

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

**INTEGRITY, EFFICACY AND VALUE FOR MONEY OF NSW
GOVERNMENT GRANT PROGRAMS**

CORRECTED

At Jubilee Room, Parliament House, Sydney, on Friday 23 October 2020

The Committee met at 10:00 a.m.

PRESENT

Mr David Shoebridge (Chair)

The Hon. John Graham
The Hon. Courtney Houssos (Deputy Chair)
The Hon. Trevor Khan
The Hon. Matthew Mason-Cox
The Hon. Natalie Ward

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The CHAIR: Welcome to the third hearing of the Public Accountability Committee's inquiry into the integrity, efficacy and value for money of New South Wales Government grant programs. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land. I pay my respect, and the respects of Committee members and those in attendance, to Elders past, present and emerging, and extend that respect to other First Nations peoples present. Today's hearing will focus on local council Government grant programs. We will hear from Ms Sarah Lau, Senior Policy Advisor in the Office of the NSW Premier, and Ms Sarah Cruickshank, former Chief of Staff in the Office of the NSW Premier.

I say at the outset that it is with some reluctance that the Committee has resolved to require the attendance of Ms Lau and Ms Cruickshank. It is because we have no other documentation or paper trail to identify how some \$141 million of a \$252 million grants program was administered and approved through the Premier's office that we are forced to require the attendance of staff to seek to provide some explanation on the public record. Ms Lau is the senior policy officer who communicated the Premier's approval through email to the Office of Local Government. I say it is with reluctance because this is an upper House Committee, and, twice now, through compulsory calls for papers the House has required the production of all, or any, papers identifying how such a substantial amount of money—some \$252 million of public money—was determined and approved for an array of council projects in the lead-up to the 2019 State election.

Despite those efforts of the House, the Government and the Premier's office continue to tell us that there are no documents that identify how, when and why that extraordinary amount of money was allocated. Ms Lau and Ms Cruickshank, it is with reluctance that we bring you before the Committee to help fill in the gaps for the public record. It is my expectation that you will be treated with courtesy, but it is also the Committee's expectation that you will do everything you can to assist us in answering the questions that I think the public has a right to ask.

Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. Parliament House is now open to the public. All visitors, including witnesses, are reminded that they must have their temperature checked and register their attendance in the building via the Service NSW app. Please see the secretariat if you need assistance with this and please remember to maintain appropriate physical distancing at all times.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. I remind all participants in today's hearing that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. Therefore, I request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In those circumstances, witnesses are advised that they can, if needed, take a question on notice and provide an answer within 21 days.

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SARAH LAU, Senior Policy Advisor, Office of the NSW Premier, affirmed and examined

SARAH CRUICKSHANK, Former Chief of Staff, Office of the NSW Premier, affirmed and examined

Ms CRUICKSHANK: I am a Deputy Secretary in the Department of Premier and Cabinet [DPC].

The CHAIR: Would either or both of you like to make a brief opening statement?

Ms LAU: I do not wish to make an opening statement.

Ms CRUICKSHANK: With respect, Mr Chair, I will. It will be very brief. I really just wanted to make sure that all committees were aware, for the record, that when I was first invited to attend this Committee, there have been several conversations to the effect that the grants programs that this Committee is looking at—and I will come back to one of them—are not programs that I was involved with the discussions around during my time as Chief of Staff. I wanted to put that on the record because I am conscious that it may be a source of frustration as the hearings go on today—that you might ask me questions that I am simply not able to answer—but I will do the very best I can. For the sake of transparency, there is one grant fund that, now in my current role, I do have visibility of, which is the Premier's Discretionary Fund. Obviously I may be able to be of more assistance on that particular one, but with regards to Stronger Communities and local government generally, it just was not something I was involved in, so I will do my best.

The CHAIR: For the record, can you indicate when you commenced as Chief of Staff and when you ceased in that position?

Ms CRUICKSHANK: Certainly. I commenced as Chief of Staff when the Premier became the Premier, in January 2017. I left in February 2020.

The CHAIR: Ms Lau, so that we can be clear, when did you commence in your position as Senior Policy Officer?

Ms LAU: Yes, I am a Senior Policy Advisor. I commenced my role in the Premier's office in—it would have been—early July 2017. I have only just recently come back from maternity leave, so I was on leave from the end of September 2019 to the beginning of October 2020.

The CHAIR: Had you completed your opening, Ms Cruickshank?

Ms CRUICKSHANK: Yes, thank you.

The Hon. JOHN GRAHAM: As the Chair indicated, we will start with the tied grants round of the Stronger Communities Fund, which the Parliament has had the most interest in. Ms Lau, I will start with you and the emails that have been referred to by the Chair. The emails that have been produced to the Parliament start around that June 2018 period. You were a Senior Policy Advisor at that point to the Premier.

Ms LAU: Yes, that is correct.

The Hon. JOHN GRAHAM: I might give you the opportunity to tell us in your own words, as you were sending these emails, saying, for example, to the Office of Local Government, the Premier has approved these particular grants, or the Premier has signed off further funding for these councils, how you came to send them? What was going on as you communicated this to the Office of Local Government?

Ms LAU: Yes. What I was communicating to Mr Hurst, the CEO of the Office of Local Government, was a confirmation that the Premier was comfortable with the proposed allocation of funding and the proposed projects that I had set out in my email. Mr Hurst then was responsible for the authorisation and approval for each and every one of those grants under that round of the Stronger Communities Fund, and he exercised that role by signing formal funding briefs authorising the approval of each of those grant payments. I understand the Committee has a copy of each and every one of those signed funding briefs from Mr Hurst.

The Hon. JOHN GRAHAM: We will come back to some of those issues. How was it that you came to know that the Premier did approve of these projects and that she was, as you say, comfortable with them?

Ms LAU: She had indicated that to me—that she was comfortable with the proposed allocation of funding in those projects.

The Hon. JOHN GRAHAM: Yes, and she indicated that to you personally?

Ms LAU: I had advised her of the proposed list of councils to be funded and the proposed projects. I had done that as part of a working advice note and she had indicated on that note that she was comfortable. I cannot

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recall exactly how she had done that but I made a record of the outcome of that note by sending an email to Mr Hurst.

The Hon. JOHN GRAHAM: Right, so that email is your record of that discussion. Just tell me, though, you advised the Premier of this proposed list of projects.

Ms LAU: Mm-hm.

The Hon. JOHN GRAHAM: Did you do that in person or in this working advice note?

Ms LAU: I did it through this working advice note. It is probably useful for me now to perhaps provide, if it would be helpful, some context to these notes—

The Hon. JOHN GRAHAM: Sure, yes.

Ms LAU: —because I think it is really important to stress that these notes, they were not a formal brief. They were not a formal brief that she needed to sign seeking her approval for the funding because that really was not her role under the program. Mr Hurst was the person responsible for the approval of funds under that program. These notes really were—I mean, essentially, because the Premier is a very busy person, obviously, they were really in the place of what could have really been a short conversation with the Premier.

The Hon. JOHN GRAHAM: Yes. Okay, so that is useful guidance. But I will return to my question, which is: When you came to know that the Premier had approved of this, was that because the Premier told you or because of this working advice note?

Ms LAU: It was because of the working advice note.

The Hon. JOHN GRAHAM: So the Premier did not speak to you in relation to any of these—

The CHAIR: Well, sorry, I do not know if that is what the witness has said to date. Is that your question?

The Hon. TREVOR KHAN: He is allowed to ask the question.

The Hon. JOHN GRAHAM: In relation to these emails, the Premier was not verbally advising you of these, you were not speaking to her about it if she said, "Look, I approve of this project, I approve of that"?

Ms LAU: She indicated that she was comfortable with the proposed list of projects and the councils that were proposed to receive funding. I obviously cannot comment for potentially other conversations that she may have had with other staff members—

The Hon. JOHN GRAHAM: Yes, certainly.

Ms LAU: —of course, about the proposed funding allocation.

The Hon. JOHN GRAHAM: So she indicated she was comfortable. How did she indicate she was comfortable? How did you become aware of that?

Ms LAU: I cannot recall exactly how. She may have made a note on my note but I did not have a verbal conversation with her about it. I do not recall having a verbal conversation with her about it.

The Hon. JOHN GRAHAM: So you were not in meetings, for example, where this program was discussed and the projects approved?

Ms LAU: No, I do not recall having any face-to-face meetings with her discussing these projects.

The Hon. JOHN GRAHAM: So the communication that you would have got would have been from other staff or would have been in this working advice note. They are the two ways you would have known to then send an email to Mr Hurst saying, "Disburse this money".

Ms LAU: Yes, I would agree with that.

The Hon. JOHN GRAHAM: Which other staff might have advised you?

Ms LAU: At the time I was working on this grants program I would have only been in the Premier's office for pretty much just under a year or just on a year. And I would say it was my first role in a ministerial office. So I was working under the direction of my former policy director, who had been in the office for a number of years and had also worked on the local government sector and the merger process for a number of years. So he was providing me direction on this grants program and he advised me on the councils and the proposed funding splits and assisted me in the preparation of these working advice notes and would have reviewed them before they had gone into the Premier.

The Hon. JOHN GRAHAM: Who was that former policy director?

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Ms LAU: He is no longer working in the office. His name is Matthew Crocker.

The Hon. JOHN GRAHAM: Thank you. And so did he, the former policy director, at any point advise you that the Premier was comfortable with this or was it transmitted exclusively via these notes?

Ms LAU: I think I would have to say generally the notes would come back to me, but they would come back to me via Mr Crocker generally and, potentially, other senior members of staff in the office. I do not know who—

The Hon. JOHN GRAHAM: Yes, exactly.

Ms LAU: Yes. I would not have got it—the Premier would not have handed it directly to me.

The Hon. JOHN GRAHAM: So really you might have had a discussion at that point about the approval—

Ms LAU: Yes, and we would have discussed next steps and—yes.

The Hon. JOHN GRAHAM: So either via those discussions or—but you are principally relying on these notes.

Ms LAU: The notes and any discussions I would have had with my former policy director in terms of—he may have had further face-to-face conversations, say, with the Premier. I cannot say for sure, obviously. And he would have taken those notes after they had come back from the Premier and advised me on the next steps I should be taking.

The Hon. JOHN GRAHAM: Yes. And did any of those notes back from the Premier, these working advice notes, contain comments from the Premier written on them?

Ms LAU: I cannot recall what exactly she may or may not have written on those notes but, as I said, I did make a final and effective record of the outcome of those notes through sending those emails to Mr Hurst.

The Hon. JOHN GRAHAM: I am not asking you if you can recall what was on them. I am asking you: Can you recall whether the Premier wrote anything on any of those notes at any time?

The Hon. NATALIE WARD: Can I ask: In relation to this fund, not generally? Are you asking about the general practice or about this fund?

The Hon. JOHN GRAHAM: No, I am asking about the Stronger Communities Fund, tied grants round.

The Hon. NATALIE WARD: These funds, thank you.

Ms LAU: I cannot recall if she did write anything on them or not.

The CHAIR: Ms Lau, you have said on a number of occasions that the only way the approval was communicated to you was through what the Premier wrote on these notes.

Ms LAU: Mm.

The CHAIR: That seems to be contrary to what you are now saying as to whether or not you can recall whether anything was written on the notes.

Ms LAU: Well, I cannot recall exactly what she wrote. I mean she may have, say, just ticked the note, for instance.

The CHAIR: It is best that you do not—

Ms CRUICKSHANK: If it helps, I was actually going to say that what Ms Lau is describing is 100 per cent accurate. It is quite often that the Premier would just tick or circle "noted", not actually write anything on the brief so—or the piece of paper.

The Hon. JOHN GRAHAM: Which is not an unusual practice.

Ms CRUICKSHANK: Correct, so no detail or anything.

The Hon. JOHN GRAHAM: Yes, but the Premier has made some indication—

Ms CRUICKSHANK: Correct.

The Hon. JOHN GRAHAM: —to convey her approval, disapproval, question. Maybe, Ms Cruickshank, at that point can you tell us about these working advice notes? What is their status in the Premier's office? What are they used for? How usual is this practice?

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Ms CRUICKSHANK: It is a good question as to whether—I would not say that they are the usual way that—or, sorry, the only way, if you like, that decisions are made. Sometimes decisions are made through conversations in verbal communications rather than through notes. To be quite frank, they are simply the relevant adviser's views on something, which the Premier may or may not take regard to. She will digest it, and she may agree with it or she may not. Normally a piece of advice like that, which is just an office-generated piece of advice, might accompany a formal brief. But the substantive thing that the Premier would look at, generally speaking, would be a formal brief.

The Hon. JOHN GRAHAM: Thank you for that. That is really useful. Ms Lau, in this instance, was there a formal brief that accompanied the working advice note?

Ms LAU: No, there was not. There was not because, as I said before, the Premier did not have a formal approval role under the Stronger Communities grants program. For that reason, she did not sign any formal approval briefs approving any grants payments. That was Mr Hurst's role, and he exercised that role by signing each and every formal funding brief for each and every grant under the program. I understand that the Committee has a copy of all of those funding briefs.

The Hon. JOHN GRAHAM: Returning to the working advice notes, they were working advice notes that you used that were transmitted to the Premier possibly via other staff, transmitted back to you possibly via other staff that you then used to write those emails. Where are those working advice notes now?

Ms LAU: As I mentioned, after the Premier indicated that she was comfortable with the proposed projects and the funding allocation I sent emails to the Office of Local Government recording that information. Those emails to the Office of Local Government were and are a comprehensive electronic record of the Premier's confirmation that she was comfortable. I then disposed of those working advice notes that I had used to prepare that final record—those emails—in line with my normal record management practices. I think that it was important—and I will restate my comments about the status of those notes. There were sort of the equivalent of what would potentially be, in other situations with someone who is less busy than the Premier, a short conversation. They did not have the status of a formal briefing note or a formal approval document. They were disposed of as part of my normal record management practices. As a separate formal and final record, my emails were made recording the outcome from these notes. Separately, the recording of the approval of those grants payments were in the form of those signed funding briefs by Mr Hurst.

The Hon. JOHN GRAHAM: We will come to that. How did you dispose of those working advice notes?

Ms LAU: It is likely that they would have been shredded.

The Hon. JOHN GRAHAM: Did that happen shortly afterwards or a long time afterwards?

Ms LAU: Because it was some time ago—2½ years ago—I cannot recall exactly when they would have been disposed of. But it is part of my normal records management practices.

The Hon. JOHN GRAHAM: Was it around the time or was it much later?

Ms LAU: I may have retained them for a short period while I was still working on the program.

The Hon. JOHN GRAHAM: But you would not have retained them, for example—before you went on leave, they would have been disposed of?

Ms LAU: Yes, because that would have been some significant time after all the grants had been approved and allocated.

The Hon. JOHN GRAHAM: So those notes were disposed of.

The CHAIR: Shredded.

The Hon. JOHN GRAHAM: You have described their purpose. They may have contained, as Ms Cruickshank said, marks from the Premier indicating her approval or disapproval. Would you agree with that?

Ms LAU: Yes.

Ms CRUICKSHANK: Or noting.

The Hon. JOHN GRAHAM: Or noting—exactly.

Ms LAU: Yes, but as I mentioned, I cannot recall exactly what, if anything was—

The Hon. JOHN GRAHAM: And there were a number of emails.

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Ms LAU: Yes.

The Hon. JOHN GRAHAM: Can you recall the Premier's remarks on any of those notes?

Ms LAU: No. I did send a number of emails, but I would say that I would not have provided a note to the Premier for every email I sent, if that makes sense. I would have written a note to the Premier outlining proposed funding for councils and the proposed projects for a number of them—

The Hon. JOHN GRAHAM: Together?

Ms LAU: Yes.

The Hon. JOHN GRAHAM: How many notes would you estimate you wrote in relation to this single round of funding?

Ms LAU: I cannot recall the exact number, but I expect it is probably perhaps two.

The Hon. JOHN GRAHAM: So two notes?

Ms LAU: Approximately, yes. It is probably useful to add that, at any one time, I would be working on any number of these notes on a range of issues. I would prepare a short note if the Premier was to sign some correspondence. I would prepare a note for items, say, coming up to Cabinet; I would prepare notes on policy issues.

The Hon. JOHN GRAHAM: Understood. But approximately two in relation to these grants?

Ms LAU: Yes.

The Hon. JOHN GRAHAM: In your email, you are very clear on the wording. We do not have the record of your working advice notes. They have been disposed of. We do have your email, which you say is an accurate record of what occurred. Your email says this—

The Hon. TREVOR KHAN: Sorry, can you refer her to the date?

The Hon. JOHN GRAHAM: Your email says this on 25 June 2018, "Below are the additional metro council projects the Premier has approved."

Ms LAU: Would I be able to see a copy of that email?

The Hon. JOHN GRAHAM: Yes, we can provide you with one.

Ms LAU: Just so that I can make sure that I am looking at the correct document.

The Hon. JOHN GRAHAM: We will provide you with one so you can see exactly what it says. The language that you have used in a range of them is clear-cut. It says, "The Premier has approved". Those are your words. Or secondly, "The Premier has signed off further funding". On that first page, Monday, 25 June, "Hi, Below are the additional metro council projects the Premier has approved." Can you see that there?

Ms LAU: Yes.

The Hon. JOHN GRAHAM: My question is—this is your record of the note that has now been disposed of.

Ms LAU: Yes.

The Hon. JOHN GRAHAM: It does not say that the Premier is comfortable; it says that the Premier has approved. Why did you write that?

Ms LAU: I can understand why you are asking that question. I would say that my use of the term "approved"—and I think in other emails I might have said "signed off"—was a turn of phrase that I was using. It would have been more accurate to say that she confirmed that she was comfortable with the proposed projects, because the truth is she was not approving any payments under the grants program. As I mentioned earlier, that was not a role that she had under the program.

The Hon. JOHN GRAHAM: Thank you.

The CHAIR: Ms Lau, thank you for your attendance today. You keep using language like "would have", so could I ask you for the moment to restrict yourself to what you actually recall and not to speculate?

Ms LAU: Sure.

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The CHAIR: First of all, how many working advice notes did you provide to the Premier in relation to this Stronger Communities Fund tied grant round?

Ms LAU: Well, Mr Shoebridge, I am sure that you will appreciate that we are talking about events from almost 2½ years ago. During that time I have also been on leave for a year, so I am trying to provide my best recollection of the events of that period. I would say that my best recollection is two.

The CHAIR: Alright.

Ms LAU: But, as I have mentioned, at any one time I would be writing a number of these notes and working on a number of issues.

The CHAIR: Were they close together? Were they around the same time? Were they separated in time, these two notes?

Ms LAU: I would say that it is likely that they would have been reasonably close in time, because I would not have wanted—I would have only put in a note if I had, say, new information which I needed to provide to the Premier. Where possible, I would have tried to minimise the number of notes going to her because of her workload.

The CHAIR: And those working advice notes explained, I assume, why certain projects should be funded?

Ms LAU: The projects that were included in those working advice notes—after I was provided with a proposed list of councils to receive funding and those were councils that had either been merged or that had been negatively impacted by the merger process, consistent with the guidelines. My former policy director then asked me to speak to our parliamentary liaison team in the office to ask them to consult with relevant local MPs and for them to in turn speak to their relevant local councils that were proposed to receive funding, about possible projects that could be funded within the proposed allocated funding. Those projects would have come from the relevant local councils.

The CHAIR: Would have come from the relevant local councils or would have come from the relevant local MPs?

Ms LAU: From the local councils via the local MPs.

The CHAIR: Do you remember writing a working advice note for \$90 million to be provided to Hornsby council?

Ms LAU: That would have been included in the note.

The CHAIR: Ms Lau, again, I am asking you what you remember. Do you remember writing a working advice note recommending that \$90 million be provided to Hornsby council?

Ms LAU: Yes.

The CHAIR: Who told you that \$90 million should be provided to Hornsby council?

Ms LAU: That would have been advised to me by my former policy director.

The CHAIR: Mr Crocker?

Ms LAU: Correct.

The CHAIR: You say, "would have".

Ms LAU: Well, was.

The CHAIR: What did Mr Crocker tell you about a \$90 million payment to Hornsby council?

Ms LAU: The payment was in recognition of the significant financial impact Hornsby council faced as a result of the merger process where they lost part of their rate base as part of that process.

The CHAIR: Do you recall what projects were being funded by that \$90 million for Hornsby council?

Ms LAU: Yes, there were two projects. Both of them were green space and recreation projects. One related to Hornsby Quarry and the other related to the Westleigh area.

The CHAIR: One was for \$50 million and one was for \$40 million. Is that right, Ms Lau?

Ms LAU: That is correct.

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The CHAIR: What business plan, documentation or details did you have before you before recommending to the Premier that she provide \$50 million for one project and \$40 million for another project? What documentation did you have to satisfy the recommendation to the Premier?

Ms LAU: I did not hold any discussions with Hornsby council directly. My former policy director held discussions with Hornsby council around those projects.

The CHAIR: So how could you possibly have advised the Premier, or recommended in your working advice note, that \$90 million of public money be provided to just one council when you had no business case, no documentation and no recommendations in writing to support the allocation of \$90 million of public money in that way, Ms Lau?

Ms LAU: Well, I do remember receiving some documents—well, being provided some documents by my former policy director that he had received from Hornsby council outlining the basis of what they believed their financial impact from the merger process was, which was significantly more than \$90 million.

The CHAIR: Ms Lau, I am asking about what justification there was to provide \$90 million to those two projects, not the financial circumstances of Hornsby council but why \$90 million of public money was allocated to those two specific projects.

The Hon. TREVOR KHAN: Point of order: With respect, Chair, you are asking a ministerial adviser a question that is not within her gift. You are, with respect, entitled to ask her what she did and matters relating to how she operated, but to ask her a question in the form that you have is to ask somebody who does not have that authority to express an opinion.

The CHAIR: I am asking the witness to be clear about what materials she relied upon to complete her working advice note to the Premier recommending \$90 million.

The Hon. TREVOR KHAN: That is not the question you asked.

The CHAIR: Ms Lau, I will put the question again. What documentation did you rely upon to include your recommendation in your working advice note that \$40 million of public money be given for one project and \$50 million of public money be given for another project in Hornsby that related to the merits of those projects?

Ms LAU: As I mentioned, I had information that had been provided by Hornsby council outlining the financial consequences of the merger process on their finances—the significant financial impact. One of the objectives and purposes of the Stronger Communities Fund in the guidelines was to support infrastructure for councils impacted by the merger process. The two projects you have mentioned were in accordance with the guidelines for the program.

The CHAIR: Ms Lau, are you telling me that you had before you no merit assessment, no business case and no details of the projects? Is that what you are telling me?

Ms LAU: Well, I mean, I did have details in terms of the purposes of the projects, but I think it is important to restate that those funds were administered by the Office of Local Government. The Office of the Premier and the Premier were not responsible for the administration of the funding program. As I have mentioned before, it was Mr Hurst as the CEO of the Office of Local Government who was responsible for signing and approving the payments under the grants program. I understand for every payment that he approved, he did so in accordance with the guidelines.

The CHAIR: Ms Lau, he attached your emails as the only supporting document going to the approval of the specific project. He relied upon your emails. Do you understand that?

Ms LAU: I cannot speak to what Mr Hurst may or may not have relied on or whether he relied on any other information.

The CHAIR: Mr Hurst has made it abundantly clear that that is all he had and all he relied upon for the delivery of \$141.8 million of public money to projects approved by the Premier—your emails. I am asking you, in relation to the \$90 million for Hornsby council, if you had any documentation before you assessing the merits of those two projects that together amounted to \$90 million. If the answer is no, then please tell me that. If there are merit-based assessment documents, please advise me of that.

Ms LAU: I had no further documentation in addition to the documentation I have already outlined. Of course, I cannot speak to any further documentation that my former policy director, Mr Hurst or other people in the Office of Local Government may have held, who may have been assisting Mr Hurst in the administration of the program.

The CHAIR: Were the working advice notes created electronically, Ms Lau?

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Ms LAU: Yes.

The CHAIR: Using what computer system or program?

Ms LAU: It would have been Word.

The CHAIR: You obviously would have saved your electronic copy of the working advice notes, would you not?

Ms LAU: Yes, at the time I was working on them.

The CHAIR: Well, I would ask you to go and search your records and provide us with a copy of the final version and any draft versions you have of those working advice notes. Will you do that on notice, Ms Lau?

Ms LAU: I have already searched our shared drives where those notes would have been saved. I understand those searches were also conducted while I was on leave and those records are no longer available.

The CHAIR: Sorry, when you say the records are "no longer available", are you saying someone destroyed them?

Ms LAU: I expect I would have deleted them as part of my normal records management process, as I had made that final record of sending that email recording the outcome of those notes.

The CHAIR: Ms Cruickshank, is it seriously the records management process in the office—when you were there—that the only written advice to the Premier about the allocation in this case of \$90 million of public money was destroyed in accordance with routine practice? Is that the routine practice in the Premier's office?

Ms CRUICKSHANK: No, I would say it is not and I cannot comment on the particular briefing note or whatever that you are referring to there. What I can say is that all staff are very familiar with their record-keeping requirements. Listening to what Ms Lau has just been saying my assessment, based on what she is saying, is she would have said to me, if I had asked her and if I had known about it, "I have kept a record because I have sent an email and the email outlines the decision." So that is a record.

The CHAIR: Ms Cruickshank, at the time you were the chief of staff was there a policy in place for the routine destruction of written advices that were provided to the Premier?

Ms CRUICKSHANK: No, there was no policy in place for that. There literally was the guidance that is given to all ministerial staff, firstly when they are employed and then through quite regular training sessions that would be done. Staff—and I am talking about all ministerial staff here—are made very aware of their obligations under State records. As you would know there is a combination of documents that can be regarded as State records and you are not required to keep duplicates. So if the final record in this particular scenario is the email, that would be in accordance with State records.

The CHAIR: That is your legal opinion, is it, Ms Cruickshank?

Ms CRUICKSHANK: I am not a legal person. It is just my working knowledge, I guess, or experience.

The CHAIR: Ms Lau, I might just give you a bundle of documents which would contain some of these emails. The most convenient spot to start might be not the first, second or third tab but the second last tab. Do you see that?

Ms LAU: Yes.

The CHAIR: It started at the top with an email from Mr Hurst of 14 December 2018—do you see that?

Ms LAU: Yes, I do.

The CHAIR: Then below that is your email of 25 June 2018, which commences, "Hi, Below are the additional metro council projects the Premier has approved," et cetera. And then there is a table attached. Do you recall sending that email, Ms Lau?

Ms LAU: Because the email was sent some time ago I do not recall sending this exact email. As you would appreciate I would on any given day send many, many emails but I can confirm that is my email address and it appears to be an email that I have sent.

The CHAIR: That is not your advice note, is it?

Ms LAU: No.

The CHAIR: It is not a duplicate of your advice note, is it?

CORRECTED

Ms LAU: No and I would say that I have not previously said that the emails were a duplicate of my advice notes. What I have said is they were a record of the outcome of my advice notes.

The CHAIR: Ms Cruickshank, do you want to revisit your position that the emails are sufficient as a duplicate of the advice notes, given Ms Lau has made it abundantly clear they are not the duplicate of the advice notes?

Ms CRUICKSHANK: I have got no option other than to accept her version of that because I do not know what the advice note said. All I am observing, which was why I made the comment I did, was that if the purpose of this Committee was to ascertain was a record of decisions being made done duly, I am giving you my observation. My observation was I am looking at an email that has a fair amount of detail in it, as I look at it, of what it is for, for how much funding and which council it is going to. So I was therefore giving you an observation that that felt like a record. But if Ms Lau feels the advice note is substantively different then it is not a duplicate.

Ms LAU: Well, I would say it is not an exact duplicate but I would also say that the advice notes to the Premier, as I have said before, you could consider them as something that you could have done in a very short meeting or conversation. Generally the advice notes that I would have provided to the Premier would have been quite short. She would not receive advice notes that are pages and pages long.

Ms CRUICKSHANK: That is true.

Ms LAU: So you can see my email is probably almost a page long. I would say my advice note probably would not have been significantly longer than that. It would not have, say, been even five pages or probably unlikely to even be two full pages.

The CHAIR: Ms Cruickshank, you said that yourself and staff got detailed advice on the State Records Act.

Ms CRUICKSHANK: Yes.

The CHAIR: I understood from your answer earlier that you accepted the premise that the advice note would be covered by the obligations under the State Records Act.

Ms CRUICKSHANK: Well, I am not sure that I would because there is not a formality really attached to the advice note compared with a formal brief. A typical advice note—and please note I am not talking about the specifics of this program—but often—

The CHAIR: Ms Cruickshank—

The Hon. TREVOR KHAN: Well—

The CHAIR: Sorry, if you have more to add—I thought you had finished.

Ms CRUICKSHANK: I am actually just thinking about it for a moment. I think it would come down to what the content of an advice note looked like. I will give you an example of the kind of advice notes I used to deal with, which were much more administrative. We would get a brief from the Department of Premier and Cabinet saying, "So-and-so Minister is proposing to go on leave. These are the dates he or she is going on leave. These are the other Ministers that may be on leave at the same time. You need to please approve." Right, so you would have a full detailed brief. And then I would put a short one-pager, "Premier, so-and-so proposing to go on leave. Please approve."

The CHAIR: Ms Cruickshank, you are not trying to draw a parallel between that and a recommendation—

Ms CRUICKSHANK: No, no, no, I am not. I am explaining—

The CHAIR: Let me finish the question, Ms Cruickshank.

Ms CRUICKSHANK: Sorry.

The CHAIR: And a recommendation that \$19 million of public money be allocated to two projects in a council—you are not seriously trying to draw a parallel between those two.

Ms CRUICKSHANK: No, I am absolutely not because, as I said, Mr Chair, I do not have any of the specifics or the knowledge around that. All I am saying is your question to me was something to the effect of, "Are all advice notes subject to the State Records Act?"

The CHAIR: But the advice notes we have been—

The Hon. TREVOR KHAN: Well—

CORRECTED

Ms CRUICKSHANK: And I am just saying in my answer, well, no, I do not think they all are because some of them are purely administrative and the substantive brief that sits behind them is actually the record. I was just trying to answer that.

The CHAIR: My final question before I hand to Mr Graham is this: Ms Lau has made it clear there was no other brief, that the advice note recommended in this case \$90 million of public money be allocated to two projects. That clearly in your experience, given your training, would be a document that would be required to be kept under the State Records Act, would it not, Ms Cruickshank?

Ms CRUICKSHANK: On the basis that I have not seen the advice note and all I can do is look at that email I still would have thought that if the contents of that email are pretty much the same as the advice note you would not be required to keep that as well. But I am saying that because I have not seen the advice note—and I have not seen it. I am kind of, to be honest, nervous about talking about a hypothetical that I just have not seen.

The CHAIR: We will come back to this.

The Hon. JOHN GRAHAM: I might turn back to you, Ms Lau, on that point. I think you have already confirmed that there was not a substantive brief: The Office of Local Government did not provide one; the Department of Premier and Cabinet did not provide one. But I will just confirm that point with you again.

Ms LAU: Yes, and I should also further add to that point that at no time did Mr Hurst, as the administrator of this grants program and the final approver of each and every grant payment—at no time throughout the time I was working closely with him on the program did he ever advise me that he required a formal signed brief from the Premier to approve funding.

The Hon. JOHN GRAHAM: Understood.

Ms LAU: At no time did he ever request that from me. Had he done so, I would have of course immediately organised for the preparation of such a formal brief for the Premier to sign, but he did not need to do that because he was the responsible person.

The Hon. JOHN GRAHAM: I might stop you there because you are going to evidence you put to us. But you have agreed there is no substantive brief. You might have sought one if you had been asked to, but you were not.

Ms LAU: Of course, yes.

The Hon. JOHN GRAHAM: But there was no substantive brief, not from DPC and not from the Office of Local Government. Your note was the only advice.

Ms LAU: Was the only—was the advice. My working advice notes were what the Premier considered when she confirmed she was comfortable with the proposed allocation of funding and the projects to be funded. I should add the Premier, of course, did sign a formal brief approving the program guidelines—

The Hon. JOHN GRAHAM: Yes, understood.

Ms LAU: —which you have a copy of. She did receive that brief, which she did sign.

The Hon. JOHN GRAHAM: Yes. The Premier was comfortable with many of these; she was not comfortable with all of them. One of your emails says this on 28 June 2018, "A project for Hunters Hill has been included on the list on the request of Minister Roberts and has been reluctantly signed off by the Premier." How did you come to know that the Premier was reluctant?

Ms LAU: Are you able to provide me with a copy of that email that you referring to?

The Hon. JOHN GRAHAM: Yes. It is the last tab in the bundle you have got from Mr Shoebridge.

The Hon. NATALIE WARD: What date is it?

The CHAIR: The date is 28 June. The second paragraph of your 28 June email. The last tab, Ms Lau.

Ms LAU: Yes, I see.

The Hon. JOHN GRAHAM: So the Premier is reluctant. She signed it off, in your words. She was reluctant about it. How did you come to know that she was reluctant?

Ms LAU: I do remember these events. She was reluctant, as I have said in my email, as Hunters Hill was a relatively late inclusion to the proposed list of councils to receive funding; however, as also indicated in my email, the Premier though did confirm she was comfortable with the proposed project that had been put forward

CORRECTED

for funding in the Hunters Hill council area, which was I think the Boronia Park upgrade, because of the broader regional benefits of the project.

The Hon. JOHN GRAHAM: I am really asking though how did you know that. Did the Premier write that on the working advice note? Were you told by the policy director?

Ms LAU: I cannot recall exactly how I learned the Premier was reluctant, but I have obviously put it in the email. I cannot recall if it is something that was told to me by the policy director or whether it is something she wrote. It is probably useful—I found at least in my experience—and it might be useful for Ms Cruickshank to talk more broadly about this. As I mentioned, advisers and other members of the office would prepare these working advice notes. They would then be reviewed by a more senior member of staff, sometimes one more senior member of staff or sometimes a second senior member of staff as well before they were—

The Hon. JOHN GRAHAM: Ms Lau, I might come back to that. I am really asking you about your knowledge. I just want to understand from you, while you are here, how you came to know. I think you have said—but feel free to then correct it—that it might have been on the note or you might have been told.

Ms LAU: Yes, and I guess I was trying to provide that explanation to give a context of how these notes were used and how I would receive information.

The Hon. JOHN GRAHAM: But you cannot recall specifically how you found out the Premier was reluctant.

Ms LAU: Yes, and I guess I was providing this explanation because I would draft a note, it would go through potentially several hands before it went to the Premier, the Premier would consider it and then it may go again—she may have a discussion with the more senior member of staff about it. It may go through again a number of hands before it came back to me.

The CHAIR: Ms Lau, you said in answer to Mr Graham's first question about this, "Yes, I remember", so you clearly had a distinct and unique memory in relation to this. I think Mr Graham is entitled to understand from you what your distinct memory was in relation to this.

Ms LAU: I recall because there must have been some frustration around a change in the proposed list of councils to receive funding but, as I mentioned, as the events were almost 2½ years ago I cannot remember exactly whether it was something that was told to me by another member of staff or whether it was something that the Premier had, say, written on the note. I honestly simply cannot recall that level of detail.

The Hon. JOHN GRAHAM: Just turning to those records and the questions the Chair was asking about those records, I think you have confirmed, but I just want to ask you, that there was a paper note—a working advice note—and also an electronic record of that note on your system and both of those have been discarded, I think in your words, or deleted. Is that correct?

Ms LAU: That is correct.

The Hon. JOHN GRAHAM: Disposed of, I think.

Ms LAU: I would add that they were only disposed of because another comprehensive electronic record of the outcome of that note was made—my emails—and provided to the Office of Local Government. They were kept by the Office of Local Government, which is appropriate as they were the administrators and are the administrators for the program.

The Hon. JOHN GRAHAM: Yes, but you agree that the Premier might have ticked or crossed or indicated her reluctance on those working advice notes and that record was not kept. You would agree with that.

Ms LAU: I would agree but, as I have said, the outcome of those notes have been recorded in my emails and, as we have just been discussing, those emails are reasonably detailed and even include the details about where she may have been reluctant.

The Hon. JOHN GRAHAM: The Chair has asked about how these grants came to be and who recommended them. We have talked about Hornsby. There are 249 grants. Where were these recommendations coming from? The Office of Local Government says they did not provide a recommendation. They did not come through DPC. There is not a substantive brief. Where did these materialise from? Where did the off-leash dog park in the Lane Cove municipal council, for example, or any of the other 249 grants come from? How did they materialise in your working advice note?

Ms LAU: I think I have gone into some of this, but I am happy to go over it again. As I have mentioned, I was asked by my former policy director to discuss potential projects that could be funded with our parliamentary liaison team. They are a team of people within the Office of the NSW Premier and their role is to work closely

CORRECTED

with local members. Ms Cruickshank could probably provide you with more information about the role of the team if you need it.

Ms CRUICKSHANK: That is correct.

Ms LAU: That team was asked to consult with the relevant local MPs in each of the relevant council areas and to ask them to talk to the local councils about possible projects that could be funded. There was a need to ensure that the projects could commence relatively quickly as there were limitations under the guidelines on when the funding needed to be expended. As a result they also needed to be projects that had been reasonably planned by the council and had community support but where there was no funding currently able to implement them. We had a particular focus on green space and recreation projects. As you can see, there were a range of parks and sporting grounds.

The Hon. JOHN GRAHAM: Alright, so that is quite a clear explanation. MPs are providing those to the Premier's office.

Ms LAU: Following discussions with their local councils.

The Hon. JOHN GRAHAM: Yes, following discussions. Not every council gets the same amount, though. Who made the decision that this council gets this much and this council gets that amount of money?

Ms LAU: My former policy director advised me on the proposed allocation of funding.

The Hon. JOHN GRAHAM: So he communicated to you that Lane Cove gets this much and that was the allocation of funding. That formed the basis of your recommendation in your working advice note—verbal advice from the policy director.

Ms LAU: Yes, and that note would have been drafted in close consultation with my former policy director and would have been reviewed by him before it was provided to the Premier.

The Hon. JOHN GRAHAM: There are 249 grants here. Is there a spreadsheet or an electronic record of those grants that you would have been reviewing as you put that together?

Ms LAU: I would have probably been documenting them on that advice note as I was going. As you can see in the emails, they are sort of detailed.

The Hon. JOHN GRAHAM: Yes, but there is a lot of detail here. The Blackman off-leash dog area, worth \$50,000, is a 2,500 square metre off-leash dog area. Did the policy director tell you that or was there some spreadsheet that included those projects?

Ms LAU: No. This information would have been provided from the councils to the local MPs, to the Parliamentary liaison team and then to me.

The CHAIR: You say "would have". You are speculating?

Ms LAU: Was. In some cases—I remember, for instance, speaking directly to the office of Minister Roberts and the office of Minister Upton about potential projects in their local council areas.

The Hon. JOHN GRAHAM: Does the Premier's office hold a spreadsheet with all of these projects together or are you just putting this together in your brief as you get emailed by people in the office?

Ms LAU: I would have been putting it in a sort of table form. I remember putting it in table form, probably very similar to this one in the working advice note in the email. I do not remember there being a separate document. I would not have wanted to have multiple documents, as well, just in order to manage my documents.

The Hon. JOHN GRAHAM: But it was communicated to you electronically in some way, maybe by an email. Do those records still exist?

Ms LAU: Sorry, could you repeat that question?

The Hon. JOHN GRAHAM: Perhaps this was emailed to you by other staff so that you could construct this. Do those records still exist?

Ms LAU: I remember having some phone calls with staff in other offices. They might not have emailed me in every case. Some of them may have given me printouts. Potentially—I cannot recall every method that I received every proposed project by, but I would say it is likely that I would have received at least some of the emails. But as I was recording all of that information in these advice notes, and then subsequently in these emails, I would not have retained those emails once the projects were finalised—in the same way that I am sure you do not retain every single email that you receive.

CORRECTED

The Hon. JOHN GRAHAM: When you say you would not have retained them, you mean you would have deleted them.

Ms LAU: Yes, I would have deleted them as part of my normal records management.

The Hon. COURTNEY HOUSSOS: Thanks, Ms Lau. I want to come back to this question of your working advice document. I assume it would be printed. As you said to Mr Shoebridge, it was created in Word. You would print a copy that would then be physically presented to the Premier for her approval, or through your policy director?

Ms LAU: Yes, it would be printed. The normal process that I would have generally followed is that I would have printed it and then I would have given that hard copy to my policy director. He would have reviewed it, provided any comments and then potentially given it to a further staff member or would have just provided it to the Premier after he reviewed it and provided any comments.

The Hon. COURTNEY HOUSSOS: And then you used the working advice document as a kind of tracking document to keep track of those phone calls, emails and different pieces of contact that you were having with different sources, to provide you with a list. Is that correct?

Ms LAU: Yes.

The Hon. COURTNEY HOUSSOS: So there would be the original document that you provided to the Premier, and then there would be a working document that you kept on your computer as well.

Ms LAU: I would have waited until I was reasonably certain that the proposed list of projects was final. I would not have wanted to keep going to the Premier with updates as things would change. I would have waited until I felt that things were reasonably final before I would have provided any notes to the Premier.

The Hon. COURTNEY HOUSSOS: You said you only provided her with perhaps two notes over the entire course of this program. Is that right?

Ms LAU: Yes, but as I mentioned, I cannot recall exactly how many notes. But it is likely approximately two.

The Hon. COURTNEY HOUSSOS: We have multiple emails where you were making changes amongst different projects and allocating and reallocating funds. Did you provide a written advice note to the Premier for each one of those projects?

Ms LAU: I know there were some changes to some of the projects. I think in some cases they were relatively minor changes. Where the changes were relatively minor and were not changing the overall amount of funding that the council was receiving, I think that it would be unlikely that I would have updated the Premier with every change. I do not recall advising her every time. As I said, I know I would have waited until I felt that the list was reasonably final before I would have advised her. But during the course of working on this program, I would have been regularly checking in with my former policy director to determine whether it would be appropriate to provide further advice to the Premier or not. I would have been taking his guidance on whether he thought that the change was significant enough to warrant providing further advice.

The Hon. COURTNEY HOUSSOS: This sort of delegation of authority to make approvals—it was not you that was making the final call; it was your policy director. Is that correct?

Ms LAU: I would have been informing him along the way of the proposed changes.

The Hon. COURTNEY HOUSSOS: When you say "if they are relatively minor changes", what characterises a relatively minor change?

Ms LAU: I cannot recall every change that would have been made. As I mentioned, I would have tried to only go to the Premier where I felt that things had been reasonably finalised. A minor change, for instance, would have been if an MP had requested that a playground project be changed that was for the same amount of money—or perhaps \$20,000 more or less but within the same overall funding amount allocated to that council. So if it was a different playground, say, but within broadly the same funding amount that had already been considered.

The Hon. COURTNEY HOUSSOS: Broadly the same.

Ms LAU: Yes.

The CHAIR: Did you have delegated authority to make these decisions, Ms Lau? Did you have an instrument of delegation?

CORRECTED

Ms LAU: I was not making any funding decisions. I do not have any delegated funding authority and I was not authorising or approving any payments in sending my emails to Mr Hurst. Mr Hurst was the one who authorised and approved the payments through his signed briefs.

The Hon. COURTNEY HOUSSOS: I put to you that you were actually providing approval. You were emailing directly to say that the Premier has approved these projects. In fact, Mr Hurst emailed you on Wednesday 27 June—and I refer you to the email he sent to you on tab three in the bundle of papers that Mr Shoebridge has provided you—and said "Our lawyers have suggested—

Ms LAU: Tab three? Sorry, tab three in these green tabs seems to be a different—

The Hon. COURTNEY HOUSSOS: At the top it should say "From: Tim Hurst".

Ms LAU: No.

The Hon. COURTNEY HOUSSOS: Wednesday 27 June.

Ms LAU: Tab three says, from Tim Hurst:

Hi all,

Change of plan on the remaining metro agreements.

The Hon. COURTNEY HOUSSOS: My time has expired. I will come back to that.

The CHAIR: Ms Lau, while you have that bundle of documents in front of you, we might just work our way through them. You have said a number of times that the events we are talking about were some two and a half years ago and you do not have an actual memory of what the Premier wrote or marked on the documents. Is that right?

Ms LAU: That is correct.

The CHAIR: And your memory at the time that you sent the emails would have obviously been substantially superior to what your memory is now. Is that correct?

Ms LAU: Yes, I would say that is correct. It would make sense.

The CHAIR: You would ensure in your work as a senior policy advisor for the Premier of New South Wales that what you put in your emails is accurate. Would that be your professional standard?

Ms LAU: I would endeavour to do that.

The CHAIR: You would endeavour on each occasion to make sure that what you are communicating from the office of the Premier of New South Wales was accurate and professional. Is that correct?

Ms LAU: That is correct.

The CHAIR: I will take you to the first tab, which is your email of 28 June 2018—some six days before the guidelines are finalised. This is an email to the Deputy Premier's office and Tim Hurst, and you commence by saying, "Metro projects and funding guidelines should be hopefully signed by Premier tomorrow." Do you see that?

Ms LAU: Yes.

The CHAIR: You were saying that the metro projects should hopefully be signed by the Premier tomorrow. Do you accept that is what you said in that email?

Ms LAU: When I say signed, and if you read the second sentence, I say "Once the guidelines are signed". My full first sentence is "Metro projects and funding guidelines should hopefully be signed by Prem"—by which I mean Premier—"tomorrow". Then my second sentence is "Once the guidelines are signed, I'll pass them over to you to get the DP"—Deputy Premier—"sign and then we can get Min Upton"—Minister Upton—"to sign". So when I am using the word "sign" in this email, I am referring to the signing of the formal approval brief to approve the changes to the funding guidelines.

The CHAIR: I am not going to have an argument about semantics and grammar. I put it to you that that is not an accurate construction of the sentence. I assume you deny that.

The Hon. NATALIE WARD: In what respect? You have to clarify what your issue is.

The CHAIR: You were referencing to signing the metro projects and the guidelines. That is what you say in that email in bold black and white. The Premier, you expect, will be signing the metro projects the following day. You can deny that if you like.

CORRECTED

The Hon. TREVOR KHAN: No, that is an unfair dismissal. You have asked her to give an interpretation of the document. She has taken you to the document and explained it.

The CHAIR: Ms Lau, you were saying there that you expect the Premier to sign off on the metro projects.

The Hon. NATALIE WARD: And funding guidelines.

The CHAIR: Ms Lau.

Ms LAU: I reject your interpretation of my email, Mr Shoebridge. As I said, I was referring in this email, that I wrote, to the Premier signing off on the funding guidelines. As you can see from the second sentence, which I am happy to read out again, it says "Once the guidelines are signed". There is no mention of once the metro projects are signed off in that second sentence. It just refers to the guidelines.

The CHAIR: Why don't we go five days on from that to the next email? The tab on 25 June. Do you see the first paragraph? This is again to, amongst others, Tim Hurst at the Office of Local Government. You note the Premier has signed the updated guidelines in the first paragraph. Do you see that?

Ms LAU: Yes.

The CHAIR: I will take you to the second paragraph: "Kevin/David/Tim – Premier has signed off on almost all metro council projects". The Premier has signed off on the projects, did she not Ms Lau? Consistent with your evidence earlier, this was a professional and accurate reflection of what you knew at the time.

Ms LAU: Yes, but I would add that—I can see the question that you are asking me. In that first paragraph I am referring to her physically signing the formal approval brief to approve the updated guidelines. In that second paragraph I am referring to her confirmation that she is comfortable with the proposed projects, rather than her signing a formal approval brief for those council projects.

The CHAIR: Let us go to the next tab. Do you see that is an email from you two days later?

Ms LAU: Yes.

The Hon. NATALIE WARD: Sorry, what date?

The CHAIR: On 27 June 2018. I will take you to the second paragraph. You say:

The 2018 Budget allocated \$50m to rehabilitate Hornsby Quarry and the Premier has determined to allocate \$40m for the Westleigh Recreational Area from the Stronger Communities Fund.

That was a professional and accurate reflection of what you knew at the time, was it not, that the Premier determined to allocate \$40 million for the Westleigh Recreational Area? What you said was true.

Ms LAU: It would have been true at the time I wrote the email.

The CHAIR: Ms Lau, I will take you to the fourth tab. This is another email that you sent on 25 June 2018. Do you see that?

Ms LAU: Is it the one—

The CHAIR: "Sarah Lau ... Fwd: LG merger funds ... 25 June 2018". The top of it is an email from Mr Hurst of 14 December 2018.

Ms LAU: Did you say the fourth tab?

The CHAIR: Yes, the second last tab.

The Hon. NATALIE WARD: Sorry, Chair, just for the benefit of those of us that do not have your bundle, could you just identify that email, please?

The CHAIR: I am. It is an email from Ms Lau on 25 June that is in an email chain, which commenced with an email from Mr Hurst of 14 December 2018.

Ms LAU: I am sorry, Mr Shoebridge, I do not think my tabs line up to the email that you are referring to.

The CHAIR: If you go to the second last tab.

The Hon. NATALIE WARD: Again, I ask that you identify it. I am trying to follow it and as a Committee member I would appreciate if you could identify the document.

Ms LAU: Yes, this is—

CORRECTED

The Hon. MATTHEW MASON-COX: Do you have any more tabbed ones?

The Hon. NATALIE WARD: Chair, do you have any copies of your bundle?

The CHAIR: I did not bring one for every Committee member, I am sorry.

The Hon. NATALIE WARD: Alright, well I have some here, if you could explain to me—

The CHAIR: But I am not asking you questions, Ms Ward. I am asking this witness questions.

The Hon. NATALIE WARD: No, but I am a Committee member participating in this Committee and I would be appreciative if you could just, at the very least, identify the email so I can follow it.

The CHAIR: I will identify it again. It is an email sent by you, Ms Lau, on 25 June 2018. I think a further copy has now been provided to you. At the bottom of that page is an email sent from you on 25 June 2018 to the Office of Local Government, cc'ing in Mr Kevin Wilde from the local government Minister's office and Mr Rodwell.

Ms LAU: Yes, I do, and also Laura Clarke and some other people. Yes.

The Hon. NATALIE WARD: Who is Laura Clarke?

The CHAIR: Ms Lau, that rather helpfully has been highlighted for you.

Ms LAU: Okay, yes.

The CHAIR: Do you see it says—

Ms LAU: Sorry, the earlier document I was provided was an entirely different email.

The CHAIR: You have one of 25 June 2018 from you to Mr Hurst, cc'ed Wilde, Rodwell.

Ms LAU: Yes, it appears now I have the correct email that you are referring to.

The CHAIR: Ms Lau, it states, "Below are the additional metro council projects the Premier has approved." Do you see that?

Ms LAU: I do.

The CHAIR: That was truthful, that was accurate and that was professional at the time you sent it, was it not, Ms Lau?

Ms LAU: It was. I have already discussed my use of language—"approved"—in these emails in my earlier answers but I am happy to restate that for you, though, if you would find it helpful in terms of—

The CHAIR: I am simply asking if that email was accurate, truthful and professional at the time you sent it.

Ms LAU: It was. However, I would like to restate that my use of the term "approved" was a turn of phrase because the Premier did not sign any formal approval briefs to approve the funding. That was not her role under the program. That was Mr Hurst's role and he exercised that role and authorised and approved grant payments for each and every payment under that fund by signing formal funding approval briefs. And the Committee has a copy of each and every one of those briefs.

The CHAIR: Ms Lau, I take you to the last tab in that bundle. And I hope at the top of it it has "Darren Sear". Do you see that?

Ms LAU: Yes.

The CHAIR: And then, about three-quarters of the way down, another email from you on 28 June 2018.

Ms LAU: Yes.

The CHAIR: Do you agree with me that it commences, "The Premier has signed off further funding for metro councils"?

Ms LAU: I agree that is what it says.

The CHAIR: Ms Lau, at the time you sent that, consistent with your earlier evidence, you had a much clearer recollection of the events than you do now. Correct?

Ms LAU: I do but again I would say when I used the term "signed off" it was a turn of phrase and the Premier did not actually physically sign any formal brief approving the funding.

CORRECTED

The CHAIR: She made notations on your working advice note, did she not? That was your evidence earlier. You do not wish to change that, do you, Ms Lau?

The Hon. NATALIE WARD: No, her evidence was she did not recall, specifically, the documents.

The CHAIR: Ms Lau, the Premier made notations on your working advice notes—

The Hon. NATALIE WARD: Generally.

The CHAIR: —and that is how it was communicated to you.

Ms LAU: I also potentially received feedback via my former policy director on any views that the Premier may have had.

The CHAIR: Ms Lau, have you discussed with anybody the formulation that you are using today about the Premier being comfortable rather than approving or signing the documents? Have you discussed with anybody that formula of an answer?

The Hon. TREVOR KHAN: That is objectionable.

The Hon. NATALIE WARD: It is just appalling.

The CHAIR: I will rephrase it.

The Hon. TREVOR KHAN: That is truly objectionable, David.

The CHAIR: Have you discussed with anybody—

The Hon. NATALIE WARD: There is no conspiracy.

The CHAIR: —the use of the term "comfortable" to describe the Premier's state of mind in relation to these projects?

Ms LAU: "Comfortable" is my use of—is my interpretation and my best recollection of the Premier's feedback. It may be useful at this point to explain that sometimes on these working advice notes the notation may be a tick or it may be, say, the word "okay". Ms Cruickshank may be able to provide—

Ms CRUICKSHANK: No, it is accurate, what you are saying.

Ms LAU: She may not—well, it is, at least in my experience, very rare that she would say "approve" or "I sign this off". It is a much more—we have spoken at length about the status of these documents but they were informal working advice notes. They were not formal briefing documents. They were not formal departmental briefing notes. As I have said a number of times, I worked very closely with Mr Hurst on this program. He is a very experienced and senior public servant who has been working at the Office of Local Government for a very long time. Had he ever asked me to obtain a formal, signed briefing note from the Premier approving the grants payments or the projects being proposed to be funded, I would, of course, have sought to obtain one and ask the Premier to sign it. But at no time was I ever requested to obtain such a document or obtain the Premier's signature on a document because the simple fact of the matter is those documents were not needed as the Premier had no formal role in approving the funding.

Mr Hurst was the person approving each and every grants payment and you have each and every one of those signed funding briefs from Mr Hurst. He had the delegated legal authority to approve those grants payments, which he did so. I understand he has provided Mr David Blunt, Clerk of the Legislative Council, some correspondence dated 19 October 2020. I have one copy here if you would like. I am not sure if you have a copy, say, readily to hand. But in that correspondence he has said, "For each grant", and I am quoting directly from this correspondence, "a briefing note authorising the particular expenditure was prepared for and signed by either the Minister for Local Government or me", i.e. Mr Tim Hurst, "under delegated authority from the Minister for Local Government under section 12 of the Public Finance and Audit Act 1983. Confirmation of projects having been identified by the New South Wales Government, as set out in the guidelines, was attached to the respective briefing note in the form of emails from Ministers' staff."

The CHAIR: Ms Lau, feel free to tender that document.

Ms LAU: I will.

The CHAIR: Ms Lau, Mr Hurst has repeatedly on oath provided evidence to this inquiry that the money was allocated by the Premier to the various projects and his role was simply to authorise the final expenditure. But the identification of the projects and the allocation of the funding was done by the Premier, the Deputy Premier and the Minister for Local Government. And as recently as answers to the Committee's questions on notice received last night he says this:

CORRECTED

Of the \$252 million total in the tied grants round, \$141.8 million was allocated by the Premier, \$61.3 million was allocated by the Deputy Premier, and, \$48.9 million was approved by the Minister for Local Government.

This is your evidence: that Mr Hurst is in error.

Ms LAU: I do not—

The Hon. TREVOR KHAN: Point of order: We are getting ourselves involved in what may well be a legal argument as to the interpretation of various things. This witness can give evidence essentially as to what she has done.

The Hon. JOHN GRAHAM: To the point of order: I think that the witnesses multiple times put forward this view. It is fair for the Chair to put Mr Hurst's view across, because he has put it repeatedly to the Committee that it was not his role to choose. So I suggest that we move on.

The Hon. TREVOR KHAN: I did not take the point of order at that stage. We are going to get involved—sorry, John.

The CHAIR: In circumstances where the witness has repeatedly relied on Mr Hurst's role, it is only fair to put to her Mr Hurst's alternative recollection. Do you say that Mr Hurst is wrong, Ms Lau?

Ms LAU: It would be helpful for me for you to repeat that evidence that you are referring to from Mr Hurst that—

The CHAIR: I will do it for you now, Ms Lau.

Of the \$252 million total in the tied grants round, \$141.8 million was allocated by the Premier, \$61.3 million was allocated by the Deputy Premier, and, \$48.9 million was approved by the Minister for Local Government.

Are you saying that the Premier, to the best of your knowledge, did not allocate \$141.8 million of the fund?

Ms LAU: I would say in that information that Mr Hurst has provided, I am sure that he has been careful to use the words "allocated by the Premier" and "allocated by the Deputy Premier". He did not—and feel free to correct me—say, "The Premier approved \$148 million," or, "The Deputy Premier approved that amount." Would that be correct?

The CHAIR: Ms Lau, it is not for you to ask questions; it is for you to answer the questions.

The Hon. NATALIE WARD: She was only being helpful.

Ms LAU: I am trying to make sure that I am—

The CHAIR: Your recollection of what Mr Hurst said accords with what I have in front of me.

The Hon. TREVOR KHAN: Yes, and what he clearly said is that the Minister for Local Government "approved".

The CHAIR: That is what I said. That is what I have put to her twice now.

The Hon. TREVOR KHAN: She is spot on, David.

The Hon. COURTNEY HOUSSOS: Ms Cruickshank, the Premier's discretionary fund is solely at the Premier's discretion, is that correct?

Ms CRUICKSHANK: Yes, that is correct.

The Hon. COURTNEY HOUSSOS: During your time as the Premier's chief of staff, where you ever aware that the Premier was in a relationship with Mr Daryl Maguire?

The Hon. NATALIE WARD: I am going to take a point of order. These staff were asked about this particular fund, and I am not sure that it is fair to be transgressing into a media circus about this topic.

The Hon. JOHN GRAHAM: We are now moving to the Premier's discretion.

The CHAIR: I will deal with the point of order without hearing more, because we have a limited amount of time. Ms Cruickshank volunteered the fact that she administers the discretionary fund and said that she would be in a position to assist. The question is in order, it is within the terms of reference and Ms Cruickshank had indicated that she could assist in this regard.

The Hon. NATALIE WARD: And my questions on Friday were not? You have a very wide discretion, Chair.

CORRECTED

Ms CRUICKSHANK: May I just clarify one thing? When I was in my role in the Premier's office, I did not play a role with the discretionary fund. I have visibility now of how the discretionary fund works in the context of the group that I look after within the DPC. One of the teams within that group is the group that provides the support to the Premier's office around the discretionary fund. I can answer questions related to the way that the funds works, if that makes sense, as opposed to the specifics. I also have a feeling that it is not actually a lawful question for you to ask me about a specific fund relating to a particular MP that is pre-my responsibility for looking after that fund.

The CHAIR: I think it is a lawful question. Whether you can assist or not is a matter for you, Ms Cruickshank, if you have no visibility of it. Do you want the question again?

Ms CRUICKSHANK: Sure, I am happy to hear the question again.

The Hon. COURTNEY HOUSSOS: During your time as chief of staff, were you aware that the Premier was in a relationship with Daryl Maguire?

Ms CRUICKSHANK: That is my point: I do not actually believe that is a lawful question in the context of this committee.

The Hon. TREVOR KHAN: I will take the point of order, Chair.

The CHAIR: I will hear one of them at a time. Mr Khan?

The Hon. TREVOR KHAN: The only point of order is mine at this stage. That is a question that is absolutely outside the terms of reference. It has been put in a context not relating to a fund but rather—

The CHAIR: I think that I understand your point of order. At this stage I am persuaded by the point of order, unless you can identify how it relates to a grant.

The Hon. COURTNEY HOUSSOS: To assist, I will ask the second part of my question together with that part, which is: The electorate of Wagga Wagga received six grants from the Premier's discretionary fund in 2017-2018 worth a total of \$40,536. Are you aware of the Premier making any disclosures about her relationship with Daryl Maguire before approving these funds?

Ms CRUICKSHANK: No, I am not.

The Hon. JOHN GRAHAM: And you accept that the Premier administers those disclosures, and you would have been aware had one been made?

Ms CRUICKSHANK: I am not sure that I would have necessarily been aware. I might have to take that on notice, because I believe Ministers can make disclosures direct to DPC. So I just do not know. I would actually have to take—

The Hon. JOHN GRAHAM: But this was your Minister for whom you were chief of staff?

Ms CRUICKSHANK: I agree, but you can actually make personal disclosures. I just am not aware of that, so I would have to take that on notice. To me—no, I was not aware.

The Hon. COURTNEY HOUSSOS: You are not aware of the disclosure being made before the Premier approved the grant?

Ms CRUICKSHANK: No, I am not.

The Hon. COURTNEY HOUSSOS: But she is the sole Minister responsible for approving grants within the Premier's discretionary fund?

Ms CRUICKSHANK: The Premier's discretionary fund, as it has been for the best part of a decade—maybe longer—at the discretion, as it implies, of the Premier of the day. It is also a set amount of funding, certainly for the last eight years. From memory there is \$2.3 million that is attached to the Premier's discretionary fund. In the context of the \$2.3 million, you will see my point that there are any number of members of Parliament and community groups who can put forward projects to be funded, not just the member for Wagga Wagga.

The Hon. COURTNEY HOUSSOS: On that issue, did MPs regularly lobby you for funds for disbursements from this fund as the Premier's chief of staff?

Ms CRUICKSHANK: No, they did not lobby me, because when I was chief of staff that was not my responsibility—the discretionary fund. That was managed by an alternative member of staff. But MPs would typically—I cannot speak for all of them—write to the Premier—and I see this in my current role, because I see the other end of the process—and say, "X, Y, Z local community group in my electorate has this very worthy

CORRECTED

cause. I would ask that you consider it in the context of funding from the Premier's discretionary fund," and the Premier makes a decision." There are also organisations—

The Hon. JOHN GRAHAM: It is totally the Premier's decision. This is totally at the Premier's discretion.

The Hon. TREVOR KHAN: Point of order—

The Hon. JOHN GRAHAM: I am moving on.

The Hon. TREVOR KHAN: I will take the point of order.

The Hon. COURTNEY HOUSSOS: It is an important question.

The CHAIR: I will cut to the chase—the quickest way would be to allow Ms Cruickshank to finish, because that would be quicker than hearing the point of order.

The Hon. TREVOR KHAN: Yes, it will be.

Ms CRUICKSHANK: All I was going to say, Mr Chair, is there are also a number of organisations that write directly to the Premier—charities and some such—to say that they would like funding, and she will also make decisions as to whether to fund that out of the Premier's discretionary fund.

The Hon. JOHN GRAHAM: Ms Cruickshank, this fund is totally at the discretion of the Premier. Do you accept that?

Ms CRUICKSHANK: Yes it is, completely.

The Hon. JOHN GRAHAM: There should have been a conflict of interest declaration if there was a decision where the Premier was making an allocation and there was any sort of conflict. There would have had to have been a conflict of interest declaration, if there was a conflict.

Ms CRUICKSHANK: I understand the point that you are making. I am actually not clear on whether or not that is a requirement for the discretionary fund. However, I accept that that sounds plausible.

The Hon. JOHN GRAHAM: It sounds more than plausible; it is totally reasonable. That is the practice in any reasonable government.

Ms CRUICKSHANK: Certainly the practice in government when it comes to cabinet discussions and cabinet decisions, but I think that you are probably right.

The Hon. JOHN GRAHAM: Allocating funds, to in this case Wagga Wagga, and you are saying that you were aware of no disclosure and no declaration of a conflict?

Ms CRUICKSHANK: I am saying that no disclosure was made to me of that. That does not mean that there was not some other disclosure, but I do not know that answer.

The Hon. JOHN GRAHAM: You are the chief of staff, and you are aware of none, but are you aware of any declaration of a conflict of interest at any time in your role as chief of staff? For example, over the Badgerys Creek deal, or any other?

Ms CRUICKSHANK: No, I am not.

The Hon. JOHN GRAHAM: At no point in your time are you aware of any declaration of a conflict of interest by the Premier in relation to—

Ms CRUICKSHANK: I am not aware of any. The only point I would add is the one that I made before, which is that Premiers and Ministers can obviously, in the context of Cabinet discussions and other matters, make disclosures direct to the department. But my knowledge is: no.

The Hon. JOHN GRAHAM: Turning back to Ms Lau's evidence, how unusual is it that a policy adviser in the Premier's office is left in this situation where they are providing advice without formal briefs and no-one says to them that this is totally inappropriate. There is not a departmental brief, there is not a formal recommendation and this is working in a way which is totally outside the way that government would normally work. Why was this not stopped in the office while you were chief of staff? How could this have been allowed to happen?

The Hon. TREVOR KHAN: You have asked about three questions.

The CHAIR: I think it is the same question asked three times, so I will allow it.

Ms CRUICKSHANK: Sorry, I have lost my train of thought with—

CORRECTED

The Hon. TREVOR KHAN: With my interjection.

Ms CRUICKSHANK: Yes.

The Hon. JOHN GRAHAM: It is incredibly unusual, though.

Ms CRUICKSHANK: I undertook to assist the Committee as much as I could, so I will give you my public service perspective on this one. My public service perspective is that, in hindsight, I think it is odd that the Office of Local Government did not provide a brief up. That is how, for example, the Premier's discretionary fund works—we will receive advice from the office that the Premier has determined these projects will be funded, we turn it into a brief and send it back up to the Premier to sign. So, in hindsight—and, again, listening to the conversations and noting that I did not have hands-on involvement—I do think it is odd that the Office of Local Government did not provide a brief.

Having said that, it is not clear to me that they were required to. Again, you all have more access to more documents than I do. Having seen the handful of documents that I have seen, it does make clear that Tim Hurst as the chief executive officer—or whatever his position is—does have the responsibility to administer the fund. I suspect there is a technical argument that would say that he is not required to provide a brief up but, as a public servant, I would say that I do not think people should be doing that in future. I think it would be safer to provide a brief up because that possibly would have given this Committee some more assurances around something that is not a conspiracy. It might have reassured you that there was not something going on.

The CHAIR: Ms Cruickshank, in hindsight, the Premier's office should have ensured that there was a detailed brief assessing the merits of the projects before the Premier approved, signed-off or indicated she was comfortable with them.

The Hon. TREVOR KHAN: Is that a question?

The CHAIR: That is right, is it not? In hindsight, the Premier's office should have insisted that there was a detailed brief assessing the merits of the process before the Premier was asked to either—you can use whatever language you like—sign-off, approve or indicate she was comfortable with the \$141.8 million worth of projects?

Ms CRUICKSHANK: With the greatest of respect, Chair, I am not comfortable providing an answer on that because I do not know whether or not that would have been a more appropriate way for this to have been done. I did not have specific, hands-on engagement or visibility of how this was being done. If I have interpreted Ms Lau's evidence this morning correctly, there was not a requirement for that to be the case. Therefore, I do not wish my words to be taken out of context and attributed in a particular way, so I just cannot—

The CHAIR: Ms Cruickshank, while you were chief of staff, was there a practice in place that substantive working advice notes dealing with the allocation of large sums of public money were routinely destroyed after they had been addressed by the Premier?

Ms CRUICKSHANK: No, there was not. I was very concerned, Mr Chair, when I perhaps was not clear in my earlier answer. If you will indulge me, I would like to tell you what, as chief of staff, I did to ensure that State records were upheld generally. I cannot speak for—

The CHAIR: Could I ask—we would like to limit ourselves to this case.

Ms CRUICKSHANK: Well I cannot speak to this case, I am afraid.

The CHAIR: Is this contrary to what you understood the good practice would have been in your office at the time?

Ms CRUICKSHANK: Good practice for every ministerial staffer, no matter which office, would be that if a document was produced that was substantively different to the advice that was coming from, for example, the department, that that would be retained. That is my working practice. However, having listened to what Ms Lau said, I can understand why she would have thought that if her note was not substantively different—and, again, I cannot pass comment on it because I did not see the note—to the email she then sent, I think it probably would have been reasonable for her to have assumed that she had kept a record of that.

The CHAIR: Ms Lau, it was a conscious decision to put those notes in the shredder, was it not?

Ms LAU: As I have previously stated, because I had created a separate final record of the outcomes of my advice note in the form of the emails that I sent to the Office of Local Government, which you have and which—

CORRECTED

The CHAIR: Ms Lau, my question was not that. My question was: Was it a conscious decision on your behalf to destroy the briefing note—to shred it? Is that right—that you made that decision to destroy it?

Ms LAU: It was because the note was superfluous because a separate record of the note had effectively been created.

The CHAIR: Then you made a separate decision to go into the electronic records and delete the electronic record of the note, as well. That was a separate, conscious act by you.

Ms LAU: It was, but I only did that because a separate electronic final record of that effective record of that note had been created through my emails.

The CHAIR: Ms Lau, you agreed with me earlier that your emails do not contain everything that was in the briefing notes. Are you aware of your obligations under the State Records Act to ensure the safe custody and proper preservation of State records?

Ms LAU: I am.

The CHAIR: Did any chief of staff, director or any other person in the office instruct you to destroy those records that you handed to the Premier?

Ms LAU: No, I was not instructed—

The Hon. TREVOR KHAN: Actually, that is also not her evidence.

The CHAIR: Well, destroy the records that went to the Premier?

Ms LAU: I was not instructed to. But I would say, as I have previously said, that the notes that were considered by the Premier were not a number of pages long—they would have been no more than two pages at the very most. As you can see from the emails I have sent, some of the emails are one page long or more, so the substance of the emails would have been substantively similar to the notes.

The CHAIR: Ms Lau, my final question, which I ask you to take on notice, is this: You said that MPs were consulted through the parliamentary liaison team about projects. Were they exclusively Government MPs?

The Hon. NATALIE WARD: You are now in our time.

The Hon. TREVOR KHAN: Point of order: With respect, this happens all the time.

The Hon. NATALIE WARD: You do it every time.

The CHAIR: It is the final question on notice.

The Hon. TREVOR KHAN: We make a resolution that something will happen and then you ignore your own resolution.

The CHAIR: I am happy to bring the witnesses back if that is your position. I will hand over to the Government for 15 minutes.

The Hon. JOHN GRAHAM: The question has been put so can we confirm that the witness is happy to take question on notice? I think it is straightforward. Are you happy to take it on notice?

Ms LAU: Yes, I can take it on notice.

The Hon. NATALIE WARD: I have one question. Ms Lau, you said that you were on maternity leave.

Ms LAU: Yes.

The Hon. NATALIE WARD: When did you get back from maternity leave?

Ms LAU: I believe, I think my first day back was 14 October. So this is my third week back, from memory, from a year off on maternity leave.

The Hon. NATALIE WARD: Thank you very much for your evidence today.

The CHAIR: Ms Lau, Ms Cruickshank, thank you for assistance today. I think you have each taken a question on notice. If you have, the secretariat will advise you of the matter. You each have a maximum of 21 days to provide those answers on notice.

(The witnesses withdrew.)

The Committee adjourned at 11:48.