are western Sydney and the inner west. What has the customer experience been in those regions that you operate? How would you say it differs from when the STA used to run those regions?

JAMIE SINCLAIR: I will kick that one off. Certainly our customer satisfaction, from independent surveys—whether it be from Transport for NSW—has shown an 8 per cent increase since we took over. We also undertake our own mystery-shopper surveys. An independent company gets on our buses and speaks to customers independently. We have an increase from 86 per cent, when we first started, to 93½ per cent in December 2021—so there has certainly been an increase in customer satisfaction—and a reduction in customer complaints of 40 per cent from when we started on 1 July 2018.

We place a lot of emphasis on our customer service to our employees. Our training—we have very good, skilled and experienced trainers. We place a lot of emphasis on our customer service. But it is not one part. It is a bit like Byron may have said before: It is made up of a lot of parts. A good customer service outcome is improved reliability. It includes more stops and frequent stops. We've increased express services and we've introduced new services and additional trips. So it is really a big package. Putting it all together is where you get an improvement in your customer service. It is not just one bit. It is the driver behaviour, it is the fleet vehicle presentation and it is the performance of the management team. It is a big bundle. As I said, since 1 July 2018 we certainly have improved in all of those areas in both region 3 and region 6.

The Hon. MARK BUTTIGIEG: I might just quickly go to Mr Rowe on a related subject, given that we were on it before. Since taking over in January 2022, has Busways delivered the timetable as designed, without any cancellations?

BYRON ROWE: Certainly not without any cancellations, but I would like to think as few cancellations as possible. We actually took over—

The Hon. MARK BUTTIGIEG: Sorry, you "would like to think". Do you have any sense of proportion there?

BYRON ROWE: The interesting thing about when we took over is that we were in the middle of a lockdown. So, due to driver unavailability, we actually commenced the contract operating a Saturday timetable, even on a weekday. This was something that was happening all across Sydney with most operators. It's a little bit difficult because we didn't take over that contract in normal circumstances.

The Hon. MARK BUTTIGIEG: I might go back to some of these industrial relations practices. There are some related lines of questioning that I would like to pursue with you, Mr Rowe, but I will go back to Transit Systems. Mr Balkin and Mr Sinclair, I am happy for either of you to take this. Is it not a fact that in the contract specification from Transport for NSW, the signatory to the contract must be the employing entity of drivers as well? Is that a fair enough interpretation? Are you still with us?

GREG BALKIN: I'm just contemplating your question. We will take that question on notice. We will come back to you on that.

The Hon. MARK BUTTIGIEG: Why did Transit Systems set up a corporate structure, which involved a sub-company under the structure called Transit (NSW) Services Pty Ltd, to employ any new drivers? Why not just use the entity known as Transit Systems West Services, which employed all the legacy drivers from the State Transit Authority? Why set up that corporate structure?

GREG BALKIN: A bit of history behind the transition: When we took over, when we were awarded the contract, the State Transit Authority in region 6 was about 200 drivers short. They had been in that situation for years, we understand. So we needed to recruit as many drivers as we could. We needed to start recruiting from February for a July start. We recruited 159 drivers. We had to train them. A lot of them were new to the industry. We had to train them in region 3 on bus services, customer service and the like to be able to commence on 1 July 2018.

To supplement that shortfall, we brought 52 drivers in from Perth, who were duly accredited, just to run the services that State Transit had not done for years. We were in fact getting people ringing us and saying, "There's a bus in my street today on a Sunday. I haven't seen a bus on my street for years. What's it doing there?" Well, guess what—we were actually providing services that were timetabled. The only way we could recruit people in that situation—we could not even recruit them under the other arrangement because there wasn't

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anything in place in the time. We are talking about February 2018. Jamie might have some more to comment on that.

JAMIE SINCLAIR: No, that is right. With the service commencement on 1 July 2018, prior to that we had to employ them, that other group, as Greg explained. We had people working out of our Hoxton Park and Smithfield depots as region 3, ready to commence work on 1 July 2018 in region 6.

The Hon. MARK BUTTIGIEG: Yes, but what prevented you from using that existing entity to employ those new people? I'm not quite sure what the purpose of the second entity was. Was it impossible for you to employ that extra labour under that existing corporate entity—in other words, Transit Systems West Services Pty Ltd? So you have this group of STA people who were—

The Hon. WES FANG: Point of order: I have raised a point of order before, which is that Mr Buttigieg asks a question and then, as the witnesses are about to answer, he then starts to make a statement—

The Hon. MARK BUTTIGIEG: There is a word called "elaboration".

The CHAIR: Order! I have heard enough. For the benefit of Hansard, if we could do question and answer, question and answer. Please pause and allow the response. Thank you.

The Hon. MARK BUTTIGIEG: The question is very simple and straightforward: You had a corporate entity known as Transit Systems West Services; why not use that to employ everyone, old and new?

GREG BALKIN: I don't think we could employ new employees under that agreement.

The Hon. MARK BUTTIGIEG: You don't think or you are sure?

GREG BALKIN: I did not set up the corporate structure. I cannot comment any further than that. I can take it on notice if you wish to have some more detail. I do not want to make a comment that is incorrect. I would prefer to get the details to you in due course.

The Hon. MARK BUTTIGIEG: So you don't know if your own company can employ everyone under that same corporate structure. Can I put it to you that, as a result of the creation of Transit (NSW) Services Pty Ltd—and we heard this on evidence—those drivers coming in under that entity are actually getting paid less and are on worse conditions? Did you accept that evidence, that you presumably would have gone over before coming here today?

GREG BALKIN: No, I don't accept that at all. Jamie might make a comment, but I will make a comment firstly. If you look purely at an hourly rate of pay, you would see that there is a lesser hourly rate of pay. There are other provisions within the TWU-type agreement that actually increases the take-home pay, such as certain penalty rates, and there is a \$16 driver-conductor allowance per day for carrying fare-paying passengers. There are a lot of other things that you need to put into the mix to see what the actual take-home pay is. I worked for State Transit for 18 years; I know how State Transit works. I am fully aware of how private enterprise works. There are a lot of inefficiencies in the State Transit operational profile. There are conditions in there that are not seen anywhere else in New South Wales in the private sector, like five weeks' annual leave, ADOs and the like. We are working very well with the unions now on the EA negotiations. We had a rocky start, but we are looking really good now and we are working well with both unions. It's a really difficult situation—

The Hon. MARK BUTTIGIEG: Sorry Mr Balkin, on that point: The TWU and the RTBU are on a unity ticket on this and there is a common instrument that they're trying to get the bus companies to sign onto to equalise this pay and conditions. But my understanding is that Transit Systems wants nothing to do with it. Are you saying you have changed your position?

GREG BALKIN: We've been working through a process for several months now. We cannot see that some of the conditions of the STA drivers should be replicated across all of the industry. You're talking about all other bus drivers in region 3, and that will then go through all the other private operators.

The Hon. MARK BUTTIGIEG: Okay, that's a very clear and straight answer. Your position is that they shouldn't be the same; they should be on different rates of pay and different conditions.

The Hon. WES FANG: Sorry, I just wanted to ask a clarifying question on that point, if that's alright—a very brief one?

The CHAIR: Is that a point of order?

The Hon. WES FANG: No, I am just asking a clarifying question, if that's alright.

The CHAIR: Had you finished, Mr Buttigieg?

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The Hon. MARK BUTTIGIEG: No, I was simply asking Mr Balkin to clarify—

The CHAIR: He has asked a question and we are now waiting for an answer.

The Hon. MARK BUTTIGIEG: —that interpretation.

GREG BALKIN: My view is that we're working very well with the unions, both the TWU and the RTBU. I'm getting a good set of conditions that can coexist. We look forward to having—it's not easy for us to have to roster under different parameters. Now, that's just [disorder].

The Hon. WES FANG: Can I just ask that clarifying question now, Chair?

The CHAIR: Yes.

GREG BALKIN: The answer to your question is: We look forward to concluding our negotiations with the unions.

The Hon. WES FANG: Mr Balkin, can I just ask quickly—

JAMIE SINCLAIR: Could I just add a couple of points to that, if I could? Your question about the salaries: As a snapshot for the last financial year, we took the top 10 earners for region 6. Of those top 10, seven of those are new employees. That's without going into the detail; admittedly, Greg mentioned there are different shift penalties and different shift lengths. [Disorder]

The Hon. MARK BUTTIGIEG: Well, there's different hours worked too, presumably.

JAMIE SINCLAIR: Yes, I take the point. I just said without going into the detail—

The Hon. MARK BUTTIGIEG: Just a minor technicality.

The Hon. WES FANG: Can I just ask, gentlemen: Did the workers that are on the separate arrangements accept those jobs?

JAMIE SINCLAIR: Of course.

GREG BALKIN: Yes they did.

The Hon. WES FANG: Thank you.

The Hon. MARK BUTTIGIEG: Just a follow-up to that, the workers on the different arrangements means the ones on the second tier accepted those jobs.

The Hon. WES FANG: Point of order: I don't believe it was referred to as a "second tier" at any point in any testimony, Chair.

The Hon. MARK BUTTIGIEG: Let's move on to Mr Rowe, because I think there is a similar sort of set-up with Busways with respect to the two-tier workplace arrangement in region 7. Did you want to elaborate on that?

The Hon. WES FANG: I think it's fair if the Deputy Chair perhaps explains what he determines is a two-tier system.

The Hon. MARK BUTTIGIEG: Did the Busways tender propose a two-tier—

The CHAIR: Order! We are almost through this particular session. I remind the witnesses that if they feel they need clarification on any questions they should feel free to ask. In the meantime, I ask members to refrain from interjections. Please go ahead, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: Did the Busways tender propose a two-tier workplace—in other words, two separate agreements?

BYRON ROWE: Yes, it proposed two separate agreements. I would not necessarily refer to it as a "two-tier workplace".

The Hon. MARK BUTTIGIEG: Okay, let's call it two separate agreements. What was the reason for that? What were the implications of that?

BYRON ROWE: The reasons were, just like Greg has said, that the STA award has many, many highly inefficient conditions, and those conditions are not standard across the private industry. In many cases, those conditions are not actually benefiting those workers in any way. Our approach was that the existing STA workforce would transition across on their copied State award and, of course, retain all of their terms and

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conditions, and any new employees would be employed on a different agreement which enabled us to schedule the services more efficiently.

The Hon. MARK BUTTIGIEG: And your interpretation of the contractual requirement from Transport for NSW for the signatory to the contract to be the direct employer?

BYRON ROWE: Our entity certainly is the direct employer of all employees. It is possible to have multiple enterprise agreements under a—

The Hon. MARK BUTTIGIEG: Transport for NSW, in your view, designed that so that you could undercut the workforce if you wanted to?

BYRON ROWE: I certainly wouldn't describe it as undercutting.

The Hon. MARK BUTTIGIEG: I will go to another line of questions. How much time, Chair?

The Hon. WES FANG: I think we have run out of time, Chair.

The Hon. MARK BUTTIGIEG: We did start a bit late, didn't we?

The CHAIR: Yes. You can have one more question.

The Hon. MARK BUTTIGIEG: I want to get your view that Transport for NSW says it is not the provider. I will quote Minister Elliott: "The New South Wales Government both doesn't have a role in the provision of private bus services and doesn't hold the purse strings." But given that they specify the routes, they specify the bus stops, they give you the KPIs and they own all the assets, is that a misleading statement to say that Transport for NSW has nothing to do with the private bus routes? You can't have your cake and eat it too. You have either outsourced it and it is all on the private operators, or you own the assets and you dictate the routes and the service provision. Which one is it from your perspective?

BYRON ROWE: Transport for NSW effectively designs the contract and what is to be delivered under that contract. Private operators then bid at tender and determine how much that will cost them to operate. It is really up to the private operators to determine how much it will cost to deliver those services or not. Of course, Transport for NSW, in having control over how many services and what they look like, have control over—

The Hon. MARK BUTTIGIEG: And the amount of money dedicated to each tender.

BYRON ROWE: No, they don't have control over the amount of money dedicated to each tender. It is up to the operators tendering to put their price forward.

The CHAIR: That brings us to the end of this session. I thank the witnesses for attending. To the extent there were questions taken on notice or if there were supplementary questions, you will have 21 days to respond with your answers but the Committee team will be in touch in relation to that.

(The witnesses withdrew.)

(Short adjournment)

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Mr CHRISTIAN PORTER, Chief Commercial Officer, Keolis Downer, sworn and examined

Mr MARK DUNLOP, Managing Director, Keolis Downer Northern Beaches, sworn and examined

Ms LEANNE GRIFFITHS, Manager, Business Services, Red Bus Services, sworn and examined

The CHAIR: I welcome our next panel of witnesses and invite them to make a short opening statement if they wish. Mr Porter?

CHRISTIAN PORTER: Thank you for the opportunity to appear today. Keolis Downer is one of Australia's leading operators of public transport. Every year we deliver 350 million passenger journeys. We have an especially strong commitment to public transport in New South Wales, where we employ 1,000 people in two contract areas and carry more than 37 million passengers every year. Our services include Newcastle Transport, which is Australia's first multimodal contract to be delegated to a private operator. We also provide bus services on the northern beaches and lower North Shore, where we have mobilised well and are providing consistent and reliable transport across the bus network from Palm Beach to the CBD.

Ownership of the assets, including buses and depots in these two regions, remains in public hands and our role is to be the steward of these assets during the term. In the New South Wales model, government makes the decisions about routes, timetables and bus stops. Prior to the recent procurement processes Transport for NSW released Network 2020, which is a service plan that we currently operate. With regard to fares, IPART sets all the fares.

Within the northern beaches contract we also operate the highly innovative Keoride on-demand services, which help more than 20,000 passengers a month to reach their destination in a safe and timely manner. As an organisation we are incredibly proud of what we do and believe we have delivered for passengers, taxpayers and our team. In terms of driving innovation and service delivery, we will be introducing 125 electric buses to the northern beaches over the next seven years. We also have three coming into Newcastle. Thank you, and I look forward to helping you with your inquiries today.

LEANNE GRIFFITHS: Good morning, and thank you for the opportunity to participate in this hearing. Red Bus Services is one of the oldest family-operated bus companies in New South Wales, operating on the Central Coast for over 80 years and up on the North Coast before that. From humble beginnings Red Bus has grown to become a major bus company on the Central Coast, employing 160 Central Coast residents and operating a fleet of 106 contract buses to service the outer Sydney metropolitan bus service contract known as region 7. Red Bus company's mission has always been to be the bus operator of choice and employer of choice. We harvest this mission by living in our community, collaborating with government and treating every employee as a member of the family.

We believe and understand that privatisation and tendering are here to stay, but what must be guaranteed for the people of New South Wales is transparency and a level of assurance that the decision of the procurement team when awarding bus contracts is in the best interests of the local communities that the bus operator is to serve and not driven by bureaucracy. For example, the desire of Transport for NSW to amalgamate bus contracts can only be the right decision if it will provide better customer outcomes for those communities, not because it will reduce costs in the initial round of tendering.

The bus contracts must also drive customer outcomes and not technology outcomes. Transport for NSW is so focused on technology that the customer is sometimes sacrificed so the technology can work. The recent floods are a great example. If you are a bus operator who is technology and KPI driven, you would consider whether to cancel trips, as the KPI penalty is lower for a cancelled trip than it is for diverting the bus and running late. Also, the bus tracking technology is unable to cope with diversions; it prefers you to cancel the trips. How is this to help the customer? I have accepted this invitation to appear before this Committee to hopefully assist in this inquiry. I am happy to answer any questions to the best of my ability. Thank you.

The Hon. MARK BUTTIGIEG: Thank you all for taking the time out to appear before the hearing. It is much appreciated. Perhaps to Keolis Downer first, we heard in evidence from the Hunter MPs, who are in your catchment area, that they all raised concerns about a local disability employer, Access Industries, not being consulted prior to the 2018 network changes. Can you tell us what the issue there was with that failure to consult?

CHRISTIAN PORTER: Mark, do you want to take that?

MARK DUNLOP: Certainly consultation occurred with all stakeholders within Newcastle. It was before I commenced operations up there. I have personally met with Access Industries, including the three local politicians, and talked through any issues. We also work very closely with House with No Steps; I think they have changed their name now to Aruma. We work with them. One of the initiatives of Keolis Downer is that we always

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bring in customer service officers, who again are on the ground working with any of our passengers to make sure that we demystify how to move through the network to the best of their ability.

The Hon. MARK BUTTIGIEG: Just to clarify, because it is quite contradictory evidence: Access Industries is saying it was not consulted prior to the 2018 network changes. Are you saying they were?

MARK DUNLOP: I cannot comment prior to 2018. Certainly I joined Newcastle in 2018 at the launch of the network. The planning had been done prior to my commencement up there. I personally met with Access Industries.

The Hon. MARK BUTTIGIEG: Okay. Mr Porter, do you have any insights into this?

CHRISTIAN PORTER: No. If we missed them, we apologise. We do have a commitment to meet with as wide a group of stakeholders as we can before any service change.

The Hon. MARK BUTTIGIEG: With respect to the broader consultation across Newcastle and the Hunter regarding the community's expected levels of service, KPIs and the design of the network, given the number of complaints about service quality since privatisation of the network in 2017-18, could you elaborate on how you consult with the communities? We heard in evidence this morning from the eastern suburbs routes and some of the companies that are running there, that the local council is not really in on the equation at all. No-one seems to know how the consultation process works and what the feedback mechanism is.

The Hon. WES FANG: Point of order: That is not the evidence that was given by the bus companies. In fact, the bus companies said that they deliberately speak with the councils. So, to say that—

The Hon. MARK BUTTIGIEG: I was referring to a specific council.

The CHAIR: Order!

The Hon. WES FANG: Yes. That is correct.

The CHAIR: Order! Mr Fang!

The Hon. WES FANG: Apologies.

The CHAIR: When we take a point of order, if we could make it as quick as possible, rather than having a discussion across the table. To the extent that evidence needs to be clarified, the witnesses are reminded they can clarify that evidence in their answers. If we could proceed without as much interruption. Please go ahead, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: To be specific, the evidence from Waverley Council was that council is not consulted and they are unaware of the mechanism for consulting the public. Can you elaborate on what Keolis Downer's methodology is for consulting the public?

CHRISTIAN PORTER: I can't speak for Waverley Council and region 9. I can talk to region 8 and Newcastle. In region 8, where we operate the services in northern beaches council area, Mark and I both meet with council every fortnight for an hour. We take them through our planning, where we are going. We understand all of the urban activation that is happening across the city and where we can put our services to better suit what the council initiatives are. There was a second part to your question though; it was around Newcastle at the start?

The Hon. MARK BUTTIGIEG: No, it was just referring to the services in the Newcastle region. That consultation with council, is that direct meetings or via a traffic committee?

CHRISTIAN PORTER: Direct meetings.

The Hon. MARK BUTTIGIEG: With respect to the public directly, how do the public communicate if there are any issues with the services?

CHRISTIAN PORTER: When we took over northern beaches—again, I will talk to northern beaches because it is the most current one—we brought in a customer service team, which wasn't there prior. That includes eight customer service officers that operate the network. They are also available in the depots. We also have a website and all of the general communication forums that allow people to either come directly to us or come through Transport or come through council towards us.

The Hon. MARK BUTTIGIEG: Why do the changes to the Hunter's bus services implemented by Transport for NSW and Keolis Downer include the removal of all direct connections to Charlestown, Newcastle CBD and Morisset train station?

CHRISTIAN PORTER: Mark, you are a bit closer to the detail in Newcastle.

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MARK DUNLOP: Certainly, when looking at any network planning you are dealing with a finite resource, number of buses. Certainly, the direct services from Swansea to Charlestown exist, and when you look at the points where people are travelling on, there are really two. Most people go from Swansea to Charlestown, and then to John Hunter Hospital, which is also a teaching hospital, and then to University of Newcastle at Callaghan. Bringing the high frequency routes, which there are four of, providing opportunities. Most people, certainly from Swansea, Charlestown is their primary focus, followed by John Hunter, followed by University of Newcastle. Recently, you may be aware there have been some additional services put in, a 10X, that will operate from Charlestown directly into Newcastle CBD. But, again, the high frequency services, trunk routes, that are operating every 15 minutes, so the main backbone to the network, based on finite resources.

The Hon. MARK BUTTIGIEG: That is very important and relevant evidence because it is consistent with some of the implications we drew from this morning's evidence, that is, that inevitably a private operator will have to—and it is not your fault, you have to turn a profit, you have to pay wages—rationalise some routes based on evidence, Opal card reads, whatever, that here is where the density of traffic is. Inevitably, some of those radial surfaces that might otherwise have been cross-subsidised by the public service get cut loose. I'm not making a judgement about you as entities, because you're in the business of making money. But that's the reality, isn't it?

CHRISTIAN PORTER: I'm not sure those two points are connected, Mr Buttigieg. If you think about what's been happening in Newcastle—and the city's been going through urban revitalisation probably since 2015—when you look at the city, there was a dramatic change in the University of Newcastle investing in two CBD campuses. One of the things we were looking at doing at the time of bidding—and Mark as managing director of Newcastle continued on post-bid—is we started to work through how we could drive more people to public transport. One of the big things we see in driving more people towards public transport is this concept of turn up and go or frequency on the network. As Mark said, you pick a couple of routes that you know are really high frequency and you increase the frequency on that service so people can go there with greater certainty of a bus coming in 10 or 15 minutes. That doesn't naturally tie to rationalising other services, but there is a finite number of buses and a finite number of bus drivers that can service the route.

The Hon. MARK BUTTIGIEG: Aren't the two connected? You're saying it's not necessarily connected but I'm hearing that it is, because there's a finite amount of buses and services and therefore something must be cut. Isn't that what we're really saying?

CHRISTIAN PORTER: This comes down to the complex art of scheduling. Without taking away all services that are in the outer areas and are less patronised, you try to reallocate the buses—keeping in mind, in Newcastle, we also brought in an on-demand service. The on-demand service has a greater reach than what a route bus service would have.

The CHAIR: One of the concerns that's been raised with us during the hearings in relation to a privatised model of bus service delivery is the customers being one step removed from who is ultimately accountable for the service. Previously, when we had publicly run buses, if a resident or a worker had a problem then they could go straight to the Government to make that complaint; whereas now the Government wipes its hands and says, "No, that's not for us. That is something that the private operator needs to deal with." But then the private operators seem to be saying, "Well, actually, no, we're kind of governed by the contract." From a business perspective, do you see that tension playing out?

CHRISTIAN PORTER: Not in the way that you've outlined, Chair. I can't talk for all bus operators; I'll only talk for our operation. We have a rigorous set of KPIs, of which customer satisfaction is key. Some of those metrics are operated by us, in terms of fielding customer feedback. Others are done specifically by Transport for NSW.

The CHAIR: When workers go on strike, does that impact on your KPIs?

CHRISTIAN PORTER: One hundred per cent.

The CHAIR: I understand today it was announced that the bus drivers in Newcastle will be going on strike on Friday. Who are you blaming for that? If that impacts on your KPIs, will you be looking to the Government to solve that? How has this arisen?

CHRISTIAN PORTER: We don't look to blame anybody. We rely on our relationship with the workforce to deliver the services. With the workforce, we're currently going through an EBA negotiation. The concept of taking protected action is something well within the rights of the workforce to do. If we do cancel trips then it comes back to us as the operator.

The CHAIR: When you're negotiating with your drivers, to what extent are you limited by the contract you have with the Government?

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CHRISTIAN PORTER: So the contract we have has indices for wage price indexation. At the moment cost-of-living pressures are pushing the expectations much higher than WPI, so we have to manage the two.

The CHAIR: So it is in your discretion, then, as to what to pay your drivers? This can't be blamed on the Government. This is something that the drivers should be looking to you for.

CHRISTIAN PORTER: We've got a working relationship with our drivers and we have to ensure that the practices of conditions and terms and conditions—so conditions being around pay and terms and conditions about their policies at work—are all in place so that they are happy to come and drive for us on a daily basis. We don't shirk that responsibility.

The CHAIR: As you know, unions don't strike just at the drop of a hat. This is something that happens after—

The Hon. WES FANG: Seems to be at the moment.

The CHAIR: —a period of negotiation and when they feel that they have no other option.

The Hon. SHAYNE MALLARD: Just before an election—

The CHAIR: Order! This is quite an extreme move and evidences that the negotiations have not been going well. But it's your evidence here today that this is something that is not being hindered by the Government but is purely within your control.

CHRISTIAN PORTER: We're working with our workers' representatives and our workforce to come to an EBA for the next three years that is agreeable to all parties.

The CHAIR: So the public, when they have no services on Friday, are to blame you and not the Government? Is that correct?

The Hon. WES FANG: How about they blame the drivers?

The Hon. SHAYNE MALLARD: The unions.

The CHAIR: I don't think you understand how unions work. Please go ahead, Mr Porter, and answer the question.

The Hon. WES FANG: Actually, that's true.

The Hon. MARK BUTTIGIEG: Point of order: There is constant interference being run by the Government. When they're asking questions, no-one runs interference. I ask you to call them to order, Chair.

The CHAIR: Thank you. I uphold the point of order and I do call them to order. If we could stop the interjections, please—I don't think that they are particularly helpful. The question was: When the people of Newcastle are without bus services on Friday, are they to blame you and your management or the Government?

CHRISTIAN PORTER: We will work as hard as we can with our workforce to try to ensure that the protected action doesn't go through. If it does, all we'll do is what we can do to try to deliver those services on the Friday.

The CHAIR: Right. Just to clarify then, they should blame you.

CHRISTIAN PORTER: I would hope they don't blame anyone. They'd see that we're working hard to get to an agreement.

The CHAIR: I will allow Mr Fang to ask a question.

The Hon. WES FANG: Thank you very much for coming in today and providing some very valuable evidence to us. I wanted to take this opportunity to clear up some, I would say, misinformation in the first instance. Is it true that you are paid in effect a per kilometre rate through your contract, that is, if you had a bus with nobody on it and you still ran that bus service, you would be paid? It's not about whether you have somebody on that bus paying their fee. You get paid to operate that service no matter what.

CHRISTIAN PORTER: That's correct. We're not governed by the fare box. We deliver the services as per the approved service plan.

The Hon. WES FANG: So this idea that is being promulgated throughout this inquiry that somehow it's the operators and their cutting of services for financial benefit to you is probably undermined by the fact that you get paid whether you have a full bus or nobody on that bus at all.

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CHRISTIAN PORTER: That's right. We try to deliver the best level of customer service we can on the service plan that's been agreed to with the State.

The Hon. WES FANG: And, as you said earlier, where there are changes to the network and the routes that are operating, that's in order to perhaps provide the more popular routes with increased frequency of buses and increased ability to—what was the term you used?—arrive and go.

CHRISTIAN PORTER: Up and go.

The Hon. WES FANG: Yes, up and go. The flexibility of perhaps removing some of those less patronised routes or no patronised routes and then supporting those other things is about providing a better customer experience for the bulk of customers. Is that right?

CHRISTIAN PORTER: Yes, that's absolutely right. Mark talked before about the use of finite resources. It's in our interest as Keolis Downer but that too of the industry to drive modal shift to public transport. We really want to give people the services they want to use where they want to use them at the time they want to use them. Keolis Downer is a very large organisation. We have proprietary tools to look at network analysis and customer feedback, working with various stakeholders to try to provide ideas to Transport of where those services could be best placed.

The Hon. WES FANG: Ms Griffiths, is it the same for your organisation as well?

LEANNE GRIFFITHS: Yes, I guess it is. Ultimately, Transport manages the bus services—the routes, the timetables and the bus stops. What we do is we actively do the same as Keolis where we look at our data and we review and constantly give new ideas, but we also appreciate that the Government only has a limited amount of funds. We can't always service everybody, but we do our best to try to meet everybody's wishes as we understand that our services are sometimes the only way people can get around.

The Hon. WES FANG: Do you think it is fair to say that you are using the data that you have through your patronage and local knowledge and experience of providing that service? You are taking that to Transport for NSW and providing it with perhaps some experience and suggested solutions, and, between the two of you, you are coming up with hopefully the ability to provide better services to the bulk of the customers in your route. Would that be fair for both organisations?

LEANNE GRIFFITHS: Yes, that is correct. Also, when we do network reviews, we listen to the community and we ask them what they actually would like. You can't always please all community members, but you do your best and you look at what type of community members require it the most as well. So you take into consideration that there are people out there who require our services to get to hospitals, shopping centres and universities. All that is taken into consideration and, ultimately, Transport makes the decision.

The Hon. WES FANG: I will assume that it is the same for your organisation as well, Mr Porter?

CHRISTIAN PORTER: That was a really fulsome answer from Leanne.

The Hon. WES FANG: So when you are developing that, you actually do consult with affected stakeholders. The premise that has been promulgated again that there is no consultation that is undergone, do you think that would be unfair?

CHRISTIAN PORTER: Do you want me to take this one first, Leanne?

LEANNE GRIFFITHS: Yes.

CHRISTIAN PORTER: The only reason I am taking this one before Leanne is we have been involved in tender processes a little bit more recently. As part of the evaluation, we have to develop customer experience plans. We have to develop stakeholder management plans. We are absolutely evaluated on those and required to keep them in place throughout the term of the contract.

The Hon. WES FANG: So you think it is unfair the way that it has been characterised in this inquiry?

CHRISTIAN PORTER: I think we have a responsibility to the communities in which we work that we consult widely. We do apologise if we missed a key stakeholder, but it is absolutely within our interest to talk to as many people as we can.

The Hon. WES FANG: I have one final question, but do you want to have an input, Ms Griffiths?

LEANNE GRIFFITHS: I just want to say that from my example, I also live in the community. If we do something wrong, someone is going to let me know at a football ground or a shopping centre. It is really important you get it right, and having community and local knowledge makes a difference. A company like ours is 80 years old and gets 98 per cent customer satisfaction because we listen to our community.

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The Hon. WES FANG: In relation to the strike that is happening on Friday, is it fair to say that the contract you have has an indexed amount of perhaps wage rises built into the contract? Your workforce is seeking an amount higher than that, therefore that is where the pressure is. If that was to be accepted by your company, it would be your company that would have to make the difference up. Would that be a fair thing? We have those parameters—

The Hon. MARK BUTTIGIEG: Yes, it's reduced profit, Wes. Come on, move on.

The Hon. WES FANG: That was actually—

The CHAIR: Order!

The Hon. WES FANG: The question I was going to ask was—

The CHAIR: Order! We will proceed in an orderly manner, without intervening. If you want to take a point of order—

The Hon. WES FANG: I'm trying to, but the constant interjections are just—

The CHAIR: Order! The Chair is speaking. If there is a point of order to be taken, please say "point of order"; otherwise, stop interjecting.

The Hon. WES FANG: If your company is forced to operate and perhaps makes a loss, how long do you think you would be able to operate for? What would happen to your drivers and the services in your community, should you not be able to continue providing that service?

CHRISTIAN PORTER: Mr Fang, I think the best way for me to answer your question is: The negotiations that we have with our workforce are commercially sensitive. We hugely respect our workforce and their representatives. We will work within whatever limits we have to try to get an outcome that is in their interests and our interests. That's probably where I'd stop the answer.

The Hon. WES FANG: Do you think that their announcement today, while you are here at this inquiry, is somewhat of a stalking horse—

The CHAIR: You have asked your final question, Mr Fang.

The Hon. WES FANG: —and somewhat unfair on you?

CHRISTIAN PORTER: I can't speak for the RBTU.

The CHAIR: I turn to you, Ms Griffiths. When was the last time that your company was facing a strike action by your drivers?

LEANNE GRIFFITHS: I have been an employee of Red Bus for 30 years, and, touch wood, we've never had one in those 30 years.

The CHAIR: I did suspect that would be your answer. In full disclosure, I live on the Central Coast and have always viewed Red Bus in a positive way. I think there has been a lot made in this inquiry of the difference between those regions that have really never had public buses—have always had family-run buses—versus those that are now having previously-run government services replaced. Your organisation has 160 employees. Is that right? Would you say that's a very different thing to when we look at something like Busways, which has 2,800 employees but still calls itself a family business?

LEANNE GRIFFITHS: I really can't say because I don't know what it's like to have 2,000 employees. But our mission is always about the employees. So it wouldn't matter how large we got. That would still be our goal: always consider our community and our employees. So I imagine it would be a lot the same.

The CHAIR: When the Government decided to put your contract out for tender just recently—I understand that was in March—were you surprised?

LEANNE GRIFFITHS: Yes, we were a little bit blindsided but these things happen. It wasn't in March; it was July 2021 that we were put out to tender.

The CHAIR: When does that tender process occur?

LEANNE GRIFFITHS: The tender process started in July 2021, but it stopped in November 2021. They have now decided to recommence it again after they finish the Sydney tenders. So the process had already started and then they stopped it.

The CHAIR: Were reasons given for not renewing the contract? I understand that is quite unusual.

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LEANNE GRIFFITHS: To this day we are still a little bit confused about why our contract wasn't renewed. We have had debrief sessions with Transport for NSW, and we still really don't have much of a real reason why we got put out to tender. The tender process started and then stopped, and that one is probably the most confusing out of all of it.

The CHAIR: During the contract negotiations, was consideration given to the types of buses that would be employed in the region—for example, whether they were diesel or electric or whatever? Was that part of the discussions?

LEANNE GRIFFITHS: No. All outer metro contracts were diesel at that stage.

The CHAIR: Now that it has been put out to tender, is it just for the Central Coast or is there some sort of bundling together with another region as part of that? Do you know?

LEANNE GRIFFITHS: All Sydney regions that haven't been tendered recently are up for tender. But for the outer metropolitan regions, only the two Central Coast regions are up for tender.

The CHAIR: Do you currently have both of those?

LEANNE GRIFFITHS: We only have one and Busways has the other.

The CHAIR: They are both up for tender, so there is a possibility that you could end up with all of the Central Coast being operated by the same company?

LEANNE GRIFFITHS: There is a possibility, yes, that it will be one operator—or two new operators.

The CHAIR: If you were to lose that contract, what would be the impact on business?

LEANNE GRIFFITHS: There would be no more Red Bus; we're gone.

The Hon. MARK BUTTIGIEG: I might pursue some of that line of questioning because I think this is really interesting. The evidence that I have read and the feedback that I have had from our local members up there is that Red Bus is doing a very good and thorough job; there are no complaints and the provision is good. I am keen to understand why we have such a big disparity across providers. Is it related to size? Is it related to the philosophy of management whereby everything is either about the bottom line or it is not necessarily about the bottom line? In your evidence today you highlighted the fact that you listen to the community and you go out of your way to fill those gaps in service that the community is telling you are there. Can you elaborate on what you think, because it is quite stark to me that no-one one has complained about Red Bus but people have complained about pretty much every other provider?

LEANNE GRIFFITHS: I don't really know why we are put out to tender, so I can't really explain that. All I can explain is our philosophy of how we run a bus service. Our goal as a bus company is, as I said, to be employer of choice and bus operator of choice. For that mission everything is about the drivers. When you talk about pay rises and how you negotiate a wage increase with our drivers, it is all about how our drivers are—we worry about how our drivers are coping and making sure they get good working conditions and pay, because they are the face of your business. If they are not happy, then you are not going to get good customer service. This is how we operate a bus service. I am not saying other operators don't, I'm just giving you Red Bus's example. Our drivers—everything we do involves consultation. If we are going to change anything—if we are changing any shifts or if we are going to change any part of where they have a meal break—everything is consulted with our drivers because we want them to have a good working career.

The Hon. MARK BUTTIGIEG: Sorry to interrupt, but I think it is relevant. Who is the union with coverage of your drivers? Is it the TWU?

LEANNE GRIFFITHS: The TWU. We are within a TWU area but we don't have much of a coverage.

The Hon. MARK BUTTIGIEG: This is the same union that is involved in other dispute with other providers, but you have managed to go how long without any industrial dispute?

LEANNE GRIFFITHS: I am not exactly sure how long. I can just speak from my working life. I have been there for 30 years and we haven't had one.

The Hon. MARK BUTTIGIEG: Coupled with that, you have virtually zero complaints about service provision. Something is going on here. Because of that overall societal perspective that you seem to bring to the provision, does that necessarily mean that you have to sometimes take a little bit of a hit off your margin to provide that service?

LEANNE GRIFFITHS: That is correct. When we were talking about wages earlier, something that needs to be considered is that Transport for NSW has to take some sort of role in those wages because when you

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put in a tender, over 50 per cent to 60 of the cost is wages. If they are looking at a group of tender documents and one particular operator is lower than the market, and they choose that one, they have to take into consideration that they are obviously going to have to pay those drivers at a lower rate or have different conditions of work, so then they are definitely going to affect the customer service outcome.

What you were trying to talk about earlier when we were talking about the WPI, that is how we get indexed in pay. But when you put in a tender, you are going to assume that your wages each year are only going to be the WPI, whereas other operators are paying their drivers a slight amount over that WPI, like we do. We have a floor in our enterprise agreement that we pay our drivers 2 per cent. If the WPI is lower than that, we still pay that because we feel that we need to stay around the CPI so that our drivers can pay their expenses. If you have another operator who doesn't do that and Transport for NSW decides to choose that person in a tender, it is going to affect their customer service.

The Hon. MARK BUTTIGIEG: This is a very important point, Ms Griffiths. If the market evolves to a point where you have larger providers with economies of scale on a lower wage price model and it squeezes people like you out, you'll end up with a situation, inevitably, I think, where the service provision drops because that's how they're turning a bigger profit. Right?

LEANNE GRIFFITHS: I don't think we'll get squeezed out because of our wages, because we work really hard with our drivers to make sure they understand what we can afford. We're competitive in the market rate. Where economies of scale affect us is in other items, that we won't be able to compete. Yes, we will end up being out of the market, and you'll only have small amount of multinationals left.

The Hon. MARK BUTTIGIEG: That's an obvious concern to a family-run, boutique business like yours.

LEANNE GRIFFITHS: Yes. But, if we were not performing and our costs were not in the market rate, I would understand why you'd put us up to tender, because we're not performing for the New South Wales people. But when you are performing with 98 per cent customer satisfaction, 98 per cent on-time running, 100 per cent asset survey results and your costs to government are at the market rate, I'm confused. As a taxpayer, I see that as a problem. However, if we weren't performing then, yes, put us out to tender.

The Hon. MARK BUTTIGIEG: Did you miss any services during COVID?

LEANNE GRIFFITHS: No.

The Hon. CHRIS RATH: Mr Porter and Mr Dunlop, you've also said in your submission you have around 98 per cent customer service as well. Is that correct?

CHRISTIAN PORTER: Yes.

The Hon. CHRIS RATH: What I actually wanted to ask about, though, was your electric bus fleet. I think you said "125 electric buses that are going to be rolled out". As you know, it's an important priority for the Government to reach net zero by 2050 and 50 per cent reductions by 2030. With rolling out these electric buses, could you provide a little more information about that. In particular, before you took over these different regions from the STA, was there any plan in place for them to roll out electric buses?

CHRISTIAN PORTER: Thanks, Mr Rath. With regard to the tender of STA region 8, I was the bid director. Mark was the managing director and still is. To the best of our knowledge there was no direction or strategy to bring electric buses in. In the tender itself, it was a wide remit to offer your innovation and ideas of how you would implement that strategy. We took a fairly aggressive approach because we know that bringing electric buses to the northern beaches community is something that's of a high level of interest. Keolis operates in 14 countries around the world. We have over 1,000 electric buses. So we've seen a lot of technology. In our depots in Brookvale and Mona Vale, we've got space constraints. They're in densely urban areas. There's no view to grow the bus depots. So in that regard we had to leverage the global innovation we had available to us to come up with a model that was slightly different from what's being done in other depots. Our solution there, to deal with the space constraint, is a pantograph charging solution that allows buses to charge faster and, essentially, get a quicker ramp-up on the number of buses that we can bring into that network. It's something we're immensely proud of.

The Hon. CHRIS RATH: Not just that. If we had stayed with the STA, there probably wouldn't be electric buses being rolled out at the moment. But you would say in many other ways as well that the service that you provide is of a higher level of innovation and technology than what would have been there prior to you taking over those two regions.

CHRISTIAN PORTER: Yes. I think the STA was a wonderful organisation. It didn't have the advantage that Keolis has in terms of those 14 countries we operate and just the volume of technologies and

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contract models that we play in. Also, our partner ecosystem is really large, whether it's bus manufacturers, whether it's battery providers, whether it's people that install and deliver the charging solution. It's a benefit that we had. To the key part of your question, Mr Rath, when you look at Brookvale and Mona Vale in particular, a plug-in charging solution wouldn't work. There's just not enough space. That's where a private sector company that was able to inform itself and take a little bit of risk on the solution has probably come up with something that's much larger, that could have been delivered before.

The Hon. MARK BUTTIGIEG: Back to Keolis Downer. There's this particular service which comes up time and time again, the 350 service, which helped transport students to St Francis Xavier College, Merewether High and Hunter School of Performing Arts via one direct bus service. Why was that cut?

MARK DUNLOP: It comes back to the discussion we were having earlier around the key points people are travelling from Swansea. I'd also add there is a direct school service that still exists, to St Francis Xavier. We didn't touch any of the school services that were in play. A number of those operate. But again it's that feeder from Swansea to Charlestown and then being able to go to Newcastle, John Hunter Hospital or the relative schools.

The Hon. MARK BUTTIGIEG: This has been a particularly sore thumb. I've had feedback from local members up there that this services was highly patronised. Community are up in arms. They're asking for it to be restored. What's your position on that?

MARK DUNLOP: Certainly, as I also alluded to, we've brought in the 10X, an express service, which now provides a direct link into the CBD, in addition to the high frequency routes. That will be provided with electric buses when they come online. Additionally, there is quite an extensive network of school buses that operate—

The Hon. MARK BUTTIGIEG: But my question was very specific. Are you going to consider restoring that? Or is that off the agenda?

MARK DUNLOP: I don't think, at this point in time, on the data I'm privy to—I've not been in Newcastle now for a short while. But the data and where people were travelling to would not warrant, in my opinion, the reinstatement of a 350.

The Hon. MARK BUTTIGIEG: This is an anomaly of concern, when you've got community up in arms about a particular issue and the company is saying that it's not an issue. What about the decision to effectively leave the communities of Redhead, Dudley and Whitebridge with no outgoing public services after 6.15 p.m. on weekdays and 6.36 p.m. on a weekend? Are you aware of that?

MARK DUNLOP: Certainly, the fixed route services cease at 6.30. You are correct. The on-demand operates. If anything were to be considered in conjunction with Transport for NSW, I would see more an on-demand model would be the most appropriate there.

The Hon. MARK BUTTIGIEG: If I want to avail myself of the on-demand model, how do I go about doing it?

CHRISTIAN PORTER: I'll take this one, Mark. Mr Buttigieg, we would consider the on-demand service as a public transport service—to your last question. It's capped to IPART-regulated fares. What it does provide is the ability for people to use an application on their phone or call somebody or use the website. There are a number of different ways to use the—

The Hon. MARK BUTTIGIEG: Mr Porter, you'd be familiar with technology just in your incidental, day-to-day dealings with your family and other people. If you're an elderly person or a person with a disability or someone who's not particularly tech savvy—what's your answer to those people?

CHRISTIAN PORTER: We think we're providing them a better level of service because, rather than going out and being exposed to the elements and waiting for a bus to come, the bus comes to your house or close to and then takes you to your point of interest. We think it's a higher level of service.

The Hon. MARK BUTTIGIEG: But I'm specifically referring to people who just don't have that capacity or desire to use an app, or people with a disability who can't. What happens to those people? They just fall between the gaps?

CHRISTIAN PORTER: No, not at all. To the same degree that they would need to inform themselves of the bus timetable, they still have those same means to be able to book a service.

The CHAIR: Do you have a patronage incentive payment in your contract with the Government?

CHRISTIAN PORTER: There was originally one in the contract. I don't believe there is anymore.

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The CHAIR: It has been taken out? Was it replaced with anything?

CHRISTIAN PORTER: Not to the best of my knowledge.

The CHAIR: Is that correct for you as well, Ms Griffiths? Do you know if you've got a—

LEANNE GRIFFITHS: Because we're still on the old contract, we have the patronage incentive payment.

The CHAIR: When we had the fare-free days in the last school holidays, did that apply to your services as well? Were they fare free during those 12 days?

LEANNE GRIFFITHS: Yes, we were still paid a patronage payment for those. But the amount of money is so immaterial that it does not make any significant changes to how much money we receive. It is so small.

The CHAIR: Is it 5c per trip?

LEANNE GRIFFITHS: Yes, it is 5c per paying passenger.

The CHAIR: But you are saying that there is no incentive payment at the moment for Keolis Downer under either the Newcastle contract or your northern beaches contract?

CHRISTIAN PORTER: No, I don't believe there is.

The CHAIR: When was that operating until?

MARK DUNLOP: In terms of the northern beaches contract, 100 per cent there is no incentive payment. In terms of the Newcastle contract, I will take it on notice.

The CHAIR: When that incentive payment was in place, what percentage of the total income under the contract did that represent?

CHRISTIAN PORTER: It was a very low number, Chair; similar to Leanne's. So that the New South Wales Government could get a competitive process, they asked us to bid a line of patronage growth over the number of years we held the contract. We took a fairly aggressive view of that and backed ourselves to grow the service because we thought there was a lot of untapped demand in the Newcastle region. Then it was 50c per passenger above or below the line. Similar to Leanne's position, it was a very low number because you were dealing at the edges.

The CHAIR: So the patronage incentive payment wasn't acting as a patronage incentive, effectively. Would that be correct?

CHRISTIAN PORTER: Every bit of money helps or incentivises you to move in a direction, but I think the reason it was taken away might have aligned with your question.

The CHAIR: With respect to incentives for you to increase patronage on your services, is it down to KPIs or is there some other contractual term?

CHRISTIAN PORTER: In the contract it is down to KPIs. But for ourselves, the key thing for us is—we are a public transport operator—if we can show various jurisdictions that we can deliver services well, we can encourage people back to the network, we can embrace technologies to make services efficient. It helps us to win future contracts. That is more lucrative than what we get out of the contract.

The CHAIR: I understand that in the northern beaches region at the end of 2021 the patronage was down. Obviously there was COVID and a bunch of other things. On 2019 levels it was down by about 58 per cent and a bit less when you look at it compared to 2017 levels. What is that looking like now?

MARK DUNLOP: Certainly passengers are starting to come back to the network. I caught the B-Line down here today—full standing load. Yes, COVID impacted and you had seating restrictions or capacity restrictions on the buses. Naturally patronage did tail away. I would say it is coming back quite strongly in the northern beaches.

The CHAIR: Are you able to take on notice the actual figures for the latest half year or quarter?

CHRISTIAN PORTER: Yes, sure. An important point there, Chair, was the last point that Mark made. The seat restrictions held back the ability to meet supply. We made sure that we complied with all New South Wales Government regulations during the COVID period. Sometimes that meant we had to reduce the volume of people we could take on a bus in peak and off-peak services to try to protect public health.

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The Hon. MARK BUTTIGIEG: Can I take you back to an earlier line of questioning I was pursuing with regard to bidding on tenders and industrial relations practices. With respect to route 8, did you bid for that based on that two-tier arrangement that I outlined earlier, whereby you have two separate agreements and therefore—

CHRISTIAN PORTER: Sorry, Mr Buttigieg, do you mean region 8?

The Hon. MARK BUTTIGIEG: Yes, region 8. Sorry. What did I say?

CHRISTIAN PORTER: Route 8.

The Hon. MARK BUTTIGIEG: Sorry. Region 8.

CHRISTIAN PORTER: That is fine. We did not. In both contracts, in Newcastle and the northern beaches, we signed a memorandum of understanding with the RTBU and we kept the conditions as per what they had previously.

The Hon. MARK BUTTIGIEG: Was that brokered by the representative body, BusNSW?

CHRISTIAN PORTER: No, it was ourselves directly with the RTBU.

The Hon. MARK BUTTIGIEG: Why did you make that decision to go down that industrial relations approach with that common instrument?

CHRISTIAN PORTER: It is very similar to Leanne's responses. Without a happy and engaged workforce, it's really hard to deliver the services. We based our whole tender pricing on being able to work with the union and the drivers to provide good pay and conditions.

The Hon. MARK BUTTIGIEG: Now that I've given you a little bit of a pat, I will go back to some of the other concerns. The local members, via their constituents, are hearing from—

The Hon. WES FANG: Perhaps the other way around.

The Hon. MARK BUTTIGIEG: Local members from their constituents are hearing from commuters flagging that buses often run late and connectivity has reduced within the Newcastle transport network during your watch. Now, you've been operating this network for four years. Why does that issue persist? We have these great figures, "Yes, we are 98 per cent," and everyone is feeling happy, but these local members are not telling fibs, right? You have this phenomenon of Hunter MPs who are not really happy, and then you have the likes of Central Coast MPs who are happy, to be frank. It is not a case of Labor knocking the Government—it is real, otherwise they wouldn't be giving us this feedback. Can you address that?

CHRISTIAN PORTER: I think I would start by saying we agree that Red Bus provides a wonderful service on the Central Coast. With regards to Newcastle, it's a challenging city to provide highly efficient, highly effective services—just the way the city is shaped and the destinations that people want to go to and the volume of cars on the road. It's slightly different to what the Central Coast is. I wouldn't want to go into the allegations made by sitting members in this forum. I would really love to just sit down with them and work through the detail and make sure we address those concerns.

The Hon. WES FANG: There would be no political advantage to do that, though.

The Hon. MARK BUTTIGIEG: We have sort of touched on this, but I just want to get some specifics. In that Newcastle transport network, how many On Demand buses do you have in service?

MARK DUNLOP: I think it is eight.

The Hon. MARK BUTTIGIEG: Are they ever reallocated to fill gaps in service delivery?

MARK DUNLOP: No.

CHRISTIAN PORTER: No, they are different types of buses.

MARK DUNLOP: They are a different type of vehicle.

The Hon. MARK BUTTIGIEG: I just want to touch on one of those points that was raised before about how you get these routes which are not patronised but you still get payment from the Government, so the implication is that there is no incentive. But doesn't that inevitably feedback into your stats to say that route X, Y or Z is not being well patronised? Taxpayers are forking out the same amount of money nevertheless. Therefore, inevitably the Government will look at that and go, "Well, we might cut routes X, Y and Z and concentrate on the routes that are being used." Isn't that the reason that you publish those figures back to the Government?

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CHRISTIAN PORTER: This is a really complex case because it covers across a fair few points. I think the New South Wales Government holds service planning for a reason because the fundamental tenet of public transport is that you provide a service to the community. Sometimes it might just be one or two people on a service, but they may have no other option and they may need that service. As an operator, we don't do anything unilaterally. We work with the Government to understand, we consult widely and we try to make sure that people are not disaffected. But as you can imagine, whenever you are developing a service plan, there are winners and losers. When we do our bids, in fairness to Transport for NSW, we have to really document who is a winner and who is a loser and what stakeholder engagement we have taken in place before we offer anything. There is still a deal of processes to go through.

The Hon. MARK BUTTIGIEG: By way of example, Mr Porter, on the very important point that you make, if over a successive period of years it was found that routes X, Y or Z were not being patronised and the Government said, "What about we cut those?", part of your submission would be, "But that is going to disadvantage people A, B and C." Is that how it works?

CHRISTIAN PORTER: There are quite a few levers to this discussion. The first thing you would look at is the density of people in that area. Then you would look at the frequency of the service. You always try to maintain some level of service, even if it's less than what was previous. As Mark said earlier, you've got a finite number of resources. We are trying to drive modal shift, so we're trying to get those finite resources to where the most people want to use them.

The Hon. MARK BUTTIGIEG: But at the end of the day, to a certain extent you guys are the meat in the sandwich, right? The Government has got this arms-length relationship, it's getting complaints from consumers that they're not being serviced, you've got a finite amount of resources and the Government dictates what routes will and won't be serviced. It's a game that's hard to win from all perspectives, isn't it, unless it's publicly owned?

The Hon. SHAYNE MALLARD: A gun to their head.

CHRISTIAN PORTER: I don't particularly agree, only in that I think we have aligned views between Transport for NSW, who wants to provide the best service it can to the people of New South Wales—Keolis Downer definitely has that view. From what I've heard from Leanne, she definitely has that view. Byron and Jamie before us I think also share that view. We're trying to do our best for the people of New South Wales with the resources we have. I don't think it's about anyone being the meat in the sandwich.

The Hon. MARK BUTTIGIEG: It's a question of efficiency though, isn't it? Inevitably, if you're going to run a service based purely on efficiency, people will suffer. Sometimes they might be people with a disability, people who are elderly or people who aren't on main lines. That's just a fact of life, isn't it?

CHRISTIAN PORTER: No, I disagree with that completely, mainly because we need to provide a service to the community who needs it. The degree of affluence or the degree of ability never comes into it. It's really about trying to provide the best service we can—

The Hon. MARK BUTTIGIEG: But if that were the case, Mr Porter, we wouldn't be hearing this feedback saying that there are massive gaps in services and people have got issues, unlike on the Central Coast. The evidence is contradictory to what you're saying.

CHRISTIAN PORTER: I think the thing you would need to look at is the number of people in those catchment areas, the number of services and how many people patronise the service. I think I said before that we deal to 37 million passengers per year across the northern beaches and Newcastle. It might not be the same in some of the other regions.

The Hon. WES FANG: Just noting that you said you met with the local MPs before, did any of the MPs that gave testimony in this inquiry come to you with those concerns before giving the evidence to this inquiry?

MARK DUNLOP: Certainly in early 2018, when I started in Newcastle, I had discussions in relation to the 350 and went through a similar explanation to that I've given you. Yes, I've met with Tim Crakanthorp previously around some issues with Newcastle East and worked with his office to alter the route. What was proposed wasn't workable, but we worked together to, I think, come up with a good solution linking to Marketown. Certainly we listen.

The Hon. WES FANG: But since then they haven't come to you again?

The CHAIR: Order! It's 12.30 p.m. I think you've got the answer to your question.

The Hon. WES FANG: I did. Thank you very much.

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The CHAIR: Thank you very much for coming along and participating in the inquiry today. It was incredibly helpful. To the extent there are supplementary questions or questions taken on notice, the Committee secretariat will be in touch and you will have 21 days to respond to those. That concludes our hearing for today. Thank you very much.

(The witnesses withdrew.)

The Committee adjourned at 12:32.