

# Berejiklian spared \$1.2bn brawl on eve of election

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**EXCLUSIVE**

By **SAM BUCKINGHAM-JONES**, JOURNALIST

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The NSW government has been given a reprieve from a damaging court hearing over the embattled Sydney light rail project after a judge ordered it to file its evidence in a \$1.2 billion lawsuit days after next year's state election.

Acciona Infrastructure, the Spanish-owned subcontractor in charge of building the 12km project through Sydney, has claimed it was misled about the complexity of underground work in the CBD. The light rail is a signature project of Premier Gladys Berejiklian, who announced it as transport minister.

In the NSW Supreme Court yesterday, judge Michael Ball ordered Transport for NSW to file its defence by March 31. The state election will be held on March 23.

Acciona has claimed the government, through electricity distribution company Ausgrid, sent documents with new details about how utilities were to be treated hours after it signed the financial contracts. TNSW has said, in a statement of defence filed in July, that Acciona knew the work on the utilities “would not be fully known” until after the contracts were signed.

“The deficiencies in (Acciona's statement of claim) with regards to the alleged misleading or deceptive conduct pleas ... should be struck out,” the defence said.

Yesterday, Duncan Miller SC, acting for TNSW, said: “There was an entire regime of negotiating that said those things were baselines, and were subject to change.”

Acciona's barrister, Jeremy Giles SC, said: “That's nonsense. I don't intend to file a reply.”

The court heard the trial may be split in two: one focusing on liability and another on damages. “We see some utility in a split trial,” Mr Giles said.

Justice Ball asked whether the two parties had attempted mediation, and was told both were open to the idea in time.

“It doesn’t have anything to do with the timing of a state election, does it?” Justice Ball asked.

Mr Giles said: “It does a little bit, because we don’t want it during caretaker period.”

The government is due to dissolve the Legislative Assembly on March 1 to begin its caretaker period.

More than 24,400m of track has been installed in the project, according to an October monthly update from Sydney Light Rail, and there is just 5 per cent of the track to be installed in the CBD. The project was originally due to cost \$1.6 billion, but has blown out by \$500 million. A NSW parliamentary inquiry heard last month the project would not be finished until May 2020.

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