



LEGISLATIVE COUNCIL

PUBLIC ACCOUNTABILITY AND WORKS COMMITTEE

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023



Report 2

May 2024

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Public Accountability and Works Committee

**Appointments of Josh
Murray to the position of
Secretary of Transport for
NSW and Emma Watts as
NSW Cross-Border Assistant
Commissioner, and Senior
Executives and Department
Liaison Officers in 2023**

Published on 16 May 2024

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Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

"May 2024"

Chair: Ms Abigail Boyd MLC



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Terms of reference

1. That the Public Accountability and Works Committee inquire into and report on the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023, and in particular:
 - (a) the circumstances leading up to the appointments
 - (b) the process undertaken to make the appointments
 - (c) the probity and integrity measures that were undertaken as part of the appointments
 - (d) the principles, public expectations and requirements for appointments to the public service by Ministers
 - (e) the process for the appointment of senior officers generally
 - (f) the appointment, actions, duties and responsibilities of Department Liaison Officers seconded to ministerial offices
 - (g) the creation of transition offices in the Government
 - (h) other matters related to senior executive appointments at Transport for NSW, and
 - (i) any other related matters.
2. That the committee report by 20 May 2024.

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 23 August 2023 and updated on 22 November 2023.¹

¹ *Minutes*, NSW Legislative Council, 23 August 2023, pp 392-396; *Minutes*, NSW Legislative Council, 22 November 2023, p 685-687.

Committee details

Committee members

Ms Abigail Boyd MLC	The Greens	<i>Chair</i>
Hon Scott Farlow MLC	Liberal Party	<i>Deputy Chair</i>
Hon Mark Buttigieg MLC	Australian Labor Party	
Hon Dr Sarah Kaine MLC	Australian Labor Party	
Hon Mark Latham MLC	Independent	
Hon Peter Primrose MLC	Australian Labor Party	
Hon Natalie Ward MLC*	Liberal Party	

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- * The Hon Natalie Ward MLC substituted for the Hon Bronnie Taylor MLC from 1 December 2023 for the duration of the inquiry. The Hon Natalie Ward MLC substituted for the Hon Scott Farlow MLC from 24 August 2023 to 30 November 2023.

Secretariat

Amanda Assoum, Principal Council Officer

Emily Whittingstall, Administration Officer

Shaza Barbar, Director

Chair's foreword

This inquiry was an important opportunity to examine the fairness, integrity and transparency of the appointments of Mr Josh Murray to the position of Secretary of Transport for NSW, Ms Emma Watts to the position of NSW Cross-Border Assistant Commissioner, Department Liaison Officers in the Office of the Minister for Transport and the establishment of and appointments to the Transition Office at Transport for NSW.

First, the committee examined the process that led to the appointment of Mr Murray to the position of Secretary of Transport for NSW following concerns about Mr Murray's prior connections to the Minister for Transport and the NSW Labor Party. The committee accepts that the decision to conduct a merit-based recruitment for the position of Secretary of Transport for NSW, rather than a direct appointment, was made in accordance with the *Government Sector Employment Act 2013*. However, the process undertaken raised some important questions about the involvement of the Minister's Office. The evidence suggested that the Minister's Office was interested in Mr Murray being appointed to the role from the beginning. In light of this, the committee found that a direct appointment may have been more efficient and transparent, given the time, resources and money required to conduct the recruitment.

Ms Emma Watts' involvement in, and connections to, the National Party raised similar questions in relation to her appointment to the position of NSW Cross-Border Assistant Commissioner. The committee examined whether an appropriate process was followed for her appointment. The evidence indicated that the suitability test leading to Ms Watts' appointment was conducted in accordance with the *Government Sector Employment Act 2013*. While this may be the case, it is important to recognise that the circumstances surrounding Ms Watts' appointment could lead to the perception that her appointment was not fair or merit-based given Ms Watts' connections to the National Party. The committee therefore recommended that the NSW Government consider merit-based recruitment processes when candidates have strong political connections.

Next, the committee examined the appointment and work of Department Liaison Officers in the Office of the Minister for Transport. The impartiality of DLOs is important to safeguard the integrity of the public service. The committee received sufficient evidence to find that Mr Kieren Ash conducted political work while employed as a DLO in the Office of the Minister for Transport, contrary to the guidelines in circular *C2021-07 Department Liaison Officers*. To ensure that the impartiality of DLOs is safeguarded, the committee recommended certain updates to the circular to further clarify the role of Department Liaison Officers.

Finally, the establishment of the Transition Office in 2023 within Transport for NSW, and the appointment of its Executive Director, raised important questions about the extent to which a Minister or their office could direct or make suggestions to a department. It was clear from the evidence that there are no concerns with the request from the Office of the Minister for Transport to establish the Transition Office. However, the committee questioned whether there were any concerns with the suggestions from the Minister's Office about who should lead the Transition Office, particularly as the *Government Sector Employment Act 2013* makes it clear that a Minister cannot direct a Secretary on matters relating to their employer functions. Based on the evidence, the committee accepts that the requests from the Minister's Office on who should lead the Transition Office were suggestions, not directions.

On behalf of the committee, I would like to thank all those who participated in this important inquiry. I also extend my thanks to my fellow committee members for their commitment to this inquiry, as well as to the committee secretariat and Hansard for their assistance.

Ms Abigail Boyd MLC

Committee Chair

Findings

- Finding 1** **22**
That, while the recruitment process for the position of Secretary of Transport for NSW was conducted in accordance with the *Government Sector Employment Act 2013*, a direct appointment may have been more efficient and transparent.
- Finding 2** **36**
That Mr Kieren Ash conducted political work contrary to the guidelines set out in circular *C2021-07 Department Liaison Officers* during his time as a Department Liaison Officer in the Office of the Minister for Transport.
- Finding 3** **43**
That the suitability test leading to the appointment of Ms Emma Watts to the position of NSW Cross-Border Assistant Commissioner was conducted in accordance with the *Government Sector Employment Act 2013*.

Recommendations

Recommendation 1

36

That the NSW Government update circular *C2021-07 Department Liaison Officers* to:

- provide further clarity on the roles, and specificity on the tasks, that should and should not be performed by Department Liaison Officers
- clarify that Department Liaison Officers cannot be chosen by a Minister's office but should instead be nominated by the relevant department
- suggest that home agencies nominate a managerial contact to meet regularly with Department Liaison Officers.

Recommendation 2

44

That the NSW Government consider merit-based recruitment processes when candidates have strong political connections.

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 23 August 2023 and updated on 22 November 2023.

The terms of reference initially focused on the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner.

During the inquiry, concerns were raised regarding the appointments of Senior Executives and Department Liaison Officers in 2023. The terms of reference were then updated to include the appointment, actions, duties and responsibilities of Department Liaison Officers seconded to ministerial offices, the creation of transition offices in the Government, and other matters related to senior executive appointments at Transport for NSW.

The committee received three submissions and two supplementary submissions.

The committee held three public hearings at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Procedural issues

The Minister of Transport, Minister Jo Haylen, was invited by the committee twice to give evidence to the inquiry. Minister Haylen declined. After the first occasion, the committee sought the Clerk's advice on the options the committee could pursue following Minister Haylen's correspondence declining the committee's invitation to attend a hearing on Thursday 31 August 2023. The Clerk's advice was published as part of the Clerk's submission to the inquiry into the Parliamentary Evidence Amendment (Ministerial Accountability) Bill.

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

Chapter 1 **The appointment of Mr Josh Murray to the position of Secretary of Transport for NSW**

Mr Josh Murray was appointed to the position of Secretary of Transport for NSW in July 2023 following a merit-based recruitment process. The appointment of Mr Murray raised concerns due to his prior connections to the Minister for Transport and the NSW Labor Party.

This chapter considers the basis, process and concerns raised with respect to Mr Murray's appointment. The chapter begins by detailing Mr Murray's past connections and donations to the NSW Labor Party, which provides context for the concerns raised by his appointment. It then outlines the legislative framework surrounding the appointment of department secretaries and the decision to conduct a merit-based process to fill the position of Secretary of Transport for NSW. The chapter then steps through how the process was conducted, paying particular attention to the concerns raised throughout.

Mr Josh Murray's prior connections to the Minister for Transport and NSW Labor Party

1.1 A key concern arising out of Mr Murray's appointment to the role of Secretary of Transport for NSW was his connections with the Minister for Transport and NSW Labor Party. This section details his relationship with the Minister for Transport and her Chief of Staff, and other connections with the NSW Labor Party, providing context for the questions raised about Mr Murray's appointment.

1.2 Turning first to his relationship with the Minister, Mr Murray advised that he and Minister Haylen have known each other for approximately seven years.² Mr Murray described their relationship prior to his appointment as Secretary as 'semi-professional', noting that he did not know her very well:

We had a semi-professional relationship, where we would see each other around business-related activities. I had been to a number of her speeches, just as I had been to many Coalition member speeches - Ministers at the time - think tank appearances, business lunches et cetera. I had seen her at those events. I didn't know her very well.³

1.3 Following Minister Haylen's appointment as Minister, Mr Murray advised that they met on 4 April 2023, noting that he did not meet with the Minister again until he was sworn into the role of Secretary.⁴

1.4 Mr Murray advised that during the 4 April meeting they did not discuss the Secretary position but rather the organisation of Transport for NSW:

We didn't discuss the secretary position. We discussed the organisation of Transport for NSW. We discussed my past experience as transport chief of staff. We talked about the structures that had existed at the time and, I think it's fair to say, some frustrations

² Evidence, Mr Josh Murray, Secretary, Transport for NSW, 31 August 2023, p 4.

³ Evidence, Mr Murray, 31 August 2023, p 4.

⁴ Evidence, Mr Murray, 31 August 2023, p 4.

that the Minister had with some of the information that she was getting about how she started to engage with that agency.⁵

- 1.5** Mr Murray highlighted that the reason the Minister called him was to seek feedback from someone with experience in transport and major industry. He added that he was 'happy' to provide such feedback to any member of Parliament or senior staff member:

... The reason to call was to get feedback from someone who'd worked both in transport and in major industry, in infrastructure, where I was more than happy, as I would with any member of Parliament, any Minister or any senior staff member, to give the benefit of industry experience. I was the representative of one of the largest privately owned infrastructure businesses in the world. I was asked to give a view. I'm more than happy to do that, as I have done to Coalition members here, overseas, people of either sides of the political fence ...⁶

- 1.6** In response to questioning about his relationship with Mr Scott Gartrell, Chief of Staff for the Minister for Transport,⁷ Mr Murray stated that they met in 2007/2008 and that there was no overlap between the period he was working as a Labor advisor at Parliament House and the period Mr Gartrell was working in the building.⁸ He indicated that they had met on a few occasions in their private sector roles:

... Mr Gartrell actually began in this building after I had already left. I knew him when I was working for the former Premier and he was working for Government Relations Australia. We would have had a couple of meetings over that period of time. Later on, I was working for Laing O'Rourke and he was involved with Lendlease.⁹

- 1.7** When asked about his relationship with the NSW Premier, Mr Chris Minns, Mr Murray gave evidence that he has known the Premier for approximately 20 years, noting they 'both worked in this building at around the same time and have known each other in those general circles since'.¹⁰ Upon further questioning, Mr Murray stated: '... we're friends. I would regard us as friends'. However, he also noted that they do not meet regularly.¹¹

- 1.8** Beyond his relationships with Minister Haylen and the Premier, the committee questioned Mr Murray about his connection with the NSW Labor Party more broadly. In summary, the committee learned of the following connections Mr Murray had to the Labor Party.

- Mr Murray was a member of the Labor Party until June 2023 when he was accepted into the recruitment process for the Transport for NSW Secretary role.
- He was a former Chief of Staff to Morris Iemma.
- His wife was a former Labor staffer.

⁵ Evidence, Mr Murray, 31 August 2023, p 6.

⁶ Evidence, Mr Murray, 31 August 2023, p 7.

⁷ Mr Gartrell attended the committee's hearing in August 2023 in his capacity as Chief of Staff for the Minister for Transport. He resigned in November 2023.

⁸ Evidence, Mr Murray, 31 August 2023, p 7.

⁹ Evidence, Mr Murray, 31 August 2023, p 7.

¹⁰ Evidence, Mr Murray, 31 August 2023, p 6.

¹¹ Evidence, Mr Murray, 31 August 2023, p 7.

- His father-in-law was a former Labor Minister for Transport.¹²

1.9 Mr Murray revealed that in 2022, he and his wife donated the following sums of money to various Labor causes, including:

- Minister Haylen's campaign fundraiser – two tickets to the combined value of \$500, and \$250 worth of raffle tickets.¹³
- A former Labor Premier's Parliamentary dinner– tickets to the combined value of \$500, which went to the NSW Labor Party.¹⁴
- A trivia night in the Kogarah electorate for the Premier's campaign – purchased two tickets to the combined value of \$200.¹⁵

1.10 Finally, Mr Murray also confirmed that he has never been a member of a particular branch of the Labor Party, nor has he ever been a preselector.¹⁶

1.11 Mr Murray also confirmed he briefly attended a private election victory party at the residence of the Premier-Elect Chris Minns following the 2023 Election Party, which it is also understood was also attended by Minister Haylen.¹⁷

1.12 Questions about Mr Murray's connections to the Premier and Minister for Transport were also raised at Budget Estimates hearings in October-November 2023. When asked about his relationship with Mr Murray, the Premier commented that whilst he has known Mr Murray for more than 10 years, he would not describe their relationship as very close:

I've never gone for a coffee, just with him. I've probably caught up with him face to face, maybe half a dozen, maybe a few more times than that in the last 10 years. Your characterisation of us as very close—I wouldn't describe someone who I've never been for a beer with as very close...¹⁸

1.13 Minister Haylen confirmed she was aware that the Public Accountability and Works Committee received evidence 'from Mr Murray that he purchased a couple of tickets to a dinner some months before the election'.¹⁹ The Minister commented that 'those issues are not related to the appropriate robust process that occurred for his appointment'.²⁰

¹² Evidence, Mr Murray, 31 August 2023, pp 4-7.

¹³ Evidence, Mr Murray, 31 August 2023, p 8.

¹⁴ Evidence, Mr Murray, 31 August 2023, p 13.

¹⁵ Evidence, Mr Murray, 31 August 2023, p 14.

¹⁶ Evidence, Mr Murray, 31 August 2023, pp 4-5.

¹⁷ Evidence, Mr Josh Murray, Secretary, Transport for NSW, 8 April 2024, pp 51-52.

¹⁸ Evidence, Mr Chris Minns, NSW Premier, Portfolio Committee No 1 - Premier and Finance, Budget Estimates, 25 October 2023, p. 25.

¹⁹ Evidence, Minister Jo Haylen, Minister for Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, p 26.

²⁰ Evidence, Minister Haylen, 7 November 2023, p 27.

- 1.14 The committee questioned Ms Kathrina Lo, Public Service Commissioner, about whether there was an assessment, declaration or risk management process put in place during the recruitment process to manage the possibility of Minister Haylen's potential conflict of interest regarding the political donation made by Mr Murray. Ms Lo advised that:
- The panel that I was on declared that we were each familiar with some of the candidates but there was nothing other than a professional, I suppose, crossing of paths. There was no process that I'm aware of in relation to the Minister. But I would say that, if there is a conflict, it would be for others to declare their own conflicts.²¹
- 1.15 Further to this point, Ms Lo added that 'being familiar with candidates in a professional context does not necessarily mean you've got a conflict'.²² She also advised that she was not aware of a situation before where a secretary has been questioned over whether or not they are suitable for a role because they may have attended a political event.²³
- 1.16 The committee ascertained that the Minister and her Office were familiar with all of the three candidates, the other two being senior Transport executives.
- 1.17 The issue of whether Mr Murray's prior donations needed to be disclosed during the recruitment process is discussed throughout this chapter.

The legislative framework for the appointment

- 1.18 Mr Murray was appointed to the role of Secretary of Transport for NSW through a comparative merit-based recruitment process, rather than a direct appointment. This section outlines the legislative basis for the recruitment process chosen to select a Secretary for Transport for NSW.
- 1.19 Ms Kathrina Lo, Public Service Commissioner, Mr Peter Duncan, Acting Secretary, Premier's Department and Ms Kate Boyd, Deputy Secretary of the Cabinet Office explained the legislative basis for the appointment of departmental secretaries. The legislative provisions that apply to secretary appointments are set out in section 23 of the *Government Sector Employment Act 2013* (GSE Act) and rule 52 of the Government Sector Employment (General Rules) 2014 (GSE Rules). Under s 23(4) of the GSE Act, the Premier has the power to appoint secretaries, and may delegate his function to the Secretary of the Premier's Department.²⁴
- 1.20 Both Mr Duncan and Ms Lo noted that there is discretion to either make a direct appointment to a secretary role or undertake a comparative merit-based recruitment and selection process in line with the GSE Rules.²⁵ Ms Lo and Ms Boyd confirmed that if a decision is made not to make a direct appointment, there is no requirement under the GSE Act to comply with the merit-based assessment requirements in Part 3 of the Rules, which applies to the recruitment of other

²¹ Evidence, Ms Kathrina Lo, Public Service Commissioner, 8 April 2024, p 8.

²² Evidence, Ms Lo, 8 April 2024, p 11.

²³ Evidence, Ms Lo, 8 April 2024, p 8.

²⁴ Evidence, Ms Lo, 8 April 2024, p 2; See also Evidence, Mr Peter Duncan, Acting Secretary, Premier's Department, 31 August 2023, p 62.

²⁵ Evidence, Mr Peter Duncan, Acting Secretary, Premier's Department, 31 August 2023, p 62; See also Evidence, Ms Lo, 8 April 2024, p 2.

roles in the public service.²⁶ Commenting on the 'unique role of the secretary under the GSE Act', Ms Boyd noted that there is 'no prescribed process' for the recruitment of a secretary.²⁷

1.21 Accordingly, both Ms Lo and Ms Boyd highlighted that there is significant latitude when designing a process for appointing a secretary of a department, whether the process be intended as merit-based or a direct appointment.²⁸

1.22 Ms Boyd added that, unlike appointments to other senior executive positions in the NSW Public Service, there is a legislative requirement in Rule 52 for the relevant Minister to be consulted on the appointment of departmental secretaries. Ms Boyd asserted the importance of examining the recruitment process in recognition of the unique role of the Secretary:

I think in that context it is not surprising that the Minister would be consulted at various points within the process. I think you have to really examine this process in the context of those provisions and the fact that the role of secretary is very unique in that regard.²⁹

1.23 Turning to the recruitment process for the Secretary of Transport for NSW, Mr Duncan advised that in late April 2023 he was requested 'to implement a process to select a future Secretary of Transport for NSW' as the Premier's delegate. He shared that a recruitment process was agreed to, in consultation with the Program Management Office of the Department of Premier and Cabinet and the Public Service Commissioner, which would include a search for candidates, an assessment panel to undertake an initial screening against the role's requirements, and an evaluation panel to undertake interviews and psychometric evaluation.³⁰

1.24 The committee heard that the Minister was consulted at the start of the process and at the end before a candidate was chosen. Mr Duncan informed the committee that in early May 2024 he met with the Minister, her Chief of Staff and a senior representative of the program management office. At this meeting, he advised the Minister of the process and his responsibilities as the Premier's delegate. The Minister 'expressed a view that the process should involve an international search to test the market due to the complexity of the role and the need to identify a strong field of candidates'.³¹ Mr Duncan further advised that he invited the Minister to meet with the final two candidates and provide her views in writing, noting that consulting with the relevant Minister is 'in line with the requirements' of the GSE Act.³²

1.25 During a Budget Estimates hearing, Minister Haylen similarly described her involvement in the recruitment process:

... I would say that during the appointment process he [Scott Gartrell, former Chief of Staff, Minister of Transport] kept me up to date, but my involvement with that process was in two instances: at the beginning of the process, when Mr Peter Duncan, the then Acting Secretary of the Premier's Department, came to meet with me and my chief of

²⁶ Evidence, Ms Kate Boyd, Deputy Secretary, General Counsel, Cabinet Office, 31 August 2023, p 70; See also Evidence, Ms Lo, 8 April 2024, p 2.

²⁷ Evidence, Ms Boyd, 31 August 2023, p 70.

²⁸ Evidence, Ms Lo, 8 April 2024, p 2; See also Evidence, Ms Boyd, 31 August 2023, p 70.

²⁹ Evidence, Ms Boyd, 31 August 2023, p 70.

³⁰ Evidence, Mr Duncan, 31 August 2023, p 62.

³¹ Evidence, Mr Duncan, 31 August 2023, p 62.

³² Evidence, Mr Duncan, 31 August 2023, p 62.

staff about the process that was going to be undertaken; and then again at the end, when Mr Peter Duncan contacted me with the final candidates for my consideration and feedback. That was my engagement with the process ...³³

The recruitment process

- 1.26** The committee heard evidence about each stage of the recruitment process, including:
- the engagement of recruitment firm, NGS Global, to conduct the initial search for and assessment of candidates
 - the assessment panel
 - the evaluation panel
 - the final meeting with the Minister
 - final probity checks and report.
- 1.27** This following sections step through these stages in turn with a focus on the involvement, if any, of the Minister or her office throughout the process, and whether Mr Murray's connections or donations to the Labor Party were raised at any point.

Engagement of NGS Global to conduct initial search and assessment of candidates

- 1.28** The first stage of the recruitment process was the engagement of NGS Global to conduct an initial search for a candidate and provide a shortlist for interview. As part of their search and assessment, NGS Global produced two key reports that were relevant to the inquiry:
- Client progress reports
 - Final report.
- 1.29** The Premier's Department engaged Dr Marianne Broadbent, Managing Partner of NGS Global to conduct the search for suitable candidates at a cost of approximately \$100,000.³⁴ According to Dr Broadbent, the brief handed to NGS Global was to find individuals with a stronger focus on leadership and less on technical expertise:

Our brief, both in terms of the written role description and verbal briefing, stressed a strong mix of strategic leadership, operational experience and diversity of experience for the appointment. In relation to scale and scope of accountabilities, there was the importance of experience in a large, diverse, dispersed workforce, taking them through change, while continuing to deliver and improve upon service outcomes for customers and communities. We were advised that there was less need for the appointee to be experienced in the infrastructure, construction management or project leadership aspects of the portfolio.³⁵

³³ Evidence, Minister Haylen, 7 November 2023, p 42.

³⁴ Evidence, Dr Marianne Broadbent, Managing Partner, NGS Global, 31 August 2023, p 82.

³⁵ Evidence, Dr Broadbent, 31 August 2023, p 78.

- 1.30** The steps undertaken by Dr Broadbent to fulfil the brief provided by the Premier's Department included: conducting an international search, focusing on Canada, the United Kingdom and the United States; approaching sources in the sector to recommend names; and then directly contacting individuals of interest to ask them whether they are interested in the position and to supply a CV and partake in a video call.³⁶
- 1.31** Dr Broadbent noted that there were difficulties in finding overseas candidates available and interested in the role, putting this down to a range of factors, including a comparatively low level of remuneration for the calibre of individuals under consideration, and the fact that a number of the individuals approached had just started in a new role.³⁷
- 1.32** Dr Broadbent highlighted that there were 35 candidates, 12 of whom were international candidates, who declined when they were approached.³⁸
- 1.33** One of the local candidates was Mr Murray, who learned of the position through a number of sources, including a text message from Minister Haylen's Chief of Staff, Mr Scott Gartrell. Mr Murray added that he could not recall whether anyone else had sent the link to him but that the recruitment generated discussion in his industry:
- ... I know I got it from Scott. I was not able to find other people who had sent it to me. I know it was in general conversation, because in my industry the departure of Mr Sharp, the acting arrangements and the then recruitment process did generate some interest and discussion.³⁹
- 1.34** In response to questioning about whether he was surprised to see the text from Mr Gartrell, Mr Murray stated: 'Not really. I had already seen the advertisement and I was already considering applying for that advertisement. I was not surprised—'.⁴⁰
- 1.35** After sending through his application to NGS Global, Mr Murray advised that he responded to the Mr Gartrell's text message to say that he had submitted his application.⁴¹
- 1.36** Mr Murray noted that he was concerned about the recruitment process at that time, stating: 'I was starting to feel as though it wasn't being handled professionally by the recruitment company'. He advised that he subsequently made a decision to contact Mr Gartrell and the chief recruiter, NGS Global.⁴²
- 1.37** When asked whether he had discussed his application with the Premier or Minister Haylen, Mr Murray confirmed he 'never' had any discussions with either. He added that his only communication was with NGS Global for any questions and Mr Gartrell to let him know that he had applied for the role:

³⁶ Evidence, Dr Broadbent, 31 August 2023, p 85.

³⁷ Evidence, Dr Broadbent, 31 August 2023, p 87.

³⁸ Evidence, Dr Broadbent, 31 August 2023, p 79.

³⁹ Evidence, Mr Murray, 31 August 2023, p 9.

⁴⁰ Evidence, Mr Murray, 31 August 2023, p 9.

⁴¹ Evidence, Mr Murray, 31 August 2023, p 10.

⁴² Evidence, Mr Murray, 31 August 2023, p 10.

The process was being run by Peter Duncan in the Premier's Department. ... I contacted NGS Global, the recruitment firm, for any questions, and they liaised with me about then the meetings or the panel opportunities that came up. There was no other contact with anyone else, except for letting Mr Gartrell know that I had in fact applied for the role.⁴³

1.38 Mr Murray shared that he followed up by phone with NGS Global, having received a generic email in response to his submission. He had a brief conversation with Dr Broadbent, which caused him to be concerned about the recruitment process:

... when I did finally get in touch with NGS Global, they told me, first of all, that my name was "Josh Gordon", which concerned me because a recruitment company does need to be very discreet with information, and that also I was unlikely to be successful because I didn't have direct investigations experience. Now when I went back through the Government Gazette I could see that there were jobs being advertised for senior roles at the ICAC, and I believe that what I had been done is put in the wrong category or disregarded from the transport—.⁴⁴

1.39 Dr Broadbent acknowledged there was some initial confusion when speaking to Mr Murray, putting this down to his CV and cover letter becoming separated during processing. Dr Broadbent stated that this was quickly corrected, and an apology was provided.⁴⁵

1.40 Dr Broadbent explained that after applications closed, NGS Global produced a number of preliminary reports referred to 'client progress reports' in which the applicants were grouped into four categories:

- Category A included search candidates and significant internal candidates who indicated interest in the role
- Category B included others to whom NGS Global reached out
- Category C included those who recently applied and were under review, or those assessed as 'not recommended'
- Category D included those who were approached by NGS Global but declined.⁴⁶

1.41 Dr Broadbent indicated that 'in the second client progress report, his [Mr Murray] application was in the "under review" category; it was not in the "rejected" category'.⁴⁷

1.42 Mr Gartrell advised that Ms Dianne Leeson from the Premier's Department sent him a copy of the progress report for his feedback. Mr Gartrell stated that the list of names to be interviewed indicated that the recruiter had not fully understood the brief:

I thought that the list indicated that the recruiter hadn't really understood the brief. I then looked at the remainder of the list. I recognised about three names of people, and

⁴³ Evidence, Mr Murray, 31 August 2023, p 11.

⁴⁴ Evidence, Mr Murray, 31 August 2023, p 17.

⁴⁵ Evidence, Dr Broadbent, 31 August 2023, p 78.

⁴⁶ Evidence, Dr Broadbent, 31 August 2023, p 78.

⁴⁷ Evidence, Dr Broadbent, 31 August 2023, p 78.

I knew one wasn't interested in proceeding in applying for the job. I knew that separately. The other two were Josh Murray and Andy Byford.⁴⁸

- 1.43** In response to questioning about why Ms Leeson sent him the report, Mr Gartrell highlighted that he and Minister Haylen had a meeting with Mr Duncan prior to the recruitment process where he indicated that he would involve the Minister's office 'from time to time as the process proceeded'.⁴⁹
- 1.44** The committee then questioned why Mr Gartrell asked that Mr Murray be interviewed. Mr Gartrell explained that he responded to Ms Leeson's email suggesting that she put Mr Murray and Mr Byford on the interview list and recategorise them to get 'some more breadth into the interview group'.⁵⁰
- 1.45** Mr Gartrell disagreed with the proposition that he expected Ms Leeson would act on his suggestion. He stated that he was asked for his feedback which he had provided, adding: 'I hoped that he would be interviewed subsequently, but the process was not being run by me'.⁵¹
- 1.46** Dr Broadbent advised that she received communication from Ms Leeson which indicated that there was interest in Mr Murray as a candidate.⁵² Dr Broadbent stated that she did not know where that interest came from but that they were at the stage of considering those who were under review and deciding who to further interview.⁵³
- 1.47** Dr Broadbent noted that communication between recruiters and their clients at an early stage of the search is standard practice for NGS Global:

We always in the early stages share – that's part of the reason why we share our early thoughts, which sometimes get us into trouble ... We will always ask the particular clients in which they're interested and also are there particular clients in which they might not be interested.⁵⁴

- 1.48** When asked whether the email from Ms Leeson influenced the decision to put Mr Murray on the shortlist, Dr Broadbent indicated that even if Ms Leeson's feedback had not been received, it was her intention for Mr Murray to proceed to a full screening based on the discussion she had with him on the phone:

He would have been on the shortlist anyway, so in that sense our decision was to do a full screen interview for Josh Murray, having spoken to him on the phone, which I did. It was a phone interview and then decided that, yes, it would be appropriate to do a full screening interview with him, which is a longer process and either face to face or on something like Teams, which is what we did.⁵⁵

⁴⁸ Evidence, Mr Scott Gartrell, Chief of Staff, Office of the Minister for Transport, 31 August 2023, p 43.

⁴⁹ Evidence, Mr Gartrell, 31 August 2023, p 43.

⁵⁰ Evidence, Mr Gartrell, 31 August 2023, p 43.

⁵¹ Evidence, Mr Gartrell, 31 August 2023, pp 43-44.

⁵² Evidence, Dr Broadbent, 31 August 2023, p 81.

⁵³ Evidence, Dr Broadbent, 31 August 2023, p 84.

⁵⁴ Evidence, Dr Broadbent, 31 August 2023, p 85.

⁵⁵ Evidence, Dr Broadbent, 31 August 2023, p 84.

1.49 When asked whether there has ever been a situation where a client expresses an interest in someone being interviewed and NGS chooses not to, Dr Broadbent emphasised that it is client's prerogative as to who they would like interviewed:

We would always interview them because we think that it is the client's prerogative, absolutely, and our advice then is to meet with them and provide our assessment of them, which is what we did – which we were intending to do, and did.⁵⁶

1.50 When asked whether, as part of the screening process, Dr Broadbent had asked Mr Murray about any potential political conflicts of interest, Dr Broadbent indicated that she did not, and would not usually ask those sorts of questions at this stage of the recruitment process: 'We do not and did not ask questions about political conflict of interest'.⁵⁷

1.51 When further pressed as to why NGS Global does not ask these questions, Dr Broadbent responded: 'We were assessing their leadership capabilities and their suitability for the role'.⁵⁸

1.52 This being the case, Dr Broadbent then explained that although questions regarding Mr Murray's political affiliations were not explicitly asked, his historical involvement with the Labor Party was not hidden:

It's very clear from Mr Murray's CV—and he made no attempt to hide it—that he had been a chief of staff for a Labor government. In our view, that was obvious to the evaluation panel and the assessment panel.⁵⁹

1.53 When asked about political donations Mr Murray had made and whether those were clear at this stage in the recruitment process, Dr Broadbent highlighted that NGS Global would not ask those questions at that stage but would consider it at a future stage. She further expressed the view that someone should not 'be ruled out because they have political or have had political affiliations or that they have been a chief of staff'.⁶⁰

1.54 Upon completion of the screening process, a report termed 'the final report', dated 7 June 2023, was prepared. This report rated the desired competencies of each of the candidates NGS Global placed on a shortlist to go to the assessment panel. There were nine candidates on this list, categorised accordingly:

- four candidates were assessed at the A1 level – those who should be considered for shortlisting and interview by the evaluation panel
- two candidates were assessed at the A2 level – 'other candidates who could be considered' by the assessment panel

⁵⁶ Evidence, Dr Broadbent, 31 August 2023, p 84.

⁵⁷ Evidence, Dr Broadbent, 31 August 2023, p 82.

⁵⁸ Evidence, Dr Broadbent, 31 August 2023, p 82.

⁵⁹ Evidence, Dr Broadbent, 31 August 2023, p 82.

⁶⁰ Evidence, Dr Broadbent, 31 August 2023, p 82.

- three candidates were assessed at the B level – 'other candidates interviewed by NGS – not as strong'.⁶¹

- 1.55** According to Professor Verity Firth, Pro-Vice-Chancellor (Social Justice and Inclusion), University of Technology Sydney, who sat on the assessment panel, Mr Murray was one of the three candidates that fell into the B category.⁶²
- 1.56** Dr Broadbent indicated that while Mr Murray was assessed as 'competent' to 'high' for most of the capabilities assessed in the 7 June final report, the phrase 'significant risk' was used to describe Mr Murray's operational experience.⁶³ Dr Broadbent explained that this assessment was based on the fact that he had less 'operational experience' and 'executive transport management experience' than some of the other candidates.⁶⁴ Dr Broadbent noted that this 'was later modified to "risk"' after the assessment panel had completed its analysis.⁶⁵ The assessment panel process is discussed in the next section.
- 1.57** When asked whether there was a change around the level of operational complexity required between the 29 May client progress report and the 7 June final report, Dr Broadbent responded that Mr Murray's '... level of direct operational accountability, in our view, was less than some of the other candidates and there were other features, other attributes that he had, where he was very strong'.⁶⁶
- 1.58** However, Dr Broadbent noted that even where NGS Global believed there was a 'significant risk' with a particular candidate, this 'does not mean that someone cannot do the job or should not be awarded the job'.⁶⁷ Rather, Dr Broadbent explained that the role of NGS Global is to 'point out where there could be potential risk'.⁶⁸
- 1.59** However, on this point, Mr Duncan gave evidence that 'Look, I think the search firm did not have a great understanding of his experience. We discussed this in the evaluation panel. When we opened up his presentation, his representation of his qualifications and his work with this Tier 1 contractor, he was very impressive. He provided a very impressive case'.⁶⁹
- 1.60** On 7 June 2023 when the final report containing the shortlist was signed-off by NGS Global, Mr Gartrell contacted Ms Dianne Leeson, Premier's Department, asking that he be given access

⁶¹ Evidence, Hon. Professor Verity Firth AM, Member of the assessment panel and Pro-Vice-Chancellor (Social Justice and Inclusion), University of Technology Sydney, 31 August 2023, pp 96-97.

⁶² Evidence, Professor Firth, 31 August 2023, p 97.

⁶³ Evidence, Dr Broadbent, 31 August 2023, pp 78-79.

⁶⁴ Evidence, Dr Broadbent, 31 August 2023, p 79.

⁶⁵ Evidence, Dr Broadbent, 31 August 2023, p 79.

⁶⁶ Evidence, Dr Broadbent, 31 August 2023, p 84.

⁶⁷ Evidence, Dr Broadbent, 31 August 2023, p 86.

⁶⁸ Evidence, Dr Broadbent, 31 August 2023, p 86.

⁶⁹ Evidence, Mr Duncan, 31 August 2023, p 68.

to the shortlist of final candidates. When asked why he sent the email to Ms Leeson, Mr Gartrell stated that he 'was interested to see who going to be interviewed'.⁷⁰

The assessment panel

- 1.61** The second stage in the recruitment process established by the Premier's Department was the assessment panel. The panel comprised of: Chris Lamb, Deputy Commissioner, NSW Public Service Commission; Dianne Leeson, Premier's Department; and two independent panel members, including Professor Verity Firth, Pro Vice Chancellor of the University Technology Sydney and former Labor Minister for Education.⁷¹ Dr Broadbent was also present at the meeting to present the candidates and assist the assessment panel with any questions they had regarding her report.⁷²
- 1.62** Professor Firth's role on the panel was as an 'independent' panel member. Professor Firth explained that the use of the descriptor 'independent' in this context refers to the fact that she was not an employee of the NSW public service at the time.⁷³
- 1.63** When asked how the Minister communicated her request for Professor Firth to be included on the assessment panel, Mr Gartrell stated: 'I believe she had a phone conversation with Di Leeson when she had had contact from Carmell Tebbutt who had to withdraw for person reasons'.⁷⁴
- 1.64** As recounted by Professor Firth, when Minister Haylen contacted Professor Firth to determine whether she would be willing to take on the role, the Minister indicated that she '... wanted someone with experience and knowledge running a big service-delivery agency... and then some additional knowledge post-politics of how these sorts of high-level recruitments work'.⁷⁵
- 1.65** Professor Firth acknowledged her longstanding personal and professional friendship with Minister Haylen, and agreed that her knowledge of how the Minister operates, and who she would get on with were part of why she was chosen to be on the panel:
- I do believe that you would want someone whose professional judgment you trusted for such a critical appointment. Again, to draw parallels with other public and private sector practice, that's not unusual.⁷⁶
- 1.66** Both Verity Firth and Carmel Tebbutt are former Labor Ministers with ongoing connections to the Labor Party.
- 1.67** The assessment panel met in person for approximately two hours on 15 June 2023 to discuss the applications and NGS Global's shortlist recommendations report dated 7 June 2023. As Mr

⁷⁰ Evidence, Mr Gartrell, 31 August 2023, pp 53-54.

⁷¹ Evidence, Mr Duncan, 31 August 2023, p 62.

⁷² Evidence, Mr Chris Lamb, Deputy Commissioner, Public Service Commission, 31 August 2023, p 34.

⁷³ Evidence, Professor Firth, 31 August 2023, p 94.

⁷⁴ Evidence, Mr Gartrell, 31 August 2023, p 55.

⁷⁵ Evidence, Professor Firth, 31 August 2023, p 95.

⁷⁶ Evidence, Professor Firth, 31 August 2023, p 99.

Chris Lamb, Deputy Public Service Commissioner, explained the role of the assessment panel was to:

... impartially undertake an initial screening against the essential criteria for the role, as well as review the candidates applications and CVs, and then develop a shortlist of candidates who met the capabilities for the role for progression to the next stage and further assessment by the evaluation panel.⁷⁷

1.68 The material before the panel members included: the final report of NGS Global dated 7 June 2023, the CV of each of the candidates and their cover letters.⁷⁸ Mr Lamb noted that references were not considered at this stage of the process.⁷⁹

1.69 At the beginning of the meeting, panel members were asked to disclose any potential conflicts of interest. Mr Lamb confirmed that 'a number of panel members identified that they had awareness of particular candidates, but no conflicts were declared'.⁸⁰ Professor Firth raised that she had been a junior Minister in the Iemma Government at the same time Mr Murray was the Premier's Chief of Staff, but that they had never worked closely together:

So when we were discussing Josh, I did. I said, "Just so people know, I know Josh Murray. And I remember I said at the time, "In fact, he's the only one I know but I do know him." I said what I just said to you. There was an overlapping time between 2007 and 2008, and I know him.⁸¹

1.70 Having declared that interested, the committee questioned Professor Firth on her participation in the decision to add Mr Murray to the shortlist of candidates. Professor Firth indicated that she did not think it was a 'critical interest'.⁸²

1.71 Mr Lamb confirmed that he was not aware of any of the discussions that took place between Minister Haylen's Office, Ms Leeson from the Premier's Department and Dr Broadbent regarding Mr Gartrell's desire to see Mr Murray progress to be interviewed by NGS Global.⁸³

1.72 Professor Firth indicated that each of the candidates was assessed against the position description and the capabilities attached to the position description.⁸⁴ Before embarking on conducting the assessments of each of the candidates, Professor Firth explained that the panel had an initial discussion to determine a common understanding as to the qualities the candidates ought to possess to proceed to the evaluation panel. According to Professor Firth, the panel agreed that what they were looking for was 'a leader for the department of transport in the next iteration of its journey'.⁸⁵

⁷⁷ Evidence, Mr Lamb, 31 August 2023, p 27.

⁷⁸ Evidence, Mr Lamb, 31 August 2023, p 27.

⁷⁹ Evidence, Mr Lamb, 31 August 2023, p 32.

⁸⁰ Evidence, Mr Lamb, 31 August 2023, p 30.

⁸¹ Evidence, Professor Firth, 31 August 2023, p 95.

⁸² Evidence, Professor Firth, 31 August 2023, p 95.

⁸³ Evidence, Mr Lamb, 31 August 2023, p 28.

⁸⁴ Evidence, Professor Firth, 31 August 2023, p 91.

⁸⁵ Evidence, Professor Firth, 31 August 2023, p 97.

1.73 In this light, when describing the kind of CEO Transport for NSW needed, Professor Firth observed that 'where you've got really strong operational deputies, you can have a strategic CEO-type role; when you've got less strong operational deputies you may need to have a stronger operational CEO, or whatever the case may be'.⁸⁶ In this context, the assessment panel deemed Mr Murray's application worthy of moving to the next stage of the process:

... in terms of Mr Murray's candidacy, we felt that for the next – again, remembering, we're talking about shortlisting for interview and we felt that he did have, genuinely, the capacity to be shortlisted for interview. We needed a strategic leader. We needed someone who understood holistic, whole of government type interactions, which we would have learnt. We needed someone who was good with stakeholder management and customer service. We needed someone who was good with even resources and cost blowouts, and a whole range of other things. So, all of those boxes, from what we had on the papers- and remember, these are paper based assessments- we went, "Yes, that person should proceed to interview."⁸⁷

1.74 Mr Lamb confirmed that in assessing Mr Murray's application, consideration was given to Dr Broadbent's assessment that Mr Murray's relative lack of operational experience had been assessed as a 'significant risk'.⁸⁸ Mr Lamb highlighted that the panel 'identified risks and areas to explore in the evaluation process with all applicants' but that Mr Murray was the only candidate he could remember 'where the risk was an operational risk'.⁸⁹ However, he also made the point that each of the candidates had different strengths and weaknesses, and emphasised that operational experience was just one of the factors under consideration:

Well, what you've got to remember is that we're assessing candidates against a job description, a list of pre-identified capabilities, and we're looking at strategic skills, stakeholder management, knowledge of government, operational skills – a whole range of things. When you're assessing all of those candidates against all those things, some do better in some than others.⁹⁰

1.75 After concluding what Mr Lamb described as a 'robust discussion' regarding each of the candidates, the panel agreed, by consensus, on a shortlist to go on to the evaluation stage of the process.⁹¹ Mr Murray was one of the four candidates shortlisted for interview. Two of these candidates were on the A1 list originally recommended by NGS Global in their 7 June final report, one candidate was from the A2 list, and one candidate was from the B list.⁹²

1.76 In the section of the assessment panel's report dealing with Mr Murray's application, the panel downgraded the grading of Mr Murray's operational experience from 'significant risk' to 'risk'.⁹³

⁸⁶ Evidence, Professor Firth, 31 August 2023, p 97.

⁸⁷ Evidence, Professor Firth, 31 August 2023, p 97.

⁸⁸ Evidence, Mr Lamb, 31 August 2023, pp 28-29.

⁸⁹ Evidence, Mr Lamb, 31 August 2023, p 29.

⁹⁰ Evidence, Mr Lamb, 31 August 2023, p 30.

⁹¹ Evidence, Mr Lamb, 31 August 2023, p 34.

⁹² Evidence, Professor Firth, 31 August 2023, p 97.

⁹³ Evidence, Dr Broadbent, 31 August 2023, p 79.

Dr Broadbent surmised that the downgrading could be explained by the difference between what the assessment panel agreed it was looking for, and the brief that had been to NGS Global:

I think in the assessment panel discussions, it became more significant in terms of someone who had understood government from the inside if I can put it that way, and that clearly Mr Murray was highly respected in that chief of staff role and, I understand, by both sides of Parliament.⁹⁴

1.77 Reflecting on the assessment panel process, both Mr Lamb and Professor Firth made comments regarding its thoroughness and independence. Mr Lamb commented that:

... all the candidates were interviewed by NGS Global. So that's an interview. The assessment panel had no involvement in any of those. It was the job of the assessment panel to receive the report provided by NGS Global, discuss the relative merits of the candidates and recommend a number of candidates proceed to the evaluation stage, which also was an interview and then some additional assessment as well.⁹⁵

1.78 Professor Firth commented that the process was 'entirely consistent with recruitment at executive level. If anything, it was more a proper process...'.⁹⁶ She further stated:

The fact that we had a separate assessment shortlisting panel from the interview panel I thought actually have it an extra layer of rigour and protection, because I actually hadn't had that before – where the people shortlisting then don't proceed to be the ones interviewing...so we assessed the shortlist and then we handed over, and the deeper dive happens to a separate group of senior public servants.⁹⁷

1.79 When asked whether probity checks, specifically consideration of any potential conflicts of interest, occurred at this stage of the process, Mr Lamb stated that these sorts of checks occur later in the process. He noted that 'a conflict of interest can only apply when somebody is in a role'.⁹⁸ He explained that under the GSE a conflict of interest is identified at the time of the appointment, when a candidate would be required to declare those conflicts of interest.⁹⁹

1.80 In regards to the prior donations made by Mr Murray to the Labour Party, Mr Lamb gave evidence that he was not aware of these donations, based on the documents provided to the assessment panel.¹⁰⁰ He later confirmed 'the assessment panel was not aware of that', adding '... neither should we have been to conduct an impartial assessment'.¹⁰¹

1.81 When asked whether he was aware that Mr Murray was a member of the Labor Party, or whether the panel was made aware of Mr Murray's longstanding relationship with the Premier, Mr Lamb advised he was not aware of either. He stated 'we did not discuss relationships with any

⁹⁴ Evidence, Dr Broadbent, 31 August 2023, p 86.

⁹⁵ Evidence, Mr Lamb, 31 August 2023, p 34.

⁹⁶ Evidence, Professor Firth, 31 August 2023, p 98.

⁹⁷ Evidence, Professor Firth, 31 August 2023, p 98.

⁹⁸ Evidence, Mr Lamb, 31 August 2023, p 33.

⁹⁹ Evidence, Mr Lamb, 31 August 2023, p 33.

¹⁰⁰ Evidence, Mr Lamb, 31 August 2023, p 28.

¹⁰¹ Evidence, Mr Lamb, 31 August 2023, p 30.

individual'. Mr Lamb further confirmed that Mr Murray's relationship with the Premier was not brought to the panel's attention in any way, before adding 'neither should it be for an impartial assessment of the merits of applicants'.¹⁰²

The evaluation panel

- 1.82** The evaluation panel comprised: the Public Service Commissioner, Kathrina Lo; the Secretary of the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts, Mr Jim Betts; and, the Acting Secretary of the Department of Premier and Cabinet, Mr Peter Duncan.¹⁰³
- 1.83** On 21 June 2023, the evaluation panel met and interviewed the four candidates shortlisted by the assessment panel. Dr Broadbent was also present. Mr Duncan described the interviews as 'broad-ranging', including a presentation and standard questioning.¹⁰⁴
- 1.84** Ms Lo noted that the evaluation panel assessed the candidates against each other and against the capabilities in the role, before adding 'then it was a matter for the employer—in this case the secretary of the Premier's Department—to take into account various factors before making a decision and one of those factors would have been consultation with the Minister'.¹⁰⁵ In addition, Ms Lo advised that:
- Neither the Minister nor her office gave a direction, or made any suggestion, to me about who the evaluation panel should interview or what our recommendations should be. To my knowledge, no such direction or suggestion was made to any other member of the evaluation panel.¹⁰⁶
- 1.85** Mr Duncan stated that while 'the performance of all candidates was very strong and professional ... only two were recommended to go forward to the Minister as the very and highly suitable candidates for her to meet'.¹⁰⁷ The two candidates were Ms Benedicte Colin, former CEO of the Transport Asset Holding Entity (TAHE) and Mr Murray.
- 1.86** Mr Duncan explained that following the interviews the evaluation panel then asked NGS Global to prepare a formal draft report to go to the Public Service Commissioner, which then went to the rest of the evaluation panel. Reference checks were undertaken, Mr Murray and Ms Colin were subjected to psychometric testing, and probity checks began.¹⁰⁸ Reflecting on the report, Mr Duncan stated:

The report was broadly in line with our deliberations, where it was agreed that we would suggest the two most suitable candidates to meet with the Minister for Transport.

¹⁰² Evidence, Mr Lamb, 31 August 2023, p 30.

¹⁰³ Evidence, Mr Duncan, 31 August 2023, p 62.

¹⁰⁴ Evidence, Mr Duncan, 31 August 2023, p 62 and p 75.

¹⁰⁵ Evidence, Ms Lo, 8 April 2024, p 12.

¹⁰⁶ Evidence, Ms Lo, 8 April 2024, p 2.

¹⁰⁷ Evidence, Mr Duncan, 31 August 2023, p 62

¹⁰⁸ Evidence, Mr Duncan, 31 August 2023, p 62.

Consulting with the relevant Minister is in line with the requirements of the Act and, as such, I invited the Minister to meet both candidates and provide her views in writing.¹⁰⁹

1.87 Although the report outlined that both candidates were suitable for Ministerial interview, Ms Colin was assessed as 'highly suitable' for the position, while Mr Murray was assessed as 'very suitable'. When asked about the difference between the two terms, Mr Duncan answered 'very little in my mind'.¹¹⁰

1.88 The committee questioned Mr Duncan on why the two different terms were used. Mr Duncan responded:

... in the process, I was at pains to say we would not be ranking—that we'd be deciding whether we had suitable candidates or not and that it was my view that we would at least have one or two candidates to go forward to the Minister for consideration and comment back.¹¹¹

1.89 When pressed further about the introduction of the term 'very suitable' when the terms used are usually 'unsuitable', 'suitable' and 'highly suitable', Mr Duncan shared that the panel viewed the two candidates as 'very close':

My only insight to this that I can offer is in the deliberations we saw the two candidates as very close. The report was prepared by the search firm. It was provided to the Public Service Commissioner and then provided to me. So that's an unusual category and it's not something that I'm aware of. That's the only insight I can provide you on that.¹¹²

1.90 When asked about the use of the two terms 'highly suitable' and 'very suitable' at a Budget Estimates hearing, Ms Lo stated:

We thought both candidates were appointable. I think that the different descriptions reflect the different experiences that each of the candidates brings to the table, and those experiences are outlined in the panel's report.¹¹³

1.91 At a subsequent hearing before the Public Accountability and Works Committee, Ms Lo explained when in the process the term 'very suitable' was used to describe Mr Murray:

At the conclusion of the interviews, the panel deliberated and then the executive search firm had the task of bringing that deliberation together and reflecting it in a report. That is when that terminology was used but, as I said in my opening statement, the GSE rules do not prescribe terminology to be used or whether a ranking is to be used. It's completely open.¹¹⁴

¹⁰⁹ Evidence, Mr Duncan, 31 August 2023, p 62

¹¹⁰ Evidence, Mr Duncan, 31 August 2023, p 66.

¹¹¹ Evidence, Mr Duncan, 31 August 2023, p 66

¹¹² Evidence, Mr Duncan, 31 August 2023, pp 67-68.

¹¹³ Evidence, Ms Kathrina Lo, Public Service Commissioner, Portfolio Committee No 1 - Premier and Finance, Budget Estimates, 25 October 2023, p. 72.

¹¹⁴ Evidence, Ms Lo, 8 April 2024, p 10.

- 1.92** When asked how Mr Murray was characterised as very suitable when he was previously described a significant risk candidate by NGS Global, Ms Lo gave evidence that:

During an executive search, it is an iterative process. An executive search firm will be speaking to sources and potential candidates. Applications will be received and the search firm might form views based on what's on the papers and what might be available publicly, such as on LinkedIn. But, as they meet candidates, views may change. Somebody may have looked a certain way on paper but, when they were interviewed through a screening interview done by the executive search firm, the view might change. And then when it goes through an assessment process and the evaluation panel, I would say that each of those panels needs to make up their own mind about the candidates. The reports of the executive search firm are just one input into that. The panels really need to interrogate information around the candidates and apply the assessments.¹¹⁵

- 1.93** In questioning, it was suggested to Mr Duncan that the candidates had been ranked, with Ms Colin ranking ahead of Mr Murray with the descriptor 'highly suitable'. Mr Duncan argued 'it wasn't a ranking. It was that people put a descriptor there that's not normal'.¹¹⁶ He added:

The other point that I would like to make is—and I said this clearly in the panel process—that they weren't to be ranked, and the criteria that came back, as you say, is not normal. That wasn't deemed to be a ranking, in my mind, and I had asked that during the panel process.¹¹⁷

- 1.94** Mr Duncan later added 'They were both very suitable or highly suitable people'.¹¹⁸

- 1.95** The question of rankings for the candidates was also put to Ms Lo, who stated '...we didn't rank the candidates. We didn't use the word "rank" or "ranking". We didn't place numbers next to the candidates'.¹¹⁹ Ms Lo also reiterated that 'the GSE rules do not require a panel to rank candidates for a secretary role, nor do they prescribe the descriptors to be used in a panel report to compare candidates'.¹²⁰

- 1.96** During the hearing, Ms Lo stated that the evaluation panel 'acted impartially, objectively and in good faith in assessing the suitability of the candidates for appointment'.¹²¹ She added that she did not receive any direction or suggestions from the Minister's Office:

Neither the Minister nor her office gave a direction, or made any suggestion, to me about who the evaluation panel should interview or what our recommendations should be. To my knowledge, no such direction or suggestion was made to any other member of the evaluation panel.¹²²

¹¹⁵ Evidence, Ms Lo, 8 April 2024, p 12.

¹¹⁶ Evidence, Mr Duncan, 31 August 2023, p 68.

¹¹⁷ Evidence, Mr Duncan, 31 August 2023, p 68.

¹¹⁸ Evidence, Mr Duncan, 31 August 2023, p 68.

¹¹⁹ Evidence, Ms Lo, 8 April 2024, p 10.

¹²⁰ Evidence, Ms Lo, 8 April 2024, p 2.

¹²¹ Evidence, Ms Lo, 8 April 2024, p 2.

¹²² Evidence, Ms Lo, 8 April 2024, p 2.

1.97 Dr Broadbent indicated that, when putting together the final report on behalf of the evaluation panel, her brief was to express who it was that the panel considered to be the lead candidate:

... we did seek to see if there was a lead candidate. As has been indicated, they were very, very close. My recollection is that Ms Colin was ranked slightly ahead of Mr Murray. The reason there was some concern about that was to ensure – and the Public Service Commissioner can speak to this- that there was that identification at the time of those candidates who could possibly be appointed, and my recollection is the lead candidate.¹²³

1.98 During the hearing, Mr Duncan advised he was not aware of Mr Murray's prior donations to Minister Haylen's local campaign adding '... in a process like that, if that was declared to me, I would refer it for advice, particularly legal advice'.¹²⁴

The final two candidates meeting with Minister Haylen

1.99 As noted earlier in the chapter, several witnesses, including Ms Lo, Mr Duncan and Ms Boyd, advised that consulting with the relevant Minister for secretary appointments is in line with the requirements of the GSE Act.¹²⁵ As such, after Mr Duncan wrote to the Minister on behalf of the assessment panel, the Minister met with Mr Murray and Ms Colin 'on or around 1 July 2023'.¹²⁶

1.100 Mr Gartrell, who attended the meetings, explained that although there was no set list of questions asked of each candidate, the process followed for both of the interviews was the same.¹²⁷ Mr Gartrell characterised the interviews as an opportunity for the Minister to 'identify how well she could work with each person as opposed to testing their competence and capacity'.¹²⁸

1.101 When asked whether Ms Colin was ever a tenable candidate in the Minister's eyes, given her former position with Transport Asset Holding Entity (TAHE), and given the Labor Party's election commitment to unwind TAHE, Mr Gartrell responded that he, the Minister and other staff were 'pretty impressed' with Ms Colin's qualities in their early involvement with Ms Colin, adding that 'she's an outstanding leader'.¹²⁹

1.102 When further questioned on the question of the political tenability of the two candidates, Mr Gartrell added: 'she [Ms Colin] was put forward as one of two suitable candidates and she was interviewed by the Minister on the basis that she was acceptable'.¹³⁰

¹²³ Evidence, Professor Firth, 31 August 2023, p 81.

¹²⁴ Evidence, Mr Duncan, 31 August 2023, pp 63-64.

¹²⁵ Evidence, Mr Duncan, 31 August 2023, p 62. See also Evidence, Ms Boyd, 31 August 2023, p 70 and Evidence, Ms Lo, 8 April 2024, pp 2-3.

¹²⁶ Evidence, Mr Duncan, 31 August 2023, p 62.

¹²⁷ Evidence, Mr Gartrell, 31 August 2023, p 56.

¹²⁸ Evidence, Mr Gartrell, 31 August 2023, p 56.

¹²⁹ Evidence, Mr Gartrell, 31 August 2023, p 57.

¹³⁰ Evidence, Mr Gartrell, 31 August 2023, p 57.

1.103 At the conclusion of the meetings with the candidates, Minister Haylen wrote to Mr Duncan expressing her preference:

As discussed, Scott and I met with both candidates for Secretary this morning. Both Josh and Benedicte are highly capable leaders however Josh is the better fit for the department and for me at this time and is therefore my preferred candidate. I highly value Benedict's contribution as CEO of TAHE and hope she will continue in that role. I would appreciate you helping to communicate that to her.¹³¹

1.104 When asked whether the Minister's email was a direction, Mr Duncan stated that as the Minister had been asked to provide her assessment of the two candidates, he took her email to be a statement as to preference, rather than a direction:

... I received it in the spirit that I asked it-as a result of consultation. I didn't feel it was a direction at the time. In fact, at that time I was still getting further probity advice and other inputs into my decision-making process, so it wasn't possible to make my decision at that time.¹³²

1.105 This was also the interpretation of Ms Boyd, who stated:

I believe the Minister may have been expressing a preference and that her decision was that she had chosen a preferred candidate in the context in which she was asked, "Who is your preferred candidate?"¹³³

1.106 When questioned on Minister Haylen's participation in the appointment of Mr Murray, Ms Lo stated that the Minister '... was consulted during the process... but she is required to be consulted under the GSE rules'.¹³⁴ Ms Lo advised that she was aware throughout the recruitment process that candidates would be put to the Minister for her view prior to appointment and added that the Secretary of the Premier's Department 'sought her [Minister Haylen] views on two candidates after meeting with those candidates and she provided a view'.¹³⁵

1.107 In regards to Mr Murray's prior donations to Minister Haylen's election campaign, Ms Lo gave evidence that she was not aware of these prior to her involvement in the recruitment process and would not expect to be told as 'it's not relevant to the merit process'.¹³⁶ Ms Lo advised that:

... there is no requirement for candidates for government sector roles to declare any donation to a political party. In fact, requiring or considering such information would be contrary to the merit principles and the apolitical nature of the government sector.¹³⁷

1.108 Ms Lo stated that had she been made aware that a donation had been made, she would have sought advice on the matter.¹³⁸ However, for the purposes of the recruitment process, she noted:

¹³¹ See Evidence, 31 August 2023, p 65.

¹³² Evidence, Mr Duncan, 31 August 2023, p 66.

¹³³ Evidence, Ms Boyd, 31 August 2023, p 76.

¹³⁴ Evidence, Ms Lo, 8 April 2024, p 3.

¹³⁵ Evidence, Ms Lo, 8 April 2024, pp 3-4.

¹³⁶ Evidence, Ms Lo, 8 April 2024, p 5.

¹³⁷ Evidence, Ms Lo, 8 April 2024, p 5.

¹³⁸ Evidence, Ms Lo, 8 April 2024, p 6.

I would have to set aside that information under merit recruitment. What we are doing under merit recruitment is to compare or assess candidates against each other—so we're looking at relative merits against each other—and we're assessing their skills and experience against the capabilities set out in the role description.¹³⁹

Final probity checks and report

- 1.109** The final stages in the appointment process involved the conclusion of the probity checks, consultation with the Public Service Commissioner on the final evaluation report, and the provision of this report to the Premier.
- 1.110** Mr Duncan explained that external probity advice was sought with respect to Mr Murray due to his employment in a tier 1 private infrastructure construction company.¹⁴⁰ This advice was received, provided to the Public Service Commissioner, and was acted upon to ensure that a plan could be put in place to avoid any potential conflicts of interest.¹⁴¹
- 1.111** In consultation with the Public Service Commissioner, the final report was prepared, with Mr Duncan exercising his delegated power under section 23(4) of the GSE Act, to express his intention to appoint Mr Murray to the position of Secretary of Transport for NSW.¹⁴²
- 1.112** On 13 July 2023, it was publicly announced, via a departmental media release, that Mr Murray had been appointed. Mr Murray commenced his role as Secretary on 14 August 2023.¹⁴³

Committee comment

- 1.113** Before this inquiry was established, media reports and documents produced to the Upper House raised questions about the decision to appoint Mr Josh Murray to the role of Secretary of Transport for NSW. There was a perception that Mr Murray was appointed due to his prior connections with the Minister for Transport and the NSW Labor Party more generally, despite his application being characterised as a 'significant risk' by the recruitment firm engaged by the NSW Government to conduct the initial search for candidates.
- 1.114** At the outset of the inquiry, it was unclear as to what process was followed to appoint Mr Murray and whether the process was unduly influenced by the Minister for Transport or her office. This inquiry has therefore been an important exercise to understand how and why Mr Murray was appointed to the role of Secretary of Transport for NSW.
- 1.115** The appointment of secretaries and other roles in the NSW Public Service is governed by the *Government Sector Employment Act 2013* (GSE Act). The committee learned that the Premier has the power to appoint secretaries and may delegate this function to the Secretary of the Premier's Department. There is discretion to either make a direct appointment or undertake a merit-based

¹³⁹ Evidence, Ms Lo, 8 April 2024, p 5.

¹⁴⁰ Evidence, Mr Duncan, 31 August 2023, p 63.

¹⁴¹ Evidence, Mr Duncan, 31 August 2023, p 63.

¹⁴² Evidence, Mr Duncan, 31 August 2023, p 63.

¹⁴³ Answers to questions on notice, Transport for NSW, 17 April 2024, p 9.

recruitment. However, if a decision is made to undertake a merit-based recruitment, there is no requirement to follow the provisions in the GSE Rules on comparative assessment that apply to the appointment of other roles in the NSW Public Service. As inquiry participants told us, this means there is no prescribed process for the appointment of secretaries and there is significant latitude when designing the recruitment process. In addition, there is a requirement in the GSE Act to consult with the relevant Minister.

- 1.116** The committee accepts that, in the case of the appointment of Mr Murray, a decision was made to conduct a merit-based recruitment rather than a direct appointment, in accordance with the GSE Act. In addition, the consultation conducted by the Premier's delegate with the Minister at the beginning and end of the recruitment process was appropriate.
- 1.117** Nonetheless, the process raised some questions for the committee about the involvement of the Minister's Office. The evidence suggests that the Minister's Office was interested in Mr Murray being considered for the position from the beginning. The Minister's Chief of Staff at the time contacted Mr Murray to share the job advertisement and then responded to the Premier's Department request for feedback part-way through the process and provided two names, including Mr Murray's, to be added to the shortlist for interviews. The committee views this conduct as indicative that Mr Gartrell as chief of staff was motivated to ensure the interview process included Josh Murray. While it is clear that there is no prescribed process for a merit-based recruitment for a secretary of a department, the committee questions why a decision was made to undertake a merit-based recruitment process when it appeared that Mr Murray was the favoured candidate from the beginning. Given the time, resources and money required to conduct the recruitment, a direct appointment may have been more efficient and transparent.

Finding 1

That, while the recruitment process for the position of Secretary of Transport for NSW was conducted in accordance with the *Government Sector Employment Act 2013*, a direct appointment may have been more efficient and transparent.

- 1.118** Another question raised throughout the inquiry was around Mr Murray's political donations prior to his appointment. The committee acknowledges that while Mr Murray's prior connections to the NSW Labor Party were clear from his CV, members of the assessment and evaluation panels were unaware of the donations he had made to the election campaigns of the Minister for Transport and Premier. The committee accepts the evidence it received from senior public servants that such donations do not need to be declared throughout the recruitment process, and that any potential conflicts of interest should be declared when an individual is appointed to a role.
- 1.119** On a separate note, it is important to highlight that the committee invited Minister Haylen to give evidence at its hearings in August 2023 and April 2024 on the appointment of Mr Murray, the assignment of Department Liaison Officers in her office (explored in Chapter 2) and the establishment of the Transition Office at Transport for NSW (explored in Chapter 3). Minister Haylen declined both invitations. While Ministers cannot be compelled to attend committee hearings, the Legislative Council has had a longstanding convention of Ministers attending hearings voluntarily, including before this committee. The participation of Ministers at committee hearings is an important accountability mechanism that this committee does not take

lightly. The committee notes that despite Minister Jo Haylen publicly stating she would 'answer any questions' she declined to participate in the inquiry hearings. Minister Jo Haylen also stated publicly that she is 'not accountable to the Upper House' which is deeply concerning to the committee.¹⁴⁴

- 1.120** Mr Murray's prior connections to the Minister and the involvement of her office in the recruitment process were central to this inquiry. It is therefore frustrating to the committee that Minister Haylen did not attend this inquiry. Although the Minister did answer related questions during subsequent Budget Estimates hearings, the appropriate forum for answering questions on these key issues was at this inquiry.

¹⁴⁴ 2GB Sydney, *Jo Haylen grilled over \$588k job to political donor*, 29 August 2023, https://www.youtube.com/watch?v=69b_PlAMiiU&ab_channel=2GBSydney

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

Chapter 2 The assignment and duties of Department Liaison Officers

Partway through the inquiry, concerns emerged about the assignment of Department Liaison Officers to the Office of the Minister for Transport. This chapter begins by outlining the role, duties and responsibilities of Department Liaison Officers seconded to ministerial offices. It then explores the appointment of Department Liaison Officers to the Office of the Minister for Transport, including requests for specific staff. Finally, it examines whether a specific Department Liaison Officer engaged in political work.

Guidelines for the role of Department Liaison Officers

- 2.1** Department Liaison Officers (DLOs) are government sector employees assigned to Ministers' offices from the department and agencies within Ministers' portfolios.¹⁴⁵ This section provides contextual information on the role, duties and responsibilities of Department Liaison Officers as set out in circular *C2021-07 Department Liaison Officers* issued by the Department of Premier and Cabinet in 2021.
- 2.2** The Minister may request that the head of a government sector agency within their portfolio assign a DLO to their office. The primary role of a DLO is to support the relationship and communication between the agency and the Minister's office. In addition, a DLO may also:
- perform specialist advisory roles where they can remain politically neutral
 - give advice regarding agency policy and procedures
 - perform administrative roles to support communication between the agency and the Minister's Office.¹⁴⁶
- 2.3** The DLO's role should be agreed to between the Minister and the agency head prior to commencement.¹⁴⁷
- 2.4** It is important to note that DLOs are not members of a Minister's staff. A DLO must be a temporary or ongoing employee of the agency from which they are assigned. DLOs remain employees of their home agency under their agency terms and conditions of employment and are subject to their home agency's code of conduct.¹⁴⁸
- 2.5** The circular on DLOs provides guidelines on the assignment of DLOs. Some of these include:
- Day to day, DLOs will be supervised by the Minister's Chief of Staff.

¹⁴⁵ NSW Premier & Cabinet, C2021-07 Department Liaison Officers, <https://arp.nsw.gov.au/c2021-07-department-liaison-officers/>

¹⁴⁶ NSW Premier & Cabinet, C2021-07 Department Liaison Officers, <https://arp.nsw.gov.au/c2021-07-department-liaison-officers/>

¹⁴⁷ NSW Premier & Cabinet, C2021-07 Department Liaison Officers, <https://arp.nsw.gov.au/c2021-07-department-liaison-officers/>

¹⁴⁸ NSW Premier & Cabinet, C2021-07 Department Liaison Officers, <https://arp.nsw.gov.au/c2021-07-department-liaison-officers/>

- DLOs must be politically neutral and impartial while assisting the Ministers to achieve their objectives. DLOs must avoid party political activities in the performance of their duties.
- DLOs should be identified by government sector agencies having regard to the skills, knowledge and experience required, in accordance with the relevant employment framework applying to the government sector agency.
- DLO assignments are temporary and should generally not exceed 18 months. Assignments beyond 18 months may be approved by the agency head.
- It is the responsibility of the employing home agency to ensure that the Department of Premier and Cabinet is notified of all DLO assignments.¹⁴⁹

2.6 In addition to the circular issued by the Premier's Department, Transport for NSW has developed a DLO handbook, which provides additional information and clarification for DLOs about the types of activities that fall within and outside the parameters of their duties as a DLO.¹⁵⁰

2.7 The Transport for NSW DLO handbook is managed by the chief of staff through the office of the secretary.¹⁵¹ Ms Susan Carroll, Chief of Staff, Transport for NSW, advised that the department is 'guided by the DPC circular, which says that DLOs must be impartial, so there is no partisan work to be carried out, regardless of the activity being undertaken by a DLO'.¹⁵² Ms Carroll further commented that the document is 'a guidance document' that sets out '... a raft of process flows with relation to things like supporting Ministers' officers with ministerial correspondence briefings, cabinet matters et cetera'.¹⁵³

The assignment of Department Liaison Officers in the Office of the Minister for Transport

2.8 The assignment of Department Liaison Officers (DLOs) to the office of Minister Jo Haylen, the Minister for Transport, was examined during the inquiry and budget estimates hearings. The appointment of Mr Kieren Ash, a Department Liaison Officer (DLO) who worked in Minister Haylen's office in 2023, was of particular interest to the committee.

2.9 The committee heard evidence on the process that applies to the appointment of DLOs from Transport for NSW. Ms Susan Carroll, Chief of Staff, Transport for NSW advised that DLOs are drawn from an internal pool of people, who have experience in transport.¹⁵⁴

¹⁴⁹ NSW Premier & Cabinet, C2021-07 Department Liaison Officers, <https://arp.nsw.gov.au/c2021-07-department-liaison-officers/>

¹⁵⁰ Tabled document, Ms Tracey Taylor, Chief People Officer, Transport for NSW, *Letter from Ms Tracey Taylor, Chief People Officer, Transport for NSW to the Deputy Secretary, Delivery and Coordination, Premier's Department regarding the Department of Premier and Cabinet Circular C2021-07 Department Liaison Officers*, 8 April 2024. See also Evidence, Mr Josh Murray, Secretary, Transport for NSW, 8 April 2024, p 47.

¹⁵¹ Evidence, Ms Susan Carroll, Chief of Staff, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, p 30.

¹⁵² Evidence, Ms Carroll, 23 February 2024, p 31.

¹⁵³ Evidence, Ms Susan Carroll, Chief of Staff, Transport for NSW, 8 April 2024, pp 31-32.

¹⁵⁴ Evidence, Ms Carroll, 8 April 2024, p 30.

2.10 Ms Carroll described the DLO appointment process, as it applies to Transport for NSW:

DLO appointments are made from existing staff. We don't go externally for DLO appointments because the circular provides that the DLO appointment is a source of knowledge and skills to support the Minister's office by being on the ground in the Minister's office. We would ordinarily undertake an EOI [expression of interest] process—that may be a formal or an informal EOI process—to make the appointments to that role. A number of candidates are usually considered, depending on the level of interest, and we would ordinarily provide a small shortlist to the Minister's office of candidates that we would have confidence are able to do that role.¹⁵⁵

2.11 During a budget estimates hearing, Ms Susan Carroll, Chief of Staff, Transport for NSW, advised that four requests were made to Transport for NSW for Department Liaison Officers (DLOs).¹⁵⁶

2.12 According to Transport for NSW, between 14 August 2023 and 8 April 2024, seven Transport for NSW staff members were newly assigned to the relevant Ministerial offices. This included four short-term assignments to temporarily provide leave cover for other DLOs.¹⁵⁷ According to Transport for NSW, these individuals were assigned in accordance with *C2021-07 Department Liaison Officers*.¹⁵⁸

2.13 At Budget Estimates, Minister Haylen was asked whether she was involved in any requests for Department Liaison Officers (DLOs) to her office. Minister Haylen advised that staffing arrangements in her office are managed by her chief of staff:

All the arrangements in my office, in terms of both personal staff and the secondment of public servants—DLOs to my office—is managed by my chief of staff. My employment function is delegated to my chief of staff, as would be the usual practice in most ministerial offices.¹⁵⁹

2.14 In regards to the specific appointment of Mr Ash, the Minister gave evidence that she did not request Mr Ash, or promise him a job in her office, maintaining that the management and secondment arrangements between her office and the department were managed by her chief of staff.¹⁶⁰ The Minister also stated that she did not have any conversations with Mr Scott Gartrell, her chief of staff at the time, about Mr Ash being engaged in her office.¹⁶¹

2.15 The Minister acknowledged that 'whilst not against the rules' the practice of requesting particular DLOs 'may have contributed to a blurring of the lines here...' before adding that this is one of the reasons why 'the practice will not continue in [her] office'. The Minister also acknowledged

¹⁵⁵ Evidence, Ms Carroll, 8 April 2024, p 30.

¹⁵⁶ Evidence, Ms Susan Carroll, Chief of Staff, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, p 70.

¹⁵⁷ Answers to questions on notice, Transport for NSW, 17 April 2024, p 7.

¹⁵⁸ Answers to questions on notice, Transport for NSW, 17 April 2024, p 7.

¹⁵⁹ Evidence, Minister Jo Haylen, Minister for Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, p 8.

¹⁶⁰ Evidence, Minister Haylen, 7 November 2023, p 9. See also Evidence, Minister Haylen, 7 November 2023, p 17.

¹⁶¹ Evidence, Minister Haylen, 7 November 2023, p 17.

that '...we could have done things better...' and was taking this opportunity to reset her office.¹⁶²

- 2.16** At a hearing before this committee, Ms Susan Carroll, Chief of Staff, Transport for NSW, was asked whether any previous Ministers requested DLOs by name. Ms Carroll advised that her knowledge is limited to her time with Transport for NSW and recalled 'one instance where a Minister did request a DLO be retained':

It was a DLO that had been serving in that office and, for continuity purposes, the Minister requested that that DLO continue. I understand there may have been circumstances prior to that, but I was not in the chief of staff role at that time so it wouldn't be appropriate for me to comment on the specifics of that.¹⁶³

- 2.17** When asked whether she would regard this to have been a breach in process in any way, Ms Carroll commented 'not really' and explained that the officer, in the instance she mentioned, 'went through a process by the department' and the rationale for the request was 'continuity and mitigation of disruption of circumstances'. Ms Carroll also noted that the request was for Transport for NSW to consider and in that instance the request was declined.¹⁶⁴

- 2.18** In relation to whether steps have been taken to clarify the DLO appointment process within Transport for NSW, Mr Josh Murray, Secretary, Transport for NSW, commented:

Certainly, and I think Minister Haylen has spoken about this previously either in the Chamber or in estimates. The view taken by the Minister's office is that, following on from these inquiries, they would not request any individual DLOs—even though that was not mentioned in the Premier's circular—and that instead they would ask for particular skill sets or policy areas, and that the department would respond with nominations. That was clarified by the Minister's chief of staff to me and that's what's been in place with any subsequent appointments.¹⁶⁵

The work of Department Liaison Officers in the Office of the Minister for Transport

- 2.19** A key issue examined by the inquiry was whether Mr Kieren Ash, a Department Liaison Officer (DLO) seconded to the office of the Minister for Transport, Jo Haylen, engaged in political work during his time as a DLO, contrary to the DLO guidelines. The Premier's Department DLO guidelines clearly state that DLOs must be politically neutral and impartial while assisting the Ministers to achieve their objectives and must avoid party political activities in the performance of their duties.¹⁶⁶
- 2.20** Media reports in September and October 2023 reported that Mr Ash had participated in political work during his time as a DLO with Minister Haylen's office. Following the media reports,

¹⁶² Evidence, Minister Haylen, 7 November 2023, p 18.

¹⁶³ Evidence, Ms Carroll, 8 April 2024, p 26.

¹⁶⁴ Evidence, Ms Carroll, 8 April 2024, p 26.

¹⁶⁵ Evidence, Mr Josh Murray, Secretary, Transport for NSW, 8 April 2024, p 49.

¹⁶⁶ NSW Premier & Cabinet, C2021-07 Department Liaison Officers, <https://arp.nsw.gov.au/c2021-07-department-liaison-officers/>

documents, specifically emails, received through the House showed that Mr Ash had engaged in political work while employed as a DLO with the Minister's office, including participating in the organisation of a community barbecue to thank volunteers who campaigned for the Labor party.¹⁶⁷

2.21 Prior to the media reports, Mr Ash's secondment as a DLO with the Minister's office was extended before subsequently ending in mid-September 2023.¹⁶⁸

2.22 During budget estimates, Minister Haylen was questioned on her knowledge of Mr Ash's work, and whether she was aware that he was engaging in political work while employed as a DLO in her office. Minister Haylen commented that she did not recall who organised the community barbecue, stating 'I suspect a range of volunteers and staff organised the event'.¹⁶⁹

2.23 Minister Haylen acknowledged that the relevant emails were of concern, and gave evidence throughout the hearing that when the emails came to her attention the week before the hearing, she referred them to Transport for NSW for investigation:

... 'Those emails did raise concern, and when I say "raise concern", they may constitute a breach of that public servant's employment obligations—a breach of his role as a DLO under the circular. As a result of that, I sought advice and subsequently asked that the department investigate whether or not there had been a breach or not. That is an employment matter.'¹⁷⁰

2.24 When pressed further on the matter, Minister Haylen maintained that she was not aware of the emails 'until last week' and as soon as the emails were brought to her attention she 'sought advice' and subsequently referred them for investigation to the public servant's employer.¹⁷¹

2.25 In relation to her knowledge of whether Mr Ash engaged in political work while employed as a DLO in her office, Minister Haylen commented:

My experience of the public servant's work that you refer to was that it was in line with his role... he came to serve in my office as a DLO. He is from the national policy and intergovernmental relations team within the department. He is a policy specialist within that area, and my engagement with him was around those issues, around Cabinet processes and also around the processes for the Infrastructure and Transport Ministers' Meetings...

...

I'm just going to explain the nature of my engagement with the public servant... I attended the Infrastructure and Transport Ministers' Meeting in Perth, and I needed to ensure that I was properly across the issues that I needed to advocate for on behalf of

¹⁶⁷ Evidence, Minister Haylen, 7 November 2023, pp 6-7. See also Evidence, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, pp 28-30.

¹⁶⁸ Evidence, 7 November 2023, p 43. See also Answers to questions on notice, Transport for NSW, 17 April 2024, p 9.

¹⁶⁹ Evidence, Minister Haylen, 7 November 2023, p 8.

¹⁷⁰ Evidence, Minister Haylen, 7 November 2023, p 43.

¹⁷¹ Evidence, Minister Haylen, 7 November 2023, p 8. See also Evidence, Minister Haylen, 7 November, p 5.

the people of New South Wales—... I was briefed accordingly, and the bulk of my engagement with this public servant was on those matters.¹⁷²

2.26 Minister Haylen also acknowledged Mr Ash's 'well-known personal political views' and commented that:

... We've got to remember here that we are talking about a small number of internal emails that may have blurred the lines between this public servant's role as a DLO and their personal political views... Those lines may have been blurred. These emails have been referred to his employer for investigation. That is the appropriate course of action.¹⁷³

2.27 When asked whether Mr Scott Gartrell's resignation was a result of the information he had received in respect of Mr Ash and the work he had been doing as a DLO in the Minister's office, the Minister maintained that: 'Mr Gartrell offered his resignation and I accepted his resignation last week'.¹⁷⁴ The Minister further advised that she did not ask Mr Gartrell to resign.¹⁷⁵

2.28 Mr Josh Murray, Secretary, Transport for NSW, was also questioned on the concerns around Mr Ash's work while he was seconded to Minister Haylen's office as a DLO. According to Transport for NSW, upon commencing as Secretary on 14 August 2023, Mr Murray was briefed on a wide range of matters, including DLO roles.¹⁷⁶ Transport for NSW noted that 'the individual [Mr Ash]... was on pre-planned annual leave as at 14 August 2023 and remained on leave until mid-September 2023, at which point he concluded in the role of DLO upon returning from leave'.¹⁷⁷

2.29 Mr Murray gave evidence at Budget Estimates that he received the matter for investigation 'on Wednesday night... in an email from Mr Gartrell' after having a discussion with the Minister's office earlier in the week.¹⁷⁸ At hearing before this committee, Mr Murray advised that 'as soon I received the materials from Mr Gartrell, the following morning I brought in Ms [Tracey] Taylor and Mr [David] Britton for a meeting to instigate the investigation'.¹⁷⁹

2.30 During budget estimates, Mr Howard Collins, Coordinator General, Transport for NSW, who was acting Secretary before Mr Murray commenced, advised that concerns about Mr Ash were raised with the Minister's office in May and July by the office of the secretary of Transport for NSW:

A couple of individuals were requested by the Minister's office. I was given some information about the individual's political background, which was useful. On a number of occasions, and certainly in July, when the extension was made, concerns were raised. I think people have cited emails which I said I would speak to the chief of staff. I

¹⁷² Evidence, Minister Haylen, 7 November 2023, pp 5 -6.

¹⁷³ Evidence, Minister Haylen, 7 November 2023, p 7.

¹⁷⁴ Evidence, Minister Haylen, 7 November 2023, p 23.

¹⁷⁵ Evidence, Minister Haylen, 7 November 2023, p 25.

¹⁷⁶ Answers to questions on notice, Transport for NSW, 17 April 2024, p 6.

¹⁷⁷ Answers to questions on notice, Transport for NSW, 17 April 2024, p 9.

¹⁷⁸ Evidence, Mr Josh Murray, Secretary, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, p 50.

¹⁷⁹ Evidence, Mr Murray, 8 April 2024, p 50.

thought it was appropriate, as he was, in effect, the employee manager, to just make sure that the individual did keep to those rules which he signed for in terms of being a DLO.¹⁸⁰

2.31 Mr Collins said that whilst he did not initially have any personal concerns about Mr Ash's work as a DLO, staff in the secretary office did raise concerns 'on a couple of occasions'.¹⁸¹ Mr Collins gave evidence that he assured his chief of staff that he would speak to the chief of staff in the Minister's office [Mr Gartrell] and remembers 'having that conversation', which was 'really about advice and making sure this person [Mr Ash] did keep to the rules'.¹⁸² When asked about the timing of this conversation, Mr Collins stated: 'I think I have on record the occasion in July when that was spoken about'.¹⁸³

2.32 Mr Collins elaborated on the nature of the concerns raised by his office :

I think it was initially about perhaps things, for example, that they may well have been getting involved in areas which were not directly Transport matters. Also, general demeanour—this is a relatively young man in an office who's got this role. ... It was giving him some advice about making sure that he's stuck to that and didn't, perhaps, get above his thought processes in that respect.¹⁸⁴

2.33 Mr Collins went on to further clarify the concerns regarding Mr Ash to say:

... we had a conversation—Ms Carroll and myself—where there were concerns raised about Mr Ash. No-one said, "Do not appoint him" or "He's not suitable." What was concerns were about perhaps his behaviour or him straying into areas which were not in the DLO. Therefore, I thought it appropriate that this wasn't about the individual not doing the role. This is about giving him advice, through the chief of staff, Scott Gartrell, to ensure that he adhered to those processes...¹⁸⁵

2.34 At Budget Estimates, Ms Susan Carroll, Chief of Staff, Transport for NSW, also gave evidence that she had a conversation with the Minister's Chief of Staff in May, which was part of a broader conversation on other matters relating to DLOs. She stated 'general information had been put to me, so I raised it with the Minister's chief of staff and sought assurance that he would review the tasking to ensure compliance with the apolitical role of our DLOs', however no specific evidence was provided.¹⁸⁶

2.35 In response to questions about whether concerns were raised with her from within the department about Mr Ash's appointment to the ministerial office, Ms Carroll advised:

When the request was made to the acting secretary in April—the request was made for a couple of officers to be appointed. At the time I was alive to possible risks relating to the officer. When the request was relayed to me, some context relating to his recent

¹⁸⁰ Evidence, Mr Howard Collins, Coordinator General, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, p 13.

¹⁸¹ Evidence, Mr Collins, 7 November 2023, p 13.

¹⁸² Evidence, Mr Collins, 7 November 2023, p 13.

¹⁸³ Evidence, Mr Collins, 7 November 2023, p 13.

¹⁸⁴ Evidence, Mr Collins, 7 November 2023, p 52.

¹⁸⁵ Evidence, Mr Collins, 7 November 2023, p 54.

¹⁸⁶ Evidence, Ms Carroll, 7 November 2023, p 14.

activity was drawn to my attention. I looked at that material. I shared that material with the acting secretary at the time. I was also alive to the fact that I had received a notification a couple of days after the election from the officer's direct line manager that the Minister's chief of staff would be requesting that officer be seconded into the office. It wasn't specified to be in a DLO role. The role specified was different, but I was alive to the fact that there had been conversation in late March. That request was not raised with myself or the former secretary at the time. It was raised with the acting secretary in April. So those two considerations rose to my mind.¹⁸⁷

- 2.36** Mr Collins advised that he did not raise the concerns with Minister Haylen, noting that his main contact, 'particularly in terms of departmental matters', was the chief of staff, Mr Scott Gartrell, as the employing manager.¹⁸⁸ When asked whether it was his understanding that the concerns would be conveyed to the Minister by Mr Gartrell, Mr Collins commented:

I think it's difficult for me to speculate, other than the fact that I thought I was talking to the appropriate person and the person who could speak directly with the individual. What matters were discussed between the chief of staff and the Minister, obviously is for them to discuss.¹⁸⁹

- 2.37** Following evidence from Mr Collins and Ms Carroll that concerns regarding Mr Ash were raised with the Minister's former Chief of Staff in May and July, prior to the media reports and the emails received through the House, the Minister was asked why action was not taken sooner to address or investigate the concerns. The Minister gave evidence that the daily operations of her office, including employment functions, were managed by her chief of staff, 'as is appropriate'.¹⁹⁰ She also asserted that she acted appropriately to ensure that had there been a breach, it would be dealt with by way of an investigation by Transport for NSW:

...I reject your characterisation and interpretation of events here... I have acted appropriately to ensure that if there has been a breach of this public servant's employment obligations, then that will be dealt with in the appropriate way through an investigation by his employer. That's the appropriate way to deal with these matters...¹⁹¹

- 2.38** In addition to his participation in organising a community barbeque, questions were asked about Mr Ash's involvement as a potential advisor on the independent bus and train review given that he was listed as a key contact for the Labor caucus concerning the review on behalf of the Minister's office. In response to these questions, the Minister advised that the allocation of tasks and responsibilities across the office are managed by her chief of staff.¹⁹²

- 2.39** The Minister was also asked questions about events Mr Ash may have attended with her during his time as a DLO. In response, the Minister advised:

... section 2.1 of the Transport DLO handbook specifically says that a DLO's key responsibilities are to attend meetings with members of Parliament and other ministerial offices, external stakeholders and government agencies, as required. So for a public

¹⁸⁷ Evidence, Ms Carroll, 7 November 2023, p 54.

¹⁸⁸ Evidence, Mr Collins, 7 November 2023, p 53.

¹⁸⁹ Evidence, Mr Collins, 7 November 2023, p 53.

¹⁹⁰ Evidence, Ms Carroll, 7 November 2023, p 43.

¹⁹¹ Evidence, Ms Carroll, 7 November 2023, p 38.

¹⁹² Evidence, Ms Carroll, 7 November 2023, p 17.

servant seconded to my office attending meetings with me, that is exactly the kind of role and obligations they have. Attending events is not outside the rules.¹⁹³

- 2.40** On a related matter, the committee questioned whether concerns were raised regarding other departmental staff seconded to Minister Haylen's office. Mr Murray advised that the department is not aware of any other complaints, or concerns against other staff members.¹⁹⁴ He stated 'the matters have been contained in these emails, [which] are now being investigated... and we will report on that'.¹⁹⁵ Both Ms Carroll and Mr Collins also confirmed that they were not aware of any other department staff acting improperly while employed in Minister Haylen's office.¹⁹⁶
- 2.41** Whilst acknowledging that public servants are not able to carry out political work in a DLO role, Ms Tracey Taylor, Chief People Officer, Transport for NSW explained that 'under policy' Transport for NSW '... would not typically ask about association to political parties. That is of the employee's personal interest'.¹⁹⁷ She went on to add that the 'only time that [Transport for NSW] would want to consider that is if, in the role that they are playing in the organisation, it becomes a perceived or real conflict of interest that the organisation then needs to consider and appropriately manage'.¹⁹⁸

Investigation conducted by Transport for NSW

- 2.42** As noted previously, Minister Haylen referred the emails regarding the nature of Mr Ash's work to Transport for NSW for investigation when they came to her attention. Upon receiving the matter for investigation, in an email from Mr Gartrell, Mr Murray referred the matter to Ms Tracey Taylor, Chief People Officer, Transport for NSW, and Mr David Britton, Chief Legal Officer, Transport for NSW, for investigation.¹⁹⁹
- 2.43** Mr Murray outlined the terms of reference of the investigation at budget estimates, advising:

The investigation is my responsibility under the *Transport Administration Act* and the employees of the transport service. To enact that investigation I contacted immediately the chief people officer, who is a deputy secretary, and I asked the general counsel to also assist and sit in on that discussion. I then provided the material that had been referred to me by Mr Gartrell in its entirety to those two individuals to have a look at and asked that that be done, obviously, in the standard processes for Transport under the code of conduct. At the same time I alerted Simon Draper, the Secretary of the Premier's Department, and subsequently I also sought the advice of Kathrina Lo, the Public Service Commissioner, to ensure that any other lessons being learnt from this process could be followed up appropriately.²⁰⁰

¹⁹³ Evidence, Minister Haylen, 7 November 2023, p 44.

¹⁹⁴ Evidence, Mr Murray, 7 November 2023, p 51.

¹⁹⁵ Evidence, Mr Murray, 7 November 2023, p 51.

¹⁹⁶ Evidence, Ms Carroll, 7 November 2023, p 51. See also Evidence, Mr Collins, 7 November 2023, p 51.

¹⁹⁷ Evidence, Ms Tracey Taylor, Chief People Officer, Transport for NSW, 8 April 2024, p 31.

¹⁹⁸ Evidence, Ms Taylor, 8 April 2024, p 31.

¹⁹⁹ Evidence, Ms Taylor, 8 April 2024, p 18. See also Evidence, Mr Murray, 7 November 2023, p 51.

²⁰⁰ Evidence, Mr Murray, 7 November 2023, p 51.

- 2.44 Mr Murray also noted that the Chief People Officer of Transport for NSW, Ms Tracey Taylor, would sign off on any findings arising out of the investigation.²⁰¹
- 2.45 Furthermore, when asked what steps were taken following the media report about Mr Ash's DLO work on 13 October 2023, Transport for NSW advised that the DLO handbook was updated and reissued to DLO staff members across the Transport offices. In addition, the department commenced a further DLO expression of interest (EOI) process seeking interest across the organisation.²⁰² Mr Murray also noted that when managing DLOs the department has a 'a two weekly check in process with each of those staff members'.²⁰³
- 2.46 Ms Taylor informed the committee that the Transport for NSW investigation into the matter involving Mr Ash is 'now closed' and 'recommendations of improvements to the DLO process' have been made.²⁰⁴ She also advised that 'several recommendations to the way that DLOs are managed across the organisation' were made.²⁰⁵
- 2.47 Mr David Britton noted that Mr Ash had resigned during the course of the investigation and the investigation was finalised following that resignation.²⁰⁶
- 2.48 Following the investigation, Ms Taylor wrote a letter to the Premier's Department, dated 5 April 2024, explaining that Transport for NSW recently considered its processes for engaging DLOs, and outlined the processes Transport for NSW has adopted in respect of its DLOs.²⁰⁷ Ms Taylor elaborated on the recommendations:

We have made a number of recommendations, including the managerial contact during the time that they are DLOs—that it's far more regular and that there is actually a dual reporting line, so that it's very clear who they report to in Transport for NSW, as well as taking day-to-day direction from the Minister's office, so that they have a senior person in Transport to liaise with; that all DLOs be provided with a copy of the updated DLO handbook, because there have been updates made to the DLO handbook and we're making sure that we're providing that to them; and before they do commence as a DLO, if they are a member of a political party, that they do disclose that up-front.²⁰⁸

- 2.49 The letter from Ms Taylor to the Premier's Department also suggested that there 'would be value' in the circular on DLOs to be made clearer:

²⁰¹ Evidence, Mr Murray, 7 November 2023, p 52.

²⁰² Evidence, Mr Murray, 7 November 2023, p 49.

²⁰³ Evidence, Mr Murray, 7 November 2023, p 50.

²⁰⁴ Evidence, Ms Taylor, 8 April 2024, p 30. See also, Evidence, Mr Josh Murray, Secretary, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, p 26; Evidence, Mr David Britton, Chief Legal Officer, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, p 27.

²⁰⁵ Evidence, Ms Taylor, 8 April 2024, p 30

²⁰⁶ Evidence, Mr Britton, 23 February 2024, p 27.

²⁰⁷ Tabled document, Ms Tracey Taylor, Chief People Officer, Transport for NSW, *Letter from Ms Tracey Taylor, Chief People Officer, Transport for NSW to the Deputy Secretary, Delivery and Coordination, Premier's Department regarding the Department of Premier and Cabinet Circular C2021-07 Department Liaison Officers*, 8 April 2024. See also Answers to questions on notice, Transport for NSW, 17 April 2024, p 7.

²⁰⁸ Evidence, Ms Taylor, 8 April 2024, p 30.

On reviewing the DPC Circular, Transport considers there would be value in that Circular being made clearer about the role(s) to be performed by a DLO, and those not to be performed, in a manner similar to Transport's DLO Handbook. Transport also suggests that consideration be given to updating the DPC Circular to reflect the dual reporting line and additional disclosure guidance that Transport has adopted.²⁰⁹

- 2.50** The committee questioned Mr Murray as to why there was a need for the letter if there was no issue with the recruitment, appointment or request for DLOs in Minister Haylen's office.²¹⁰ In response, Mr Murray acknowledged that Transport for NSW 'has been under scrutiny in terms of its supervision of DLOs over the period', which 'naturally raises a question for staff or for stakeholders or for Ministers: is everything being managed and supervised in the way that it should be?'.²¹¹ Mr Murray continued:

... I think we have got to demonstrate that that's the case. We have to show current DLOs or those aspiring to be DLOs that they'll be well supported when they put their hand up to support a government and take on additional duties, as a DLO is required to do... As you heard from previous witnesses, the DLO handbook that is provided in Transport—and has been in Transport, from my understanding, for some time—is a measure that goes above and beyond the Premier Department's circular, which is the main bible, if you like, for DLOs. Ours is an additional document that then supports the administration of DLOs. These extra findings are again to bolster that administration and mostly relate to supervision while in the ministerial offices.²¹²

- 2.51** Mr Murray then added that he thinks 'it's important that we take whatever steps are required to have the most robust process' and that 'the biggest take-out' for Transport for NSW, which is conveyed in the letter to the Premier's Department, is 'just providing that real lifeline back into the organisation'.²¹³

Committee comment

- 2.52** It is clear from the circular *C2021-07 Department Liaison Officers* issued by the Department of Premier and Cabinet in 2021 that Department Liaison Officers (DLOs) must be politically neutral and impartial, and must avoid party political activities in the performance of their duties. The impartiality of DLOs is important to safeguard the integrity of the public service.
- 2.53** Partway through this inquiry, documents produced to the House indicated that Mr Kieren Ash engaged in political work during his time as a DLO in the Office of the Minister for Transport in 2023. This included participating in the organisation of a community barbecue to thank volunteers who campaigned for the Labor party as well as his potential involvement as an advisor on the independent bus and train review.

²⁰⁹ Tabled document, *Letter from Ms Tracey Taylor, Chief People Officer, Transport for NSW to the Deputy Secretary, Delivery and Coordination, Premier's Department*, 8 April 2024.

²¹⁰ Evidence, Mr Murray, 8 April 2024, p 47.

²¹¹ Evidence, Mr Murray, 8 April 2024, p 47.

²¹² Evidence, Mr Murray, 8 April 2024, p 47.

²¹³ Evidence, Mr Murray, 8 April 2024, p 47.

- 2.54 Ultimately, the committee received sufficient evidence that Mr Kieren Ash conducted political work while employed as a DLO to the Office of the Minister for Transport, contrary to the guidelines in circular *C2021-07 Department Liaison Officers*.
-

Finding 2

That Mr Kieren Ash conducted political work contrary to the guidelines set out in circular *C2021-07 Department Liaison Officers* during his time as a Department Liaison Officer in the Office of the Minister for Transport.

- 2.55 The committee acknowledges that Transport for NSW initiated an investigation into Mr Ash's conduct after emails produced to the House were brought to the attention of the Minister prior to her attendance at a Budget Estimates hearing in November 2023. However, it is concerning that neither the Minister's office nor the department saw a need to initiate an investigation earlier following concerns raised by the Secretary's office as early as May-June 2023. The committee also notes that the investigation and its findings were not provided to the committee.
- 2.56 The committee notes that there may have been value in Transport for NSW taking more active steps to review the work of the DLO and intervene as his supervisor and employer.
- 2.57 Nonetheless, the committee was encouraged to hear that as a direct result of the investigation, Transport for NSW has taken steps to improve the management of DLOs. The committee agrees with Transport for NSW that there would be value in updating circular *C2021-07 Department Liaison Officers*. The committee therefore recommends that the circular be updated to further clarify roles, and specificity on the tasks, to be performed by a DLO and those not to be performed, clarify that DLOs cannot be chosen by a Minister's office but instead should be nominated by the relevant department and suggest that home agencies meet more regularly with their DLOs.
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Recommendation 1

That the NSW Government update circular *C2021-07 Department Liaison Officers* to:

- provide further clarity on the roles, and specificity on the tasks, that should and should not be performed by Department Liaison Officers
 - clarify that Department Liaison Officers cannot be chosen by a Minister's office but should instead be nominated by the relevant department
 - suggest that home agencies nominate a managerial contact to meet regularly with Department Liaison Officers.
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Chapter 3 **The appointment of Ms Emma Watts to the position of NSW Assistant Cross-Border Commissioner**

Ms Emma Watts was appointed to the position of NSW Assistant Cross-Border Commissioner in 2020. The Office of the Cross-Border Commissioner was established in 2012 under the former Coalition Government. It is an agency that sits within the Department of Regional NSW tasked with advocating for the specific needs of cross-border communities across New South Wales. Ms Watts' involvement in the National Party raised questions as to whether the role was created for her and whether an appropriate process was followed for her appointment.

This chapter considers the process and concerns raised with respect to Ms Watts' appointment. The chapter begins by providing background information on Ms Watts' connections to and involvement in the National Party. The chapter then outlines the events and process that led to the appointment of Ms Watts to the permanent position of NSW Assistant Cross-Border Commissioner.

Ms Emma Watts' connections to and involvement in the National Party

- 3.1** Ms Watts' appointment to the position of NSW Assistant Cross-Border Commissioner raised concerns due to her connections in the National Party. This section provides an overview of Ms Watts' involvement in the party including her donations and relationship with the former Deputy Premier and Minister for Minister for Regional New South Wales, Industry and Trade.
- 3.2** Ms Watts informed the committee that she is a long term member of the National Party and has held the elected position of National Secretary for a number of years.²¹⁴ She explained that the role is voluntary, unpaid and largely deals with matters of governance.²¹⁵
- 3.3** Ms Watts indicated that in the lead up to the 2019 state election, she donated \$3,945 to the National Party, mostly in the form of membership fees and tickets to dinners.²¹⁶ She further advised that for the financial years between 2018-2019 and 2022-2023, she donated \$1,480 in membership fees and donations, including functions and raffle tickets.²¹⁷
- 3.4** Turning to her connections with former Ministers, Ms Watts advised that she first met the former Deputy Premier and Minister for Regional New South Wales, Industry and Trade, John Barilaro in 2009 or 2010. Ms Watts described the nature of their relationship as 'more than acquaintances', with Mr Barilaro contacting Ms Watts in the lead up to the hearing to check on her wellbeing.²¹⁸ Ms Watts also confirmed that she had volunteered as Mr Barilaro's campaign manager in 2011.²¹⁹

²¹⁴ Evidence, Ms Emma Watts, NSW Cross-Border Assistant Commissioner, 1 September 2023, p 6.

²¹⁵ Evidence, Ms Watts, 1 September 2023, p 9.

²¹⁶ Evidence, Ms Watts, 1 September 2023, pp 10 and 13-14.

²¹⁷ Evidence, Ms Watts, 1 September 2023, p 14. See also, Answer to supplementary question, Ms Emma Watts, NSW Cross-Border Assistant Commissioner, 29 September 2023, p 1.

²¹⁸ Evidence, Ms Watts, 1 September 2023, pp 15-16.

²¹⁹ Evidence, Ms Watts, 1 September 2023, p 9.

- 3.5 In addition to her general connections in the Party, Ms Watts has also been a political staffer in the office of Melinda Pavey when she first entered the Legislative Council.²²⁰

The process that led to Ms Emma Watts' appointment to the permanent position of NSW Assistant Cross-Border Commissioner

- 3.6 This section discusses the events that led to the appointment of Ms Watts to the position of Assistant Cross-Border Commissioner including:
- the delivery of her CV to the Cross-Border Commissioner
 - the establishment of a temporary position in the Office of the Cross-Border Commissioner
 - the use of a talent pool to permanently appoint Ms Watts.

The delivery of Ms Watts' CV to the Cross-Border Commissioner

- 3.7 Ms Watts had been working in the climate change policy sector for a number of years until 2018. From 2018 and into 2019, Ms Watts began handing her CV around to potential employers, looking for a career change.²²¹
- 3.8 In addition to people outside of politics, Ms Watts handed her CV to a number of National Party Members.²²² One of those members was Melinda Pavey, the then Water Minister, who she was working for as an adviser in early 2019.²²³
- 3.9 In July of 2019, Mr McTavish received Ms Watts' CV in an email from Mr Mark Connell, then Chief of Staff to the former Deputy Premier. He recalled the email reading as follows: 'It was "Dear James" or "Hi James, as discussed," and the CV attached'.²²⁴ Mr McTavish couldn't recall discussing the CV or Ms Watts in the conversations he had with Mr Connell during the intervening period.²²⁵
- 3.10 Around the same time in July 2019, Mr McTavish also received Ms Watts' CV from the Coordinator General - Regions, Industry, Agriculture and Resources in the Department of Planning, Industry and Environment.²²⁶
- 3.11 When Ms Watts was asked how she had heard of the work of the Cross-Border Commissioner, or of any available roles in the office of the Cross-Border Commissioner, Ms Watts indicated

²²⁰ Evidence, Ms Watts, 1 September 2023, pp 15-16.

²²¹ Evidence, Ms Watts, 1 September 2023, p 6.

²²² Evidence, Ms Watts, 1 September 2023, p 7.

²²³ Evidence, Ms Watts, 1 September 2023, p 8.

²²⁴ Evidence, Mr James McTavish, NSW Cross-Border Commissioner, 1 September 2023, p 23.

²²⁵ Evidence, Mr McTavish, 1 September 2023, p 23.

²²⁶ Evidence, Mr McTavish, 1 September 2023, p 21.

that she knew Mr McTavish through her networks: 'I knew through my networks-so I was aware of the commissioner. I was aware of the regard in which he was held in lots of quarters'.²²⁷

- 3.12** Ms Watts shared with the committee that she obtained the contact details of Mr McTavish from another person in what is now the Department of Regional NSW. In September 2019, she texted Mr McTavish to arrange a meeting. Ms Watts recalled that at that meeting, she was told that there were no positions available at that time.²²⁸
- 3.13** Mr McTavish suggested there was no meeting, but rather that contact had been made.²²⁹ Indeed, Mr McTavish stated that he couldn't recall ever having met Ms Watts prior to interviewing her for the first temporary contract, but noted he may have had some interaction with her as Minister Pavey's advisor:

I can't recall ever meeting Ms Watts prior to interviewing her in December. However, as Ms Watts was a member of staff of Minister Pavey's office, it is likely that I had some interaction with her during that period of time when she was establishing Minister Pavey's office and I was the regional town water supply coordinator. I can't actually recall any of those interactions, but it is likely that they occurred.²³⁰

The establishment of a temporary position in the Office of the NSW Cross-Border Commissioner

- 3.14** In late January or early February 2019, Mr McTavish took on the role of Regional Town Water Supply Coordinator, in addition to his position of Cross-Border Commissioner. This was a period of extreme drought in New South Wales, with Mr McTavish travelling across the state to provide support to communities struggling to source water.²³¹
- 3.15** The Regional Town Water Supplier role took up most of Mr McTavish's time, meaning he 'was not able to pay appropriate attention' to his role of Cross-Border Commissioner. As such, in mid-2019, he sought additional resources for this team, noting that recruitment did not commence until those resources were secured in November 2019.²³²
- 3.16** Mr McTavish confirmed that Ms Watts was the only candidate interviewed for a temporary role in the Cross-Border Commissioner's Office.²³³ Mr McTavish and Mr Steve Orr, Acting Secretary, Department of Regional NSW explained that the standard process for the appointment of an individual to a temporary role was followed. There was no public advertisement, an interview took place with another senior executive present, reference checks

²²⁷ Evidence, Ms Watts, 1 September 2023, p 7.

²²⁸ Evidence, Ms Watts, 1 September 2023, pp 6-7.

²²⁹ Evidence, Mr McTavish, 1 September 2023, p 23.

²³⁰ Evidence, Mr McTavish, 1 September 2023, p 23.

²³¹ Evidence, Mr McTavish, 1 September 2023, p 21.

²³² Evidence, Mr McTavish, 1 September 2023, p 21.

²³³ Evidence, Mr McTavish, 1 September 2023, p 22.

were conducted, as well as psychometric testing, and then a recommendation was made to the Secretary of the Department.²³⁴

3.17 As explained by Ms Kate Boyd, General Counsel, Cabinet Office, temporary contracts are usually for a period of six or twelve months, and unlike permanent positions within the NSW Public Service, the *Government Sector Employment Act 2013* (GSE Act) allows hiring managers to make temporary hiring decisions without having to undertake a full comparative assessment, but rather a suitability assessment.²³⁵ Unlike a comparative assessment, a suitability assessment assesses an individual against pre-established standards to a role and not against other individuals.²³⁶

3.18 Importantly, unlike the position of secretary, Ministers have no role or involvement in the recruitment or management of senior executives or other public servants below secretary level. Ms Boyd explained that this is to protect the integrity of the public service:

The secretaries are a unique position in the public sector. They're obviously required to work very closely with the Minister and the Act reflects that by requiring Ministers to be consulted before a report is provided to the Premier on the appointment of a secretary. In contrast, senior executives are to be hired by secretaries of departments. So secretaries of departments exercise the employer functions of the Government in relation to the senior executive service. Ministers are not to direct secretaries in relation to those decisions. So there's a clear demarcation if you like, between the secretary and the Minister there, in terms of the selection and recruitment of people to roles in the public service. And the reason for that is to protect the integrity of the public service and to maintain an apolitical and professional public service.²³⁷

3.19 Ms Watts was appointed to the temporary position on 29 January 2020 for an initial six-month period. Mr Orr drew the committee's attention to the fact that although Ms Watts began in her role on 29 January 2020, the paperwork was not formally signed until 27 February 2020.²³⁸ While not suggesting improper motives, Mr Orr did suggest that these unusual arrangements give an insight into the speed at which decisions were being taken in the Department during a period of heightened stress:

It was a very unusual time. We had the drought matters, which Mr McTavish alluded to, we had the Black Summer bushfires to deal with, so the circumstances and the context in which the public sector was operating at the time was highly unusual.²³⁹

3.20 In response to questioning, Mr McTavish stressed that the position was not created for Ms Watts, it was just a matter of needing to appointment a capable individual quickly, and being aware of Ms Watts' interest in the work of the Cross-Border Commissioner: '... at no time was

²³⁴ Evidence, Mr McTavish, 1 September 2023, pp 21-22; Evidence, Mr Steve Orr, Acting Secretary, Department of Regional NSW, 1 September 2023, p 40.

²³⁵ Evidence, Ms Kate Boyd, Deputy Secretary, General Counsel, Cabinet Office, 1 September 2023, p 34.

²³⁶ See, *Government Sector Employment Act 2013*, s 18(1).

²³⁷ Evidence, Ms Boyd, 1 September 2023, p 31.

²³⁸ Evidence, Mr McTavish, 1 September 2023, pp 41-42.

²³⁹ Evidence, Mr McTavish, 1 September 2023, p 42.

there a guarantee of a position being developed for Ms Watts, nor was the position created specifically for her'.²⁴⁰

- 3.21** When asked whether he was aware of Ms Watts' involvement in the National Party, and whether she had declared her involvement, or whether questions had been asked during the recruitment process, Mr McTavish indicated that it was not his experience for these kinds of questions to be asked until an appointment is made. That being said, he was fully aware of Ms Watts' political affiliations and activities.²⁴¹
- 3.22** Mr McTavish also indicated that he had never had anyone disclose the fact that they had made political donations in an interview before.²⁴²
- 3.23** When asked to comment on the circumstances surrounding Ms Watts appointment, including her position in the National Party, the donations and the decision not to conduct a merit-based process before appointing her to a temporary position, Ms Boyd stated:

... all hiring managers in government have a responsibility to maintain the reputation of the New South Wales public service as a professional, apolitical and merit-based institution. The circumstances that you've described to me, I think, do raise questions about whether or not that reputation of the agency had been fully considered, especially in circumstances where the candidate is an office bearer in a political party. There is certainly no prohibition on that in New South Wales. People are entitled to reasonable participation in public affairs, and in political life. That is an implied freedom under the Commonwealth Constitution. But, as public officials who are responsible for making recruitment decisions, you also have a duty to ensure that the reputation of the public service as an apolitical and professional merit-based institution is upheld. I think that puts the candidate in a very difficult position, frankly, and we can see the outcome of that through this inquiry. So regard has to be had in every case and the facts of the case are really important to each of these decisions. I don't think it's helpful to be making general statements about it. You need to consider it's a question of nature and degree in each case and the seniority of the role, the public profile of the role, the nature and extent of the political activities that the participant, the candidate, has engaged in. The fact that the Minister has suggested or facilitated consideration of the candidate is also a factor here that tends to suggest that the impartiality and the apolitical nature of the public service was not front of mind when this recruitment occurred, and I think we all pay a price for that as the public service.²⁴³

- 3.24** As the COVID-19 outbreak worsened in 2020, and borders began to close, the work of the Cross-Border Commissioner's office significantly increased.²⁴⁴ Mr McTavish explained that as a result, there was a need to extend Ms Watts' contract for an additional six months.²⁴⁵

²⁴⁰ Evidence, Mr McTavish, 1 September 2023, p 21.

²⁴¹ Evidence, Mr McTavish, 1 September 2023, pp 25-26.

²⁴² Evidence, Mr McTavish, 1 September 2023, p 27.

²⁴³ Evidence, Ms Boyd, 1 September 2023, p 33.

²⁴⁴ Evidence, Ms Watts, 1 September 2023, p 3; See also Evidence, Mr McTavish, 1 September 2023, p 21.

²⁴⁵ Evidence, Mr McTavish, 1 September 2023, p 21.

- 3.25** The situation caused by the continued border closures in the first part of 2021 continued to place a great deal of pressure on the Cross-Border Commissioner's Office.²⁴⁶ As Ms Watts explained, their office became a key port-of-call for those living in the border regions who required permits to be able to cross each day to access essential services.²⁴⁷
- 3.26** Accordingly, the decision was made to extend Ms Watts' contract for a further twelve months to 13 December 2021.²⁴⁸ Mr McTavish advised that both the six-month and the twelve-month extensions were signed off by the Secretary of the Department.²⁴⁹

The use of a talent pool to permanently appoint Ms Watts

- 3.27** In March 2021, Ms Watts applied for an externally advertised Senior Executive Service Band 1 position, 'Director Strategy and Reform', in a different area of the same department.²⁵⁰ This was a merit-based selection process, in accordance with the relevant sections of Part 3 of the GSE Act.²⁵¹
- 3.28** Although Ms Watts was not the successful candidate for the position, she was placed in a talent pool, which was then drawn upon by the Office of the Cross-Border Commissioner to appoint Ms Watts to the position of Assistant Cross-Border Commissioner, also a Senior Executive Service Band 1 position.²⁵²
- 3.29** Ms Boyd explained the reason for the use of talent pools in the NSW Public Service:

It's basically, to save cost and time, a mechanism whereby if you run a recruitment process in the sector and you identify someone who is suitable for appointment at that level ... you can offer the job to a suitable candidate. If there are other suitable candidates who are equally well placed to perform at that level, you can place them on what's described as a talent pool so that other hiring managers across the sector don't have to duplicate recruitment processes and can select people from that pool. The pools are temporary. ... But it is a mechanism for efficiency, really, to make sure that duplication of time and effort is not occurring across the sector, and that if someone goes to the time and effort of running a recruitment process and they identify someone who has the capabilities required ... other hiring managers get the benefit of that and can select people directly from the pool.²⁵³

- 3.30** Ms Watts sat in the talent pool until approximately December 2021. In the intervening period, the temporary role of Assistant Cross-Border Commissioner was converted into a permanent

²⁴⁶ Evidence, Ms Watts, 1 September 2023, p 3.

²⁴⁷ Evidence, Ms Watts, 1 September 2023, p 3.

²⁴⁸ Evidence, Ms Watts, 1 September 2023, p 3.

²⁴⁹ Evidence, Mr McTavish, 1 September 2023, p 22.

²⁵⁰ Evidence, Ms Watts, 1 September 2023, p 3.

²⁵¹ See, *Government Sector Employment Act 2013*, s 17.

²⁵² Evidence, Mr Steve Orr, Acting Secretary, Department of Regional NSW, 1 September 2023, p 42.

²⁵³ Evidence, Ms Boyd, 1 September 2023, p 32.

position. Then, on or around 13 December 2021, Ms Watts was appointed to the permanent position of Assistant Cross-Border Commissioner.²⁵⁴

- 3.31** Mr McTavish rejected the proposition that the process to appoint Ms Watts into the permanent role was a 'sham recruitment process', noting that the talent pool mechanism is well established in the public service:

No, I wouldn't describe it as a sham recruitment process. It was conducted in accordance with the guidelines for recruitment that were in place. She was assessed by people other than me for eligibility for another job and she was hired from a talent pool, which is an appropriate mechanism which is well established in the public service.²⁵⁵

- 3.32** Mr Orr concurred, explaining that candidates are appointed from talent pools, based on their capabilities rather than on their suitability for a particular role:

Generally, there's a view about the capabilities. It's not necessarily about the role per se but are the capabilities similar. What I suspect has happened here is a view's been formed that the capabilities are similar and, therefore, because Ms Watts was on the talent pool, she could be direct appointed into the role.²⁵⁶

Committee comment

- 3.33** Ms Emma Watts was appointed to the role of NSW Cross-Border Assistant Commissioner in 2020 when the Coalition was in government. The appointment of Ms Watts raised questions due to her connections and involvement in the National Party.
- 3.34** Evidence to this inquiry indicates that the appointment of Ms Watts was conducted in accordance with the *Government Sector Employment Act 2013*. This includes the NSW Cross-Border Commissioner's decision to conduct a suitability test to initially temporarily appoint Ms Watts to the role. This was followed by a subsequent decision to permanently appoint Ms Watts to the role after she was placed in a separate talent pool at the same grade.
- 3.35** While this may be the case, it is important to recognise that the circumstances surrounding Ms Watts' appointment could lead to the perception that her appointment was not fair or merit-based. While the decision to conduct a suitability test was well within the purview of the GSE Act, a merit-based recruitment process may have been more appropriate given Ms Watts' connections to the National Party.

Finding 3

That the suitability test leading to the appointment of Ms Emma Watts to the position of NSW Cross-Border Assistant Commissioner was conducted in accordance with the *Government Sector Employment Act 2013*.

²⁵⁴ Evidence, Ms Watts, 1 September 2023, p 3.

²⁵⁵ Evidence, Mr McTavish, 1 September 2023, p 27.

²⁵⁶ Evidence, Mr Orr, 1 September 2023, p 43.

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

Recommendation 2

That the NSW Government consider merit-based recruitment processes when candidates have strong political connections.

Chapter 4 The establishment of and appointments to the Transition Office, Transport for NSW

The Transition Office was established in 2023 within Transport for NSW as a temporary program management office to provide coordination of the Transport agencies' advice, data and other inputs into the independent reviews across the Transport cluster.²⁵⁷

This chapter outlines the establishment of the Transition Office, within Transport for NSW. The chapter also examines the appointment of the Executive Director of the Transition Office, including the legal advice sought by Transport for NSW following requests from the Minister's Office for this position.

The establishment of the Transition Office

- 4.1** The Transition Office was established following a request by Mr Scott Gartrell, the former Chief of Staff for the Minister of Transport, Minister Jo Haylen.²⁵⁸ The committee heard evidence on the nature of the request and whether the subsequent establishment of the office had any significant cost implications.
- 4.2** During a Budget Estimates hearing, Ms Susan Carroll, Chief of Staff, Transport for NSW, gave evidence that Mr Gartrell's request was discussed at two meetings. She advised that the request was first raised by Mr Gartrell at a meeting with the former Secretary for Transport for NSW, Mr Rob Sharpe. She noted, however, that she was not present at the meeting, and therefore was not able to confirm who was in attendance at the meeting, including Minister Haylen.²⁵⁹
- 4.3** Ms Carroll advised that she attended a subsequent meeting in late March 2023 with the former secretary and Mr Gartrell, where the request to establish the Transition Office was further discussed.²⁶⁰ Ms Carroll recalled that Mr Gartrell requested that an executive director lead the transition office and indicated that he would provide a suggested name for the role:

My recollection is that the Minister's chief of staff said to the former secretary, "We would like you to create an executive director role to head up that transition office", and then indicated that he would be providing the former secretary with a name for that role.²⁶¹

- 4.4** Requests from the Minister's office about who should lead the Transition Office and the recruitment process to appoint the Executive Director of the Transition Office are discussed later in the chapter.

²⁵⁷ Transport for NSW, Transport for NSW Information guide, <https://www.transport.nsw.gov.au/transport-for-nsw-information-guide>

²⁵⁸ Evidence, Ms Susan Carroll, Chief of Staff, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, p 80.

²⁵⁹ Evidence, Ms Carroll, 7 November 2023, p 80.

²⁶⁰ Evidence, Ms Carroll, 7 November 2023, p 85. See also evidence, Ms Carroll, 7 November 2023, p 80.

²⁶¹ Evidence, Ms Carroll, 7 November 2023, p 80.

- 4.5 In questioning at Budget Estimates, Ms Carroll confirmed that the requests by Mr Gartrell would incur a cost and a reorder of the public service given Transport for NSW did not have a transition office at the time.²⁶²
- 4.6 In answers to questions on notice following the committee's hearing in April, Transport for NSW confirmed that positions within the Transition Office are 'filled by staff who have been seconded from other parts of Transport for NSW, which means there is no additional cost to Transport for NSW for these roles'.²⁶³ Ms Barbara Wise, Head of Transition Office, Transport for NSW, advised the roles in the Transition Office are temporary roles until the end of June 2024.²⁶⁴
- 4.7 Mr Murray confirmed that the Transition Office will not remain as a permanent office within Transport for NSW. However, he noted that the office is tied to NSW Government reviews that are currently underway.²⁶⁵
- 4.8 While Mr Murray was not able to provide a definitive date for when the Transition Office would cease its work, he stated: 'We had looked at around a midyear time frame, but it will now be looked at in regards to the organisational restructure that I announced last week'.²⁶⁶
- 4.9 Ms Wise noted that the work of the Transition Office 'will need to continue beyond June', but that it was not for her to decide whether the work would be done by the Transition Office or not.²⁶⁷
- 4.10 During Budget Estimates, the Minister for Transport reflected on the importance of the Transitions Office:

The establishment of a transition office was critical and remains critical because it is the place where each of these independent reviews that are coming forward to Government are then centrally dealt with and responded to.²⁶⁸

The circumstances surrounding the appointment of the Executive Director to the Transition Office

- 4.11 The Office of the Minister for Transport made requests to Transport for NSW with respect to appointments in the Transition Office. This section examines these requests in more detail and provides an overview of the recruitment process that followed. It then discusses the legal advice

²⁶² Evidence, Ms Carroll, 7 November 2023, p 81.

²⁶³ Answers to questions on notice, Transport for NSW, 17 April 2024, p 5. See also, Evidence, Mr Josh Murray, Secretary, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, p 36.

²⁶⁴ Evidence, Ms Barbara Wise, Head of Transition Office, Transport for NSW, 8 April 2024, p 37.

²⁶⁵ Evidence, Mr Josh Murray, Secretary, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, p 36.

²⁶⁶ Evidence, Mr Murray, Secretary, 23 February 2024, p 36.

²⁶⁷ Evidence, Ms Wise, 8 April 2024, p 38.

²⁶⁸ Evidence, Minister Jo Haylen, Minister for Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, p 41.

sought by Transport for NSW following the requests and considers the boundary between a Ministerial suggestion and direction to a departmental secretary.

The requests from the Minister's Office and subsequent recruitment process

4.12 The committee learned that the Minister's Office made requests for two specific people with respect to appointments in the Transition Office.²⁶⁹

4.13 At a Budget Estimates hearing in November 2023, Ms Carroll advised that the identity of the first person was not shared with her, noting that the former Secretary raised legal concerns with the request and the matter therefore did not progress following legal advice.²⁷⁰ At the committee's hearing in April 2024, Ms Carroll suggested that: 'It was the former Secretary's understanding that there may have been a request made for an appointment that may have been from a ministerial office'.²⁷¹

4.14 Ms Carroll advised that she then received a suggestion from the Minister's deputy chief of staff. She confirmed that the suggestion was for an executive director from within Transport for NSW.²⁷²

4.15 Ms Carroll explained that she shared the request with the secretary who ultimately made a decision to temporarily appoint an Acting Executive Director until an external recruitment was conducted:

That information was shared with the secretary at the time. The secretary asked for some inquiries to be made. Inquiries were made. The secretary then made a decision to appoint that individual as acting executive director until recruitment was conducted to fill the executive director role.²⁷³

4.16 During a Budget Estimates hearing, Minister Haylen was questioned about whether she was aware of the requests that were put to Transport for NSW from her office. The Minister responded that:

... My understanding is that subsequently a recruitment process was run to head the transition office. That advice was sought on establishing that office and a recruitment process was run. That's the appropriate course of action...²⁷⁴

4.17 Ms Tracey Taylor, Chief People Office, Transport for NSW, also gave evidence on how Transport for NSW managed the request from the Minister's Office. In relation to the initial temporary appointment, Ms Taylor advised that the secretary has 'a myriad of powers under the *Transport Administration Act*, which is basically echoed through the GSE [*Government Sector*

²⁶⁹ Evidence, Ms Carroll, 7 November 2023, pp 70-71.

²⁷⁰ Evidence, Ms Carroll, 7 November 2023, pp 70-71.

²⁷¹ Evidence, Ms Susan Carroll, Chief of Staff, Transport for NSW, 8 April 2024, p 20.

²⁷² Evidence, Ms Carroll, 7 November 2023, p 81. See also, Evidence, Ms Susan Carroll, Chief of Staff, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, pp 37-38.

²⁷³ Evidence, Ms Susan Carroll, Chief of Staff, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, p 38.

²⁷⁴ Evidence, Ms Carroll, 7 November 2023, p 41.

Employment Act and 'can exercise his employment powers to temporarily assign people, especially at level'.²⁷⁵

- 4.18 Ms Taylor explained that other candidates were put to the former Secretary, on his request, to ensure an appropriate group of people was considered for the role at the Transition Office:

To give assurance, the former secretary via Ms Carroll, did actually ask for me to provide advice on other people, so for the executive director, Transition Office, were there other candidates across the organisation that he could consider as well as this individual. In my view, he was seeking his own assurances that this person did stack up against other people. We did actually put at least one person forward for consideration.²⁷⁶

- 4.19 Both Ms Carroll and Ms Taylor advised that a comparative assessment took place soon after and the individual who had been initially temporarily assigned to the executive director position was the successful candidate in that placement.²⁷⁷ Ms Carroll confirmed that this individual was originally put forward by the ministerial office for the second in charge position in the Transition Office.²⁷⁸

- 4.20 Noting that the successful applicant from the recruitment process was the person identified by the ministerial office and initially temporarily appointed to the position, Ms Carroll maintained that 'the recruitment process went through a merits-based process to make that appointment'.²⁷⁹ According to Transport for NSW, the recruitment process for the executive director position in the Transition Office took six weeks.²⁸⁰

- 4.21 Mr Howard Collins, Coordinator General, Transport for NSW was Acting Secretary for Transport for NSW after Mr Sharp resigned from the position and was involved in the recruitment process for the Transition Office. During Budget Estimates, Mr Collins outlined the appointment process for the executive director role in the Transition Office:

... A shortlisting process took place using the HR function or the people and culture functions, and we carried out interviews, I believe, in the last week of April and, following the third interview on 1 May, two candidates were found suitable... and shortly afterwards I advised the current incumbent that she was successful but also advised a second person that we were needing to take up their time during this transition role.²⁸¹

- 4.22 Mr Collins confirmed that he was not directed to choose a particular person, stating:

... nobody directed me to do anything. I reviewed the role of transition office in previous organisations. Particularly when government changes, it's very useful to have

²⁷⁵ Evidence, Ms Tracey Taylor, Chief People Officer, Transport for NSW, 8 April 2024, p 27.

²⁷⁶ Evidence, Ms Taylor, 8 April 2024, p 25.

²⁷⁷ Evidence, Ms Taylor, 8 April 2024, p 27. See also Evidence, Ms Carroll, 7 November 2023, pp 83-84.

²⁷⁸ Evidence, Ms Carroll, 23 February 2024, p 37.

²⁷⁹ Evidence, Ms Carroll, 7 November 2023, p 84.

²⁸⁰ Answers to questions on notice, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, Transport Portfolio, 7 November 2023, p 29.

²⁸¹ Evidence, Mr Howard Collins, Coordinator General, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 7 November 2023, p 92.

extra resources when you're doing reviews, so I thought it was appropriate. Certainly it was producing very useful, direct information for me as the acting secretary about those reviews...²⁸²

- 4.23** When asked whether the recommended candidate had any connections to the Labor Party, Mr Collins said he was not aware of any connections.²⁸³ Similarly, Ms Carroll commented that she did not have 'definitive information in that respect', noting that it was brought to her attention that 'the officer may have been an adviser in an office at one point in time' and that she was aware 'that the officer was a longstanding Transport employee'.²⁸⁴
- 4.24** The committee also questioned Ms Wise as to whether she had any prior connections to Mr Gartrell or Minister Haylen. Ms Wise advised that the first time she met Mr Gartrell was 'sometime in early April 2023' and had no association with him prior to that. In relation to Minister Haylen, Ms Wise commented that she first met Minister Haylen at a BusNSW function, as part of her role as the Executive Director of Transport Partnerships, in late 2022 where the Minister was a guest speaker.²⁸⁵
- 4.25** In regards to her appointment to the Transition Office, Ms Wise indicated that she did not know how her name was put forward for the role. Ms Wise explained that whilst she had not previously established a transition office, she noted that she had 'done a lot of work that is relevant to what' she is doing now, 'in terms of running reviews and inquiries and things'.²⁸⁶
- 4.26** When asked how she became aware that her name had been put forward for the role, Ms Wise advised that she first became aware of the matter when she received a phone call on Friday 30 March [2023], from Ms Carroll, who asked Ms Wise to attend the Minister's office the following Monday.²⁸⁷ Ms Wise commented that during the conversation '[Ms Carroll] did imply that they did want to set up some kind of transition office' and she was asked to go to the Minister's office on the Monday and 'talk to them about that'.²⁸⁸
- 4.27** Ms Wise advised that Mr Gartrell and the former deputy chief of staff were present at the meeting at the Minister's office, noting that Minister Haylen was not present at the meeting.²⁸⁹
- 4.28** Noting that she could not speculate on what the Minister's office might have wanted to achieve from the meeting, Ms Wise commented that her interpretation was 'that they wanted to set this up [the Transition Office] and that I was somehow to be involved in making that happen'. She added that 'Mr Gartrell and the former deputy chief of staff identified the different reviews they wished to run. They identified that they thought that this team should have representation from across the agency and that there would be someone in charge and a 2IC'.²⁹⁰

²⁸² Evidence, Mr Collins, 7 November 2023, p 92.

²⁸³ Evidence, Mr Collins, 7 November 2023, p 86.

²⁸⁴ Evidence, Ms Carroll, 7 November 2023, p 90.

²⁸⁵ Evidence, Ms Wise, 8 April 2024, p 33.

²⁸⁶ Evidence, Ms Wise, 8 April 2024, pp 34-35.

²⁸⁷ Evidence, Ms Wise, 8 April 2024, p 34.

²⁸⁸ Evidence, Ms Wise, 8 April 2024, p 34.

²⁸⁹ Evidence, Ms Wise, 8 April 2024, p 35.

²⁹⁰ Evidence, Ms Wise, 8 April 2024, p 36.

4.29 When asked whether she came away from the meeting with the view that she would either be in charge or second-in-charge at the Transition Office, Ms Wise commented that she did not think at that stage that she would necessarily have an ongoing role in the Transition Office, stating:

I got an indication that I was to help establish it. I didn't have a sense of what any kind of recruitment process would be from that meeting—or, in fact, who should head it. I was just to be involved in the establishment.²⁹¹

4.30 Ms Wise gave evidence that that the discussion with the Minister's office did not include what role she would play in the Transition Office stating 'they asked me to go and talk to the secretary about it, which is what I did. At no time did they talk to me about me being in a role'.²⁹² She later clarified this, saying:

it's not that they described that I would have no role; they just didn't tell me I would have a role. They identified me as someone who knew a lot about the agency—I have been at Transport for 15 years now—and that I would know where to find the right people in Transport that could help facilitate it'.²⁹³

4.31 When asked what occurred between the meeting with the Minister's office, and being appointed, Ms Wise gave evidence that she started work on setting up the Transition Office and was asked by the secretary to work with the People and Culture team to establish some temporary positions to scope out what would be needed order to support a number of reviews. Ms Wise also noted that the secretary at the time asked her to act in the executive director role temporarily, pending a recruitment process for the position.²⁹⁴

Legal advice following the requests from the Minister's Office

4.32 Transport for NSW sought legal advice following the requests from the Minister's Office in relation to the establishment of and appointments to the Transition Office. The committee queried whether the act of seeking legal advice by Transport for NSW indicated there was an issue with the appointments and recruitment processes undertaken for the Transition Office.

4.33 Ms Taylor explained that 'on occasion' Transport for NSW seeks legal advice from either the executive director of employment and safety or the chief legal officer, 'depending on the seniority of the role being recruited'.²⁹⁵ According to Ms Taylor, seeking legal advice is not necessarily indicative of an 'alarm bell', stating that 'it could be that the person involved in the recruitment process wanted to check the application of the GSE [*Government Sector Employment*] Rules or of the *Transport Administration Act* to ensure that the decision-making was sound'.²⁹⁶

4.34 Ms Carroll indicated that the former Secretary made a decision to seek legal advice following the requests from the Minister's Office as the department was not familiar with the concept of

²⁹¹ Evidence, Ms Wise, 8 April 2024, p 36.

²⁹² Evidence, Ms Wise, 8 April 2024, p 35.

²⁹³ Evidence, Ms Wise, 8 April 2024, p 36.

²⁹⁴ Evidence, Ms Wise, 8 April 2024, p 40.

²⁹⁵ Evidence, Ms Taylor, 8 April 2024, p 19.

²⁹⁶ Evidence, Ms Taylor, 8 April 2024, p 19.

a transition office. She added that the former Secretary was also 'very alive to the change in the GSE legislation' that made it clear that the Secretary could not be directed by a Minister in relation to their employer functions.²⁹⁷

- 4.35** Ms Taylor also shared why she asked the Public Service Commissioner, Ms Kathrina Lo, for advice about whether a person from the Minister for Transport office could be on a selection panel for an executive director position. She advised:

I was asked by the then secretary, as well as the chief of staff, on a range of matters in relation to the establishment of the transition office, including what the role would look like, how we would go about placement and also potential candidates... there were changes to the Government Sector Employment Act at the end of last year. To ensure that I could provide fulsome advice, I reached out to the Public Service Commissioner to test that legislation through a range of scenarios to ensure that I could provide fulsome advice to the secretary at the time.²⁹⁸

- 4.36** Ms Taylor added that what she was doing in her conversation with the Public Service Commissioner was '... really, just testing the boundaries of the changes to the legislation so I could determine how to best advise the secretary on how to go about the placement approach. I used a range of questions to do just that'.²⁹⁹

- 4.37** Ms Taylor maintained that seeking advice in this scenario was an act of 'due diligence' after being asked to advise the secretary on the placement approaches for the Transition Office, and it was 'with that intent' that she sought Ms Lo's advice'.³⁰⁰

- 4.38** The act of seeking legal advice and whether this would suggest or indicate an issue with processes, was also raised with Mr Murray at an inquiry hearing. He stated:

I wouldn't want it to be misconstrued that seeking advice, be it from our legal department or our chief counsel or any of the other technical specialists, for example, or policy specialists throughout Transport, was anything other than absolutely par for the course as a daily action... I am constantly in dialogue with the chief legal officer about a range of issues, including operational, not just related to court cases or dispute matters but also in relation to the administration of the Acts that relate to the Transport portfolio and how the organisation needs to be set up to fulfil those requirements.³⁰¹

- 4.39** The issue was also raised at a Budget Estimates hearing, where Minister Haylen commented that:

In relation to the transition office, as we've just heard, public servants were doing their job. They sought advice about the operation of a new Act, which is entirely appropriate. I think that we would all expect that that's exactly what they would do. Subsequently,

²⁹⁷ Evidence, Ms Carroll, 8 April 2024, pp 19-20. See also Evidence, Ms Carroll, 23 February 2024, p 40; See also Evidence, Ms Carroll, 7 November 2023, p 41.

²⁹⁸ Evidence, Ms Tracey Taylor, Chief People Officer, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, pp 36-37.

²⁹⁹ Evidence, Ms Taylor, 23 February 2024, p 37

³⁰⁰ Evidence, Ms Taylor, 8 April 2024, p 26.

³⁰¹ Evidence, Mr Josh Murray, Secretary, Transport for NSW, 8 April 2024, p 54.

an appointment process was run and an appointment was made by the now coordinator general.³⁰²

Ministerial direction versus suggestion

4.40 A key issue related to the legal advice that was explored during the inquiry is the boundary between a Minister making a suggestion versus a direction to a department or agency secretary.

4.41 The committee questioned whether there were other recruitment processes undertaken under the new legislation that the department could have referred to for advice. Ms Taylor referred to the recent placement of the coordinator-general:

There was the placement of the coordinator general and I did seek advice from our own chief legal officer at the time for that. I didn't feel it necessary to go to Ms Lo as she'd already given me a fairly succinct definition of the interpretation of that legislation in relation to the Minister's office's involvement, so I was comfortable with that. What I sought from the chief legal officer was more around—in the coordinator general—was the different mechanisms, given he was acting in the secretary role at the time and the resulting recommendation that was coming out of the bus task force was a report, and the Minister's ability to direct us in relation to ... responding to one of the recommendations within that report.³⁰³

4.42 Ms Taylor was asked whether the advice sought by Transport for NSW would help to understand where that boundary line should be. She commented that in the coordinator general's situation, 'the Minister is well within her right to be able to direct the agency in its structure and its operation'.³⁰⁴ Ms Taylor continued:

... However, if a new role was to be established specific to that coordinator general, then that decision on who would be placed in that role would absolutely need to be the decision of the secretary. I provided that advice at the time around the coordinator general and that was very clear to me coming through the Transition Office as well. Whilst the Minister absolutely can direct us in the operation so we can either establish the Transition Office role or we can establish the coordinator general role, if we are to place someone in those roles, then that is an employment decision and therefore it is the decision of the secretary. That should not be interfered with.³⁰⁵

4.43 In relation to how much of a suggestion for a candidate is taken to be direction, and where that line is, Ms Taylor stated that there is 'nothing wrong with the Minister providing suggestions of candidates, as long as the decision is taken by the secretary for who goes into that position'. Ms Taylor explained that the secretary has 'multiple powers under the *Transport Administration Act* so he can directly assign or appoint someone or he can do open recruitment processes'.³⁰⁶ In the case of the Transition Office, Ms Taylor commented that:

³⁰² Evidence, Minister Jo Haylen, Minister for Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, p 39.

³⁰³ Evidence, Ms Taylor, 8 April 2024, p 24.

³⁰⁴ Evidence, Ms Taylor, 8 April 2024, p 24.

³⁰⁵ Evidence, Ms Taylor, 8 April 2024, p 24.

³⁰⁶ Evidence, Ms Taylor, 8 April 2024, p 24.

... the former secretary made a decision after speaking to the candidate that was suggested. He decided that he would temporarily assign that person into the role but wanted to do an open recruitment process, and that is what we then undertook.³⁰⁷

- 4.44** When asked for his thoughts about when a suggestion might become a direction and how to guard against power dynamics where a department head might feel obliged to carry out a suggestion, Mr Murray responded:

It's a very real consideration in terms of the changes to the GSE Act and ensuring that everyone can feel comfortable with the way that they're administered. It's a conversation I've had with other secretaries during my time in the role. Certainly the way other secretaries have played it out with me is that it is possible to ask for written confirmation—if a direction is being given, then simply asking: Is that a direction? Could I have it in writing? Could I have more information? Does this now do for the purposes of direction? Being able to compare something that comes in writing much more easily than something that is said in a meeting or issued offhand, and then being able to confer with colleagues.³⁰⁸

- 4.45** In regards to the issue of ministerial direction versus suggestion and how it applies in the context of the Transition Office, Mr Murray commented:

In an element like the Transition Office ... the ability to direct the organisation to do certain things, to carry out certain activities, is very much within the Government's purview in terms of enforcing Government policy. In terms of who can be hired into the roles that I'm responsible for, that is very much the secretary's purview.³⁰⁹

- 4.46** When giving evidence to clarify the legal advice that was sought and given on the issue of employer functions, Mr David Britton, Chief Legal Officer, Transport for NSW, also commented on the issue of ministerial suggestion versus direction in the context of the Transition Office, stating:

Under section 3B of the Transport Administration Act, the secretary exercises control of the agency under the control and direction of the Minister. There was this relatively recent legislation... which prohibited directions in relation to the employer function. Suggestions and requests are all entirely appropriate. The secretary at the time clarified that a direction could not be given and with the way the new legislation operated the employer function sat with him. Having given that advice, no directions were provided to the agency. The secretary appointed an acting executive director to the transition office and then ran a merit-based recruitment process.³¹⁰

Committee comment

- 4.47** The circumstances surrounding the establishment of and appointments to the Transition Office at Transport for NSW raised important questions about the extent to which a Minister or their office could direct or make suggestions to a department.

³⁰⁷ Evidence, Ms Taylor, 8 April 2024, p 24.

³⁰⁸ Evidence, Mr Murray, 8 April 2024, p 53.

³⁰⁹ Evidence, Mr Murray, 8 April 2024, p 53.

³¹⁰ Evidence, Mr David Britton, Chief Legal Officer, Transport for NSW, Portfolio Committee No 6 – Transport and the Arts, Budget Estimates, 23 February 2024, p 40.

- 4.48** It is clear from the evidence that there are no concerns with the request from the Office of the Minister for Transport for the establishment of the Transition Office. Indeed, it is within the purview of the Minister to direct the department on matters of operation and structure.
- 4.49** The committee was particularly interested in the suggestions from the Minister's Office about who should lead the Transition Office. It is important to note that these suggestions were made following changes to the *Government Sector Employment Act 2013* that made it clear that a Minister cannot direct a Secretary on matters relating to their employer functions. The committee considers that it was appropriate for senior officials at Transport for NSW to seek advice on the matter in the context of the new legislation. The decision to seek advice demonstrates an exercise in due diligence.
- 4.50** While the Minister cannot direct the Secretary on employment matters, the committee heard that the Minister can make suggestions. Based on the evidence, the committee accepts that the requests from the Minister's Office on who should lead the Transition Office were suggestions, not directions.

Appendix 1 Submissions

No	Author
1	Confidential
1a	Confidential
2	Ms Lynne Gallagher
3	Name suppressed
3a	Confidential

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Thursday 31 August 2023 Macquarie Room Parliament House, Sydney	Josh Murray	Secretary of Transport for NSW
	Chris Lamb	Deputy Commissioner, Public Service Commission
	Scott Gartrell	Chief of Staff, Office of the Minister for Transport
	Peter Duncan	Acting Secretary, Premier's Department
	Kate Boyd	Deputy Secretary, General Counsel, Cabinet Office NSW
	Samara Dobbins	Deputy Secretary, Premier's Department
	Dr Marianne Broadbent	Managing Partner, NGS Global
The Hon Prof. Verity Firth AM	Member of the Assessment Panel	
Friday 1 September 2023 Macquarie Room Parliament House, Sydney	Emma Watts	NSW Cross Border Assistant Commissioner
	James McTavish	NSW Cross Border Commissioner
	Kate Boyd	Deputy Secretary, General Counsel, Cabinet Office NSW
	Steve Orr	A/Secretary, Department of Regional NSW
Julie-Anne Tooth	Chief People Officer, Regional NSW	
Monday 8 April 2024 Macquarie Room Parliament House, Sydney	Kathrina Lo	Public Service Commissioner, Public Service Commission
	Tracey Taylor	Chief People Officer, Transport for NSW
	Susan Carroll	Chief of Staff, Transport for NSW
	Barbara Wise	Head of Transition Office, Transport for NSW
	Josh Murray	Secretary, Transport for NSW

Appendix 3 Minutes

Minutes no. 9

Thursday 24 August 2023

Public Accountability and Works Committee

Room 839B, Parliament House, Sydney, 1.04 pm

1. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair*

Mr Buttigieg

Mr Latham

Mr Lawrence (substituting for Dr Kaine)

Mr Primrose

Mrs Taylor

2. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 8 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 22 August 2023 – Letter from Mr Buttigieg, Mr Primrose and Dr Kaine requesting a meeting of the Public Accountability and Works Committee to consider a proposed self-reference into the appointments of Josh Murray as the Secretary of Transport and Emma Watts as NSW Cross Border Assistant Commissioner
- 23 August 2023 – Email from the Whip's Office, to secretariat, advising that Mr Stephen Lawrence MLC will substitute for Dr Sarah Kaine MLC at the meeting on 24 August 2024.

4. Inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner

4.1 Terms of reference

The committee noted the terms of reference referred by the House on 23 August 2023:

3. That the Public Accountability and Works Committee inquire into and report on the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross Border Assistant Commissioner, and in particular:
 - (j) the circumstances leading up to the appointments
 - (k) the process undertaken to make the appointments
 - (l) the probity and integrity measures that were undertaken as part of the appointments
 - (m) the principles, public expectations and requirements for appointments to the public service by Ministers
 - (n) the process for the appointment of senior officers generally
 - (o) any other related matters.
4. That the committee report by 30 November 2023.

4.2 Submissions

Resolved, on the motion of Mr Farlow: That the inquiry be open for submissions until close of business on Wednesday 30 August 2023.

4.3 Stakeholder list

Resolved, on the motion of Mr Lawrence: That:

- the committee not write to stakeholders to invite submissions
- members have until 12 noon on Friday 25 August 2023 to nominate witnesses
- after circulation of the proposed list of witnesses, members have until 9 am Monday 28 August 2023 to raise any objections
- the committee agree to the witness list by email, unless a meeting of the committee is required to resolve any disagreement.

4.4 Hearing dates

Resolved, on the motion of Mr Primrose: That the committee hold public hearings on:

- Thursday 31 August 2023
- Friday 1 September 2023.

5. Adjournment

The committee adjourned at 1.17 pm until Thursday 31 August 2023 (first public hearing – inquiry in appointments).

Stephen Fujiwara

Committee Clerk

Minutes no. 10

Tuesday 29 August 2023

Public Accountability and Works Committee

Room 1043, Parliament House, Sydney, 2.00 pm

1. Members present

Ms Boyd, *Chair*

Mr Buttigieg

Mr Fang (substituting for Mrs Taylor)

Mr Latham (via videoconference)

Dr Kaine

Mr Primrose

Mrs Ward (substituting for Mr Farlow for the duration of the inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as Assistant NSW Cross-Border Commissioner)

2. Previous minutes

Resolved, on the motion of Mr Primrose: That draft minutes no. 9 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 24 August 2023 – Email from Deyi Wu, Whip's Adviser, Office of the Hon Chris Rath MLC to secretariat, informing the committee that the Hon Natalie Ward MLC will substitute for the Hon Scott Farlow MLC for the duration of the PAWC's inquiry into the appointment of Josh Murray and Emma Watts

- 25 August 2023 – Email from Verety Moffat, Senior Manager Government Relations, Transport Asset Holding Entity (TAHE) to the secretariat, informing the committee that Benedicte Colin, who may be of interest to the committee as a witness, is overseas for the next four weeks
- 28 August 2023 – Email from Tim Holden, General Counsel, Department of Regional NSW to secretariat, informing the committee that Rebecca Fox, Secretary of Regional NSW is away the week beginning 28 August as her mother has passed away, with Steve Orr acting in her absence.

4. Inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner

4.1 Witness list for hearings on Thursday 31 August 2023 and Friday 1 September 2023

The committee considered the following hearing schedules:

Thursday 31 August 2023

- 9.15 am to 10.30 am
 - Josh Murray – Secretary of Transport for NSW
- 10.30 am to 11.30 am
 - Kathrina Lo – Public Service Commissioner
 - Chris Lamb – Deputy Commissioner, Public Service Commission
- 12.15 pm to 1.15 pm
 - The Hon Jo Haylen MP – Minister for Transport
- 1.15 pm to 2.15 pm
 - Scott Gartrell – Chief of Staff, Office of the Minister for Transport
- 2.30 pm to 3.30 pm
 - Peter Duncan – Acting Secretary, Premier's Department
 - Kate Boyd – Deputy Secretary, General Counsel, Cabinet Office NSW
 - Dianne Leeson – Assistant Director General, Premier's Department
 - Samara Dobbins – Deputy Secretary, Premier's Department
- 3.30 pm to 4.30 pm
 - Representative of NGS Global Recruitment
- 4.45 pm to 5.45 pm
 - Verity Firth – Member of the assessment panel
 - Jim Betts – Secretary of Federal Department of Infrastructure, Transport and Regional Development (member of the assessment panel)

Friday 1 September 2023

- 9.15 am to 10.15 am
 - Emma Watts – NSW Cross Border Assistant Commissioner
- 10.15 am to 11.00 am
 - James McTavish – NSW Cross Border Commissioner
- 11.15 am to 12.15 pm
 - Kate Boyd – Deputy Secretary, General Counsel, Cabinet Office NSW
 - Kathrina Lo – Public Service Commissioner
- 12.15 pm to 1.30 pm
 - Steve Orr – A/Secretary, Department of Regional NSW
 - Julie-Anne Tooth – Chief People Officer, Regional NSW
 - Adam Tyndall – Executive Director, Office of the Secretary of Regional NSW
 - Brad Fitzmaurice – Chief of Staff, Minister for Regional NSW/ Minister for Agriculture
- 2.30 pm to 3.30 pm
 - John Barilaro – Former Minister
 - Gary Barnes – Former Secretary Regional NSW
- 3.30 pm to 4.30 pm

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

- Mark Connell – Former Chief of Staff, Barilaro
- Jeff McCormack – Former Chief of Staff, Pavey.

Dr Kaine moved: That Adam Tyndall, Executive Director, Office of the Secretary of Regional NSW, be removed from the list.

Question put.

Committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Latham, Mr Primrose.

Noes: Mr Fang, Mrs Ward.

Question resolved in the affirmative.

Resolved, on the motion of Mrs Ward: That the committee agree to the following witness lists:

Thursday 31 August 2023

- 9.15 am to 10.30 am
 - Josh Murray – Secretary of Transport for NSW
- 10.30 am to 11.30 am
 - Kathrina Lo – Public Service Commissioner
 - Chris Lamb – Deputy Commissioner, Public Service Commission
- 12.15 pm to 1.15 pm
 - The Hon Jo Haylen MP – Minister for Transport
- 1.15 pm to 2.15 pm
 - Scott Gartrell – Chief of Staff, Office of the Minister for Transport
- 2.30 pm to 3.30 pm
 - Peter Duncan – Acting Secretary, Premier's Department
 - Kate Boyd – Deputy Secretary, General Counsel, Cabinet Office NSW
 - Dianne Leeson – Assistant Director General, Premier's Department
 - Samara Dobbins – Deputy Secretary, Premier's Department
- 3.30 pm to 4.30 pm
 - Representative of NGS Global Recruitment
- 4.45 pm to 5.45 pm
 - Verity Firth – Member of the Assessment Panel
 - Jim Betts – Secretary of Federal Department of Infrastructure, Transport and regional development (member of the assessment panel).

Friday 1 September 2023

- 9.15 am to 10.15 am
 - Emma Watts – NSW Cross Border Assistant Commissioner
- 10.15 am to 11.00 am
 - James McTavish – NSW Cross Border Commissioner
- 11.15 am to 12.15 pm
 - Kate Boyd – Deputy Secretary, General Counsel, Cabinet Office NSW
 - Kathrina Lo – Public Service Commissioner
- 12.15 pm to 1.30 pm
 - Steve Orr – A/Secretary, Department of Regional NSW
 - Julie-Anne Tooth – Chief People Officer, Regional NSW
 - Brad Fitzmaurice, Chief of Staff, Minister for Regional NSW/ Minister for Agriculture
- 2.30 pm to 3.30 pm
 - John Barilaro – Former Minister
 - Gary Barnes – Former Secretary Regional NSW
- 3.30 pm to 4.30 pm

- Mark Connell – Former Chief of Staff, Barilaro
- Jeff McCormack – Former Chief of Staff, Pavey.

5. Adjournment

The committee adjourned at 2.47 pm until Thursday 31 August 2023 (first public hearing – appointments of Josh Murray and Emma Watts inquiry).

Shaza Barbar

Committee Clerk

Minutes no. 11

Thursday 31 August 2023

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney, 9.02 am

1. Members present

Ms Boyd, *Chair*

Dr Kaine, *Acting Deputy Chair*

Mr Buttigieg

Mr Latham (until 1.46 pm, from 4.07 pm)

Mr Primrose

Mr Tudehope (substituting for Mrs Taylor)

Mrs Ward (substituting for Mr Farlow for the duration of the inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as Assistant NSW Cross-Border Commissioner, except for Friday 1 September 2023)

2. Previous minutes

Resolved, on the motion of Mr Latham: That draft minutes no. 10 be confirmed.

3. Election of Acting Deputy Chair

Resolved, on the motion of Mr Primrose: That, in the absence of the Deputy Chair, Dr Kaine be elected Acting Deputy Chair for the first hearing of the inquiry into the appointments of Josh Murray and Emma Watts.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 29 August 2023 – Email from Verity Firth, member of the assessment panel, to the secretariat, informing the committee that she is unable to attend on the specified date but that she can provide a statement to the committee about the relevant matters and attend a later hearing should this be required
- 29 August 2023 – Email from the Office of the Public Service Commissioner to the secretariat, informing the committee that Commissioner Lo is on leave until Monday 25 September 2023, so will be unable to attend
- 30 August 2023 – Email from Deyi Wu, Opposition Whip's Adviser to the secretariat, informing the committee of substituting and participating members for the hearings
- 30 August 2023 – Email from Deyi Wu, Opposition Whip's Adviser to the secretariat, informing the committee that Mrs Ward is substituting for Mr Farlow for the entirety of the inquiry into the appointments other than the hearing on Friday 1 September 2023
- 30 August 2023 – Email from Peter Duncan, A/Secretary Premier's Department and the Cabinet Office to the secretariat, informing the committee that Dianne Leeson is currently overseas and uncontactable, so will be unavailable to attend the hearing

- 30 August 2023 – Email from Angela French, Chief of Staff to Secretary Jim Betts, to the secretariat informing the committee that Mr Betts is not able to attend the hearing on Thursday but is able to attend on Friday, should the committee be open to re-scheduling his appearance
- 30 August 2023 – Email from the Office of the Hon Jo Haylen MP, Minister for Transport to the secretariat, informing the committee that the Minister will not be attending the hearing
- 30 August 2023 – Email from Mr Mark Connell, former Chief of Staff to the former Deputy Premier to the secretariat informing the committee that he is unable to attend the hearing due to the short timeframe and previous commitments.

The committee agreed via email to request that Minister Haylen and Professor Firth reconsider their invitations.

5. Inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner

5.1 Amendments to the hearing schedule

Resolved, on the motion of Mr Tudehope: That the committee:

- agree to the request from Hon Professor Verity Firth AM, Member of the Assessment Panel that she attend at 5.00 pm, instead of 4.45 pm
- shorten Deputy Public Service Commissioner Chris Lamb's time by 15 minutes
- request that Mr Josh Murray, Secretary, Transport for NSW attend for an extra 15 minutes
- request that Mr Scott Gartrell, Chief of Staff, Office of the Minister for Transport attend for an extra 15 minutes.

5.2 Public hearing

Witnesses, the public and media were admitted.

The following witness was sworn and examined:

- Mr Josh Murray, Secretary of Transport for NSW

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Chris Lamb, Deputy Public Service Commissioner

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Scott Gartrell, Chief of Staff to Minister Jo Haylen.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Peter Duncan, Acting Secretary, Premier's Department and the Cabinet Office
- Ms Kate Boyd, Deputy Secretary, General Counsel, Cabinet Office
- Ms Samara Dobbins, Deputy Secretary, Premier's Department.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Marianne Broadbent, Managing Partner, NGS Global.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined

- The Hon Professor Verity Firth AM, Member of the Assessment Panel (via videoconference)

The evidence concluded and the witness withdrew.

The public hearing concluded at 5.48 pm.

The public and the media withdrew.

5.3 Further inquiry activity

The committee discussed the potential for a further hearing.

5.4 Future witnesses

The committee noted that in Ms Lo's absence, Mr Lamb, as Acting Commissioner, would not be required to attend in her place on the hearing scheduled for Friday 1 September 2023.

The committee noted that Mr Betts would not be required to attend the hearing scheduled for Friday 1 September 2023.

5.5 Minister Haylen's non-attendance

Mr Latham moved: That the Chair move a notice of motion in the House requesting that Minister Jo Haylen attend a hearing for the inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as Assistant NSW Cross-Border Commissioner.

Mr Primrose moved: That Mr Latham's motion be amended to defer the giving of a notice of motion in the House until the committee receives written advice from the Clerk.

Amendment of Mr Primrose put and passed.

Original question of Mr Latham, as amended, put and passed.

6. Adjournment

The committee adjourned at 5.55 pm, until 9.00 am, 1 September 2023, Macquarie Room (second public hearing - appointments inquiry).

Shaza Barbar

Committee Clerk

Minutes no. 12

Friday 1 September 2023

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney at 9.05 am

1. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair*

Mr Buttigieg

Mr Fang (participating)

Dr Kaine

Mr Primrose

Mrs Taylor

2. Apologies

Mr Latham

3. Correspondence

The committee noted the following items of correspondence:

Received

- 30 August 2023 – Email from the Hon Professor Verity Firth AM to the secretariat, confirming that she will attending the hearing into the appointments of Josh Murray and Emma Watts on Thursday 31 August 2023 via videoconference

- 30 August 2023 – Email from Mr Jeff McCormack, former Chief of Staff to the former Minister for Water, Property, Housing to the secretariat, declining the committee's invitation to attend the hearing into the appointments of Josh Murray and Emma Watts on Thursday 31 August 2023 on Friday 1 September 2023
- 31 August 2023 – Email from Mr Brad Fitzmaurice, Chief of Staff, Office of the Minister for Agriculture/Regional NSW to the secretariat, declining the committee's invitation to attend the hearing into the appointments of Josh Murray and Emma Watts on Thursday 31 August 2023 on Friday 1 September 2023.

Sent

- 30 August 2023 – Email from the secretariat to the Hon Jo Haylen MP, Minister for Transport, requesting that she reconsider her attendance at the hearing into the appointments of Josh Murray and Emma Watts on Thursday 31 August 2023
- 30 August 2023 – Email from the secretariat to the Hon Professor Verity Firth AM, requesting that she reconsider her attendance at the hearing into the appointments of Josh Murray and Emma Watts on Thursday 31 August 2023.

4. Inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner

4.1 Sequence of questions

Resolved, on the motion of Mrs Taylor: That questions alternate as per the resolution establishing the committee, with the time block for the opposition, crossbench and government members to be reduced from 20 minutes to 15 minutes, and any remaining time to be allocated equally.

4.2 Public hearing

Witnesses, the public and media were admitted.

The following witness was sworn and examined:

- Ms Emma Watts, NSW Assistant Cross-Border Commissioner.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr James McTavish, NSW Cross-Border Commissioner.

The evidence concluded and the witness withdrew.

The following witness was examined on her former oath/affirmation:

- Ms Kate Boyd, Deputy Secretary, General Counsel, Cabinet Office

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Steve Orr, Acting Secretary, Department of Regional NSW.
- Ms Julie-Anne Tooth, Chief People Officer, Department of Regional NSW

The evidence concluded and the witness withdrew.

The public hearing concluded at 12.38 pm.

The public and the media withdrew.

5. Adjournment

Adjourned at 12.40 pm, until 5 September 2023 (ninth public hearing - consultants inquiry).

Shaza Barbar
Committee Clerk

Minutes no. 14

Wednesday 6 September 2023

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney, 9.01 am.

1. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair* (participating from 4.35 pm)

Mr Buttigieg

Mr Fang (substituting for Mrs Taylor)

Dr Kaine

Mr Latham

Mr Primrose (until 10.22 am and from 1.45 pm)

Mrs Ward (substituting for Mr Farlow from 4.35 pm)

2. Correspondence

The committee noted the following items of correspondence:

Received

- 1 September 2023 – Letter from Mr Scott McLachlan, Chief Executive, Central Coast Local Health District, to the Chair, responding to potential adverse mention in Submission no. 26 from Unions NSW
- 4 September 2023 – Email and letter from Ms Heather Watson to the secretariat responding to potential adverse mention in Submission 5 (Emeritus Professor Guthrie et al), and requesting that the committee publish her response
- 5 September 2023 – Email from Ms Gloria Hill, Manager Strategic Coordination, Energy Co, to the secretariat, advising that Ms Alex Finley is unable to attend the public hearing on 6 September due to illness.

Resolved, on the motion of Mr Primrose: That the committee authorise the publication of the following:

- Letter from Mr Scott McLachlan, Chief Executive, Central Coast Local Health District responding to potential adverse mention in Submission no. 26
- Letter from Ms Heather Watson responding to potential adverse mention in Submission no. 5.

3. Inquiry into NSW Government's use and management of consulting services**3.1 Declaration of interests**

Mr Primrose made a declaration that his wife would be attending the public hearing as a witness for the Australian Services Union and that he would not be present for the duration of her evidence.

Mr Buttigieg made a declaration that his son works for the Australian Services Union.

3.2 Australian Paramedics Association (NSW) correspondence

Resolved, on the motion of Mr Buttigieg: That the secretariat contact the Australian Paramedics Association (NSW) and request that its correspondence received on 31 August 2022 be published as it is of a general nature, and does not contain sensitive information, rather than be kept confidential, as per request of the author.

3.3 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Professor Brendan Lyon, Faculty of Business and Law, University of Wollongong.

Professor Lyon tendered the following documents:

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

- Screenshots of WhatsApp messages dated 8 July 2023 between Professor Lyon and Mr James Copsey, KPMG.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Angus McFarland, Branch Secretary, Australian Services Union NSW & ACT (Services) Branch
- Ms Jan Primrose, Deputy Branch Secretary, Australian Services Union NSW & ACT (Services) Branch.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr David Deverall, Chief Executive, NSW Treasury Corporation (TCorp).

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Paul Plowman, General Manager, Asset Lifecycle, Sydney Water
- Ms Denisha Anbu, General Manager, Governance and Assurance, Sydney Water.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Darren Cleary, Managing Director, Hunter Water
- Ms Jennifer Hayes, Executive Manager Finance & Business Partner, Hunter Water.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr James Hay, Chief Executive, EnergyCo
- Mr Andrew Lewis, Acting Deputy Secretary, Energy, Climate Change and Sustainability.

The following witness was examined under his previous oath at this inquiry:

- Mr Shaun Smith, Chief Operating Officer, Department of Planning and Environment.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.33 pm.

3.4 Tendered documents

Resolved, on the motion of Mr Primrose: That the committee accept and publish the following document tendered during the public hearing:

- Screenshots of WhatsApp messages dated 8 July 2023 between Professor Lyon and Mr James Copsey, KPMG.

4. Inquiry into Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner

4.1 Draft minutes

Resolved, on the motion of Dr Kaine: That draft minutes nos. 11 and 12 be confirmed.

4.2 Public submission

The committee noted that the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 2.

4.3 Partially confidential submission

Resolved, on the motion of Mr Buttigieg: That the committee authorise the publication of submission no. 3 with the exception of identifying information and Parts A and C of the submission, as per the request of the author.

4.4 Confidential submission

Resolved, on the motion of Mr Buttigieg: That the committee keep confidential submission no. 1 confidential, as per the request of the author.

4.5 Additional hearing date

Resolved, on the motion of Mrs Ward: That the committee reserve 17 November 2023 as a potential hearing date, and inform the following witnesses that they may be required to attend the hearing and that the committee will confirm the hearing after Budget Estimates:

- Josh Murray, Secretary, Transport for NSW
- Kathrina Lo, Public Service Commissioner
- Dianne Leeson, Former Assistant Director General, Premier's Department
- Jim Betts, Secretary, Australian Department of Infrastructure, Transport and Regional Development (member of the assessment panel)
- Benedicte Colin, CEO, Transport Asset Holding Entity
- Howard Collins, Coordinator General, Transport for NSW.

4.6 Clerk's advice

The committee noted the Clerk's advice, dated 5 September 2023, regarding options the committee could pursue following Minister Jo Haylen's correspondence declining the committee's invitation to attend a hearing on Thursday 31 August 2023.

5. Adjournment

The committee adjourned at 4.52 pm until Friday 17 November 2023 (third hearing – appointments inquiry).

Peta Leemen

Committee Clerk

Minutes no. 16

Monday, 23 October 2023

Public Accountability and Works Committee

Via videoconference, 8.46 am

1. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair*

Mr D'Adam (substituting for Dr Kaine)

Mr Buttigieg (to 10.32 am)

Mr Latham (to 10.32 am)

Mr Primrose

Mr Tudehope (substituting for Mrs Taylor for the duration of the inquiry into the Parliamentary Evidence Amendment (Ministerial Accountability) Bill 2023)

2. Previous minutes

Resolved, on the motion of Mr Primrose: That draft minutes no. 15 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 25 September 2023 – Letter from Mr Josh Murray, Secretary, Transport for NSW, to committee, asking the committee to consider a number of matters regarding his appearance for the reserved hearing on Friday 17 November 2023, for the inquiry into appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner

- 29 September 2023 – Email from Ms Gloria Hill, Manager Strategic Coordination, EnergyCo, to the secretariat, seeking an extension of time to provide answers to supplementary questions from hearing on 6 September 2023, for the inquiry into the NSW Government's use and management of consulting services
- 29 September 2023 – Email from Mr Gerald Jaworski to the secretariat, seeking an update on publication of his submission, for the inquiry into the NSW Government's use and management of consulting services
- 3 October 2023 – Email from Miss Deyi Wu, Office of the Opposition Whip, to the secretariat, advising that the Hon Damien Tudehope MLC will substitute for the Hon Bronnie Taylor MLC for the duration of the inquiry into the Parliamentary Evidence Amendment (Ministerial Responsibility) Bill 2023
- 4 October 2023 – Letter from Mr Darren Cleary, Managing Director, Hunter Water, to the Chair, requesting that the unredacted version of Attachment A to their answers to questions on notice be kept confidential, for the inquiry into the NSW Government's use and management of consulting services
- 4 October 2023 – Email from Ms Ali Nelson-Watt, Ministerial and Parliamentary Services, Infrastructure NSW, to the secretariat, providing clarifications to evidence given at the public hearing on 5 September 2023, for the inquiry into the NSW Government's use and management of consulting services
- 4 October 2023 – Letter from Mr Peter Perdikos, Executive Director Commercial, Procurement and Transformation, Transport for NSW, to the Chair, regarding the scope and timeframe for answering supplementary questions 1 and 11 from the hearing on 5 September, for the inquiry into the NSW Government's use and management of consulting services
- 4 October 2023 – Email from Professor Gabrielle Appleby to the Chair advising her availability to give evidence at the hearing on 23 October, for the inquiry into the Parliamentary Evidence Amendment (Ministerial Responsibility) Bill 2023
- 5 October 2023 – Email from Mr Gerald Jaworski to the secretariat, regarding redactions made to his submission, for the inquiry into the NSW Government's use and management of consulting services
- 5 October 2023 – Email from Mr Mitch Dudley, Manager, Parliamentary Services, Transport for NSW, to the secretariat, regarding the scope and timeframe for answering supplementary questions 1 and 11 from the 5 September public hearing, for the inquiry into the NSW Government's use and management of consulting services
- 6 October 2023 – Email from Ms Caroline Davoren on behalf of Mr Bret Walker SC, to the secretariat, declining the invitation to give evidence at the hearing on 23 October, for the inquiry into the Parliamentary Evidence Amendment (Ministerial Responsibility) Bill 2023
- 8 October 2023 – Email from Mr Gerald Jaworski to the secretariat, regarding his submissions and redactions, also enclosing an email he provided to CAANZ, for the inquiry into the NSW Government's use and management of consulting services
- 9 October 2023 – Email from Mr Robert McDonald, Clerk, Legislative Council, Parliament of Victoria, to the Chair, declining the committee's invitation to give evidence, for the inquiry into the Parliamentary Evidence Amendment (Ministerial Responsibility) Bill 2023
- 9 October 2023 – Email from Ms Stephanie Hesford, Deputy Clerk, House of Assembly, Parliament of Tasmania, on behalf of the Clerk, to the secretariat, declining the committee's invitation to give evidence, for the inquiry into the Parliamentary Evidence Amendment (Ministerial Responsibility) Bill 2023
- 10 October 2023 – Email from Ms Gemma Namey, Principal Legal Officer, Legal Branch, The Cabinet Office, advising that the Cabinet Office has declined to attend the public hearing, for the inquiry into the Parliamentary Evidence Amendment (Ministerial Responsibility) Bill 2023
- 10 October 2023 – Email from Ms Jan Primrose, Deputy Secretary, Australian Services Union NSW & ACT (Services) Branch, to the secretariat, requesting the ASU's answers to questions on notice provided on 4 October be kept confidential, for the inquiry into the NSW Government's use and management of consulting services
- 11 October 2023 – Email from Mr Mitch Dudley, Manager, Parliamentary Services, Transport for NSW, to the secretariat, outlining a proposed scope and timeframe for answering supplementary questions 1 and 11 from the 5 September public hearing, for the inquiry into the NSW Government's use and management of consulting services

- 16 October 2023 – Email from the office of the Clerk of the Legislative Council, Western Australia, to the secretariat, advising that the Clerk, Mr Sam Hastings, is not available to participate in the committee's inquiry, for the inquiry into the Parliamentary Evidence Amendment (Ministerial Responsibility) Bill 2023
- 19 October 2023 – Email from Mr John Evans, former Clerk of the Parliaments, forwarding a submission and advising he is not available to give evidence at the hearing, for the inquiry into the Parliamentary Evidence Amendment (Ministerial Responsibility) Bill 2023.

Sent

- 4 October 2023 – Email from the secretariat to Mr Gerald Jaworski, advising that his submission had been published with redactions, and providing information on the Legislative Council's procedural fairness resolution, for the inquiry into the NSW Government's use and management of consulting services
- 11 October 2023 – Email from the secretariat to Mr Mitch Dudley, Manager, Parliamentary Services, Transport for NSW, agreeing to the proposed scope and timeframe for answering supplementary questions from the 5 September public hearing, for the inquiry into the NSW Government's use and management of consulting services.

Resolved, on the motion of Mr Primrose: That the committee authorise:

- the publication of the letter from Ms Ali Nelson-Watt, Infrastructure NSW, received on 4 October 2023, providing clarifications to evidence given at the public hearing on 5 September, for the inquiry into the NSW Government's use and management of consulting services
- the insertion of footnotes at the relevant points in the transcript of 5 September noting that correspondence clarifying the evidence had been received and providing a hyperlink to the published correspondence.

4. Inquiry into the NSW Government's use and management of consulting services

4.1 Answers to questions on notice and supplementary questions

The following answers to questions on notice were published under the resolution establishing the committee:

- TCorp, received 19 September 2023
- KPMG, received 4 October 2023
- Hunter Water (including Attachment A – public version), received 4 October 2023
- Infrastructure NSW, received 4 October 2023
- Sydney Metro, received 4 October 2023
- Transport for NSW, received 4 October 2023
- Transport Asset Holding Entity (TAHE) NSW (answers to questions on notice), received 4 October 2023
- Transport Asset Holding Entity (TAHE) NSW (answers to supplementary questions), received 4 October 2023

4.2 Confidential answers to questions on notice

Resolved, on the motion of Mr Latham: That the committee keep confidential the following documents as per the request of the authors:

- the unredacted version of 'Attachment A' to answers to questions on notice from Hunter Water, received 4 October 2023
- answers to questions on notice from the Australian Services Union, received 4 October 2023.

5. Inquiry into the Parliamentary Evidence Amendment (Ministerial Accountability) Bill

5.1 Public submissions

The following submissions were published under the resolution establishing the committee: Submissions no. 1-4.

5.2 Public hearing via videoconference

The witnesses were admitted via videolink.

The committee proceeded to take evidence in public.

The Chair made an opening statement regarding the broadcasting of proceedings, virtual hearing etiquette and other matters.

The following witnesses were sworn and examined:

- Mr David Blunt AM, Clerk of the Legislative Assembly and Clerk of the Parliaments
- Professor Gabrielle Appleby, UNSW Law and Justice.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 10.32 am.

Mr Buttigieg left the meeting.

Mr Latham left the meeting.

6. Inquiry into appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner

6.1 Answers to questions on notice and supplementary questions

The following answers to questions on notice, supplementary questions and additional information were published under the resolution appointing the committee:

- Answers to questions on notice, Mr Chris Lamb, Deputy Commissioner, Public Service Commission, received on 22 September 2023
- Answers to questions on notice and additional information, Dr Marianne Broadbent, NGS Global, received on 23 September 2023
- Answers to supplementary questions, Ms Kate Boyd, The Cabinet Office, received on 27 September 2023
- Answers to supplementary questions, Mr Peter Duncan, Former Acting Secretary, Premier's Department received on 28 September 2023
- Answers to supplementary questions, Mr Scott Gartrell, Chief of Staff, Office of the Minister for Transport received on 28 September 2023
- Answers to supplementary questions and additional information, Ms Emma Watts, NSW Cross Border Assistant Commissioner, received on 29 September 2023
- Answers to questions on notice and supplementary questions, Mr James McTavish, Cross Border Commissioner, received on 29 September 2023
- Answers to questions on notice and supplementary questions, Mr Steve Orr, A/Secretary, Department of Regional NSW and Ms Julie-Anne Tooth, Chief People Officer, Department of Regional NSW, received on 29 September 2023
- Answers to supplementary questions and additional information, Mr Josh Murray, Secretary, Transport for NSW, received on 3 October 2023
- Answers to questions on notice, Mr Josh Murray, Secretary, Transport for NSW, received on 10 October 2023.

Resolved, on the motion of Mr Tudehope: That the committee authorise the publication of the answers to questions on notice and attachment to answers with the exception of the identifying information as per the request of the author and recommendation of the secretariat:

- Answers to questions on notice, Ms Emma Watts, NSW Cross Border Assistant Commissioner, received on 29 September 2023
- Attachment to answers, Mr James McTavish, NSW Cross Border Commissioner, received on 29 September 2023.

6.2 Publication status of the Clerk's advice

The committee noted that the Clerk's advice, dated 5 September 2023, regarding options the committee could pursue following Minister Jo Haylen's correspondence declining the committee's invitation to attend a hearing on Thursday 31 August 2023, was published as part of the Clerk's submission to the inquiry into the Parliamentary Evidence Amendment (Ministerial Accountability) Bill.

6.3 Witness list for public hearing on 17 November

The committee noted that the witness list for the committee's potential public hearing on 17 November would be resolved by email.

7. Adjournment

The committee adjourned at 10.36 am until Friday 17 November (public hearing, appointments inquiry)

Peta Leemen
Committee Clerk

Minutes no. 17

Thursday 23 November 2023

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney, 1.34 pm.

1. Members present

Ms Boyd, *Chair*
Mr Farlow, *Deputy Chair*
Mr Buttigieg (from 1.39 pm)
Dr Kaine
Mr Primrose
Mr Tudehope (substituting for Mrs Taylor)

2. Apologies

Mr Latham

3. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 16 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 20 October 2023 – Email from Mr Daniel Rindfleish, Government Relations Advisor, Sydney Water, to the secretariat, requesting that the unredacted versions of question on notice 3 and supplementary question 1 from Sydney Water be kept confidential, for the inquiry into the NSW Government's management and use of consultants
- 20 October 2023 – Email from Ms Gloria Hill, Manager, Strategic Coordination, EnergyCo, to the secretariat, requesting a further extension of time to lodge answers to questions on notice from the hearing on 6 September 2023, for the inquiry into the NSW Government's management and use of consultants
- 22 October 2023 – Email from Ms Jan Primrose, Deputy Secretary, Australian Services Union NSW & ACT (Services) Branch, to the secretariat, providing answers to questions on notice, requesting that pp.

8 to 14 be kept confidential, and providing an update to evidence previously provided, for the inquiry into the NSW Government's management and use of consultants

- 24 October 2023 – Email from Ms Jan Primrose, Deputy Secretary, Australian Services Union NSW & ACT (Services) Branch, to the secretariat, thanking the committee for the consideration of their concerns, for the inquiry into the NSW Government's management and use of consultants
- 25 October 2023 – Email from Mr Gerald Jaworski, to the secretariat, providing further comments on CA ANZ, for the inquiry into the NSW Government's management and use of consultants
- 26 October 2023 – Letter from Mr Peter Perdikos, Executive Director Commercial, Procurement & Transformation, Corporate Services, Transport for NSW, to the Chair, requesting clarification of what the committee still requires in regard to supplementary question 1, given the substantial work for TfNSW staff to provide requesting information on engagements below \$150,000, for the inquiry into the NSW Government's management and use of consultants.
- 21 November 2023 – Letter from Mr Richard Gwilym, Managing Partner, Scyne Advisory to the secretariat, providing an update on the operations of Scyne Advisory as an independent business, for the inquiry into the NSW Government's management and use of consultants.

Sent

- 1 November 2023 – Email from the secretariat to Mr Mitch Dudley, Transport for NSW, regarding a revised scope and timeframe for answering supplementary question 1, for the inquiry into the NSW Government's management and use of consultants.

5. Inquiry into the Parliamentary Evidence (Ministerial Accountability) Bill 2023

5.1 Answers to questions on notice

The following answers to questions on notice were published under the resolution appointing the committee:

- answers to questions on notice from Mr David Blunt AM, Clerk of the Parliaments, received 8 November 2023.

5.2 Publication of correspondence from appointments inquiry

Resolved, on the motion of Mr Farlow: That the committee authorise publication of the email from the office of the Hon Jo Haylen MP, Minister for Transport, declining to appear at a hearing for the inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, received on 30 August 2023.

5.3 Consideration of Chair's draft report

The Chair submitted her draft report entitled '*Parliamentary Evidence Amendment (Ministerial Accountability) Bill 2023*' which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Tudehope: That:

- The draft report be the report of the committee and that the committee present the report to the House;
- The transcript of evidence, submissions, answers to questions on notice, and correspondence relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished transcripts of evidence, submissions, and answers to questions on notice relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- Upon tabling, all unpublished correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee and subject to the redaction of identifying and/or sensitive information;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- The secretariat table the report at 3pm Monday 27 November.

6. Inquiry into the NSW Government's use and management of consultants

6.1 Answers to questions on notice and supplementary questions

The following answers to questions on notice were published under the resolution establishing the committee:

- Sydney Water, received 20 October 2023
- Energy Co, received 25 October 2023
- Transport for NSW (additional answers to supplementary questions), received 26 October 2023
- Transport for NSW (further additional answer to supplementary question), received 20 November 2023.

6.2 Confidential and partially confidential answers to questions on notice

Resolved, on the motion of Mr Farlow: That the committee keep confidential the unredacted versions of answers to question on notice 3 and supplementary question 1 from Sydney Water, received 20 October 2023, as per the author's request.

Resolved, on the motion of Mr Farlow: That the committee:

- keep confidential pages 8 to 14 of the answers to questions on notice from the Australian Services Union, received on 22 October 2022, at the request of the author; and
- authorise publication of the remainder of the document.

Resolved, on the motion of Mr Primrose: That the:

- answers to questions on notice and supplementary questions from Mr Brendan Lyon, received on 19 October 2023, be published, with the exception of the transcript of conversation at pages 44-47, which is to be kept confidential until the committee is able to reconsider publication in light of advice from the Clerk
- Chair write to KPMG to provide them with an opportunity to respond to the potential adverse mention (as highlighted on page 10) included in the answers to questions on notice and supplementary questions from Mr Brendan Lyon
- committee seek advice from the Clerk regarding the impact and appropriateness of publishing a transcript of a recorded conversation, including any obligations the committee may have in reporting a potential offence.

7. Inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

7.1 Amendment to Terms of Reference

The committee noted the following terms of reference, as amended, by the House on 22 November 2023:

1. That the Public Accountability and Works Committee inquire into and report on the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023, and in particular:

- (p) the circumstances leading up to the appointments
- (q) the process undertaken to make the appointments
- (r) the probity and integrity measures that were undertaken as part of the appointments

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

- (s) the principles, public expectations and requirements for appointments to the public service by Ministers
- (t) the process for the appointment of senior officers generally
- (u) the appointment, actions, duties and responsibilities of Department Liaison Officers seconded to ministerial offices
- (v) the creation of transition offices in the Government
- (w) other matters related to senior executive appointments at Transport for NSW, and
- (x) any other related matters.

2. That the committee report by 20 May 2024.

7.2 Hearing dates

Resolved, on the motion of Mr Primrose: That the secretariat canvass member availability, in consultation with the Chair, for two hearing dates in February/March 2024.

8. Adjournment

The committee adjourned at 1.51 pm until 5 February 2024 (public hearing for consultants inquiry)

Peta Leemen

Committee Clerk

Minutes no. 18

Monday 5 February 2024

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney, 9.06 am

1. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair* (from 9.12 am)

Mr Buttigieg

Dr Kaine (from 9.19 am)(via videoconference until 10.05 am)

Ms Munro (substituting for Mrs Taylor)

2. Apologies

Mr Latham

Mr Primrose

3. Previous minutes

Resolved, on the motion of Mr Buttigieg: That draft minutes no. 17 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 29 November 2023 – Correspondence from submission author no. 3, to committee, providing additional information, including a supplementary submission, regarding the appointment of Ms Emma Watts for the appointments inquiry

- 8 December 2023 – Letter from Ms Louise Capon, General Counsel, KPMG Australia, to Chair, responding to matters raised by Mr Brendan Lyon in his answers to questions on notice, regarding the consulting services inquiry
- 17 December 2023 – Email from Mr Andrew Nipe, Chief Consulting Officer, Australian Government Consulting, declining invitation to appear at hearing on 5 February 2024, regarding the consulting services inquiry
- 2 February 2024 – Email from Mr Shane Allison, Strategic Communications Director, EY, to secretariat, advising that Mr Christopher George is no longer available for the hearing on 5 February 2024, regarding the consulting services inquiry.

Sent

- 24 November 2023 – Letter from Chair, to Mr Andrew Yates, Chief Executive Officer, KPMG, providing an opportunity to respond to potential adverse mention in answers to questions on notice from Mr Brendan Lyon, regarding the consulting services inquiry.

The committee noted that correspondence from Ms Louise Capon, General Counsel, KPMG Australia to Chair, responding to matters raised by Mr Brendan Lyon in his answers to questions on notice, received 8 December 2023 was published by the committee clerk under the authorisation of the resolution appointing the committee.

5. Inquiry into appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

5.1 Answers to questions on notice and supplementary questions

The following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice, Mr Scott Gartrell, Chief of Staff, Office of the Minister for Transport received 30 October 2023.

5.2 Correspondence and supplementary submission from submission author no. 3.

Resolved, on the motion of Mr Buttigieg: That the committee:

- keep the email correspondence and attachments from submission author no. 3 to the committee providing additional information regarding the appointment of Ms Emma Watts, received on 29 November 2023, confidential, as per the request of the author
- keep the supplementary submission from submission author no. 3 providing additional information regarding the appointment of Ms Emma Watts, received on 29 November 2023, confidential as it contains potential adverse mention
- invite Ms Emma Watts to provide a written response in relation to the potential adverse mention contained in the supplementary submission from submission author no. 3, received on 29 November 2023, within two weeks of receiving the invitation
- reconsider the publication status of the supplementary submission from submission author no. 3, when a written response is received from Ms Watts.

6. Inquiry into the NSW Government's use and management of consulting services.

6.1 Clerks' advice – publication of transcript on pages 44-47 of Mr Brendan Lyon's answers to questions on notice

Resolved, on the motion of Ms Munro: That the committee:

- keep the Clerk's advice confidential
- keep confidential the transcript on pages 44-47 of the answers to questions on notice and supplementary questions received from Mr Brendan Lyon on 19 October 2023.

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

6.2 Public hearing

Witnesses, the public and the media were admitted at 9.18 am.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Adrian Loader, Founding Partner, Director, Allegro Funds, Scyne Advisory
- Mr Rich Gwilym, Managing Partner, Scyne Advisory
- Ms Diane Rutter, NSW Lead, Scyne Advisory.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mrs Catherine Friday, Government and Health Sciences Leader, EY Oceania
- Mr Mark Nixon, Government and Public Sector Lead, EY Oceania
- Mrs Leigh Walker, Oceania Risk and Independence Leader, EY Oceania
- Mr Christopher George, Public Policy Leader, EY Oceania.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 12.29 pm. The public and the media withdrew.

7. Adjournment

The committee adjourned at 12.30 pm until Monday 8 April 2024 (third hearing – appointments).

Talina Drabsch

Committee Clerk

Minutes no. 19

Wednesday 20 March 2024

Public Accountability and Works Committee

Room 1043, Parliament House, Sydney, 6.35 pm

1. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair* (from 6.37 pm)

Mr D'Adam (substituting for Mr Buttigieg)

Dr Kaine

Mr Primrose

Mrs Ward (substituting for Mrs Taylor for the duration of the inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023)

2. Previous minutes

Resolved, on the motion of Dr Kaine: That draft minutes no. 18 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 1 December 2023 – Email from the Opposition Whip's Office to the secretariat, advising the Hon. Natalie Ward MLC will substitute for the Hon. Bronnie Taylor MLC for the duration of the inquiry into the appointments of Josh Murray and Emma Watts and Senior Executives and Department Liaison

Officers in 2023, noting that Mrs Ward was previously substituting for the Hon. Scott Farlow MLC for the duration of the inquiry

- 5 February 2024 – Email from Ellery Switches, to secretariat, regarding PwC for the inquiry into consulting services
- 8 February 2024 – Letter from Ms Ainslie van Onselen, Chief Executive Officer, CA ANZ to Chair, enclosing copy of 'Going Further' for the inquiry into consulting services
- 13 February 2024 – Email from Ms Emma Watts to the secretariat/committee, requesting to share confidential supplementary submission no. 3a with the Department of Regional NSW People Officer and Legal Counsel for the inquiry into the appointments of Josh Murray and Emma Watts and Senior Executives and Department Liaison Officers in 2023
- 15 February 2024 – Email from Ms Emma Watts to the secretariat/committee requesting a week's extension to provide a response in relation to the potential adverse mention contained in confidential supplementary submission no. 3a so she can get appropriate legal advice for the inquiry into the appointments of Josh Murray and Emma Watts and Senior Executives and Department Liaison Officers in 2023
- 29 February 2024 – Email from Tayla Dorsett to the committee regarding workers compensation
- 4 March 2024 – Correspondence from Ms Emma Watts to the committee providing a response to the potential adverse mention contained in supplementary submission no 3a for the inquiry into the appointments of Josh Murray and Emma Watts and Senior Executives and Department Liaison Officers in 2023.

Sent

- 12 February 2024 – Letter from the Chair to Ms Emma Watts, inviting a response to potential adverse mention in confidential supplementary submission no. 3a for the inquiry into the appointments of Josh Murray and Emma Watts and Senior Executives and Department Liaison Officers in 2023
- 16 February 2024 – Email from the secretariat to Ms Emma Watts, advising that the committee agreed to her request to share the confidential supplementary submission with the Department of Regional NSW People Officer and Legal Counsel and a week's extension to provide a response in relation to the potential adverse mention contained in the supplementary submission.

4. Inquiry into appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

4.1 Supplementary submission no. 3a and the response from Ms Emma Watts

Resolved on the motion of Mrs Ward: That the committee:

- keep supplementary submission no. 3a providing additional information regarding the appointment of Ms Emma Watts, received on 29 November 2023, confidential as it contains potential adverse mention.
- keep the response from Ms Emma Watts to the committee in relation to the potential adverse mention contained in supplementary submission no. 3a, received 4 March 2024, confidential, as per the request of the author.

4.2 Witnesses for hearings 8 and 9 April 2024

Resolved on the motion of Mr D'Adam: That the committee agree to the following witness lists:

Monday 8 April 2024

- 9.15 am to 10.15 am
 - Dianne Leeson, Premier's Department
 - Kathrina Lo, Public Service Commissioner

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

- 10.30 am to 12.30 pm
 - The Hon Jo Haylen MP, Minister for Transport
 - Scott Gartrell, former Chief of Staff, Office of the Minister for Transport
 - Kieran Ash, former staff member
- 1.30 pm to 3.30 pm
 - Tracey Taylor, Chief People Officer, Transport for NSW
 - Susan Carroll, Chief of Staff, Transport for NSW
 - Barbara Wise, Head of Transition Office, Transport for NSW
- 3.45 pm to 4.15 pm
 - Rob Sharp, former Secretary, Transport for NSW.

Tuesday 9 April 2024

- 9.15 am to 11.15 am
 - Josh Murray, Secretary, Transport for NSW
 - Howard Collins, Coordinator General, Transport for NSW.

4.3 Reporting timeline and answers to questions on notice and supplementary questions

The committee noted that it agreed via email:

- to hold a report deliberative on Monday 13 May 2024.
- that the Chair's draft report be circulated to the committee by the end of Thursday 2 May 2024, giving members an additional four days to review the report before the report deliberative.

Resolved on the motion of Mr D'Adam: That:

- the committee provide supplementary questions to the secretariat within 24 hours of receiving the transcript.
- witnesses be given 7 calendar days to provide their answers from receipt of the transcript.

5. Adjournment

The committee adjourned at 7.07 pm until Monday 8 April 2024 (public hearing – appointments inquiry).

Amanda Assoum
Committee Clerk

Minutes no. 20

Wednesday 3 April 2024

Public Accountability and Works Committee

Room 1136, Parliament House, Sydney, 12.31 pm

1. Members present

Ms Boyd, *Chair*
Mr Buttigieg
Dr Kaine
Ms Munro (substituting for Mr Farlow)
Mr Primrose
Mrs Ward

2. Previous minutes

Resolved, on the motion of Dr Kaine: That draft minutes no. 19 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 27 March 2024 – Email from Mitch Dudley, Manager, Parliamentary Services, Transport for NSW, to the secretariat, advising that Mr Howard Collins is unavailable to attend the hearing on 9 April 2024 as he is currently on leave and seeking to clarify whether the Secretary, Mr Josh Murray, is required to appear for the full two hours in the absence of Mr Collins
- 27 March 2024 – Email from Ms Dianne Leeson, to the committee, advising that she is unable to attend the hearing on 8 April 2024 in person due to an accident and indicating that she may have some difficulty attending virtually but will endeavour to do so if her virtual attendance is required
- 27 March 2024 – Email from the Office of the Hon Jo Haylen MP, Minister for Transport, to the committee, declining the invitation to appear before the committee on 8 April 2024
- 3 April 2024 – Email from Mr Robert Sharp, former Secretary, Transport for NSW, to the committee, declining the invitation to appear at a hearing on 8 April 2024 due to short notice and his relocation interstate.

4. **Inquiry into appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023**

4.1 **Confidential submission**

Resolved, on the motion of Dr Kaine: That the committee keep supplementary submission no. 1a confidential, as per the request of the author and as it contains potential adverse mention.

4.2 **Witnesses for hearings 8 and 9 April 2024**

Dr Kaine moved: That the committee agree to the following witness list:

Monday 8 April 2024

- 9.15 am to 10.15 am
 - Kathrina Lo, Public Service Commissioner
- 10.30 am to 11.30 am
 - Tracey Taylor, Chief People Officer, Transport for NSW
 - Susan Carroll, Chief of Staff, Transport for NSW
- 11.30 am to 12.30 pm
 - Barbara Wise, Head of Transition Office, Transport for NSW
- 2.00 pm to 3.00 pm
 - Josh Murray, Secretary, Transport for NSW (noting that the committee may request that he attend for an additional 15-30 minutes)
- 3.30 pm to 5.30 pm
 - Scott Gartrell, Former Chief of Staff, Office of the Minister for Transport (in the event Mr Gartrell responds to the committee's invitation to attend the hearing)
 - Kieren Ash, Former staff member, Office of the Minister for Transport (in the event Mr Gartrell responds to the committee's invitation to attend the hearing).

Mrs Ward moved: That Dr Kaine's motion be amended by adding at the end: That the committee retain the second hearing date to reconsider the witnesses who declined the committee's invitation to attend and to provide time for Mr Gartrell and Mr Ash to respond to the committee's invitations.

Dr Kaine moved: That Mrs Ward's amendment be omitted, and the following be added instead: That the committee reconsider at a deliberative following the hearing on Monday 8 April 2024 the witnesses who declined the committee's invitation to attend the hearing.

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

Noes: Ms Munro, Mrs Ward.

Question resolved in the affirmative.

Mrs Ward withdrew her amendment.

Original question of Dr Kaine, as amended, put.

The committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Noes: Ms Munro, Mrs Ward.

Question resolved in the affirmative.

5. Adjournment

The committee adjourned at 1.13 pm until Monday 8 April 2024 (public hearing – appointments inquiry).

Amanda Assoum

Committee Clerk

Minutes no. 21

Monday 8 April 2024

Public Accountability and Works Committee

Macquarie Room, Parliament House, Sydney, 8.59 am

1. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair*

Mr Buttigieg

Dr Kaine

Mr Primrose

Mrs Ward

2. Apologies

Mr Latham

3. Previous minutes

Resolved, on the motion of Dr Kaine: That draft minutes no. 20 be confirmed.

4. Inquiry into appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

4.1 Sequence of questions

Resolved, on the motion of Mrs Ward: That the allocation of questions to be asked at the hearing be left in the hands of the Chair, unless the committee decides during the public hearing that questions be timed.

4.2 Public hearing

Witnesses, the public and media were admitted.

The following witness was sworn and examined:

- Ms Kathrina Lo, Public Service Commissioner

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Tracey Taylor, Chief People Officer, Transport for NSW
- Ms Susan Carroll, Chief of Staff, Transport for NSW.

Ms Tracey Taylor tendered the following document:

- Letter from Ms Tracey Taylor, Chief People Officer, Transport for NSW to the Deputy Secretary, Delivery and Coordination, Premier's Department regarding the Department of Premier and Cabinet Circular C2021-07 Department Liaison Officers.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Ms Barbara Wise, Head of Transition Office, Transport for NSW

The evidence concluded and the witness withdrew.

The following witness was examined on their former oath:

- Mr Josh Murray, Secretary, Transport for NSW

The evidence concluded and the witness withdrew.

The public hearing concluded at 3.13 pm.

The public and the media withdrew.

4.3 Tendered documents

Resolved, on the motion of Dr Kaine: That the committee accept and publish the following document tendered during the public hearing:

- Letter from Ms Tracey Taylor, Chief People Officer, Transport for NSW to the Deputy Secretary, Delivery and Coordination, Premier's Department regarding the Department of Premier and Cabinet Circular C2021-07 Department Liaison Officers.

4.4 Inquiry activity

Mrs Ward moved: That, should the committee vacate the second hearing date on Tuesday 9 April 2024, the committee note that:

- it has done so given:
 - it has not heard from key decision makers who could be available remotely, including Ms Dianne Leeson, Premier's Department, Mr Howard Collins, Coordinator General, Transport for NSW and Mr Rob Sharp, Former Secretary, Transport for NSW on issues that the inquiry is inquiring into
 - the alleged unavailability of Mr Kieren Ash, Former staff member, Transport for NSW, and Mr Scott Gartrell, Former Chief of Staff, Office of the Minister for Transport
- it has therefore not fulfilled the terms of reference for the inquiry.

Question put.

The committee divided.

Ayes: Mr Farlow, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Dr Kaine moved: That the committee note that it has received sufficient evidence from the witnesses it has heard from so far in order to satisfy itself in relation to the matters referred to in the terms of reference and does not believe it is an effective use of parliamentary resources to hold a further hearing.

Question put.

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

The committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Noes: Mr Farlow, Mrs Ward.

Question resolved in the affirmative.

5. Adjournment

The committee adjourned at 3.26 pm until Monday 13 May 2024 (report deliberative – appointments inquiry).

Amanda Assoum
Committee Clerk

Draft minutes no. 22

Monday 13 May 2024

Public Accountability and Works Committee

Room 1043, Parliament House, Sydney, 10.03 am

6. Members present

Ms Boyd, *Chair*

Mr Farlow, *Deputy Chair*

Mr Buttigieg

Dr Kaine

Mr Latham

Mrs Mitchell (substituting for Mrs Taylor from 11.40 am to 11.46 am)

Mr Primrose

Mrs Ward (participating from 11.40 am to 11.46 am)

7. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 21 be confirmed.

8. Review into the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020

Resolved, on the motion of Mr Farlow: That:

- the committee commence a review into the *Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* following a request from the Minister for Building
- the committee consider the conduct of the review at its next meeting.

9. Inquiry into appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

9.1 Answers to questions on notice

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Answers to questions on notice, Mr Josh Murray, Secretary, Transport for NSW, received 8 April 2024
- Answers to questions on notice, Transport for NSW, received 17 April 2024.

9.2 Consideration of Chair's draft report

The Chair submitted her draft report entitled '*Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023*', which, having been previously circulated, was taken as being read.

Chapter 1

Resolved, on the motion of Mrs Ward: That the following new paragraph be inserted after paragraph 1.10:

'Mr Murray also confirmed he briefly attended a private election victory party at the residence of the Premier-Elect Chris Minns following the 2023 Election Party, which it is also understood was also attended by Minister Haylen.'

Resolved, on the motion of Dr Kaine: That the following new paragraph be inserted after paragraph 1.14:

'The committee ascertained that the Minister and her Office were familiar with all of the three candidates, the other two being senior Transport executives.'

Resolved, on the motion of Dr Kaine: That the following new paragraph be inserted after paragraph 1.56:

'However, on this point Mr Duncan gave evidence that "Look, I think the search firm did not have a great understanding of his experience. We discussed this in the evaluation panel. When we opened up his presentation, his representation of his qualifications and his work with this Tier 1 contractor, he was very impressive. He provided a very impressive case"! [FOOTNOTE: Evidence, Mr Peter Duncan, Acting Secretary, Premier's Department, 31 August 2023, p 68]

Dr Kaine moved: That paragraph 1.113 be amended by omitting: 'The evidence suggests that the Minister's Office was interested in Mr Murray being appointed to the role from the beginning. The Minister's Chief of Staff at the time contacted Mr Murray to share the job advertisement and then contacted the Premier's Department part-way through the process to request that Mr Murray be added to the shortlist for interviews' and inserting instead:

'The evidence suggests that the Minister's Office was interested in Mr Murray being considered for the position from the beginning. The Minister's Chief of Staff at the time contacted Mr Murray to share the job advertisement and then responded to the Premier's Department request for feedback part-way through the process and provided two names, including Mr Murray's, to be added to the shortlist for interviews.'

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Noes: Mr Farlow, Mr Latham, Mrs Ward.

Question resolved in the affirmative.

Mrs Ward moved: That the following new paragraph be inserted after paragraph 1.113:

'The committee views this conduct as indicative that Mr Gartrell as chief of staff was not at arms' length in the recruitment process and was heavily motivated to ensure the interview process included Josh Murray. It is implausible that Mr Gartrell was merely a by-stander in the process.'

Question put.

The committee divided.

Ayes: Mr Latham, Mr Farlow, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Resolved on the motion of Mr Farlow: That paragraph 1.113 be amended by inserting the following before 'While it is clear that there is no prescribed':

'The committee views this conduct as indicative that Mr Gartrell as chief of staff was motivated to ensure the interview process included Josh Murray.'

Resolved, on the motion of Mrs Ward: That the following new paragraph be inserted after paragraph 1.62:

'Both Verity Firth and Carmel Tebbutt are former Labor Ministers with ongoing connections to the Labor Party.'

Mrs Ward moved: That the following new paragraph be inserted after paragraph 1.67:

'It is clear that Scott Gartrell had Josh Murray placed into the interview process.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That the following new paragraph be inserted after paragraph 1.94:

'The Committee notes it is concerning that Mr Duncan was not advised of a material matter which could give rise to a potential or actual conflict of interest.

It is also concerning that Mr Duncan confirmed in his evidence, that if Mr Murray's political donations had been disclosed to him, that he would have referred the matter for legal advice.

Should the donations have been disclosed to Mr Duncan and the panel, proper inquiries could have been undertaken to ensure transparency and accountability were thoroughly maintained in the process.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That the following new paragraph be inserted after paragraph 1.104:

'The Committee notes it is concerning that Ms Lo was not advised of a material matter which could give rise to a potential or actual conflict of interest.

It is also concerning that Ms Lo confirmed in her evidence, that if Mr Murray's political donations had been disclosed to her, that she would have sought legal advice on the matter.

Should the donations have been disclosed to Ms Lo and the panel, proper inquiries could have been undertaken to ensure transparency and accountability were thoroughly maintained in the process.

The Committee notes that legal advice should have been sought on whether a political donation by a candidate constituted a potential, perceived or actual conflict and how this should be managed to assure the public of proper probity, transparency and accountability in expenditure of taxpayer funds and appointments in the NSW Public Service.'

Question put.

The committee divided.

Ayes: Mrs Ward, Mr Farlow, Mr Latham.

Noes: Ms Boyd, Dr Kaine, Mr Buttigieg, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That the following new paragraph be inserted after paragraph 1.106:

'The committee notes it is concerning that no legal advice or probity advice was ever sought at any stage by any panel member, or Kathrina Lo, or Peter Duncan or any other participant regarding a potential, perceived or actual conflict of interest arising from Josh Murray's political donations, or Scott Gartrell's close personal involvement in what is supposed to be an independent process.

Notably, legal advice has never been sought, even subsequently, on whether a political donation may constitute a potential, perceived or actual conflict of interest, despite strong media and public interest in this issue.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That:

a. the following new paragraph be inserted after paragraph 1.111:

'No consideration of advice regarding ICAC guidance on Conflicts of Interest was considered at any stage.'

b. paragraph 1.112 be amended as follows:

- i. omitting 'The committee accepts that' and inserting instead 'The majority Labor and Greens members of the committee accept that'.
- ii. inserting 'alleged to have been' after 'end of the recruitment process was'.

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Resolved, on the motion of Dr Kaine: That paragraph 1.116 be amended as follows:

- b. deleting 'and answer questions on these key issues' at the end and inserting instead 'this inquiry'.
- c. inserting at the end: 'Although the Minister did answer related questions during subsequent Budget Estimates Hearings, the appropriate forum for answering questions on these key issues was at this inquiry'.

Mrs Ward moved: That:

d. the following new finding be inserted before paragraph 1.114:

'Finding X

No inquiry or advice was obtained in relation to any actual, perceived or potential conflict of interest regarding Mr Murray's political donations, at any stage.'

e. paragraph 1.114 be amended by omitting 'The committee accepts' and inserting instead 'The majority Labor and Greens members of the committee accepts'.

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That paragraph 1.115 be amended by inserting the following at the end:

'The committee notes that despite Minister Jo Haylen publicly stating she would "answer any questions" she declined to participate in the inquiry hearings.

Minister Jo Haylen also stated publicly that she is "not accountable to the Upper House" which is deeply concerning to the committee.' [FOOTNOTE: 2GB Sydney, *Jo Haylen grilled over \$588k job to political donor*, 29 August 2023, https://www.youtube.com/watch?v=69b_PlamiU&ab_channel=2GBSydney]

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Farlow, Mr Latham, Mrs Ward.

Noes: Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the affirmative.

Mrs Ward moved: That the following new finding be inserted before paragraph 1.114:

'Finding X

2. Ongoing Ministerial Conflict of Interest obligations sit above the legal decisions of Government.
3. Minister Haylen did not disclose during the recruitment process for the position of Secretary of Transport that Josh Murray and his spouse donated to Minister Haylen's political campaign.
4. There remains ambiguity regarding if political donations directly to their political campaigns are required to be disclosed by Ministers when the donor and the exercise of a Ministers duties intersect.
5. A reasonable person would expect public officials to declare political donations by candidates in a recruitment process they participate in.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That Finding 1 be amended by:

- a. omitting 'was' and inserting instead 'may have been' before 'conducted in accordance with the *Government Sector Employment Act 2013*'.
- b. inserting 'given Mr Murray's connections and donations to the Labor Party' after 'transparent' at the end.

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Chapter 2

Dr Kaine moved: That paragraph 2.20 be amended by omitting 'engaged in political work' and instead insert 'produced some material that could be considered political in nature' before 'while employed as a DLO with the Minister's office'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Dr Kaine, Mr Primrose.

Noes: Ms Boyd, Mr Farlow, Mr Latham, Mrs Ward.

Question resolved in the negative.

Dr Kaine moved: That paragraph 2.34 be amended by inserting 'however no specific evidence was provided' after "'apolitical role of our DLOs'".

Question put.

The committee divided.

Ayes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Noes: Mr Farlow, Mr Latham, Mrs Ward.

Question resolved in the affirmative.

Dr Kaine moved: That the following new paragraph be inserted after paragraph 2.35:

'The Committee notes that these concerns were raised prior to his appointment as a DLO, so could not have been related to his work in the Minister's Office.'

Question put.

The committee divided.

Ayes: Mr Buttigieg, Dr Kaine, Mr Primrose.

Noes: Ms Boyd, Mr Farlow, Mr Latham, Mrs Ward.

Question resolved in the negative.

Resolved, on the motion of Mrs Ward: That paragraph 2.55 be amended by inserting the following at the end:

'The committee also notes that the investigation and its findings were not provided to the committee.'

Resolved, on the motion of Dr Kaine: That the following new paragraph be inserted after paragraph 2.55:

'The Committee notes that there may have been value in Transport for NSW taking more active steps to review the work of the DLO and intervene as his supervisor and employer.'

Resolved, on the motion of Mrs Ward: That paragraph 2.56 be amended by inserting 'direct' before 'result of the investigation'.

Dr Kaine moved: That Finding 2 be amended by omitting 'conducted political work' and inserting instead 'produced some material that could be considered political in nature'.

Question put.

The committee divided.

Ayes: Mr Buttigieg, Dr Kaine, Mr Primrose.

Noes: Ms Boyd, Mr Farlow, Mr Latham, Mrs Ward.

Question resolved in the negative.

Mrs Ward moved: That the following be inserted after Finding 2:

- '1. It is implausible Minister Haylen was unaware of the conduct of Kieren Ash during his secondment to the Ministerial Office.
2. Minister Haylen's Ministerial Office directly requested and identified public servants, including Kieren Ash with known Labor links to work in her office in non-partisan roles.
3. The exact interactions between the Ministerial Office and Transport for NSW to set up the Transition Office remains unclear due to a lack of witness availability.

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Resolved, on the motion of Mrs Ward: That Recommendation 1 be amended by inserting 'and specificity on the tasks' after 'provide further clarity on the roles'.

Mrs Ward moved: That the following new recommendations be inserted after Recommendation 1:

'Recommendation X

In light of the Premier not referring the matter to an independent body or inquiry, The Inquiry refer the non-disclosure of donations by Josh Murray to Minister Haylen to the ICAC for clarity on Ministerial responsibility to declare political donations when the exercise of Ministerial power in recruitment processes in the public service intersects with political donors and whether the matter constitutes a breach of the Ministerial Code of Conduct.

Recommendation X

To strengthen the integrity and public confidence in the NSW political system, The ICAC should publish clear guidelines on the appropriate disclosure obligations for Ministers when donors to their political campaigns and the exercise of their duties intersect, including the monetary threshold of donations that require disclosure.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That the following be inserted at the end on the Conduct of Inquiry page under Procedural issues:

'The committee notes that key witnesses were not available to attend as witnesses to give evidence: Keiran Ash – no response

Scott Gartrell – no response
 Jo Haylen – declined as unwilling to attend
 Rob Sharpe – unavailable due to late notice
 Dianne Lesson – unwell

After no response was received from some witnesses no further attempts were made by the Committee to pursue attendance by these witnesses, depriving the committee of the opportunity to inquire directly of the relevant people who were central to key issues in the inquiry.

This inaction is contrary to the rigorous pursuit of witnesses, including by issuing subpoenas compelling attendance, under previous Accountability inquiries conducted by this committee.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Chapter 4

Mr Latham left the meeting.

Mrs Ward moved: That the following new paragraph be inserted after 4.1:

'The committee notes that the Transition Office continues to be in place after over a year, despite it purporting to be a temporary arrangement. This is at taxpayer expense and concerningly no answer or information has been provided about the actual and ongoing or anticipated costs of such an entity, nor its value to taxpayers, nor a timeline for its dissolution.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That the following new paragraph be inserted after 4.31:

'It is not plausible that the discussion with Ms Wise did not involve some form of consideration of her role, if any, or none, in the proposed new transition office. Ms Wise had not undertaken such a role before on her own evidence, and it was not her current role.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mr Latham re-joined the meeting.

Mrs Ward moved: That the following new paragraph be inserted after 4.34:

'This doesn't escape the fact that a direct request for a specific person with no prior experience in such a role was requested and a recruitment process was retrofitted, including the proposal to place a political

staffer in the Ministerial office on the selection panel. Not only is this highly unusual it is deeply concerning, or at a minimum, questionable.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That paragraph 4.48 be omitted.

Question put.

The committee divided.

Ayes: Mr Farlow, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Latham, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That paragraph 4.49 be amended by omitting 'The committee' and inserting instead 'The Labor Greens majority of the committee' before 'consider that it was appropriate for senior officials'.

Question put.

The committee divided.

Ayes: Mrs Ward, Mr Farlow

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Latham, Mr Primrose.

Question resolved in the negative.

Mrs Ward moved: That the following new finding be inserted after paragraph 4.50:

'Finding X

The exact interactions between the Ministerial Office and Transport for NSW to set up the Transition Office remains unclear due to a lack of witness availability.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Latham, Mrs Ward.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Chapter 3

Mrs Mitchell joined the meeting.

Mr Farlow moved: That Finding 3 be amended by omitting at the end 'given Ms Watts' connections to the National Party'.

Question put.

The committee divided.

Ayes: Mrs Mitchell, Mr Farlow.

Noes: Ms Boyd, Dr Kaine, Mr Buttigieg, Mr Latham, Mr Primrose.

Question resolved in the negative.

Mrs Mitchell moved: That Finding 3 be omitted.

Question put.

The committee divided.

Ayes: Mrs Mitchell, Mr Farlow.

Noes: Ms Boyd, Dr Kaine, Mr Buttigieg, Mr Latham, Mr Primrose.

Question resolved in the negative.

Mr Latham left the meeting.

Mrs Mitchell moved: That Finding 3 be omitted and the following new Finding be inserted instead: 'Evidence to this inquiry indicates that the appointment of Ms Emma Watts was conducted in accordance with the *Government Sector Employment Act 2013*'.

Question put.

The committee divided.

Ayes: Mrs Mitchell, Mr Farlow.

Noes: Ms Boyd, Mr Buttigieg, Dr Kaine, Mr Primrose.

Question resolved in the negative.

Mr Latham re-joined the meeting.

Resolved, on the motion of Mrs Mitchell:

- c. That Finding 3 be omitted: 'That, while the suitability test leading to the initial temporary appointment of Ms Emma Watts to the position of NSW Cross-Border Assistant Commissioner was conducted in accordance with the *Government Sector Employment Act 2013*, a merit-based recruitment process may have been more appropriate given Ms Watts' connections to the National Party' and the following new finding be inserted instead:

'Finding X

That the suitability test leading to the appointment of Ms Emma Watts to the position of NSW Cross Border Assistant Commissioner was conducted in accordance with the *Government Sector Employment Act 2013*.'

- d. That the following recommendation be inserted after paragraph 3.35:

'Recommendation X

That the NSW Government consider merit-based recruitment processes when candidates have strong political connections.'

Mrs Mitchell left the meeting.

Resolved, on the motion of Dr Kaine: That:

The draft report as amended be the report of the committee and that the committee present the report to the House;

Appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner, and Senior Executives and Department Liaison Officers in 2023

The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;

Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;

Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;

Dissenting statements be provided to the secretariat by 6.30 pm Wednesday 15 May 2024;

The report be tabled in the House on 16 May 2024;

The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

10. Adjournment

The committee adjourned at 11.48 am until Tuesday 21 May 2024 (report deliberative – consulting services inquiry).

Amanda Assoum
Committee Clerk

Appendix 4 Dissenting Statements

Hon Natalie Ward MLC, Liberal Party

Josh Murray Appointment

The appointment of Josh Murray as Secretary of Transport for NSW and the selection and empowerment of Labor aligned public servants which led to breaches of their employment obligations within the first six months of a new Government possesses all the hallmarks of a ‘job for mates’ culture and Minister determined to pursue old school political cronyism within the public service.

The series of events and prior relationship between Mr Murray and Minister Haylen that include a long standing personal relationship, attending private election victory parties at the Premier’s residence, donations to her political campaign, private meetings within days of coming to office, her Chief Staff directly contacting Mr Murray about the job and ordering the public service to interview Mr Murray when he was a candidate demonstrate that Mr Murray was the only candidate who ever had a chance of getting the job.

The only time Mr Murray was interviewed by any independent party prior to the Ministerial Office becoming involved, he was labelled a ‘high risk’ with ‘no operational experience’.

Ultimately, the findings of this inquiry fail to adequately address the clear failure by Transport Minister Jo Haylen to disclose a potential conflict of interest of Mr Murray’s donations during the appointment process. Under the Ministerial Code of Conduct, Ministers have ongoing disclosure requirements for the management of conflicts of interest. Failure to do so is a serious matter.

Throughout the recruitment process and when directly consulted on the appointment between Mr Murray and another candidate, Minister Haylen did not disclose his donations to her campaign. When consulted Minister Haylen expressed a clear preference without any documented supporting evidence for Mr Murray over another candidate.

The Minister’s failure to formally disclose the breadth and depth of their prior relationship including the donations raises serious questions regarding the management of conflicts of interests during the process.

When asked at the inquiry regarding the non-disclosure, the Acting Secretary of the Premier’s Department Peter Duncan confirmed had he been made aware of the donations he would have sought legal advice on how to address the issue.

The Test is not a donation for a job, rather, political donations could in the eyes of the public impact an elected official’s decision making and therefore require disclosure.

The Ministerial Code of Conduct sets out the requirements for Ministers of the Crown to ensure public trust is maintained. This conduct fell far below the required standards.

Department Liaison Officers, Kerian Ash and the Transition Office

The Westminster principles that have underpinned the NSW political system are based on clear separation between political staff of the executive and the non-partisan role and responsibility of the bureaucracy.

A Department Liaison Officer within a Ministerial Office is responsible for administration between the Department and the Ministerial Office. The behaviour of Kerian Ash was clearly a rort by the Labor Government and the Minister in direct violation of his employment obligations.

It is not believable a Minister with a personal relationship with a bureaucrat specifically requested by name to work in the office was unaware of his conduct.

The Chief of Staff, the Acting Secretary of Transport for NSW, the Chief of Staff at Transport for NSW, department staff and the Premier's Office were either directly aware or raised concerns about what was going on.

Documents provided to Parliament clearly demonstrate Mr Ash was aware Minister Haylen wanted him parachuted in within days of Government.

Mr Ash wrote political speeches for the Minister, planned Labor Party advertising for Transport projects, helped organised BBQs for the Minister, wrote attack lines on the former Government all while being paid to be a non-partisan public servant under the supervision of the Minister.

The facts are the department raised concerns on at least two occasions concerning the conduct of DLOs in the Minister's Office and was ignored by the Minister and her Chief of Staff.

It is on public record the Minister visited the Legislative Council crossbench to personally assure members there were no issues with Mr Ash, which was subsequently proven to be false.

The Minister has never directly answered what exactly she knew about this political rort.

The outcome of this rort has seen a person lose his job, his reputation dragged through the media and a chief of staff resign following the revelations becoming public, but no accountability for the person responsible for what occurred.

In the first months of Government, the Minister's Office requested by name transport officials whose CVs included the Campaign Manager for the Balmain Labor Campaign, a former Young Labor President, a former member of the Labor Party Administrative Committee and a close personal friend who donated to the Minister's re-election campaign to non-partisan roles in her office.

This behaviour directly undermines the separation between the executive and the public service which is designed to ensure public confidence in the administration of Government.

The Inquiry's ability to properly assess the series of events that led to the creation of the Transition Office, including the unavailability of the former Secretary of Transport for NSW were unsatisfactory. There remains unanswered questions that include:

- Why was legal advice required regarding seconding political staff into the public service?
- Who was the original candidate the Minister's Office inserted to head the Transition Office?

Looking at the pattern of behaviour it would be unsurprising for it to be person with significant Labor links well known the Minister.

Prior to the election the Premier commented on his standards of integrity in Government “It’s not an outcome you reach, it is a continuous and relentless determination to place integrity at the heart of all your decisions and actions”

The decisions and actions of the Transport Minister in months after the election were clearly far below these standards, and the outcomes have seen people lose their jobs, reputations dragged through the press without any accountability.

The people of NSW deserved better.

