Hearing: Operation Makalu

Before The Hon Peter Johnson SC, Chief Commissioner

Held at Level 3, St James Centre,
Elizabeth Street, Sydney

On Monday, 19 October 2026 at 10.05am

Transcript produced by Epiq

THE CHIEF COMMISSIONER: This is a public opening for the purpose of the Commission's investigation entitled "Operation Makalu" into the NSW Police Force operation at Sydney Town Hall and surrounds on the evening of Monday, 9 February 2026, including incidents of alleged misconduct on the part of NSW Police Force officers against persons attending that location for a protest.

The Commission has appointed Kirsten Edwards SC, Emma Sullivan and Alex Burkitt of counsel to act as counsel assisting the Commission for the purpose of the Operation Makalu investigation.

The Commission has previously granted leave for David Sulan SC, Naomi Oreb and Elizabeth Lambert of counsel to appear generally for the Commissioner of Police and in examinations held and to be held as part of Operation Makalu.

The decision of the Commission dated 29 September 2026 on the use of public and private examinations in Operation Makalu has been published and is available on the Commission's website.

As stated in that decision, the Commission is undertaking an independent, thorough, objective, balanced and fair investigation of alleged misconduct on the part of NSW Police Force officers in the exercise of the Commission's statutory functions, including, ultimately, the making of a public report to parliament under section 132 of the Law Enforcement Conduct Commission Act 2016.

The Commission is investigating events which took place in public and which have given rise to widespread controversy and a large volume of complaints from different parts of the community.

In the 29 September 2026 decision, the Commission outlined the way in which the investigation would proceed from today, with a public opening, to be followed by the use of private examinations until the point is reached, expected to be about five or six weeks away, where senior police, such as the appropriate assistant commissioner of police, are examined by way of public examination on various topics, including what the evidence has revealed about the conduct of police officers in their engagement

with persons attending the location for a protest on the evening of 9 February 2026.

As indicated in the 29 September 2026 decision, a substantial volume of electronic and other evidence has been gathered as part of the Commission's investigation. The events in question occurred in public, and there is a substantial visual record of what took place. This includes police body-worn video footage, CCTV footage from many locations, mobile phone footage from members of the public present at the protest and vision from other sources. In this way, there is a very significant electronic record of events which took place on this evening.

Today's opening is not the occasion for displaying footage obtained in the course of the Commission's investigation. That footage will be utilised in private examinations, and it is expected that the public examination phase of the investigation will involve the playing of footage to allow an opportunity, appropriately in public, for senior police to testify concerning the actions of police and the reasons for those actions as disclosed in the evidence.

The 29 September decision explains why the Commission is proceeding by way of a combination of private and public examinations.

Expressed broadly, the Commission's investigation in Operation Makalu will consider the planning by the NSW Police Force for the protest on 9 February 2026; the response by the police force to the protest, with a focus on particular themes, including the use of OC spray and documentation for use of OC spray, alleged excessive use of force by police officers, and alleged improper use of arrest powers.

As I said earlier, the Commission has received a large volume of complaints about the police response to the Town Hall protest. Not all of those complaints can be dealt with as part of the examinations which are about to commence. The Commission investigation into these complaints is ongoing and will continue in 2027. The Commission will ensure that a response is provided to all complainants. The themes that are being explored and the evidence gathered in these examinations will inform the

Commission's continuing investigation.

The fact that this is an ongoing investigation will not delay the making of a public report at the conclusion of this set of examinations.

What is common to all protests in New South Wales is the role and responsibility of officers of the NSW Police Force to perform their duties and functions concerning protests according to law and in the interests of the whole community.

Apart from allowing findings to be made concerning the events of that evening, the Commission investigation can also serve the public interest by identifying lessons to be learned from the events of 9 February 2026 which may support the making of recommendations to improve policing practice concerning protests. This is especially important at a time when protests are a common and potentially increasing part of community life in this state.

Having made those general observations, I will now ask senior counsel assisting the Commission to make an opening address as part of this investigation.

Thank you, Ms Edwards.

MS EDWARDS: Thank you, Chief Commissioner.

Chief Commissioner, on the evening of Monday, 9 February 2026, a lawful protest was held at Sydney Town Hall jointly by the Palestine Action Group and Jews Against the Occupation '48.

The protest was directed towards the visit to Sydney of Israeli President Isaac Herzog. Approximately 500 police officers were tasked to attend the protest. The protest attendance was large, with estimates ranging from, generally, 5,000 to 10,000, some even up to 30,000, and certainly all estimates well above the initial estimate of 4,000 people.

As the evening unfolded, a clear disagreement emerged. Protesters wished to march. Police maintained that no march would occur. The possibility of that disagreement had been anticipated by police. The Commission will examine whether it was adequately addressed in planning,

whether the police position was properly communicated to protesters, and whether the police response, when that disagreement arose, was lawful, proportionate and capable of being understood by those affected.

The events at the protest were captured, as you have commented, Chief Commissioner, in real time, many on the phones of those attending. Footage was broadcast extensively across media outlets and social media in the days that followed. That footage has generated considerable public controversy, concern and public interest in the events of 9 February and the conduct of the NSW Police Force in a number of respects - respects I will soon come to.

Against that backdrop, on 12 February 2026, that is, three days after the protest, the Commission announced that it was in the public interest to investigate the police operation at Sydney Town Hall and its surrounds on the evening of 9 February, including allegations of misconduct by New South Wales police officers against persons who had attended the protest. As you have identified, Chief Commissioner, that investigation is known as Operation Makalu.

Since that announcement, the Commission has received and reviewed a substantial volume of material - material from members of the public, from key stakeholders and from the NSW Police Force itself. It has reviewed footage from civilian and open sources, media reporting, police body-worn footage and local CCTV footage.

To date, that process has produced a register of around 400 complaints, drawn from more than 800 reports made to the Commission and from a review of more than 1,000 clips of footage, including, as I have mentioned, CCTV, body-worn video and civilian footage.

What should also be known, and you have touched on, Chief Commissioner, is that this is an ongoing investigation, and individual complaint matters will continue to be reviewed and progressed over the coming months.

From the material gathered, the Commission has identified a number of recurring areas of concern. To explore these issues, the Commission has selected a series

of case studies which it considers appropriate for further examination, and I will also come to those shortly.

The manner in which this hearing will proceed has been determined after a separate hearing which led to the publication of your decision, Chief Commissioner, on 29 September 2026. In the result, the Commission has determined to hold a combination of public and private hearings, but the majority of the examinations will occur in private, for the reasons explained in that decision.

After the private examinations, the Commission intends to hold public examinations of senior commissioned officers. Further information about the date and nature of those public examinations will be provided closer to the time.

I also note that, consistent with your decision on 29 September, Chief Commissioner, you have determined that no footage is to be played during this opening, and you have touched on the reasons for this in your opening remarks.

At the end of the hearing, the Commission will prepare a detailed report outlining the evidence heard, the findings made, and any recommendations that flow, and that report will be provided to parliament with the recommendation that it be made public immediately.

Before proceeding any further, I wish to be clear about two matters. First, this is not a corruption investigation, and it has not been approached, and will not be conducted, as if it were one. The procedures the Commission will apply in these hearings are not the same procedures that would apply in a different type of inquiry.

Second, the Commission has, throughout this investigation, sought to work collaboratively and cooperatively with the Commissioner of Police and his representatives. The Commissioner has been given the opportunity to review a considerable amount of footage in advance of this hearing, and LECC has kept the Commissioner's legal representatives informed as this investigation has progressed.

That collaborative approach, Chief Commissioner, reflects the purpose of the hearing. This is not an

exercise in retrospective blame for its own sake. While case studies that concern specific instances of alleged misconduct have been identified and will be explored and relevant findings made, a central purpose of the Commission's examination is to ensure that any systemic issues are identified and for there to be lessons learned from the events of 9 February, so that peaceful protests may continue to occur in New South Wales.

In investigating the events of the night, the Commission has necessarily had to be selective in the matters that it examines. Some officers will be called for private examination. It should not be inferred from that selection that any such officer has engaged in misconduct, because, of course, that's a matter to be determined by you, Chief Commissioner, or, that if there was misconduct and it is found, that any individual officer has engaged in conduct more serious than other officers who may not have been called.

Further, Chief Commissioner, any finding of misconduct against an individual officer should not be taken as representative of the conduct of all of the police policing the protest. The evidence indicates that the conduct of the officers varied and that many officers engaged with protesters in a professional manner.

However, widespread concern has been raised about police conduct on the evening, and certain themes have emerged. These include reports about: first, police corralling protesters into confined areas without providing a clear or available means of exit; second, the frequent use of OC spray, including towards corralled crowds, in close proximity to faces, and also the use of OC spray upon vulnerable persons, including the mobility impaired and the elderly; third, frequent pushing and shoving of protesters during crowd dispersal, including into objects like benches and concrete planter beds; fourth, police moving at speed and in formation towards fleeing protesters; fifth, the use of force during arrests; and, finally, some police boasting about gratuitous force they say they used towards protesters.

I would underscore at this point that these are matters to be explored in the forthcoming hearings and, of course, no finding has been made about them.

However, it is fair to say that members of the public have already watched some of the footage available online and there have been questions raised in public forums about whether the conduct people have seen depicted online is endemic in the NSW Police Force or was in some way sanctioned or encouraged by senior officers on the night. This is a question that the Commission also intends to explore.

However, it is simultaneously recognised that context matters. The Commission will provide an opportunity for individual and senior officers to give any necessary context in their evidence. There have also been ongoing communications with the Commissioner of Police to ensure the advance identification of relevant contextual matters.

I will turn now, Chief Commissioner, to the nature and scope of Operation Makalu. It is important to be clear about what this hearing will and will not determine. This is not a criminal trial and it is not the Commission's function to determine criminal or civil liability against any individual officer or, for that matter, protester. The Commission's role is to inquire into and report on the conduct in question with a view to identifying findings and recommendations including, where appropriate, recommendations for reform.

Nor can this hearing investigate every instance of alleged misconduct arising from the events of 9 February. The volume of complaints and material gathered by the investigation is such that an exhaustive, incident-by-incident examination is neither practicable nor necessary to fulfil the Commission's functions for the purpose of these examinations. As I have noted, the Commission will instead concentrate on a number of themes which are, in turn, informed by illustrative case studies.

As will be clear, the hearing that commences today is not the start of this investigation. Extensive work has been undertaken by the Commission over the last seven months. Amongst other matters, many statutory notices have been issued to NSW Police to obtain necessary documentation and statements from relevant officers. Numerous interviews have been conducted with civilian protesters affected by the events of 9 February 2026. Additionally, a number of private hearings have already been held with relevant senior police officers to obtain a better understanding,

particularly of police planning and risk management leading up to the events of 9 February 2026.

I've already mentioned the Commission's process and engagement with the Commissioner of Police in connection with Operation Makalu. Particular concrete steps that have been taken in this regard include the following: first, footage identified as raising matters of concern has been shared with the Commissioner's legal representatives in advance so that they have had the opportunity to consider that footage and the conduct it depicts and to draw the Commission's - that is, LECC's - attention to any relevant context or surrounding circumstances that it considers the Commission should be aware of; secondly, a chronology of the key events of 9 February has been provided to the Commissioner of Police to provide a factual timeline for the purpose of contextualising the evidence to be received; third, a large key bundle of documents has been compiled and provided to the Commissioner of Police and his representatives.

I would like to turn now to what I'm going to call the "improvement-based approach". During the hearings we will endeavour, Chief Commissioner, to identify examples of effective policing, as well as any deficiencies, and to consider how good practice might be encouraged and replicated. The evidence includes, for example, instances of officers exercising restraint in circumstances of provocation, sometimes including sustained verbal abuse and, on some accounts, the close-range filming of officers and otherwise baiting of them.

There are also instances of officers showing care towards the elderly and vulnerable and showing concern about members of the protest being close to hazards. There are instances of officers apologising to protesters for confusion and thanking people for their cooperation. This footage, Chief Commissioner, shows how protests can be managed safely and with patience, courtesy and professionalism. We anticipate that we will hear evidence from senior police officers that that was one of the express goals of the operation and something which they felt had regularly been achieved in past protests.

It is important to note at this point that a significant number of public assemblies occur in New South Wales every year, the vast majority of which

occur in the Sydney CBD. It is the role of the NSW Police Force to facilitate or respond to these events. Police officers are told that the NSW Police Force is apolitical and expects its officers to act with a high degree of professionalism and impartiality. Indeed, there is evidence to suggest that, particularly prior to the tragic events that unfolded overseas in October 2024 [sic], that there had been a relatively successful working relationship between protest organisers and police in New South Wales.

THE CHIEF COMMISSIONER: Is that October 2023?

MS EDWARDS: I apologise. There is a typo in my --

THE CHIEF COMMISSIONER: There were those events, and then many subsequent events, of course.

MS EDWARDS: Indeed, Chief Commissioner.

Chief Commissioner, those assisting the Commission would also like to recognise in this opening that policing can often be a difficult, dangerous and thankless job.

In this regard, the critical context in which the protest of 9 February 2026 occurred warrants emphasis. The protest took place just six weeks after the unspeakable horror of the Bondi massacre, when a number of officers showed immense bravery and saved countless lives. But, in the words of Assistant Commissioner Peter McKenna, it must also be borne in mind that protest policing requires a level of tolerance because, by their very nature, public protests are loud, boisterous and, as the assistant commissioner has said, "if you are not used to them, they can be quite confronting."

Public protest has been recognised by courts, including the High Court and the New South Wales Court of Appeal, as a "fundamental bastion of any true democracy", which allows individual groups and minorities to bring their views to the attention of the general public and to the government. Legitimate political expression can range from, as the Court of Appeal has put it recently, the "erudite, respectful and sophisticated", to the "confronting, upsetting and provocative".

The Commission will hear evidence as to why this protest, unlike so many other protest events in New South

Wales, resulted in physical confrontation, public disruption and a significant number of complaints.

The evidence on this is far from concluded. However, on the material presently available, compiled and examined, there is limited evidence of physical violence on the part of the protesters. The protest appears to have been largely peaceful in its early stages. Later conduct by protesters described in the evidence of police as "aggressive" was, for the most part, verbal and connected to a desire to march. Footage also shows protest organisers, at various points, apparently attempting to defuse conflict with police.

The circumstances in which the protest moved from a largely static gathering to confrontation, and the contribution of police and protesters respectively to that shift, are matters for the evidence.

The available evidence does include occasions where a section of the crowd pushed against police lines, and instances in which objects were thrown towards police. The objects identified to date include a rock, pot plants, a water bottle and a drink container, possibly a milk shake. On one occasion a garbage bin was pushed over by a protester in the direction of police. A matter for examination at these upcoming hearings is whether incidents of this kind were more frequent or widespread than the material presently available suggests, or whether those instances represent the extent of the physical conduct directed towards the police.

In this regard, LECC has invited the Commissioner's representatives to identify any further examples of such conduct for its consideration.

Another matter for examination is the conduct of police towards protesters, including allegations that officers shoved protesters from behind as they moved away from police lines, and allegations that protesters were confined in areas from which they could not readily leave, and whether this conduct contributed to the subsequent conduct of some protesters.

I'm going to turn now to a difficult topic, which is an overview of the PARD and the Major Events Act. It is important, Chief Commissioner, to touch upon the legal

architecture that governed the framework for police to manage this protest on 9 February. Suffice to say at the outset, it was complex, and this evidently created some difficulties for police at the coalface.

On 31 January 2026, the Palestine Action Group, known as PAG, and Jews Against the Occupation '48, submitted what is known as a form 1 to NSW Police.

THE CHIEF COMMISSIONER: That is a form 1 under the Public Assemblies Act, I think, which is the reasonably longstanding process for getting a form of prior approval and agreement with the police for a public assembly.

MS EDWARDS: Yes, that's correct, Chief Commissioner, and there is no suggestion that that wasn't complied with lawfully in the manner it was required to do so at that particular time.

So that was to notify the police of the intention to protest against the visit of President Herzog. It was outlined in that document that the protest would commence at 3.30 on 9 February at Town Hall Square, with a procession to commence at 6.30pm out of Town Hall, turning on to George Street and proceeding along King, Elizabeth, Hunter and Macquarie streets, ultimately ending the protest outside New South Wales Parliament. However, by the time the protest was actually held, two overlapping legislative regimes governed Town Hall Square in addition to the normal legislation governing the exercise of police powers at public protest.

First, the public assembly restriction declaration scheme was introduced directly in response to the Bondi Beach attack in December 2025. The New South Wales Government introduced a power allowing the police commissioner, with the police minister's agreement, to declare areas where public assemblies are restricted following a declared terrorist incident.

On 3 February - that is, after the form 1 had been submitted - the Commissioner of Police extended the public assembly restriction declaration, under section 23 of the Terrorism (Police Powers) Act, covering the proposed assembly point, march route and end point of the Palestine Action Group's protest.

So we have a visual for you, Chief Commissioner, of the PARD restricted area.

THE CHIEF COMMISSIONER: Yes. That's visible to those in the hearing room and, hopefully, those observing remotely.

MS EDWARDS: Yes.

Notably, that area excludes Hyde Park, but would cover the entire area in which the protest route was intended to take place, if there was a march.

Separately, following a ministerial briefing on 5 February 2026, President Herzog's visit to Sydney was declared a major event under the Major Events Act 2009. That gave rise to a major event order affecting the area also where the protest was planned. I think we have a visual of that as well.

So that is the area. Again you will see, Chief Commissioner, that Hyde Park is carved out of that area.

THE CHIEF COMMISSIONER: And the area of Sydney south of that line.

MS EDWARDS: Yes.

THE CHIEF COMMISSIONER: But there is a line that runs effectively from Darling Harbour up through the city, along Oxford Street and to the eastern suburbs which declares an area from there all the way north and east.

MS EDWARDS: That's right, Chief Commissioner, which means that any march from Town Hall in a northerly direction would be coming into that declared area.

So on Sunday, 8 February - we're now at the day before the protest - the Palestine Action Group, through its convener, Josh Lees, launched an urgent challenge to the major event declaration in the Supreme Court of New South Wales. That was heard very promptly, and at 4.45 the next day - that is, 9 February - Justice Robertson Wright dismissed the challenge in the New South Wales Supreme Court. So that decision was made less than an hour before the rally was due to commence.

If I could just fast-forward at this point for a moment. On 16 April 2026, the New South Wales Court of Appeal declared the PARD regime provisions of the Terrorism (Police Powers) Act constitutionally invalid, and that was because it was seen as an impermissible burden on the implied freedom of political communication as protected by the Australian constitution.

But, to be clear, Chief Commissioner, for the purposes of this hearing, the law of the land as it stood on 9 February 2026 will be accepted. That is to say, we will adopt the approach that police on the ground could not have been expected to question the information they received as to the legality of their powers under the PARD or the Major Events Act, or to question the orders given to them. The Commission will not seek to be critical of police for following the legislation as they best understood it, potentially even giving rise to some level of misunderstanding of it, but the Commission will ask questions about the adequacy of the legal architecture to provide a clear and functional framework for protest policing in New South Wales.

But, to be very clear, the PARD did not prohibit a gathering in the Town Hall Square or its surrounds, and as I've mentioned, the legal requirements had been complied with, to the extent possible, by the organisers. The major events power broadened police powers to move people on and to clear identified areas. The PARD declaration removed the protections and immunities that lawful protesters would otherwise have had - for example, to disrupt traffic when conducting a march without being at risk of charge under the Summary Offences Act.

Some protest organisers believed that senior police still had a discretion as to whether or not to exercise their powers or to allow protesters to march, and they pointed to prior instances where they said that had occurred while a PARD was in place. However, senior police had also communicated clearly and repeatedly in the lead-up to the protest that they would not be exercising discretion and that the protest was to remain static only.

The next topic I will turn to, Chief Commissioner, is planning and preparation for the protest. This is a matter the Commission has already examined in private examinations and will explore further in these hearings.

It appears to have had a bearing on several of the issues that arose on the evening. By identifying the planning process and the decisions made within it, the Commission hopes to identify lessons for the planning and policing of future protests.

So, as I've said before, on 9 February, police were on notice of the intention of protest organisers to gather at Town Hall in opposition to the visit of President Herzog of Israel. That protest was to occur against the backdrop of another large undertaking, and that is the organisation of the presidential visit itself, and that was known as the "Guest of Government" or "GoG" operation. The NSW Police Force was simultaneously planning security and protective operations for this visit.

Initially, planning for the protest and for the GoG operation proceeded together under the oversight of the counter-terrorism and special tactics command and the major events group. In the days before 9 February, that planning was split, so counter-terrorism and special tactics command and the major events group, which is an arm of the NSW Police Force, retained responsibility for the security of President Herzog and the locations he was supposed to visit, and that included the International Convention Centre, or the ICC, at Darling Harbour. However, it was the central metropolitan region, or CMR, that took carriage of the police response to protest activity across the Sydney metropolitan area, and that included the protest at Town Hall.

The Commission has already heard evidence in private hearings from two officers centrally involved in the planning process, a chief inspector, who is the manager of the central metropolitan region planning unit, and a senior sergeant from the planning unit coordinator. Their evidence has assisted in tracing how the operational orders and risk management plan - they are two separate documents, the operational orders and the risk management plan - were formulated.

The senior sergeant prepared the operational orders, working from a template and drawing on orders used for earlier successful protests by the same organisers - that is PAG - at the same location. An inspector separately prepared the risk management plan.

A central issue in the planning process concerned whether the protest was expected to remain static at Town Hall or whether it would become a march. That issue was the subject of discussions in the lead-up to 9 February between two superintendents and the protest organiser, Mr Lees, including in relation to the PARD, which, as I have mentioned, was extended on 3 February.

So, ultimately, planning for the protest proceeded on the basis that it would be held at a fixed location - that is, Town Hall Square - and it would remain static.

There is evidence that indicates that two separate attempts were made by police prior to the protest to ascertain the safe maximum capacity of the square - that is, the number per square metre that was a safe capacity. The purpose of those attempts, how information was conveyed to officers and how that capacity figure was intended to be used, is a matter of examination, because the evidence to date doesn't disclose a formal plan or settled method for counting the number of protesters present on the night, or for using the information about the numerical safe capacity. Instead, the evidence taken from the officers suggests that whether and when the square was considered to have reached a maximum or safe capacity was a matter of judgment for the senior officers on the ground, rather than by any reference to a pre-determined figure. Whether that approach was adequate in the circumstances will be a matter for examination.

I've already mentioned the variation in crowd estimates. The crowd estimate itself was revised upwards by protest organisers in the lead-up to the protest from 4,000 people to 6,000 people. The evidence to date suggests that not all officers involved in the planning of the operation were aware that it had been revised upwards. The Commission will examine how that revised estimate was communicated and to whom.

A further matter for examination, a very important one, is the extent to which the planning addressed how a crowd of that size - that is, the upward estimate of 6,000 protesters - would leave the square at the conclusion of the protest, and, particularly, how dispersal of that number of people could be managed consistently with the object of preventing a march.

A chief inspector's evidence was that the planning proceeded on the basis that the protest would remain within the area covered by the PARD, and that reconsideration would have been required only if the protest relocated outside that area or became mobile.

The Commission will examine whether the dispersal of a large protest crowd from Town Hall Square was adequately planned for in advance, including whether foreseeable contingencies were properly taken into account and considered and, if not, whether it was reasonable in the circumstances to leave those dispersal decisions to commanders on the night, and that relationship between the planning for dispersal and then what in fact unfolded is something I will return to later in this opening.

In terms of staffing, the staffing for the operation was coordinated by the major events group and counter-terrorism and special tactics command as part of the broader "Guest of Government" operation. As I have mentioned, around 500 officers deployed to police the protest.

Police allocated to the protest included general duties officers, officers from the public order riot squad, known as PORS, officers from the operation support group, or OSG, and mounted police. The PORS and OSG officers came from regions all over New South Wales to ensure there was sufficient resourcing.

The Commission will examine why deployment of that scale was considered necessary. Relevant to that question is the broader environment in which the protest occurred, including - and I have mentioned this a few times - the recent horrific Bondi attack in December 2025 and, relatedly, the security sensitivities associated with the visit of the Israeli president.

The Commission will also consider whether the number of police deployed, of itself, affected the reaction of the crowd and the manner in which the police interacted with the protesters.

The Commission will also further examine the training of OSG and PORS officers and its adequacy for the role that they were asked to perform. That examination will include

the content and currency of the training, whether it appropriately addressed the challenges of policing protests of this kind, the training and directions given to officers about use of force and OC spray, and, critically, the extent to which that training and direction was reflected in the officers' conduct on the night of 9 February.

I will turn now, Chief Commissioner, to the briefing that took place on the day of the protest before it. That occurred at about 1pm. The officers gathered at the Sydney Cricket Ground for an operational briefing. Several senior police officers spoke, including Commissioner Lanyon. The briefing was intended to convey the mission and intent of the operation. The Commission will examine what was conveyed at the briefing and whether the mission and intent were understood consistently by the officers who attended.

A matter that has arisen in private examinations and in response to notices is the record of the operational briefing, or lack thereof. The evidence to date indicates that no recording was made and no contemporaneous notes were taken by police during the briefing. PowerPoint slides prepared to accompany the briefing could not be displayed to the attending officers. Most of those who addressed the assembled officers did so without speaking notes.

Witnesses' recollection of what was said has varied. The one matter on which the evidence to date is consistent is that officers were clearly told that the protest was intended to remain static and that a march was not to be permitted.

In terms of equipment, officers deployed to the protests carried personal-issue cannisters of oleoresin capsicum spray, commonly known as "OC spray", or "capsicum spray" or "pepper spray". Some officers were also assigned larger OC spray cannisters known as "Mack 9s" or "foggers". A fogger disperses OC spray as a fine mist over a broader area, with the result that people within that area may be affected through inhalation or contact with the eyes and skin, even if they are not individually targeted.

PORS officers were distinguishable by bright yellow lettering on their vests saying "Riot Squad". Some members of the PORS were carrying OC spray and foggers but, to be clear, they were not carrying chemical munitions such as

CS spray and, to be clear, that is a different type of chemical munition, Chief Commissioner, and the evidence is that it was not used during this protest.

Police also brought a long-range acoustic device known as an LRAD to assist with projecting announcements over the noise of a large crowd. Megaphones were also available for that purpose. A police helicopter operated by PolAir flew over the protest at various points during the evening.

Police also established the police operations centres, or POCs, from which senior officers could monitor events as they unfolded. Those POCs were equipped with screens displaying live footage from the protest and provided a point of communication between senior officers in the POC and the senior police commanding the operation on the ground.

Police had been told - that is, all of the police had been told - that the events that night would be closely observed, both by members of the crowd, posting on their phones to social media, and through mainstream media coverage. The Commission will examine whether the early disagreement between police and protesters about marching contributed to a breakdown in the relationship between organisers and commanders and whether any such breakdown in turn affected the policing methods adopted as the evening progressed.

Chief Commissioner, I will now turn to providing a brief chronology of the protest as it unfolded

From about 3pm, attendees of the protest began to arrive at Town Hall. The crowd began to fill St Andrew's square and spilled into the surrounds of Town Hall itself. It was a mixed crowd, young and old, members of parliament, some protest regulars associated with the PAG, Jews Against the Occupation '48 or the Black Caucus, others who had just attended the event perhaps for the first time because of the event or the cause, and quite a few who had come as families.

At 4.45pm the Palestine Action Group's Supreme Court challenge to the major event declaration was dismissed. As news of that outcome spread through the crowd, whether the protest would remain static or proceed as a march became a live issue. Some protesters expressed a strong intention

to march. Police maintained their position that no march would be permitted.

Against that background, protest organisers and elected representatives engaged, over an extended period, with senior officers present, to identify an alternative route by which the crowd could disperse. None of the routes proposed by the organisers were accepted by the police, and that included marching to Hyde Park or marching to Central Railway Square.

It should be noted, though, Chief Commissioner, that in the days before the protest, police had indicated a willingness to facilitate a march from Hyde Park to Central, which would, of course, be outside the PARD and major events declarations area, but that proposal had been declined by the organisers. The organisers of the protests wrote to the police about the symbolic and historical significance of Town Hall as a site for protest.

From approximately 5.30, speeches were given from the balcony of Town Hall to the crowd gathered below. As the speeches continued and the number of people in St Andrew's square increased, differences developed between police and those gathered about whether the area could safely accommodate the crowd.

Decisions were made by officers on the ground and by those in the POC, the police operations centre, about the capacity of the space and the point at which it could be treated as full. A number of attendees insisted that there was still enough room. As I have indicated, the basis of those decisions will be a matter for examination.

The Commission will examine the communication between police and those in the crowd during this period, including whether it was consistent and whether members of the crowd understood where they would be able to move into and what areas were closed to them. At various points, police issued directions. Whether those directions were consistent, clearly given, heard, understood and capable of being complied with will be matters for examination. The Commission will also examine apparent difficulties that arose in relation to exit from the area.

By around 6.30pm, that disagreement manifested in direct and ostensibly tense interactions between senior

police, including a superintendent, and the protest organiser, Josh Lees, together with some NSW Greens Members of Parliament, Jenny Leong and Sue Higginson - and this is captured on footage, and some of that is well known in the public domain.

Chants of "let us march" began to build through the crowd. As police formed lines around the square and along George Street, some people seeking to leave apparently found their movements restricted by police formations.

By around 7pm a substantial crowd remained in St Andrew's square, while others were attempting to move into the surrounding streets. Police lines along George Street seemingly closed the route in the direction of the intended march - that is, north.

By around 7.30pm, arrests had begun and there were physical interactions between police and protesters.

A line of PORS officers had formed across George Street and Park Street to the north. A further police line at Bathurst Street prevented protesters from leaving south, in that direction. Evidence given in private examinations suggests that the closed police line on Bathurst Street was the product of a miscommunication or misunderstanding within police, and the Commission will examine how that line came to be formed and maintained.

The Commission also has evidence, or at least the Commission has accounts, that, at stages, protesters were pushed forcefully in the back towards police lines, and that was occurring when they were unable to move out or to exit. This was, of course, in circumstances where a number of police officers on the ground were not aware that those crowds were not able to move freely or to exit the area.

At 7.53, the police line advanced down George Street towards Central Railway Station, with the mounted police following behind.

Shortly before 8pm, OC spray started to be deployed and further arrests were made. The footage from this period shows controlled movement of the crowd in several directions, police advancing in formation, physical contact between police and protesters, and groups of people attempting to leave the area. Those events provide the

immediate context for the questions about dispersal and use of force that will be explored in the upcoming hearings.

Chief Commissioner, for the purpose of the hearing, the dispersal issue has been divided into events which occurred on Bathurst Street and those which occurred on George Street. There is footage in the public domain of tactical police moving at speed in formation towards protesters, particularly on Bathurst Street. The Commission will examine why this tactic was employed and if it was executed in accordance with police training. This will include consideration of crowd behaviour at this point of the protest and whether the risk of live traffic was properly considered. It will also consider if any punitive conduct occurred towards protesters during these manoeuvres.

In relation to George Street, we will examine the use of OC spray, footage of apparent forceful shoving and pushing of protesters by police, and explore why protesters were pushed down to Central Railway Station, which was well beyond the PARD area and the major events area. The legal basis for dispersal past this point will be examined.

So, having provided that general overview and identification of issues arising from the protest, I will turn now to identify, in broad terms, the themes that the Commission will be examining over the coming weeks.

The first theme, which I have already touched on, is the planning and risk management that preceded the protest and the extent to which that planning translated into clear, practical instructions for the officers deployed on the night. I have already stated that a week of evidence has taken place about this issue already. It encompasses the operational orders, the content and communication of the risk management plan and the content of the briefings given to officers.

Within those topics, the Commission will consider whether the planning addressed the anticipated crowd size, the possibility of a march, the options available for dispersal and the use of police powers on the ground.

The second theme concerns the police conduct of the protest itself and, in particular, the process by which police sought to disperse those gathered as the protest

concluded. That includes the closure of streets and areas under the Major Events Act, the giving of move-on directions and whether those directions were heard and understood by those to whom they were addressed. It also includes the allegation that protesters were contained within an area from which they could not leave, sometimes described as "kettling", and the movement that I have described of a large group of police in formation along Bathurst Street and George Street.

The Commission will examine the formation and tactics used by police during this period, including the use of police lines to confine or direct protesters, the deployment of OC spray, including into confined crowds, and the manner in which groups of officers moved towards and among the crowd.

Certain terms have been used by witnesses and in known public commentary to describe those tactics. I'm aware, or we are aware, that police do not accept those terms, and the Commissioner of Police may wish to address that characterisation.

The Commission - that is, LECC - will consider what the footage shows. The questions for examination are what was done, why, and whether what occurred was safe and appropriate in all the circumstances.

A related question is whether the tactics adopted by police affected the ability of people within or between police lines to actually comply with police directions.

The Commission will also examine accounts that, in some instances, individuals who were asked to leave the area were either not permitted to do so or were delayed, and that persons seeking to provide first aid to protesters were obstructed or forcibly moved on. Those matters will inform the Commission's consideration of how the dispersal was managed.

The third theme concerns allegations of unjustified use of force against civilians and protesters, including the deployment of pepper spray, physical contact such as pushing and shoving, and other alleged uses of force like striking, together with the exercise of arrest powers and allegations that those powers were misused in some instances.

Related to this theme are allegations of unprofessional conduct by officers, including comments made about gratuitous use of force and the use of abusive or offensive language towards members of the public.

I have already touched on OC spray a number of times, Chief Commissioner, as a particular use of force. The Commission will examine the lawfulness and propriety of the deployment of OC spray, particularly by use of foggers, during the protest, including its use towards the end of the protest in dispersing those remaining in the area. The examined footage raises questions as to the circumstances in which OC spray was deployed, including the distance from which it was used, whether any warnings were given to the public, whether it was used by more than one officer in the same incident, and whether some of those subject to spray were, in fact, attempting to comply with police directions or to leave the area altogether. We will also examine what assistance was provided to those affected by spray, both police and civilians.

There will be examination of whether the use of OC spray complied with applicable NSW Police Force policy and training, including the record keeping of its use.

Additional issues include the extent to which those fogger-type dispensers were used, including in circumstances where the crowd was confined; whether spray was used towards people who were at the time restrained, incapacitated or otherwise not posing a threat; whether spray was used as a means of dispersing the crowd rather than in response to threatening conduct of individuals; and the extent and effect of secondary exposure on bystanders and police.

This takes me to arrest powers. A further issue is the exercise of arrest powers on the night, including arrests made on the stated basis of breach of the peace. The Commission will examine whether some of the arrests made on that basis were lawful and appropriate in the circumstances. In particular, it will consider whether, and if so in what circumstance, conduct by protesters in seeking to march was capable of constituting a breach of the peace, such as to justify an arrest.

I want to turn now to case studies, or some of the

case studies, Chief Commissioner. Those assisting the Commission are aware that use of force is of central concern to the public. In this part of the hearing, we will hear from some civilian witnesses, as well as police, through case studies which have been selected as they represent themes of concern. I will very briefly detail some of these examples, but emphasise that no findings have been made and, critically, no evidence or account has yet been taken from the individual police involved.

The first relates to a man in his late 60s who attended the protest alone. As police were dispersing the crowd, he was pushed into another officer. CCTV footage shows that the officer turned and struck him directly to the face. He was arrested by two officers and handcuffed, and his glasses were removed and they were never returned. He protested his innocence and the arrest was ultimately discontinued. We will examine the use of force before, during and after this arrest.

The second involves a young law student who attended the protest with his girlfriend. He had decided to leave the protest but was caught up in the crowd crush. He can be heard at one point to call the police a "disgrace". Footage shows his arrest by several officers and OC spray being directed into his face at close range, while his hair was pulled back by an officer. We will examine why he was arrested and what, if any, resistance took place during the arrest to warrant the use of OC spray. His arrest was also discontinued.

Thirdly, we will look at the case of a young woman who attended the protest and was caught behind police lines as the crowd was being dispersed down George Street. She was asked by an officer if she was a protester, and when she replied that she was, she was physically moved in front of the police line. During this movement, her top was displaced and she fell, or was pushed, forcefully hitting her head and fracturing her wrist. We will examine the conduct of several officers during this incident, including the care she received after the incident and whether persons rendering first aid were allowed appropriate access to assist her.

Fourth, we will hear from a young woman who attended the protest and was affected by OC spray to the point of having a convulsive seizure. We will examine the basis for

the use of the OC spray on her and the care she received during and after her seizure. The evidence in this portion will also touch upon the experience of an elderly couple who attended the protest and who were affected by multiple deployments of OC spray. Unfortunately, Chief Commissioner, we have not been able to identify that couple, but they have appeared in some online stories, and we would encourage them to contact LECC through the online portal if they become aware of this.

I will now come to the prayer incident, Chief Commissioner. The Commission will examine as a case study in its own right the incident in Town Hall Square which occurred at around 8.08pm, in which police moved on a group of people engaged in sunset prayer. The sunset prayer, called the Mahgrib, is the fourth of the five daily prayers observed by several people of Muslim faith. The Commission has heard evidence that in Islamic teaching, the five daily prayers are obligatory, and that failure to observe them is regarded as a serious matter, spiritually.

As to the chronology of that incident, from about 3 past 8, a group had moved away from the main crowd and gathered in St Andrew's square to pray. The prayer was led by an imam, Sheikh Wesam Charkawi. Some minutes into the prayer, while the worshippers were kneeling, a line of police, acting on instructions to clear the square, moved around them. Protesters told the police that the group was praying, and organisers associated with PAG asked for a few more minutes, saying the prayer would shortly conclude.

The evidence to date is that one senior police officer agreed that the prayer should be allowed to conclude, and that this was communicated to some, but not to all, of the officers present. A decision was then made to physically move on the prayer group while they were still praying. The sequence of events at this stage will be examined in detail.

Body-worn footage shows that a number of people who placed themselves between police and worshippers were arrested, some of whom were later released without charge. The Commission will examine the lawfulness and propriety of move-on directions issued under LEPRA and the Major Events Act to members of the group engaged in sunset prayer during the protest. That examination will include the basis of the directions, their content and timing, how they were

communicated, and the police response to the worshippers and those around them. Sheikh Wesam and other civilians will give evidence in a private examination during this case study.

Chief Commissioner, I should say at this point that while I have identified those matters as separate themes, the evidence won't always fall neatly within them. Several of the case studies - the sunset prayer incident among them - raise questions under more than one theme, such as the planning and briefing that preceded the night, the communication of directions on the ground, the tactics adopted, and the use of force and arrest powers. The Commission will, therefore, examine not only what occurred in particular incidents, but how those decisions made in planning, communication and command bore on the policing response on the ground as the evening progressed.

Before the evidence begins, there are a few procedural matters to note, and I'm grateful, Chief Commissioner, for you covering many of them in your introductory remarks. As you have stated, the hearings are expected to run across approximately six weeks.

I will return finally to why this hearing is being held. Its purpose is to establish what occurred on 9 February 2026 and why, and to identify what can be learned from it. Sadly, Chief Commissioner, the world is presently in a period of increasing uncertainty, instability and polarisation. Public protests can be expected to increase in the years ahead, and some of it may prove volatile. It is fundamental to our democracy that the right to protest is not diminished and that police continue to employ best practice in managing protests, so that those who wish to exercise that right can do so without fear, while the community, the wider community, also remains safe.

That purpose will guide the Commission's approach throughout these hearings and will inform any findings and recommendations that follow.

Chief Commissioner, that concludes my opening.

THE CHIEF COMMISSIONER: Thank you, Ms Edwards.

In the decision of 29 September, I foreshadowed that

after the opening by counsel assisting, I would ask senior counsel for the Commissioner of Police if he wished to make any opening comments, and at this point I raise that with you, Mr Sulan. I am conscious that if you did want to say something and were in a position to proceed, that could happen now; if you wanted an opportunity to take some instructions on issues, we could take the morning break. So I will leave it to you to elect which.

MR SULAN: I'm happy to proceed now, Chief Commissioner. We plan on saying some very brief remarks if that's convenient.

THE CHIEF COMMISSIONER: That's fine. Yes, indeed, thank you.

MR SULAN: The Commissioner of Police welcomes the investigation into the events surrounding the protest that occurred at Town Hall on 9 February 2026.

The Commissioner acknowledges that the Law Enforcement Conduct Commission plays an important oversight function of the police in New South Wales. The Commissioner also acknowledges the large number of complaints that have been made by members of the public about the events that occurred on 9 February.

The Commissioner wishes to continue to engage with LECC to facilitate a thorough examination of the issues before the Commission. So far, the Commissioner and the members of the NSW Police Force have responded to a significant number of documentary and other information requests issued by LECC.

The Commissioner is always looking to embrace opportunities to improve policing in New South Wales and is interested in the findings that may be made by LECC arising from the relevant events.

Numerous protests occur in the Sydney CBD without any issue. The NSW Police Force works with diverse groups, including groups of differing political, religious and cultural views, in a sensitive manner so as to promote their ability to exercise their freedom of political communication.

In the two years before 9 February 2026, police

facilitated more than 200 protests, including marches, in the Sydney CBD alone. The organisers of the 9 February protest had, themselves, held a significant number of protests in the Sydney CBD over an extended period of time, which were facilitated by police without incident. Those protests were overwhelmingly managed well. That is the product of at least two things: the first is planning - the NSW Police Force is experienced in preparing for operations to ensure the safe and peaceful facilitation of protests; the second is relationships - over time, police have built collaborative working relationships with protest organisers, including some of the organisers and leaders of the 9 February protest. It is those relationships, as much as the role of police officers on the day, that allow protests in this state to proceed safely and peacefully.

The circumstances which confronted police on 9 February were difficult and proved to be very challenging. That was the product of a number of factors.

The protest organisers proposed holding the protest at Town Hall. That particular location posed many logistical challenges, given its limited size, limited access points and proximity to traffic on surrounding streets in the form of light rail, cars and other pedestrians.

In anticipation of those challenges, in the days prior to the protest and right up until 9 February, police made considerable effort to engage with the protest organisers, both publicly and privately, to relocate the protest from Town Hall to Hyde Park, where a march could safely be facilitated to Belmore Park. Police expressed concern that the size of Town Hall Square risked overflow and conflict between police and protesters. Those concerns proved to be well founded.

The proposal to facilitate a safe march from Hyde Park was rejected by the protest organisers. Those organising the protest were determined to hold the protest at Town Hall.

The lead-up to the protest was marked by significant media coverage and heightened community sentiment, which also found its way to social media. The protest was attended, as we've heard, by at least some 6,000 people from across society, including protesters from different interest groups and protesters of all ages, ranging from

young children to older adults. The number of protesters itself was not the primary difficulty, but it was the number at this particular location that was a cause for real concern. The size of the protest started to exceed the capacity of Town Hall Square even as speeches were commencing, and access into the square had to be limited.

As the footage reviewed in this investigation will reveal, the noise created by the crowd made it difficult for police to communicate, both with themselves and with members of the public.

The protest also took place at a difficult time for the Sydney community, following the tragic events of 14 December 2025 at Bondi Beach. In the weeks that followed, the Jewish community and the wider community was grieving, political and cultural tensions were high, and the police held significant concerns about the risk of further harm to any part of the community.

The events of Bondi meant that the protest on 9 February 2026, less than two months later, took place in a unique legal and operational context. Three matters should be noted.

First, at the time of the protest, as we've heard, a public assembly restriction declaration, also known as a "PARD", was in force across most of the Sydney CBD and eastern suburbs. While the PARD was later held to be invalid by the Supreme Court of New South Wales, it was the law that was in force on the night.

Second, the protest was directly concerned with the visit to Australia by President of Israel, Isaac Herzog, which had been declared a major event under the Major Events Act. The declaration conferred powers on police to restrict entry to declared areas, direct movement, conduct searches and use reasonable force to remove persons within the declared area.

On the evening of 9 February, the president was attending an event at the International Convention Centre with members of the Jewish community, mourning the victims of the Bondi attack. On the morning of 9 February, protest organisers were in the Supreme Court of New South Wales challenging the validity of the major event declaration. That application was dismissed only just before 5pm.

Thirdly, the protest at Town Hall was not the only event that the police were required to plan for and police in the CBD that night. Thousands of officers were deployed across the presidential visit, of whom about 500 were deployed to the Town Hall protest. Police resources were simultaneously committed to the protest, the security at the event at the ICC, the security of the president at locations beyond and including the ICC, and the ordinary policing of the city. These legal and operational factors added to the complexity faced by the officers deployed on the night.

Turning to the events on the night, the speeches at Town Hall as part of the protest went ahead peacefully, with police working with the organisers throughout. As will be examined, and as we've heard throughout this investigation, footage and accounts of the protest show that during and at the conclusion of speeches, some of the speakers and organisers called on the crowd to march.

This investigation will no doubt focus upon the inflection point following what began as a peaceful protest, that inflection point being the decision of protesters to march out of Town Hall Square. It is anticipated that the investigation will consider attempts by police to collaborate with protest organisers to facilitate a controlled dispersal of the crowd. Despite those efforts, many protesters moved towards police lines on George Street, determined to march, before police directed the crowd to disperse.

Some directions were not followed, including by protesters who had moved onto the footpaths and the light rail area. What happened after that, the directions given, how police lines were formed and moved, what routes were used for dispersal, will be examined and considered.

Over the course of about four hours, police were faced with a highly dynamic environment in which officers had to make judgments in real time as to how to enforce the law as it stood that night, whilst seeking to facilitate a peaceful protest.

The other aspect of this dynamic environment is what many senior officers on the ground will describe as an "unprecedented level of serious verbal abuse" that was

directed towards police.

Despite these difficulties, there were many positive acts of policing before and during the protest. There is plenty of footage that displays cordial, collaborative and professional engagement between police and protesters, and officers showing patience in difficult conditions.

It is unfortunate that public perception of the evening's events are influenced heavily by the widespread circulation of footage depicting some incidents without broader context, including the positive efforts demonstrated throughout the operation.

The video footage that received significant public attention shows a number of incidents that, of course, need to be considered in more detail as part of this investigation.

The Commissioner understands that LECC is interested in, among other things, the planning for the protest and the training of officers in the public order riot squad, or "PORS", and the operations support group, "OSG". In respect of those matters, the Commissioner wishes to highlight the following: planning for protests provides evidence of significant features of the way in which the NSW Police Force successfully facilitates protest activities in this state, including the collaboration of various commands within the NSW Police Force and the speed with which relevant commands consider form 1s and take steps to make arrangements for the facilitation of protests; PORS and OSG officers undergo training that specifically includes the management of large-scale public assemblies and major events; all PORS and OSG officers undertake a three-week OSG basic operators training course at the NSW Police Academy and are required to undergo annual reaccreditation training; many of those officers are also qualified team leaders and instructors, who have undergone further training in the management of public order events.

The Commissioner will continue to assist LECC in understanding these matters throughout the investigation.

The Commissioner also acknowledges that LECC will be examining particular aspects of the interaction with the public on the night, which includes how and why OC spray

was used by officers and the use of force in police exercise of arrest power.

The Commissioner of Police will thoroughly consider all the evidence that arises in the course of the investigation, and LECC's findings. The Commissioner does not seek, in this opening, to pre-empt that evidence. The Commissioner looks forward to continuing the NSW Police Force's collaborative relationship with LECC, with the aim of improving the policing of the community of New South Wales.

Thank you, Chief Commissioner.

THE CHIEF COMMISSIONER: Yes, thank you, Mr Sulan.

Well, that completes this public phase of the investigation. As has been indicated, both in the 29 September decision and again in the opening today, the Commission will proceed with a series of private examinations. When the time is approaching for the Commission to undertake the public phase, which has been also identified, we will make sure that notice is given to the community and the media, and, by that, I mean reasonable notice.

For the moment, I thank senior counsel assisting and for the Commissioner of Police for what they have said, and the Commission will adjourn.

AT 11.20AM THE COMMISSION WAS ADJOURNED ACCORDINGLY