

**REPORT ON PROCEEDINGS BEFORE**

**PUBLIC ACCOUNTABILITY COMMITTEE**

**APPOINTMENT OF MR JOHN BARILARO AS SENIOR TRADE AND  
INVESTMENT COMMISSIONER TO THE AMERICAS**

**CORRECTED**

**At Preston-Stanley Room, Parliament House, Sydney, on Wednesday 29 June 2022**

**The Committee met at 10:00.**

**PRESENT**

Ms Cate Faehrmann (Chair)

The Hon. Robert Borsak (Deputy Chair)  
The Hon. John Graham  
The Hon. Courtney Houssos  
The Hon. Wes Fang  
The Hon. Scott Farlow  
The Hon. Daniel Mookhey (*participating*)  
The Hon. Peter Poulos  
The Hon. Penny Sharpe (*participating*)

\* Please note:

[inaudible] is used when audio words cannot be deciphered.

[audio malfunction] is used when words are lost due to a technical malfunction.

[disorder] is used when members or witnesses speak over one another.



**The CHAIR:** Welcome to the first hearing of the Public Accountability Committee's inquiry into the appointment of Mr John Barilaro as Senior Trade and Investment Commissioner to the Americas. The inquiry is examining the circumstances leading up to the appointment, including the processes and probity and integrity measures that were undertaken. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past, present and emerging and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today.

Today we will be hearing from one witness, Ms Amy Brown, who is the Secretary of the Department of Enterprise, Investment and Trade, and the Chief Executive Officer of Investment NSW. I thank Ms Brown for making the time to give evidence to this important inquiry. Before we commence, I would like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings.

While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, you can take a question on notice. Written answers to questions taken on notice are to be provided within 21 days. If you wish to hand up documents, you should do so through the Committee staff. In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into the microphone. For those with hearing difficulties who are present in the room today, please note that the room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. Finally, everybody should turn their mobile phones to silent for the duration of the hearing.

**Ms AMY BROWN**, Secretary, Department of Enterprise, Investment and Trade, and Chief Executive Officer, Investment NSW, sworn and examined

**The CHAIR:** I now welcome our witness. Do you have a short opening statement to make?

**AMY BROWN:** I do have an opening statement to make. It's three minutes; is that acceptable?

**The CHAIR:** That's absolutely fine.

**AMY BROWN:** And I've brought a spare copy for Hansard.

**The Hon. DANIEL MOOKHEY:** Can we table that?

**The CHAIR:** Yes, that can be tabled now. Copies will be circulated.

**AMY BROWN:** Thank you for having me here today as a witness. I welcome the opportunity to outline the facts involved in the appointment of Mr John Barilaro and address the questions that the Committee may have. I first became a New South Wales public servant in 2013. I am committed to the public sector core values of integrity, trust, service and accountability. That includes the Westminster principle of an apolitical and impartial public service. This principle is recognised in the Government Sector Employment Act and regulations and has been reaffirmed by the Government in its response to the Pearce review, dated August 2021, supporting the position that Ministers should not have additional involvement in the appointment of public service senior executives.

The appointment of Mr John Barilaro is a public service appointment. Before you raise the many questions you have on process, I would like to say that the appointment process for the Agent General and Senior Trade and Investment Commissioners has evolved imperfectly. Early advice contemplated by NSW Treasury when the program was first launched in 2019 recommended that the Agent General and STICs, as they've become known, be appointed as public servants under the GSE Act rather than statutory officers appointed by a Minister. However, the approval process NSW Treasury developed and Investment NSW later inherited did not reflect how those appointments should be made under those laws and regulations. This has since been rectified and was corrected well before Mr Barilaro applied for the role.

Impacts of COVID in 2020 and machinery-of-government changes in March 2021 establishing Investment NSW, followed by statewide lockdowns, meant that it took until August 2021 for a clear position to be settled on how STICs should be appointed. The question of which arrangements are most suitable to the appointment of STICs has been persistent. It's not for me to comment on which system is preferred—that is, statutory roles versus public service roles. That's a policy matter for Government. But there does seem to be a lot of misunderstanding, including amongst some staff of Investment NSW, of how these appointments are made. To the extent I can clarify those matters, I'm happy to do so today.

Since August 2021 no formal approval of any Minister or the Premier has been sought prior to the appointment of STICs, including STIC Americas. I am familiar with and have led multiple merit-based recruitment processes under the GSE Act, and the recruitment process for STIC Americas was consistent with those. The independent Public Service Commissioner, who was on the recruitment panel with me, can confirm this. As is customary with high-profile, external-facing band 3 senior executive roles, informal opinions of the responsible Minister are often sought and how a candidate presents themselves to the Minister is considered. However, final determination rests with me as the employer. In preparing for today, I've taken the time to reflect on the appointment of Mr Barilaro. I am confident that, as the employer of the role of STIC Americas, I have fulfilled my duties under the GSE Act with respect to this appointment.

**The Hon. PENNY SHARPE:** Thanks, Ms Brown, for coming in today.

**AMY BROWN:** You're welcome.

**The Hon. PENNY SHARPE:** Before you appeared here today, have you been in contact with any Ministers or their offices in relation to the evidence you're going to give today?

**AMY BROWN:** I've had high-level conversations with my senior cluster Minister—Minister Ayres, the Minister for Enterprise, Investment and Trade—more in terms of checking in and support to make sure I was prepared for today, but not as to the content of what would be discussed, no.

**The Hon. PENNY SHARPE:** Any other Ministers or ministerial officers?

**AMY BROWN:** No.

**The Hon. PENNY SHARPE:** Not the Premier's office?

**AMY BROWN:** Not the Premier's office.

**The Hon. PENNY SHARPE:** Have you received any texts or emails from any other Ministers or officers in relation to today's hearing?

**AMY BROWN:** I have not.

**The Hon. PENNY SHARPE:** Ms Brown, is it correct that Mr Barilaro has signed a contract to become the Senior Trade and Investment Commissioner to go to New York?

**AMY BROWN:** That is correct, yes.

**The Hon. PENNY SHARPE:** When did he sign that contract?

**AMY BROWN:** The contract commenced on 20 June. It was approved by me on 16 June, so between 16 June and 20 June is the most accurate I can relay.

**The Hon. PENNY SHARPE:** And it was announced publicly on 17 June. Thank you.

**The Hon. DANIEL MOOKHEY:** Thank you for your appearance as well, Secretary Brown. Was Mr Barilaro given an offer prior to him signing the contract? If so, when?

**AMY BROWN:** He was given a verbal offer prior to signing the contract, as is customary. We commenced formal, substantive contract negotiations on 23 May, and so the verbal offer would have been made immediately prior to that.

**The Hon. PENNY SHARPE:** Is the contract for one year or for three years?

**AMY BROWN:** Three years.

**The Hon. PENNY SHARPE:** And can I confirm that it's a band 3 appointment?

**AMY BROWN:** Yes, it is a band 3 appointment under the GSE Act.

**The Hon. PENNY SHARPE:** Is it above that figure?

**AMY BROWN:** No, the salary is within the band 3 determination.

**The Hon. PENNY SHARPE:** So it's about \$487,000. Is that correct?

**AMY BROWN:** Approximately, yes.

**The Hon. PENNY SHARPE:** Are there living allowances as well in relation to this appointment?

**AMY BROWN:** Yes, a cost-of-living allowance is provided to take into account the cost differential between living in Sydney and living in New York.

**The Hon. PENNY SHARPE:** Are you able to tell the Committee how much that is?

**AMY BROWN:** I would have to take that on notice. Although I will note that it is marginal compared to the figure that is being quoted, or speculated upon.

**The Hon. PENNY SHARPE:** What is the figure that is being speculated upon?

**AMY BROWN:** I believe a figure in the order of \$100,000 or so has been speculated upon, and it is nowhere near that amount.

**The Hon. PENNY SHARPE:** But that is the amount that is paid for the London Agent General.

**AMY BROWN:** That's exactly right; the Agent General is under particular circumstances that are different from the STICs.

**The Hon. DANIEL MOOKHEY:** The Japanese position, I think you told us at estimates Ms Brown, was circa \$70,000 to \$80,000. Is it more closely aligned to the Japanese figure or is it more closely aligned to the London figure?

**AMY BROWN:** I don't recall saying that at estimates. I'm sorry, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** I will put it to you now: The Japanese figure is circa \$70,000 to \$80,000. Is it closer to \$70,000 to \$80,000 or is it closer to \$112,000?

**AMY BROWN:** I would have to take it on notice because I've prepared for the STIC Americas line of questioning.

**The Hon. PENNY SHARPE:** But you can't tell us how much the cost-of-living allowance is specifically for this position?

**AMY BROWN:** For this position?

**The Hon. PENNY SHARPE:** Yes.

**AMY BROWN:** I would prefer—I would like to take it on notice so that I can be more accurate.

**The Hon. COURTNEY HOUSSOS:** You were clearly prepared to know that it was less than the figure that has been publicly speculated.

**The Hon. SCOTT FARLOW:** Point of order: The witness has taken the question on notice to provide members with an answer. The witness should be able to continue on.

**The CHAIR:** She has taken the question on notice. I assume Ms Houssos was getting to another question.

**The Hon. COURTNEY HOUSSOS:** My question was: If you have prepared for today but you are aware that it is significant, or it is different to the amount that has publicly been canvassed, can you give us a general indication of where that figure is?

**AMY BROWN:** Saying that it is significantly less than the number that has been canvassed is the best answer I can give, I'm afraid.

**The Hon. PENNY SHARPE:** Has the office space for the commissioner in New York been finalised?

**AMY BROWN:** I believe that a lease has been taken out on the office space.

**The Hon. PENNY SHARPE:** Can you tell us how much that costs?

**AMY BROWN:** No. I will take it on notice.

**The Hon. DANIEL MOOKHEY:** Where is the office? What's the address? Whereabouts is it?

**AMY BROWN:** I will have to take that on notice.

**The Hon. PENNY SHARPE:** You had previously suggested that it might be within the consulate. Is that correct?

**AMY BROWN:** That is correct.

**The Hon. PENNY SHARPE:** So the address is the consulate?

**AMY BROWN:** Yes.

**The Hon. PENNY SHARPE:** Okay, thank you.

**The Hon. COURTNEY HOUSSOS:** When does the lease commence?

**AMY BROWN:** I'm uncertain. I don't tend to look after operational matters as to our leasing space, costs and square metreage and things like that, but I can get the team to answer the question for you.

**The Hon. WES FANG:** Point of order: In relation to procedural fairness, the jumping around of questioning between three different questioners is making it, I would imagine, very hard for Ms Brown to be able to address—

**The Hon. PENNY SHARPE:** I think she's doing all right.

**The Hon. WES FANG:** —the question that's being asked because another person then starts to ask a question over the top of another one. I would ask that one questioner be permitted to ask a question.

**The Hon. DANIEL MOOKHEY:** To the point of order: No-one is jumping over each other. We're waiting for the witness. This is Opposition time. The secretary of a department is capable of answering questions.

**The CHAIR:** Ms Brown is answering the questions very capably that are being fired at her by the Opposition. Please continue.

**The Hon. WES FANG:** That's exactly what's happening: They're being fired at her.

**The Hon. PENNY SHARPE:** We're able to ask questions in order one at a time.

**The CHAIR:** Order!

**The Hon. WES FANG:** You are. But you've got plenty of time today. You don't need to be—

**The CHAIR:** Mr Fang, through me. I've ruled. Ms Sharpe will continue questions.

**The Hon. PENNY SHARPE:** If you could get us the amount of the lease, when it commenced but also the square metreage of that, that would be very helpful.

**AMY BROWN:** Why don't I endeavour to do that before the end of the hearing?

**The Hon. PENNY SHARPE:** Has temporary accommodation been set up for Mr Barilaro in New York?

**AMY BROWN:** Not to my knowledge.

**The Hon. DANIEL MOOKHEY:** Is there permanent accommodation?

**AMY BROWN:** No, not to my knowledge. That's a matter for him.

**The Hon. PENNY SHARPE:** Is there a break clause in Mr Barilaro's contract?

**AMY BROWN:** There is a break clause, yes.

**The Hon. PENNY SHARPE:** Could you outline the circumstances and the way that that operates?

**AMY BROWN:** It depends on the circumstance upon which he is terminated. For example, each contract in particular has a probation period of three months, I believe. If the arrangement is terminated within that time, then the amount payable is one week.

**The Hon. JOHN GRAHAM:** Do you have the contract there with you?

**AMY BROWN:** I do not.

**The Hon. JOHN GRAHAM:** Would you be happy to table the contract?

**AMY BROWN:** I will take it away and be provided with advice as to what can be tabled today. I know that there's a Standing Order 52 that's due to be returned imminently. Certainly it will be captured within that. I'm not sure about the ability for us to duplicate, but we'll go as quickly as we can.

**The Hon. JOHN GRAHAM:** If you could come back at the end of the hearing on that question, if you're happy to table today.

**AMY BROWN:** We're moving as quickly as we can on this.

**The Hon. PENNY SHARPE:** Have you discussed with any Ministers the terms or the nature with which any termination would take place?

**AMY BROWN:** I have not.

**The Hon. PENNY SHARPE:** Have you discussed it with any of the Ministers' offices?

**AMY BROWN:** I have not.

**The Hon. PENNY SHARPE:** Have you sought legal advice in relation to the termination of Mr Barilaro?

**AMY BROWN:** Our general counsel is aware of the terms of the contract, and he would be well placed to advise.

**The Hon. DANIEL MOOKHEY:** Can I follow upon that? You said that he's entitled to one week if he's terminated within the probationary period.

**AMY BROWN:** Correct.

**The Hon. DANIEL MOOKHEY:** How long is the probationary period?

**AMY BROWN:** Three months.

**The Hon. DANIEL MOOKHEY:** After the three months, is he entitled to a payment upon termination for no cause?

**AMY BROWN:** I cannot—it depends on the circumstances and the details of the contract, which I will provide to you.

**The Hon. DANIEL MOOKHEY:** Ms Brown, you said that he's been employed under the GSE Act. Section 41 of that Act provides that any public servant, SES member, who's terminated for no reason is entitled to 38 weeks' settlement. Does that apply to Mr Barilaro?

**AMY BROWN:** That is a correct observation in terms of GSE Act contracts more generally. Senior Trade and Investment Commissioners are on specific contracts that are bespoke to the jurisdiction in which they are operating—

**The Hon. DANIEL MOOKHEY:** Yes, Ms Brown, we went through this at estimates.

**AMY BROWN:** —and the 38 weeks tends not to apply to them, no.

**The Hon. DANIEL MOOKHEY:** We went through this at estimates. I'm asking you: Is there a like clause in his contract that entitles him to a payout after the probationary period? First question.

**AMY BROWN:** It depends on the circumstances, but there is not a clause akin to the 38-week clause to which you're referring.

**The Hon. DANIEL MOOKHEY:** What's the maximum he could be paid in the event that he's terminated, under any circumstance?

**AMY BROWN:** I will take it on notice. That's a complex contractual matter and I'm not that—

**The Hon. DANIEL MOOKHEY:** No, Ms Brown, it's not that complicated. I'm putting it to you quite directly. It's standard in executive contracts, private sector and public sector—

**AMY BROWN:** These are not standard contracts, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, I accept that.

**The Hon. SCOTT FARLOW:** Point of order: The witness has indicated that she will take the question on notice. The witness has indicated that she does not have that information here with her. The member should move on with the questioning.

**The CHAIR:** She has indicated that she will take it on notice. However, I think Mr Mookhey is trying to get to a level of depth with that question and, I would say, pursue that in a different manner.

**The Hon. DANIEL MOOKHEY:** Secretary, we established at estimates that other STIC positions have entitlements to payouts in the event that there are terminations made. You've said that you've prepared for this hearing specifically on the STIC Americas point. It's a really straightforward question: No matter how the circumstances, short of Mr Barilaro being terminated for cause, is he entitled to any payment after the probationary period? And, if so, what is it?

**AMY BROWN:** I'm doing my best, Mr Mookhey. I haven't had a lot of time and notice for this hearing.

**The Hon. DANIEL MOOKHEY:** You signed the contract less than a month ago, Ms Brown.

**The Hon. WES FANG:** Point of order: The witness was clearly trying to provide an answer to Mr Mookhey, who continues to talk over her. I've held off raising a point of order to allow the questioning to continue.

**The CHAIR:** Thank you, Mr Fang. I've got the point. I will remind all members to treat witnesses with respect in terms of the questioning.

**The Hon. DANIEL MOOKHEY:** Sorry, of course. Secretary, given that you signed this contract—

**The Hon. COURTNEY HOUSSOS:** Nine days.

**The Hon. DANIEL MOOKHEY:** —nine days ago, surely you can tell us whether or not you agreed to a clause that entitled Mr Barilaro to a payout in the event that he is terminated for no cause after the probationary period.

**AMY BROWN:** I think my answer remains as before. There's no clause akin to the 38-week payment clause that is in general GSE contracts. Mr Mookhey, I sign a lot of contracts, including with STICs and various other arrangements within government. I don't know the detail of every single clause, but we can provide it.

**The Hon. ROBERT BORSAK:** Ms Brown, I'm listening to this; just a quick one. If there's nothing there akin to 38 weeks in the contract and he's only going to get one week within the three-month period for non-performance, then isn't it true to say that if he's sacked after three months he gets the balance of his contract paid out—three years and nine months?



**AMY BROWN:** I would need to take that on notice because, again, it depends on the circumstances.

**The Hon. ROBERT BORSAK:** You should know that; you signed the contract.

**AMY BROWN:** It depends on the circumstances. If we're talking about performance management against KPIs, for example, those grounds would be different to a—

**The Hon. ROBERT BORSAK:** What I'm asking you to consider is that the Government simply decides to remove him.

**The Hon. WES FANG:** Point of order—

**The CHAIR:** I remind all members to allow the witness to finish the answer before they ask another question.

**The Hon. WES FANG:** Thank you.

**The CHAIR:** Proceed, Mr Borsak.

**The Hon. WES FANG:** I think it's entirely—

**The CHAIR:** Thank you, Mr Fang. I do get the point.

**The Hon. COURTNEY HOUSSOS:** Ms Brown, has the probation period commenced? Did it commence when this contract was signed?

**AMY BROWN:** Yes, because the contract has commenced and so therefore the period has commenced.

**The Hon. COURTNEY HOUSSOS:** So Mr Barilaro is being paid for the position already?

**AMY BROWN:** No, because—I beg your pardon, may I correct the record? His contract commenced on 20 June. He commences in the role on 12 July, so that is when the probation period begins and when he would begin to be paid for the job.

**The Hon. DANIEL MOOKHEY:** When is he flying to New York?

**AMY BROWN:** That is a matter for him.

**The Hon. DANIEL MOOKHEY:** It's a matter for you too—you're his employer. When is he flying to New York?

**AMY BROWN:** Those flights are booked by the individual.

**The Hon. DANIEL MOOKHEY:** When do you expect him to be in New York and positioned to do his job, as his employer?

**AMY BROWN:** When he has a visa that will allow him into the country.

**The Hon. DANIEL MOOKHEY:** When do you expect that to happen, Secretary Brown?

**AMY BROWN:** Usually, visas take a couple of months, but again I cannot predict with accuracy.

**The Hon. PENNY SHARPE:** Just to be clear, various inquiries are being undertaken into this appointment and there is absolutely nothing stopping John Barilaro from getting on the plane on 12 July, presuming he has a visa?

**AMY BROWN:** If he got a visa before then.

**The Hon. PENNY SHARPE:** You would anticipate he will start then, he will be in the office space and he will be in accommodation that is subsidised. Is that correct?

**AMY BROWN:** Again, our experience is that visas take a lot longer than that but if by some miracle he has a visa, then—

**The Hon. COURTNEY HOUSSOS:** Has the application for a visa been lodged?

**AMY BROWN:** I would have to take that on notice because my operational team deal with that.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, are you considering terminating Mr Barilaro or suspending his appointment, pending the outcome of this inquiry or the review that has been ordered into this appointment?

**AMY BROWN:** I have not turned my mind to that yet.

**The Hon. DANIEL MOOKHEY:** Given that the department itself, or DPC, has ordered an investigation, are you considering suspending his appointment, pending the outcome of that investigation?

**AMY BROWN:** I have not considered that.

**The Hon. JOHN GRAHAM:** So you haven't considered even pausing this appointment?

**The Hon. WES FANG:** Point of order—

**The Hon. PENNY SHARPE:** There's no point of order.

**The Hon. WES FANG:** No, there is, Ms Sharpe. Chair?

**The CHAIR:** He has taken a point of order, so I have to hear it.

**The Hon. WES FANG:** Yes. I understand we have a number of participating members from the Labor Party, and I know everyone wants to get on camera today—

**The Hon. PENNY SHARPE:** It's our time. Now you're wasting our time.

**The Hon. COURTNEY HOUSSOS:** You're eating up our time.

**The Hon. WES FANG:** However, the continual talking over of the witness—

**The Hon. PENNY SHARPE:** We're not talking over each other.

**The CHAIR:** Order! I've heard enough, Mr Fang, and that wasn't talking over. Mr Graham jumped in when another question was finished and that question was answered.

**The Hon. WES FANG:** You just answered the point.

**The Hon. PENNY SHARPE:** I don't think Ms Brown needs your assistance.

**The CHAIR:** There is no point of order. Mr Graham, please continue.

**The Hon. WES FANG:** It's not that. It's about procedural fairness.

**The CHAIR:** Mr Fang, let's continue with the Opposition questions.

**The Hon. JOHN GRAHAM:** I just simply want to ask that you haven't even turned your mind to pausing this appointment, given the significant public controversy over the appointment of Mr Barilaro and the investigation that is ongoing? Is that correct?

**AMY BROWN:** Given the short notice for the hearing today, I've barely had a chance to think about it.

**The Hon. DANIEL MOOKHEY:** Chair, can I table certain documents, please, and have them provided to the witness, if it's possible?

**The CHAIR:** Sure thing.

**The Hon. DANIEL MOOKHEY:** I have copies for others too, but perhaps we can start with the witness. As a prelude, Secretary Brown, one of the issues that has now arrived in the public domain is around whether or not Investment NSW was asked to convert these positions into ministerial appointments. In the documents that are eventually going to be handed to you—which I would ask go straight to the witness, please, if it's possible to get them straightaway. Thank you. I really appreciate that. These are documents that your agency produced to the upper House. If you don't mind, please, turning to page 44 of the bundle that has been given to you—down the bottom, it says page 44 of 54.

**AMY BROWN:** Sorry, some of them are sideways.

**The Hon. DANIEL MOOKHEY:** One of them is sideways, Ms Brown.

**The Hon. WES FANG:** Can we wait till we all have a copy?

**The Hon. DANIEL MOOKHEY:** We can. At page 44, you can see here this is an email—

**The Hon. PENNY SHARPE:** This SO 52 has been downstairs since November, so you could have had it since then.

**The Hon. WES FANG:** I know, but you're tabling them now to the hearing.

**The Hon. DANIEL MOOKHEY:** This is an email, which your general counsel—

**AMY BROWN:** I am familiar with this email.

**The Hon. DANIEL MOOKHEY:** Thank you. Your general counsel transmits on Tuesday 21 September 2021, which, according to your opening statement, occurs after there was clarity around the processes.

**AMY BROWN:** That's right.

**The Hon. DANIEL MOOKHEY:** Going straight down to the bottom, you can see in the highlighted section your general counsel—out of respect for him, I'm not going to name him and refer to him as his title—

**AMY BROWN:** Certainly.

**The Hon. DANIEL MOOKHEY:** —emailed someone else in your organisation, presumably forwarding a draft of an email that they are sending to, I presume, a deputy secretary in DPC. It says:

We are now asked to consider whether there are other alternative methods that STICs could be employed. Specifically, we have been asked whether there is an option for Ministerial appointments.

Did you ask your general counsel to consider conversion?

**AMY BROWN:** For clarification, this email was sent to the general counsel of the Public Service Commission.

**The Hon. DANIEL MOOKHEY:** Sure.

**AMY BROWN:** Our agency is asked for policy advice on many matters, including the mechanism by which a public service-employed role could be converted to something that involved a ministerial appointment. There are two mechanisms by which that could be done. They could be converted—

**The Hon. DANIEL MOOKHEY:** Secretary Brown, I appreciate that.

**AMY BROWN:** I haven't finished my answer, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, you're not actually answering my question. The question that I asked you, very specifically, was—

**The Hon. WES FANG:** Point of order—

**The CHAIR:** I know what the point of order is going to be, in terms of allowing the witness to answer a question. We will just wait and at least hear Ms Brown complete her sentence, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Sure, that's fair enough.

**The CHAIR:** Mr Fang, is that what you were going to say?

**AMY BROWN:** Just 10 more seconds, I promise.

**The Hon. DANIEL MOOKHEY:** Sorry, Secretary.

**AMY BROWN:** Thank you. In order to convert public service appointments to ministerial appointments, there are two mechanisms. One is to convert them to statutory officers under a particular Act, a bespoke Act, which would have to be legislated and passed. The other mechanism that was being contemplated was amending the Government Sector Employment Act specifically in section 10A of the regulations, which talks specifically about trade employees.

**The Hon. DANIEL MOOKHEY:** Indeed. To be fair, Ms Brown, you are anticipating some of the questions that I am just about to ask you.

**AMY BROWN:** Thank you.

**The Hon. DANIEL MOOKHEY:** The question that I did ask you, which you didn't answer, was did you ask your general counsel to consider whether there are alternative methods that STICs could be employed? Did you make the request to the general counsel?

**AMY BROWN:** I believe the request was made from a particular Minister's office.

**The Hon. DANIEL MOOKHEY:** Which Minister's office?

**AMY BROWN:** The Deputy Premier's office.

**The Hon. DANIEL MOOKHEY:** So Deputy Premier Barilaro got in touch with your general counsel directly, or his office got in touch with him directly.

**AMY BROWN:** I don't know the chain of how he was instructed, whether he was called directly or whether my—

**The Hon. DANIEL MOOKHEY:** Was it an adviser in the Deputy Premier's office or was it the Deputy Premier himself?

**AMY BROWN:** It was an adviser in the Deputy Premier's office.

**The Hon. DANIEL MOOKHEY:** So the Deputy Premier's office asks. Were you notified of that request prior to it being made to your general counsel?

**AMY BROWN:** I was already aware of the request because I had been asked for my view as well.

**The Hon. DANIEL MOOKHEY:** Who asked you for your view?

**AMY BROWN:** The Deputy Premier's office.

**The Hon. DANIEL MOOKHEY:** The Deputy Premier's office or the Deputy Premier?

**AMY BROWN:** The Deputy Premier's office.

**The Hon. DANIEL MOOKHEY:** When did they ask you for your view?

**AMY BROWN:** I believe it was on or about 6 September.

**The Hon. DANIEL MOOKHEY:** So two weeks prior to this request.

**AMY BROWN:** Yes, this was a more complicated request.

**The Hon. DANIEL MOOKHEY:** Was that asked in the context of your fortnightly catch-ups with the Deputy Premier?

**AMY BROWN:** I met with the Deputy Premier once in the six months that I was accountable to him as the trade and industry Minister—and it was by Teams.

**The Hon. PENNY SHARPE:** Just to be clear, in terms of dealing with the Deputy Premier, did you work through Mr Barnes?

**AMY BROWN:** No, Mr Barnes is a separate department. I met weekly with an adviser in the Deputy Premier's office, and that was the extent of my instruction from the Deputy Premier.

**The Hon. DANIEL MOOKHEY:** In that weekly meeting, was it raised with you?

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** What were you asked?

**AMY BROWN:** In a meeting around that time, yes.

**The Hon. DANIEL MOOKHEY:** What did the Deputy Premier's adviser ask you?

**AMY BROWN:** In the first instance, I was asked, "What is the mechanism by which senior trade and investment commissioners are employed?" I explained that they were public service employees under the GSC Act. Then I was asked, "What are other mechanisms by which they could be employed, including ministerial appointments?"

**The Hon. DANIEL MOOKHEY:** Do you recall the name of the person who asked you from the Deputy Premier's office? Was it a Mr Joseph—

**AMY BROWN:** I feel nervous about naming them, given the introduction. Chair, is it—

**The Hon. DANIEL MOOKHEY:** You are entitled—sorry, it's a question that's being asked.

**The Hon. PENNY SHARPE:** You just said you're taking direction from that person. We would like to know.

**The CHAIR:** Yes.

**AMY BROWN:** I just wanted to check. Thanks. Mr Joseph Brayford.

**The Hon. DANIEL MOOKHEY:** Joseph Brayford asked you. After your general counsel transmitted—and thank you for clarifying who he transmitted it to.

**AMY BROWN:** That's okay.

**The Hon. DANIEL MOOKHEY:** Did your general counsel notify you that he had provided that advice to the Public Service Commission? Incidentally, can you explain why the Public Service Commission all of a sudden had an interest in this on 21 September 2021? Why were they a relevant party in this?

**AMY BROWN:** They were specifically asked the question around amending the GSC Act because, as the independent Public Service Commission, they are almost kind of custodians of the mechanism, if you will. The general counsel there was simply asked for her opinion as to whether amending it this way would be a good idea or whether it had risks associated with it.

**The Hon. DANIEL MOOKHEY:** Did you ever interrogate Mr Brayford as to why the Minister was seeking this particular advice?

**AMY BROWN:** I did not.

**The Hon. DANIEL MOOKHEY:** Did he express any views as to what the Deputy Premier's motive was when the Deputy Premier requested advice about how to convert these into ministerial appointments?

**AMY BROWN:** I just provided policy advice as I would for any other matter.

**The Hon. COURTNEY HOUSSOS:** Did he in any way convey that this was a request from the Deputy Premier himself?

**AMY BROWN:** Yes.

**The Hon. COURTNEY HOUSSOS:** Just to be clear, Ms Brown, Mr Brayford in asking you made it clear that Mr Barilaro made the request to transfer these to ministerial appointments?

**AMY BROWN:** No. Mr Brayford made it clear that the Deputy Premier wanted to know the various mechanisms for which STICs could be appointed.

**The CHAIR:** I just wanted to turn back to September 2021. There were various emails that were going on within NSW Treasury but also Investment NSW. This one is from Investment NSW, where it says, "A high-level update for Lisa/Amy," on 15 September. It says, "The Senior Trade and Investment Commissioner Americas preferred candidate identified. Proceeding with background checks and preparing briefs. Contract in final stage of draft. Targeting October start date." Did that contract get finalised?

**AMY BROWN:** That contract was never issued, and the formal offer was never made.

**The CHAIR:** So the reports in the media of the Premier speaking to the preferred applicant are incorrect? Do you know? Are you aware?

**AMY BROWN:** That is incorrect. Sorry, did I do a double negative?

**The Hon. WES FANG:** I was just wondering that myself.

**The CHAIR:** Going back to—

**AMY BROWN:** The Premier did not speak directly with the candidate.

**The CHAIR:** In October there was an email, again within Investment NSW, from the Director of People and Culture, which referred to the fact that Minister Ayres wanted to meet with two of the STIC roles. Which two were they?

**AMY BROWN:** That was with respect to the STIC ASEAN and the STIC India and Middle East.

**The CHAIR:** That's right. And Minister Ayres met with those two. Is that correct?

**AMY BROWN:** That is correct.

**The CHAIR:** The Minister said, I think—there was an email dated 5 November that the Minister was happy to progress those two to the Premier for his approval. Did that occur?

**AMY BROWN:** That email came from someone who was filling in in my chief of staff role. She was a temporary employee on secondment from another department, and she completely misunderstood the basis for which STICs are appointed.

**The CHAIR:** Explain further.

**AMY BROWN:** Because she said the Minister is happy for these appointments to proceed to the Premier for approval. The Premier does not approve STIC appointments, and we never progressed anything to the Premier for approval or even noting.

**The CHAIR:** Did Minister Ayres request to meet with any of the other commissioner appointments?

**AMY BROWN:** I requested that Minister Ayres meet with those two appointments, with the STIC for Greater China and with one of the short-listed candidates for STIC Americas who was not Mr Barilaro.

**The CHAIR:** Why wasn't Minister Ayres requested to meet with the final successful preferred applicant in the second round—Mr John Barilaro? Why was that request not made?

**AMY BROWN:** I was in two minds about the candidate who ended up being runner-up in that process, and I wanted to see how that person presented themselves to a Minister, to see whether or not they were likely to have the confidence of the Minister in that scenario. I was present at the meeting, and by the end of that meeting I had concluded that they were not a good fit for the role.

**The Hon. DANIEL MOOKHEY:** Sorry, which Minister were you—

**AMY BROWN:** Minister Ayres.

**The CHAIR:** So Minister Ayres met with several of the preferred candidates but not with Mr Barilaro?

**AMY BROWN:** I beg your pardon. He only met with one of the preferred candidates for STIC Americas—the person who ended up becoming the runner-up.

**The CHAIR:** I just wanted to turn to the lease in the New York—whatever lease has been taken up somewhere in New York. There's a milestone report that I have, which is a New York milestone report referred to—what date was it? 14 September. It is a slideshow titled "Global NSW Expansion Program Workstream Status Meeting 14 September 2021". It states in here—there's a whole time line, in fact. It states in here that a lease was signed. It says, "Sign lease in August 2021." Did that occur?

**AMY BROWN:** Yes. Fortunately, I have just been given the answer by my team. This is relevant to the questioning from before as well. The New York lease commenced on 1 September 2021. The cost is US\$88,000 per year. The square metreage is 103.7 square metres. It was taken as a shell, and it took six months minimum to do the fit-out to make it a useable office space.

**The Hon. PENNY SHARPE:** How much did the fit-out cost?

**AMY BROWN:** I will get my team to find that out. As you say, Ms Sharpe, it is in the Australian Consulate in New York and has been occupied since May 2022, when the fit-out has been completed.

**The CHAIR:** The milestone report here does suggest that there was going to be an official launch of the New York office back in late November 2021. Are you aware of that time frame?

**AMY BROWN:** I was not aware that was originally the time frame. Although, given we wanted to progress the rollout of the network further, it doesn't surprise me that that ambition was created.

**The CHAIR:** And that the construction was to be complete, obviously, by that stage as well?

**AMY BROWN:** Given it took six months to fit out, I'm surprised about that component of it. I can get more information, if you like.

**The CHAIR:** When was the fit-out completed?

**AMY BROWN:** It has been occupied since May 2022, so it was completed by then.

**The CHAIR:** Can I check whether there has been—I understand there are global hubs, and then there is this hub-and-spokes model. Have the spokes, in terms of those positions, been filled in the Americas?

**AMY BROWN:** Predominantly, no. The Americas is the part of our network that needs the most completion, if you will. Most of the spokes are a shared office arrangement with Austrade. Indeed, some of the employees in the spokes are employed through Austrade for ease of employee arrangements. My awareness is there is still a number of roles that need to be recruited in the Americas, yes.

**The CHAIR:** What was your involvement in the original recruitment process for the Americas?

**AMY BROWN:** The original recruitment process launched on 2 April 2021, which was only a couple of days after Investment NSW was established. I was on the panel, essentially leading the recruitment process.

**The CHAIR:** This is in the first round?

**AMY BROWN:** That's correct, 2021.

**The CHAIR:** Why was the preferred applicant in all of the information that we have up until September 2021—the internal documents still say that a preferred applicant has been chosen for the Americas. What happened that that was no longer the case?

**AMY BROWN:** We conducted a recruitment process, including panel interviews. There was a first-ranked candidate, who I believe has been talked about quite a bit in the public domain. She was verbally offered the role. Then I was given a direction by Government to cease the recruitment due to a change in Government policy to convert the roles into statutory officers appointed by a Minister.

**The CHAIR:** That direction by Government came from who?

**AMY BROWN:** It was a decision of Government. It would have come through the responsible Minister, being the Minister for Industry and Trade.

**The Hon. DANIEL MOOKHEY:** Who was?

**AMY BROWN:** Mr John Barilaro.

**The CHAIR:** You're saying "a decision by Government". Are you referring to a Cabinet decision?

**AMY BROWN:** It was a decision by Government.

**The CHAIR:** And it came through—

**AMY BROWN:** I can't comment on the—

**The CHAIR:** —Mr Barilaro. Are you aware of what day that occurred?

**AMY BROWN:** Approximately 27 September.

**The Hon. ROBERT BORSAK:** So Mr Barilaro created the positions, and then a recruitment process, which you participated in, went through the motions of recruiting. You had a preferred candidate, who had been nominated or told verbally that she had the role. Then an instruction came through that that was to change. Is that your evidence?

**AMY BROWN:** The one correction that I would make is that the roles were announced as part of the Global NSW Strategy, which was a strategy that was approved by Government in late 2019. It was launched by former Premier Berejiklian, former Deputy Premier John Barilaro and then Treasurer Dominic Perrottet. That document essentially created the roles.

**The Hon. ROBERT BORSAK:** The roles have been created, the recruitment has been done, a person has been verbally told they have the role and then—and tell me if I'm wrongly characterising this—an instruction comes from Minister Barilaro that this whole process is to stop and that person is to be told that she has not now got the role. Is that true?

**AMY BROWN:** It was a decision of the Government that involved—

**The Hon. ROBERT BORSAK:** That's not—you keep saying that—

**AMY BROWN:** But I'm just saying—

**The Hon. ROBERT BORSAK:** But your evidence also said that the instruction came from the Minister, Barilaro.

**The Hon. WES FANG:** Chair, I am going to raise a point of order. I hate to do this, but—

**The Hon. DANIEL MOOKHEY:** That's not true.

**The Hon. WES FANG:** Well, no, it seems to be—

**The CHAIR:** Quick to it, Mr Fang. Order! Quickly get to your point of order.

**The Hon. WES FANG:** The point of order is that Ms Brown is trying to provide an answer. The Deputy Chair is talking over the top of her. There is a procedural fairness resolution that allows the witness to complete their answer before—

**The CHAIR:** Thank you, Mr Fang. There is no point of order. That exchange was fair enough. I am trying to be fair to the witness, but that exchange was fair enough. Continue, Mr Borsak.

**The Hon. ROBERT BORSAK:** Ms Brown, who actually then phoned the preferred candidate and told her that she didn't have the job?

**AMY BROWN:** I did.

**The Hon. ROBERT BORSAK:** You did? Okay. Thank you. Who actually told you to do that?

**AMY BROWN:** A decision of the Government was made that included an instruction to me to—

**The Hon. ROBERT BORSAK:** By who?

**AMY BROWN:** I'll just finish answering the question—to unwind all contracts for those yet to commence.

**The Hon. ROBERT BORSAK:** But by who?

**AMY BROWN:** It was a decision of the Government.

**The Hon. ROBERT BORSAK:** It didn't come from a computer voice. Someone must have told you. Who instructed you to do that?

**AMY BROWN:** Well, it was a decision of the Government, so I could actually—

**The Hon. PENNY SHARPE:** How did you get it?

**The Hon. ROBERT BORSAK:** Yes, how did you get the instruction?

**The Hon. PENNY SHARPE:** Was it an email? Was it a text? Was it a phone call?

**AMY BROWN:** I'll need to take advice on whether or not I can disclose the mechanism, but government decisions are generally made—

**The Hon. DANIEL MOOKHEY:** Point of order: Perhaps it might be helpful for the witness to be made aware that under the Parliamentary Evidence Act if the question is legitimate it can't be taken on notice just because you're not confident whether or not you're in a position to give that answer.

**The Hon. ROBERT BORSAK:** That's right.

**The Hon. DANIEL MOOKHEY:** The question is actually—this is evidence under the Parliamentary Evidence Act and the answer can't be withheld on the basis that there is any ambiguity in the ability to answer the question. The question was pretty straightforward: How was Ms Brown requested to make the phone call?

**The CHAIR:** Thank you, Mr Mookhey.

**The Hon. WES FANG:** To the point of order: The witness has indicated that she'll take the question on notice. There are a number of reasons why she may have done so, maybe to also seek clarity as to by which mechanism it was made. So there are a number of points that—

**The Hon. ROBERT BORSAK:** You don't get to speculate on the answers.

**The CHAIR:** Exactly. I've heard Mr Fang speaking to the point of order and I believe Ms Brown was actually questioning whether she could give certain evidence. But, as Mr Mookhey said, that is not something to take on notice, if you're remembering. You seem to be quite clear in terms of how you have received it and that was the question put to you in this inquiry. Mr Borsak, you were asking a question. But continue on your answer, Ms Brown.

**AMY BROWN:** I said a decision was made by the Government—

**The CHAIR:** That was in relation to, I think, which mechanism—how you heard that decision?

**AMY BROWN:** —and I had visibility of that decision.

**The CHAIR:** Sorry, say that again?

**AMY BROWN:** I had visibility of that decision and so I knew exactly what I had been instructed to do.

**The Hon. PENNY SHARPE:** I just want to get some clarity here. When you say "by Government" you mean that there has been a Cabinet or a subcommittee decision, is that correct?

**AMY BROWN:** That is correct.

**The Hon. PENNY SHARPE:** So that means that through the Cabinet system, when you talk about having visibility, it means that you're getting a direction or that you're advised of that. Was there then subsequently a direction given to you after being advised of this change?

**AMY BROWN:** No, I was advised of it formally through the system and then I acted upon it because it was—

**The Hon. DANIEL MOOKHEY:** Just to be clear here, this change in policy—



**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** —was effected through Cabinet and, as you said in reply to one of the questions I think the Chair asked, you became aware of it because Mr Barilaro was the Minister responsible for that decision. Correct? And then, on the basis of your knowledge of that decision, you then acted on the instruction from Mr Barilaro, however it was communicated to you, to contact the successful candidate—who was given a verbal offer—and withdraw that offer?

**AMY BROWN:** I did not have a conversation with Mr Barilaro—

**The Hon. DANIEL MOOKHEY:** His office?

**AMY BROWN:** —about the decision of Government. The reason I'm struggling a bit is I need to take advice about whether the mechanism is a Cabinet-in-confidence matter.

**The Hon. DANIEL MOOKHEY:** There is a lot of ambiguity about what goes to Cabinet and what doesn't, hence the question about whether the request was coming from the Minister's office or coming from the Cabinet, because you are entitled to comment on Cabinet matters but if it was coming from the Minister's office you are not—hence, I think, the reason why the Deputy Chair is pushing you on this point. So I guess the question is: Did you have discussions with the Minister's office at any point after the Cabinet decision about why that was now the modus operandi that you were meant to follow?

**AMY BROWN:** No, I was acting on the decision of Government.

**The CHAIR:** We'll go back to questions from Mr Borsak.

**The Hon. ROBERT BORSAK:** In relation to your role in the recruitment process—and I'm still not quite clear exactly on all of that—you said that you were part of the recruitment panel. Is that true?

**AMY BROWN:** I beg your pardon, which process were you referring to?

**The Hon. ROBERT BORSAK:** The recruitment process for round two.

**AMY BROWN:** That is correct.

**The Hon. ROBERT BORSAK:** That being the case, I've seen, certainly, in a statement from Investment NSW that there was deemed to have been no conflict of interest in your role as CEO of Investment NSW and that recruitment process. Is that true?

**AMY BROWN:** That is correct.

**The Hon. ROBERT BORSAK:** In your evidence earlier you said that you had, effectively, knocked out the number two candidate after that candidate had been interviewed, I suppose, or met the Minister. Is that true?

**AMY BROWN:** Met the Minister, yes.

**The Hon. ROBERT BORSAK:** Met the Minister? Okay. Did the Minister actually spend any time talking to the preferred candidate?

**AMY BROWN:** Not that I'm aware of. He may have.

**The Hon. ROBERT BORSAK:** Not in your presence?

**AMY BROWN:** Certainly not in my presence.

**The Hon. ROBERT BORSAK:** Would that have been part of a process?

**AMY BROWN:** That would not have been part of a process, no. No Minister—

**The Hon. ROBERT BORSAK:** So why was the second candidate taken by the hand, by you, to see the then Minister, Mr Ayres, but not the previous Minister, Mr Barilaro, who was the preferred candidate?

**AMY BROWN:** The second candidate was not particularly familiar with Government and so I thought a meet and greet would be prudent so that I could see how that candidate presented themselves to the Minister and get a sense of (a) whether or not they were going to be able to brief a Minister well; and (b) whether or not the Minister would have confidence in that person to represent us globally.

**The Hon. ROBERT BORSAK:** So why would you not do the same with Mr Barilaro?

**AMY BROWN:** I didn't see it as necessary; he was well known to the Minister already.

**The Hon. ROBERT BORSAK:** But he was supposed to be the best candidate and he was never involved in a public service role.

**AMY BROWN:** That's true, but he was the first-ranked candidate against the relevant criteria.

**The Hon. ROBERT BORSAK:** In your role of establishing him as the first-ranked candidate, do you think that there could have been a perception of a conflict of interest in that you reported to him?

**AMY BROWN:** Saying I reported to him mischaracterises the relationship between the agency head and the portfolio minister. I was accountable to him in his role as Minister for Trade and Industry. I did not derive a personal benefit in making the appointment. It is quite common for agency heads and other senior public servants to interview candidates they have had dealings with previously. The panel involved a panel of five people with different perspectives, including the independent Public Service Commissioner, who did not raise a concern.

**The Hon. ROBERT BORSAK:** Thank you, Ms Brown. Just so I understand—and you say that you received no benefit—I understand that, your immediate employment history, you were appointed to the role of Chief Executive Officer of Investment NSW in or around March 2021. Is that true?

**AMY BROWN:** That is true.

**The Hon. ROBERT BORSAK:** Your grade was at the level of Deputy Secretary in January of this year. You were promoted to Secretary of the Department of Enterprise and Trade.

**AMY BROWN:** I was.

**The Hon. ROBERT BORSAK:** You were, yes. But you've essentially retained the duties of or oversight of the duties of the CEO of Investment NSW. Is that also true?

**AMY BROWN:** That is also true.

**The Hon. ROBERT BORSAK:** And you continue with that process and those responsibilities?

**AMY BROWN:** That is true.

**The Hon. ROBERT BORSAK:** When you were CEO of Investment NSW who did you actually report to? Did you report to Gary Barnes?

**AMY BROWN:** No, I did not. I was a head of an executive agency. My employment contract was held by the Secretary of the Department of Premier and Cabinet. They were the principal department with respect to my agency.

**The CHAIR:** You can keep going if you want to, because they took some of your time. Do you want—

**The Hon. ROBERT BORSAK:** I've got a fair bit more. I'll come back.

**The CHAIR:** Okay. Questions from the Opposition, Mr Daniel Mookhey?

**The Hon. DANIEL MOOKHEY:** Thank you, Chair. Ms Brown, we might just return to some of the events of September last year. Thank you for establishing some of the chain of events. We have established that on or about, I think you said, 6 September you had the opportunity to meet with Mr Braidwood—I think that's how you pronounce his name?

**AMY BROWN:** Brayford.

**The Hon. DANIEL MOOKHEY:** Brayford. You were asked to prepare advice as to alternative methods of appointment. He then makes a request on—well, sorry, your general counsel sends an email to the PSC on 21 September. We have now established there is in Cabinet or some direction of Government given to you around 27 September to withdraw the verbal offer to the successful candidate in the first round. I want to turn to what happens after that. Do you mind turning to page 48 of the tender bundle? Page 48 is a chain of correspondence which is predominantly about how this will be communicated from Investment NSW to NGS Global, which was the recruiter.

**AMY BROWN:** That is right.

**The Hon. DANIEL MOOKHEY:** I am going to refer to them by their title, not their name, but you can see here in the middle of the page your chief of staff is emailing another member of your team. They say:

FYI — Amy will speak with—  
the lead recruiter—

but needless to say, there are no more STICs whose appointment Investment will be involved with now — so shortlisting/panels etc all no longer needed.

Why was your chief of staff under the impression on 1 October that Investment NSW would have no further involvement in the recruitment process for the STICs?

**AMY BROWN:** Because the Government had made a decision that they were to be statutory officers appointed by a Minister.

**The Hon. DANIEL MOOKHEY:** Who was meant to now be taking the lead in that alternative process?

**AMY BROWN:** There was never a conversation as to how it would be affected—whether or not Investment NSW had a secretariat role, for example—but it would have been a decision of the responsible Minister of that portfolio.

**The Hon. DANIEL MOOKHEY:** Are you aware of how your chief of staff came to be aware that Investment NSW would have no further involvement?

**AMY BROWN:** I would have told her, yes.

**The Hon. DANIEL MOOKHEY:** You would have told her?

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** So at this point you were also operating off the assumption that Investment NSW would have no further involvement. Correct?

**AMY BROWN:** Correct.

**The Hon. DANIEL MOOKHEY:** How did you form that impression?

**AMY BROWN:** Because I read the Government decision.

**The Hon. DANIEL MOOKHEY:** Are we to infer from that that in whatever document that led to the Government's decision, it made clear that Investment would not be involved?

**AMY BROWN:** I think to say that we would not be involved is an inference. Perhaps what it should have said is that Investment NSW was not the decision-making body.

**The Hon. DANIEL MOOKHEY:** Let's go forward then. If you take that as an inference, I take your point. On the basis of this email, that might be the right conclusion. Can we now turn to page 49? This is an email that you then send to the recruiter on 3 October 2021. Given it was a day before my birthday, I can infer that it was probably on the long weekend.

**AMY BROWN:** It was the long weekend.

**The Hon. DANIEL MOOKHEY:** Yes, it was the day before Labour Day. Here you can see the correspondence you are sending to the lead recruiter on the Sunday of a long weekend at 2.13 p.m. I will take you through the highlighted sections. You said:

I appreciate that you'll keep this confidential, but we've now had confirmed instructions to commence the preparation of legislation to convert the global Senior Trade & Investment Commissioners to statutory officers—

that is, ministerial appointments. You go on to say:

The Agent General for London and STIC for Tokyo will be transitioned ...

You then say:

This means that the recruitment process for the STIC positions in Singapore, India/Middle East and China will need to be ceased, and all candidates informed that we're not going any further in the process. We will be handling the STIC New York position as an internal matter.

What did you mean when you said, "We will be handling the STIC New York position as an internal matter?"

**AMY BROWN:** Because the first-ranked candidate from the first process was an internal employee of Investment NSW, I wanted to tell her myself.

**The Hon. DANIEL MOOKHEY:** But the way in which this paragraph is constructed—it might be the case that that is what you meant, but it says, "The recruitment process for the STIC positions will need to be ceased and all candidates informed." You are saying that you wanted to inform the candidate yourself that they would not be proceeding?

**AMY BROWN:** Yes. I said that we would be handling the STIC New York position as an internal matter. I meant the close-out because the recruiter normally phones unsuccessful candidates and I thought that might be a bit harsh given the candidate worked for me.

**The Hon. DANIEL MOOKHEY:** You then say:

As you will no doubt appreciate, most of the above has been outside of our control.

Are you referring to the fact that this is a decision of government and not Investment NSW?

**AMY BROWN:** Correct.

**The Hon. DANIEL MOOKHEY:** In the first paragraph you say, "We've now had confirmed instructions to commence the preparation of legislation." Who gave you those instructions?

**AMY BROWN:** It is what the decision of government said.

**The Hon. DANIEL MOOKHEY:** Yes, but who told you to prepare it? You said you had confirmed instructions to commence the preparation of legislation. Were you asked to do so by a Minister's office?

**AMY BROWN:** No, I had read the decision.

**The Hon. JOHN GRAHAM:** Did you have any other discussions with Ministers or Ministers' offices about those instructions?

**AMY BROWN:** I might take that on notice. I did meet with the Deputy Premier's office after the decision of government was made to talk about practicalities.

**The Hon. JOHN GRAHAM:** Between 27 September and 1 October?

**AMY BROWN:** Between 27 September and the day the Deputy Premier resigned—

**The Hon. JOHN GRAHAM:** Yes, 3 October.

**AMY BROWN:** —somewhere in there I met with his office to talk through it all.

**The Hon. JOHN GRAHAM:** Who did you meet with?

**AMY BROWN:** Joseph Brayford.

**The Hon. PENNY SHARPE:** What was his position in the Deputy Premier's office?

**AMY BROWN:** I believe he was a senior policy adviser.

**The Hon. DANIEL MOOKHEY:** So you had a discussion about the practicalities of preparing this legislation. When were you meant to have the legislation prepared by?

**AMY BROWN:** We were not given a time line.

**The Hon. DANIEL MOOKHEY:** What information were you given about the practicalities that you were meant to meet?

**AMY BROWN:** The instruction was to commence preparation of legislation and then it was for us to work through all the implications of that, come up with a time line and process.

**The Hon. DANIEL MOOKHEY:** Did you do that?

**AMY BROWN:** We did not get that far.

**The Hon. DANIEL MOOKHEY:** Why not?

**AMY BROWN:** Because the Deputy Premier resigned and the portfolio was reassigned to Minister Ayres.

**The Hon. DANIEL MOOKHEY:** The Deputy Premier resigns the day after you send this particular email. In response to the question asked by my colleagues, you said sometime between 27 September and 1 October you meet to discuss the practicalities with the Deputy Premier's office. Did I hear that correctly?

**AMY BROWN:** That is correct.

**The Hon. DANIEL MOOKHEY:** What was discussed? What were you asked to do? Was it anything formal or was it just a general catch-up?

**AMY BROWN:** It was a really high-level discussion probably as part of my usual one to one to say, "We are now proceeding down a different avenue. It's going to take some time."

**The Hon. DANIEL MOOKHEY:** Then the Deputy Premier resigns on 4 October and somehow the Government reverses its position of converting this to ministerial appointments. Can you shed light as to how that happened?

**AMY BROWN:** The Government did not revert its position.

**The Hon. DANIEL MOOKHEY:** Are we still converting these to statutory officers?

**AMY BROWN:** I had a conversation with the incoming portfolio Minister.

**The Hon. DANIEL MOOKHEY:** Who was?

**AMY BROWN:** Minister Stuart Ayres. For context—

**The Hon. DANIEL MOOKHEY:** Sorry, when did you have that conversation?

**AMY BROWN:** I will provide a little bit of context. For context, on 1 October the NSW Trade Statement was launched and that had ambitious targets of us accelerating the rollout of the global program to double the value of exports from \$96 billion to \$200 billion by 2030. In light of that, and the need to progress the global rollout further, he and I discussed that we were acutely aware that the introduction and passage of legislation would create significant delays to the global rollout. His preference was that we continued with what we were calling tranche one of the global rollout and, once that had been completed—he is the responsible Minister, but I expect that he would then revisit the question about legislation.

**The Hon. DANIEL MOOKHEY:** When did you have that conversation with Minister Ayres in which Minister Ayres expressed that view to you?

**AMY BROWN:** Within the first few days of him becoming the portfolio Minister.

**The Hon. JOHN GRAHAM:** When you say tranche one, you are referring to these six appointments?

**AMY BROWN:** That is correct, and all of the staff who support them—55 staff.

**The Hon. DANIEL MOOKHEY:** Minister Ayres had the authority to reverse the Government's decision?

**AMY BROWN:** He wasn't reversing the decision; he was coming up with a time line for an implementation that made sense in the context.

**The Hon. PENNY SHARPE:** He was choosing for those not to be ministerial appointments while they were being completed.

**AMY BROWN:** At this point.

**The Hon. DANIEL MOOKHEY:** Therefore are we to infer that it is still government policy to convert these to ministerial positions?

**AMY BROWN:** The Cabinet has since been reconstituted, and it was a decision of the Cabinet prior to reconstitution, so that is a matter for them.

**The Hon. JOHN GRAHAM:** It stands in the meantime until it is reversed. It is a decision of Cabinet and to your knowledge it is yet to be reversed. Is that correct?

**AMY BROWN:** Yes, but I will await instructions.

**The Hon. DANIEL MOOKHEY:** It has been at least 10 months. You have now had 10 months to go about implementing this particular decision of government. Has Investment NSW prepared draft legislation that would convert these positions?

**AMY BROWN:** We are still rolling out the network and, Mr Mookhey, just for context, we have had six admin orders that have impacted our agency and then the department with machinery-of-government changes, which has been very consuming of my people, particularly my general counsel and his staff. I do not think they have had a chance to turn their minds to it in the absence of instructions to do otherwise.

**The Hon. PENNY SHARPE:** What conversations did you have with Minister Ayres or people in his office given that the New York position had been rescinded and there had been an intention for it to be a ministerial appointment but clearly there was a process that was going to start without that occurring? What discussions did you have and what was the nature of the discussions in terms of the way in which this appointment could be made?

**AMY BROWN:** Excellent question. Once a verbal offer had been made to the first candidate, we were not in a position to commence—

**The Hon. PENNY SHARPE:** Sorry, could you just clarify the date that that occurred on?

**AMY BROWN:** Certainly. Twelfth of August 2021—a verbal offer was made to the candidate. Before we could enter into substantive contract negotiations, there were quite significant tax structuring issues that emerged, particularly in terms of how Investment NSW established itself as a foreign office in the US jurisdiction. I wasn't in a position to put a contract on the table until that was resolved. That turned out to be a lot more complicated than we thought. In fact, it was only resolved on 8 December this year. Once that emerged, I had a conversation with Minister Ayres, as the portfolio Minister, to say even if we wanted to progress with STIC Americas and offer somebody the job now, we can't, so why don't we work our way through this tax issue and then we'll do another recruitment process.

**The Hon. PENNY SHARPE:** Did you ever discuss having this appointment as a direct appointment?

**AMY BROWN:** Sorry, can you clarify the question?

**The Hon. PENNY SHARPE:** My understanding is that, under the Act, you're able to decide that this—basically, you've gone to Minister Ayres and said, "We could make a direct appointment in relation to this." Are you aware of any discussion, ever, about that?

**AMY BROWN:** That would not have been best practice; I would not have advised it.

**The Hon. PENNY SHARPE:** Do you know whether Mr Barilaro ever asked Mr Ayres for a direct appointment in relation to this position?

**AMY BROWN:** Certainly not to my awareness.

**The Hon. DANIEL MOOKHEY:** Did you, when you were first meeting with Minister Ayres, which took place somewhere, presumably from 5 October onwards, in that week—did you inform Minister Ayres that Minister Barilaro had requested that you withdraw the verbal offer that was made?

**AMY BROWN:** Mr Barilaro didn't request me to withdraw the verbal offer. The decision of government specifically referred—

**The Hon. DANIEL MOOKHEY:** So Minister Ayres was aware of that, as a result of his participation in that decision-making?

**AMY BROWN:** Yes, because he is the member of the Government. Yes.

**The Hon. DANIEL MOOKHEY:** Did he raise any concerns with you about that? Or did he provide any evidence—sorry, did you have any discussion with him about the call that you made to the successful candidate?

**AMY BROWN:** I said—it was in the context of what I just described around the tax structuring. I said, "We did have a great candidate from the first round. We could essentially resurrect that process, I suppose." But it seemed like a foolish thing to do, in light of the fact that it would be months before we could actually appoint someone.

**The Hon. DANIEL MOOKHEY:** But why not, given that we had already spent hundreds of thousands of dollars recruiting a person who you have just said now was an excellent candidate? You told that candidate on 27 September, or thereabouts, that she wasn't getting the role.

**AMY BROWN:** On 1 October.

**The Hon. DANIEL MOOKHEY:** Sorry. On 1 October you told her that she wasn't getting the role. Then, six days later, or thereabouts, you are advising Minister Ayres about the problems about the tax issues—but you have a candidate, who you have assessed as being excellent for the job. Why didn't you simply say to Minister Ayres, "Let's just appoint this successful candidate", in December, rather than having to run a whole second process?

**AMY BROWN:** That's a very good question. So that candidate—I gave that candidate early visibility that government was considering the policy change in terms of the basis of appointment of STICs. So she had been aware for a couple of weeks before the news was delivered. And then, of course, the news was confirmed, as I just said, on 1 October. She was extremely upset about that, understandably so. And so, to me, the fact that we couldn't appoint anyone for some period of time, and the fact that she was very unhappy with the arrangements and government, the whole situation felt quite irreconcilable.

**The Hon. DANIEL MOOKHEY:** So the reason why you weren't in a position to appoint the successful candidate in December, when you were in a position to appoint a candidate, having resolved the tax issues, was

because you took a view that irreconcilable differences had emerged as a result of how the Government had treated this successful woman? That's the evidence?

**AMY BROWN:** That's a fair characterisation.

**The Hon. JOHN GRAHAM:** Then why is the Government saying there's no suitable candidate identified, given that you're saying Ms West was an excellent candidate, and it was clear from the recruitment process that she met or exceeded all expectations for the role?

**AMY BROWN:** As I just foreshadowed, the relationship declined quite quickly once she was informed that she may not be going to New York. And so, by the end of the first process, I had formed the view that no suitable candidate—

**The Hon. DANIEL MOOKHEY:** Secretary Brown, Premier Perrottet told the Legislative Assembly last week, word for word, "The first recruitment process did not identify a suitable candidate." Clearly, the first recruitment process did identify a suitable candidate. Then the Government changed its mind. Then the Government changed its mind again. Then the Government, in the process of changing its mind twice, seemingly maltreated the successful candidate, and then finds itself in a position, in December, where it has to relaunch the process that ends up appointing the former Deputy Premier. Is that a fair characterisation of events?

**AMY BROWN:** The reason the relationship with the candidate was irreconcilable wasn't just because government was changing its mind. I had some concerns about the candidate and their suitability for the role from mid-September onwards.

**The Hon. DANIEL MOOKHEY:** When Premier Perrottet went in front of the Legislative Assembly, and said to the Legislative Assembly, "The first recruitment process did not identify a suitable candidate", did you give him that advice?

**AMY BROWN:** Yes. Because I closed the recruitment process on 1 October and, by then, I, as the employer and decision-maker, had formed the view that the person who was previously the first ranked candidate was not, in fact, suitable for the role.

**The Hon. DANIEL MOOKHEY:** And that's because, four days earlier, the Government decided that it wanted to appoint it through ministerial appointment, as opposed to the process that the candidates were told? Because, to be clear here, it's not just the successful candidate. All applicants in the first round proceeded on the basis that this would not be a ministerial appointment, and the Government changed its mind on 27 October. You informed the candidate on 1 October. You're telling me that you then concluded, on the basis of that conversation, irreconcilable differences had emerged.

**AMY BROWN:** I first informed the candidate on 17 September that things were likely to go this way, and it was then that the relationship between the candidate and Investment NSW became troublesome. By 1 October when I, as decision-maker, officially closed the recruitment process, I was of the view that there were no suitable candidates.

**The Hon. DANIEL MOOKHEY:** But do you accept that, in giving the Premier this advice, when the Premier then stood up in the Legislative Assembly and said that the first recruitment process did not identify a suitable candidate, that was a statement likely to mislead?

**AMY BROWN:** No. Because at the end of the first recruitment process, which was on 1 October 2021, I, as decision-maker, had formed a view that there was no suitable candidate.

**The Hon. PENNY SHARPE:** But, just to be clear, you were on the selection panel for the first candidate? You wrote up, and had the other three members—very eminent people—on that, signed off on this candidate through that process. You had done all of the diligence checks in relation to this candidate. You had recommended and liaised with the Ministers, both the Premier, the Treasurer and the Deputy Premier, in relation to this candidate. So, all the way along, you basically had put her forward and had full confidence in her ability to do this position. Are you saying to us that because she was upset that the Government had changed the role, that you then decided that she was unsuitable?

**AMY BROWN:** Two things. Firstly, I did not canvass the opinion of any Minister, or the Premier, with respect to the first candidate. They—

**The Hon. PENNY SHARPE:** You didn't brief any of the Ministers—the Premier, the Treasurer, the Deputy Premier, in relation to this appointment?

**AMY BROWN:** They—

**The Hon. WES FANG:** I'll take a point of order at that point, Chair. Because I think—

**The Hon. COURTNEY HOUSSOS:** She's doing fine, Wes. You don't need to run interference.

**The Hon. DANIEL MOOKHEY:** The witness had actually started answering the question.

**The CHAIR:** Order! Yes, I am aware, but a point of order has been taken. We will hear it very quickly.

**The Hon. WES FANG:** Ms Sharpe interjected over the top of Ms Brown as she was providing the answer. She may well have provided the answer that Ms Sharpe wanted—

**The CHAIR:** Mr Fang, I've heard the point of order. Ms Sharpe did not interject over the response of Ms Brown.

**The Hon. WES FANG:** She did.

**The CHAIR:** Penny, had you finished your—

**AMY BROWN:** I would like to clarify the answer. On 11 August, for noting briefs—let's go chronologically. On 21 July 2021, the interviews were conducted and the selection report was signed by all panel members. On 11 August, I sent briefing notes informing the then Premier Berejiklian, the then Deputy Premier Barilaro, the then Treasurer Perrottet and Minister Ayres that the candidate was preferred and the name of that candidate. But I didn't engage with them before, or seek views, or anything like that. As I said, she was then verbally offered role, but on 17 September I gave her an early heads-up that things might not be proceeding the way she had hoped, and quite significant issues emerged with respect to the candidate and her relationship with Investment NSW, which I am happy to discuss in camera.

**The Hon. PENNY SHARPE:** Did you ever contact her to congratulate her on getting the role?

**AMY BROWN:** I did.

**The CHAIR:** Ms Brown, what were your reasons to the first-preferred applicant for stopping that recruitment process when you phoned her that day?

**AMY BROWN:** When I gave her an early heads-up?

**The CHAIR:** What reasons did you give?

**AMY BROWN:** When I closed the—

**The CHAIR:** Yes.

**AMY BROWN:** The reason that I gave is that Government had made a decision that these were to be converted to ministerial appointments.

**The CHAIR:** Did they reapply when it was readvertised?

**AMY BROWN:** No, they did not.

**The CHAIR:** Were they requested not to apply?

**AMY BROWN:** Most certainly not.

**The CHAIR:** Do you think it is—were you expecting them to apply, given how well they did in the first round?

**AMY BROWN:** The relationship had deteriorated quite some bit so I was not surprised that when they did not apply.

**The CHAIR:** Was exactly the same recruitment process undertaken for the second round as the first round?

**AMY BROWN:** The process was the same but the panel was different.

**The CHAIR:** With the first round—in terms of assessing people against various requirements, as I understand it, I have something in front of me which is called the "panel interview rating". The candidate names are not here but there are various qualities that they are ranked against, one of which is to work collaboratively, and a couple of the applicants in the first round exceeded that quality. Another one is influence and negotiate. Those two applicants exceeded that quality. Another one is deliver results. They exceeded that quality. Another one is manage and develop people and they met those qualities. I assume Mr Barilaro undertook this same rating?

**AMY BROWN:** He did, yes.

**The CHAIR:** Did he exceed all of those as well? Did Mr Barilaro exceed the work collaboratively quality?



**AMY BROWN:** I will take that on notice. I believe that we are providing a copy of the panel report. What I can tell you is that he was the first ranked candidate against the criteria.

**The CHAIR:** And just to check as well, did he exceed the manage and develop people quality?

**AMY BROWN:** I will take it on notice.

**The CHAIR:** Did Mr Barilaro undertake, like the other candidates did, a psychometric assessment?

**AMY BROWN:** He did. It is called an occupational personality questionnaire.

**The CHAIR:** Okay. Getting down to when Mr Barilaro is the preferred candidate the second time around—actually, no, let's step back a little bit. When Mr Barilaro first applied for the position after he had had the conversation with you—this was in terms of the direction from Government at a particular time. Is that correct?

**AMY BROWN:** No. I never had a conversation with Mr Barilaro around Government's direction to change to ministerial appointments. I simply read it as a Government decision.

**The CHAIR:** And the conversation that Mr Barilaro had with you that you mentioned earlier?

**AMY BROWN:** Of course. I had one meeting with Mr Barilaro in the entire time that I was accountable to him as Minister for Industry and Trade. It was on 15 September via Teams. For context, we were in statewide lockdowns and there was an outbreak of Delta in the regions. He apologised for the fact that he had been fully occupied by that scenario and he said we were going to have a good year in 2022 because we were hoping to do another tranche of the global rollout. It was a very short conversation.

**The CHAIR:** Did you speak to anybody about the fact that Mr Barilaro had applied for the position? Did you speak to anybody within Government, any Minister, that that had occurred?

**AMY BROWN:** After he applied?

**The CHAIR:** At any stage before he was offered the job. Did you speak to anybody about the fact that he had applied?

**AMY BROWN:** The only conversation I ever had about Mr Barilaro applying for this role was with the responsible portfolio Minister, Minister Stuart Ayres. He gave me a heads-up that Mr Barilaro might apply and then Mr Barilaro did apply, and somewhere in that process I let the Minister know that that had occurred.

**The CHAIR:** Did the Minister express any concerns to you about how this may play out publicly—about the fact that Mr Barilaro did apply for this job?

**AMY BROWN:** He did not. Minister Ayres, as a portfolio Minister, is very respectful of the public service and our processes and so he was very cautious about not having those sorts of conversations.

**The Hon. COURTNEY HOUSSOS:** Can you just explain "cautious"?

**AMY BROWN:** Appropriately cautious.

**The Hon. COURTNEY HOUSSOS:** Okay. How was that conveyed to you?

**AMY BROWN:** As in, I'd given Minister Ayres a heads-up that Mr Barilaro had applied but he didn't give me a strong opinion as to how he expected that process to play out. He let me run the process.

**The Hon. COURTNEY HOUSSOS:** When did you tell Mr Ayres that Mr Barilaro had applied?

**AMY BROWN:** It would have been—Mr Barilaro applied on 19 January. We received 12 applications including that one, and I expect that somewhere in the short-listing process, which would have been a week to 10 days later, I gave him a heads-up that Mr Barilaro was on the short list.

**The Hon. ROBERT BORSAK:** I go back to my previous line of questioning in relation to your position as CEO of Investment NSW and the potential for conflict of interest. Again I ask you, as CEO of Investment NSW, who did you actually report to? Who, physically in your line of report, did you report to?

**AMY BROWN:** The employer of the head of an agency in this context—as in my context, I beg your pardon—was the Secretary of Department of Premier and Cabinet.

**The Hon. ROBERT BORSAK:** The Secretary of the Department of Premier and Cabinet at the time?

**AMY BROWN:** That's right.

**The Hon. ROBERT BORSAK:** When did you get promoted to the role of Secretary of Enterprise, Investment and Trade?

**AMY BROWN:** On 30 January 2022.

**The Hon. ROBERT BORSAK:** On 30 January 2022.

**AMY BROWN:** I beg your pardon, it was 31 January 2022.

**The Hon. ROBERT BORSAK:** Did you make an application for that role of secretary, or were you directly appointed without a recruitment process?

**AMY BROWN:** I was directly appointed without a recruitment process, as is permissible under the arrangements for secretaries.

**The Hon. ROBERT BORSAK:** You were directly appointed.

**AMY BROWN:** Yes.

**The Hon. ROBERT BORSAK:** So there was no recruitment process for you to go through on a competitive basis as, for example, was occurring for these trade roles. Is that true?

**AMY BROWN:** Yes. I and three other secretaries were all appointed during the same kind of seven- to 10-day period and none of us went through competitive processes.

**The Hon. ROBERT BORSAK:** At that time, who was the Minister that appointed you into that role?

**AMY BROWN:** Minister Ayres was the senior cluster Minister for Enterprise, Investment and Trade and, of course, Premier Perrottet was the Premier and the order is made by Premier Perrottet as the Premier for all secretaries.

**The Hon. DANIEL MOOKHEY:** Your appointment coincided with the formation of the cluster—correct?

**AMY BROWN:** So there are six administrative orders. The department was established on 21 December. We had this conversation in estimates—

**The Hon. DANIEL MOOKHEY:** We did.

**AMY BROWN:** —when we had two employees. That was good.

**The Hon. DANIEL MOOKHEY:** I remember it.

**The Hon. SCOTT FARLOW:** It's *deja vu*.

**AMY BROWN:** That was good. I enjoyed reading that back.

**The Hon. DANIEL MOOKHEY:** Not as much as I did.

**AMY BROWN:** The department was established on 21 December. I commenced as secretary on 31 January.

**The Hon. DANIEL MOOKHEY:** Yes.

**AMY BROWN:** It became—and then Investment NSW was brought in on 17 February.

**The Hon. DANIEL MOOKHEY:** Yes, and then thereafter there was a recommendation to the State offices remuneration tribunal, was there not, relating to you?

**AMY BROWN:** Me and three other secretaries all at the same time.

**The Hon. DANIEL MOOKHEY:** When did that happen?

**AMY BROWN:** I will take it on notice. It is publicly available. I just don't—I've got a lot of dates in front of me.

**The Hon. PENNY SHARPE:** In relation to your congratulations to the successful applicant, did you ever provide her with a gift in relation to that?

**AMY BROWN:** No, it was a text message.

**The Hon. PENNY SHARPE:** You did not provide her with a bottle of champagne?

**AMY BROWN:** No, I did not.

**The Hon. DANIEL MOOKHEY:** Did Investment NSW?

**AMY BROWN:** No.

**The Hon. PENNY SHARPE:** Did any Minister or Minister's office ever tell you not to proceed with the preferred candidate's application—appointment?

**AMY BROWN:** No, only the decision of Government that I referred to before.

**The Hon. PENNY SHARPE:** So there has never been an express direction to you in relation to that?

**AMY BROWN:** No, and I was very light touch in terms of my engagement with Ministers with respect to this appointment.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, earlier on you made the point that Mr Barilaro was effectively given a verbal offer on 23 May, is that right, do I recall that?

**AMY BROWN:** That is when his contract discussions commenced. That is why I have that date documented in writing.

**The Hon. DANIEL MOOKHEY:** When was he first given a verbal offer?

**AMY BROWN:** He actually reports into the Managing Director of Trade and Investment, Kylie Bell. So she would have spoken to him at some point before that but not much before that.

**The Hon. DANIEL MOOKHEY:** So sometime in May, correct?

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** And is that because—when did the selection panel that recommended Mr Barilaro complete its final report?

**AMY BROWN:** The report itself was not signed by all members until 15 June, the reason being Ms Kathrina Lo was on leave for the entirety of May.

**The Hon. DANIEL MOOKHEY:** As his employer, when did you decide he was the person for the job?

**AMY BROWN:** Let me just check, in terms of my decision. It would have been sometime end of—here we go—by 1 April.

**The Hon. DANIEL MOOKHEY:** You had decided by 1 April that he was the candidate?

**AMY BROWN:** Yes, that's right.

**The Hon. DANIEL MOOKHEY:** Correct. Okay. Why then was there a six-week interregnum before commencement of negotiations?

**AMY BROWN:** So on 1 April several elements of the machinery of government change took into effect, and we went from being a department of two to a department of 1,000. Everybody in my operational team was very consumed by standing up an operational function, and we were very uncertain as to what budget we were going to get, and we were trying to make budget submissions to be sufficient to run a whole department. So it effectively took us out for a month.

**The Hon. DANIEL MOOKHEY:** Okay. You had more urgent matters to attend to.

**AMY BROWN:** Unfortunately, yes.

**The Hon. DANIEL MOOKHEY:** Fair enough, Secretary Brown. Between 1 April—after the first, you made the decision that Minister Barilaro was the person for the job, did you contact Minister Ayres' office?

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** Did you notify him?

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** When did you do that?

**AMY BROWN:** Sometime within April.

**The Hon. DANIEL MOOKHEY:** Yes. Do you have any specific recall?

**AMY BROWN:** No. Unlike my previous portfolio Minister, I catch up with this Minister regularly so that I can engage on the portfolio.

**The Hon. DANIEL MOOKHEY:** Did you notify Minister Ayres verbally or via a written brief?

**AMY BROWN:** It would have just been a conversation, yes.

**The Hon. DANIEL MOOKHEY:** No briefing note?

**AMY BROWN:** No, no briefing note.

**The Hon. DANIEL MOOKHEY:** Fair enough. Did he express at that time between 1 April and 30 April, any time in that month, any concern about your decision to appoint Mr Barilaro?

**AMY BROWN:** No.

**The Hon. DANIEL MOOKHEY:** Did he support your decision?

**AMY BROWN:** Sorry, did he support my decision?

**The Hon. DANIEL MOOKHEY:** Did he praise it; provide any support, encouragement; say to you, "Good call", anything like that?

**AMY BROWN:** He said, "You're the decision-maker, so it's your decision."

**The Hon. DANIEL MOOKHEY:** Okay. Did he tell you whether he was intending to contact others within the Government to inform them?

**AMY BROWN:** No, he didn't, actually.

**The Hon. DANIEL MOOKHEY:** Okay. He has told the Legislative Assembly, "I informed the Premier and the Deputy Premier of this recommendation on 30 April via a phone call." Were you aware that he was going to make those calls?

**AMY BROWN:** No, I wasn't.

**The Hon. DANIEL MOOKHEY:** Did you provide him any briefings to assist him in those calls?

**AMY BROWN:** No.

**The Hon. DANIEL MOOKHEY:** Did he report to you the outcome of the conversations with the Premier or the Deputy Premier?

**AMY BROWN:** No.

**The Hon. DANIEL MOOKHEY:** At any point from there on, did either Minister Ayres, Premier Perrottet or Deputy Premier Toole express any concerns about this decision?

**AMY BROWN:** No.

**The Hon. DANIEL MOOKHEY:** If it was your decision and you're the employer, why then was it Minister Ayres who announced it?

**AMY BROWN:** As is customary, the responsible Minister announces all of the Senior Trade and Investment Commissioner roles. They have announced all the other five because it's good news for New South Wales.

**The Hon. DANIEL MOOKHEY:** Did you draft the press release or did the Minister's office draft that press release?

**AMY BROWN:** It would have been a joint effort. That is how it tends to work.

**The Hon. DANIEL MOOKHEY:** Just to be very clear here, before I pass to my colleague, sometime in April you tell Minister Ayres; Minister Ayres tells the Premier and Deputy Premier on 30 April, which works out to be six weeks before the rest of New South Wales learns about this decision; and throughout that period no Minister, having had seven weeks' knowledge that this decision was coming, expressed any concern about the appropriateness of former Deputy Premier Barilaro taking this role?

**AMY BROWN:** Not to me.

**The Hon. DANIEL MOOKHEY:** Just again to be finally clear here, the pattern of events that have sort of emerged from this questioning shows that Minister Barilaro intervened to get the process changed, causes the first candidate to have her role terminated, that decision is then reversed, and then four months later or five months later he walks out with the job. Can you give us reasons as to why we should not consider that to be a highly suspicious chain of events?

**AMY BROWN:** It wasn't Mr Barilaro's decision to unwind the first recruitment process. It was a decision of Government. As for the remainder of the events and how they unfolded, it's not for me to express an opinion.

**The Hon. COURTNEY HOUSSOS:** Ms Brown, I just wanted to turn again to the question of the process of the appointment of Mr Barilaro. So you said on 19 January there were 12 applications that were received, and you informed Minister Ayres. Is that correct?

**AMY BROWN:** No, sorry. I informed Minister Ayres after we'd had a go at the short list.

**The Hon. COURTNEY HOUSSOS:** How many people were on the short list?

**AMY BROWN:** The short list that went to interview, there were four people. But one I had already seen as part of the first process, so I said, "Let's just interview the other three."

**The Hon. COURTNEY HOUSSOS:** So there were four on the short list. When did you compile the short list?

**AMY BROWN:** It was compiled between 21 January and 2 February. The reason it took a bit of time is we had a couple of candidates drop out and so we had to redo it.

**The Hon. COURTNEY HOUSSOS:** So of the 12 applications, to get them down to the four for the short list, was that just your call?

**AMY BROWN:** No, it was the call of the panel.

**The Hon. COURTNEY HOUSSOS:** Okay, the panel did the—what was the process?

**AMY BROWN:** Yes, that is how it tends to work. So what happens is there's an executive search done by NGS. They do initial screening. It is a bit like a first round interview. Then the long short list gets sent around to all panel members with a suggestion as to who the top four might be, and then that becomes the short list for interview purposes.

**The Hon. COURTNEY HOUSSOS:** And were there any changes to that initial short list that was compiled by the recruiter?

**AMY BROWN:** Yes, there was. So I sense checked the short list with Minister Ayres because I was a little bit—the first time I ran the process, I didn't consult with any Minister about anything. So I wanted to sense check along the way.

**The Hon. PENNY SHARPE:** Can I just check one thing, just quickly there? At any time did Minister Ayres give you a heads up that there were going to be other applicants other than John Barilaro applying?

**AMY BROWN:** No, he did not.

**The Hon. DANIEL MOOKHEY:** So the only person Minister Ayres provided prior warning to you about a likely application was John Barilaro?

**AMY BROWN:** That's correct.

**The Hon. DANIEL MOOKHEY:** Did you actually ever ask Minister Ayres how did he have the knowledge that Mr Barilaro was likely to be interested in this role?

**AMY BROWN:** No, I wasn't particularly interested.

**The Hon. DANIEL MOOKHEY:** You weren't interested in the former Deputy Premier, who you used to report to, all of a sudden expressing an interest in a role within months of his resignation? That didn't create any reason for you to interrogate further?

**AMY BROWN:** It wouldn't have been appropriate, to be honest.

**The Hon. DANIEL MOOKHEY:** Why not?

**AMY BROWN:** Because I'm a public servant and I implement Government' decisions and I don't really go into the "who had conversations with who" sort of territory.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, this is not a Government decision; it's your decision.

**AMY BROWN:** It is my decision but in terms of what conversations Minister Ayres has, I don't normally engage with him on that.

**The Hon. COURTNEY HOUSSOS:** Okay, so there were four people that were sent around by the recruiter. Was Mr Barilaro on that list?

**AMY BROWN:** Yes.

**The Hon. COURTNEY HOUSSOS:** And who were his referees?

**AMY BROWN:** I will take that on notice, if that's okay.

**The Hon. PENNY SHARPE:** You don't know who—did you deal with the referee check on Mr Barilaro?

**AMY BROWN:** No, I did not. That's the recruiter's job.

**The Hon. PENNY SHARPE:** Was Gary Barnes one of the referees for Mr Barilaro?

**The Hon. WES FANG:** Chair, the question has been taken on notice.

**AMY BROWN:** I'll take it on notice because, partly, it's confidential recruitment information but, secondly, I don't know it.

**The Hon. PENNY SHARPE:** There is no privilege in relation to that in this hearing.

**AMY BROWN:** Let me know when you'd like some answers to your other questions.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, the question we would like an answer to right now is very clear here: Did Secretary Gary Barnes express a reference check? If that was brought to your attention, perhaps it may have occurred to you that there was a conflict of interest in Mr Barnes providing such a reference. What we are asking here is: Did Secretary Barnes provide a reference for John Barilaro for this job?

**The Hon. WES FANG:** Point of order—

**The Hon. PENNY SHARPE:** On what?

**The Hon. WES FANG:** I've got the right to do this, and—

**The CHAIR:** Mr Fang, very quickly, what is your point of order? Don't take up the time; just what is your point of order?

**The Hon. WES FANG:** Chair, the Parliamentary Evidence Act says that only lawful questions can be asked. In relation to questions that have privilege or confidential information—

**The Hon. PENNY SHARPE:** We are protected by privilege here, Wes.

**The Hon. WES FANG:** No, but you are unable to force an answer. The witness has taken the question on notice, and that is the appropriate way for this to be handled.

**The CHAIR:** Thank you. Yes, I remind members that witnesses are able to take questions on notice. Proceed with your questions, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Sorry, the question that Ms Houssos asked was: Did Secretary Barnes provide a reference to former Deputy Premier Barilaro for this job?

**AMY BROWN:** As I didn't conduct the reference checks myself, I'll have to take it on notice.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, you signed this contract nine days ago.

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** Presumably you would have asked before you signed the contract as an employer—as any employer would do for any job—were there any issues with the references? Did you ask that question?

**The Hon. SCOTT FARLOW:** Point of order—

**The Hon. WES FANG:** The point of order is that the witness has already indicated that this is confidential recruiting information and that she is taking the question on notice. You have pressed a number of times on this.

**The CHAIR:** Mr Mookhey reframed the question, Mr Fang, and I believe Ms Brown is very capable of responding in whichever way she wishes to the question Mr Mookhey just asked her.

**The Hon. DANIEL MOOKHEY:** Secretary, for the contract you signed nine days ago, did you make any inquiries with your staff or anyone else as to whether there were any issues that arose from the reference checks?

**AMY BROWN:** I didn't ask the question, no.

**The Hon. COURTNEY HOUSSOS:** What inquiries did you make before signing the contract?

**AMY BROWN:** Well, I was on the panel. I undertook the interviews. The steps that then follow are 360-degree reference checks, subsequent due diligence, ASIC checks, insolvency checks, police checks, occupational personality questionnaire. That all occurs and then the panel signs its report.

**The Hon. PENNY SHARPE:** And the reference report.

**AMY BROWN:** Yes, that's the 360-degree—

**The Hon. PENNY SHARPE:** But you can't tell us—

**AMY BROWN:** I didn't undertake it.

**The CHAIR:** Order! Just to let members know, every time everybody speaks over each other, Hansard cannot hear a thing. That is not great for anybody. Mr Mookhey?

**The Hon. DANIEL MOOKHEY:** Secretary, I appreciate you did not do the reference check. To be fair to you, we are not asking whether you did the reference check. But the reference check is provided to the recruitment panel in the first instance and then thereafter.

**AMY BROWN:** It is, yes.

**The Hon. DANIEL MOOKHEY:** And I can only presume that as a member of the recruitment panel, you read the material that was in front of you, correct?

**AMY BROWN:** Yes, in late March.

**The Hon. DANIEL MOOKHEY:** Therefore, you would have recall of the reference report that was provided by NGS Global, correct?

**AMY BROWN:** Yes, in late March.

**The Hon. DANIEL MOOKHEY:** And as you finalised a decision, I think you said the recruitment panel signed off on the final report on 16 June, correct?

**AMY BROWN:** That's when we signed the report, because there was a logistical reason because Kathrina was not available.

**The Hon. DANIEL MOOKHEY:** Sure, but you did sign on 16 June, did you not?

**AMY BROWN:** Yes, but I read the reference checks at the end of March.

**The Hon. DANIEL MOOKHEY:** Sure, and I accept that. Having now established that you read the reference checks, did Secretary Barnes provide a reference?

**AMY BROWN:** I'll take it on notice.

**The Hon. JOHN GRAHAM:** Ms Brown, given this is supposed to be an independent process, and we are assured it is, can you understand why the constant meetings with Ministers, the informal approvals, the sense checks that you have referred to, the cancellation of the process—all this is leading to questions about exactly how independent this process is?

**AMY BROWN:** I do understand. The sense check with Ministers was actually more with respect to the second ranked candidate, because they had no experience in government, and I was just a little bit worried about their ability to represent New South Wales on that basis.

**The Hon. JOHN GRAHAM:** You have been very specific about when John Barilaro applied for this role, but when did you first become aware that John Barilaro might be interested in applying for one of these commissioner roles?

**AMY BROWN:** Minister Ayres mentioned casually that Mr Barilaro might apply.

**The Hon. JOHN GRAHAM:** When did that occur?

**AMY BROWN:** The position was advertised on 17 December and he applied on 19 January. Some time in that time, but we were all off on Christmas and New Year, so—

**The Hon. JOHN GRAHAM:** Earlier than that, did the Deputy Premier's office or the Deputy Premier ever raise the possibility that John Barilaro might have an interest in this role?

**AMY BROWN:** The current Deputy Premier?

**The Hon. JOHN GRAHAM:** John Barilaro.

**AMY BROWN:** Do you mean did Mr Barilaro contact me?

**The Hon. JOHN GRAHAM:** Did either Mr Barilaro's office or Mr Ayres' office, or those Ministers, ever raise the fact that he may have an interest in the role prior to that time?

**AMY BROWN:** No, they did not.

**The Hon. JOHN GRAHAM:** When did you first become aware that Deputy Premier John Barilaro might resign from office?

**AMY BROWN:** On the day he resigned.

**The Hon. JOHN GRAHAM:** Just for context, when you refer to the events of 27 September to 1 October, when you were briefed about that instruction to make these ministerial appointments, Friday 1 October was the date on which Gladys Berejiklian resigned. That is correct, isn't it?

**AMY BROWN:** Yes, and the NSW Trade Statement was launched.

**The Hon. PENNY SHARPE:** It did not get much media that day.

**AMY BROWN:** No.

**The Hon. JOHN GRAHAM:** When you say it was a Cabinet decision, a Government decision, to change these to ministerial appointments, you accept that there has been significant reporting that John Barilaro had put strong views in that Cabinet meeting as part of that Government decision. You have seen that reporting?

**AMY BROWN:** It's an issue for Cabinet, so I don't know. But I have seen the reporting.

**The Hon. JOHN GRAHAM:** Can you tell us why the Premier says that he has no recollection of being asked for approval for these roles in his role as former Treasurer, given that the paperwork clearly shows a Treasury brief seeking his approval—brief TA21 1395—was signed by the former Treasurer?

**AMY BROWN:** Do you have a copy of that?

**The Hon. SCOTT FARLOW:** Point of order: I do not think that the secretary can be asked to answer on behalf of the Premier on why the Premier thinks something.

**The CHAIR:** I have heard the point of order, but I think she can respond if she sees fit.

**The Hon. JOHN GRAHAM:** I am happy with Ms Brown's answer.

**AMY BROWN:** If it's the brief you are referring to, it was a noting brief with respect to the first candidate. I cannot see the brief, so—

**The Hon. JOHN GRAHAM:** Yes, I am comfortable with your answer.

**AMY BROWN:** There was no approval.

**The Hon. COURTNEY HOUSSOS:** Ms Brown, I want to come back to when you were advised by Mr Ayres that Mr Barilaro would be applying. Can you give us any more clarity? Was it around Christmas?

**AMY BROWN:** I suspect it was in January, when we were back from Christmas, and he mentioned it as a passing comment only.

**The Hon. COURTNEY HOUSSOS:** Do you remember where that conversation occurred?

**AMY BROWN:** No. I would normally have my Secretary-Minister one-to-one in his office.

**The Hon. COURTNEY HOUSSOS:** Okay, and it was in the course of that meeting?

**AMY BROWN:** Yes.

**The Hon. COURTNEY HOUSSOS:** I want to come back to the question of why you decided to restart the process. You had gone through a pretty extensive recruitment process, and you had collated this list. You felt you had a candidate, and you subsequently thought that that person was not the right person for the role. Why didn't you just go to the number two candidate? Why didn't you just go to Minister Ayres and say, "We've gone through this process, and the number two candidate—here they are"?



**AMY BROWN:** Given months had passed, my preference as hiring manager was to relaunch the process and see who applied and, indeed, one candidate for the first process did apply again.

**The Hon. COURTNEY HOUSSOS:** Was that the number two candidate?

**AMY BROWN:** I believe so, yes.

**The Hon. COURTNEY HOUSSOS:** Did you ever go back to that person before starting the recruitment process again and say, "Are you interested?"

**AMY BROWN:** No, because I wasn't entirely sure, and I really felt more confident doing another search.

**The Hon. DANIEL MOOKHEY:** Can I just pick that up? The runner-up from the first process was prepared to reapply and did reapply for the second process. Is that correct?

**AMY BROWN:** That's correct.

**The Hon. DANIEL MOOKHEY:** The passage of time did not create any disruption in that second candidate's mind, clearly, because they applied for it again. At that point you still concluded that rather than going to the runner-up, we would spend a lot more money repeating the exact same process, correct?

**AMY BROWN:** I'm happy to provide the costs. But given the importance of these roles to the New South Wales economy in terms of foreign direct investment and export potential, I really wanted to check the market again. I wasn't entirely comfortable.

**The Hon. DANIEL MOOKHEY:** The runner-up candidate, who has been identified in the public domain, has a very impressive CV.

**AMY BROWN:** The runner-up candidate for the first process?

**The Hon. DANIEL MOOKHEY:** The runner-up for the first process—yes, you're correct, sorry—who then reapplied for the second, has a really impressive CV. He's a non-executive director of Meat & Livestock Australia; he's worked in commercialisation, technology, innovation and growth, including throughout the world; he's a director of five or six companies, which are listed on his CV, which is public; he's chaired companies before; he's been a marketing director; he's been a national sales manager for a major corporation; and he's been an associate of McKinsey. How is it possible, on a side-by-side comparison, that you conclude that that person isn't right for the job but John Barilaro is?

**The Hon. WES FANG:** Lucky we have interview processes.

**AMY BROWN:** It was a merit-based, comparative recruitment process with a five-member panel.

**The Hon. DANIEL MOOKHEY:** He has an education from the Wharton school, an MBA in marketing and finance.

**AMY BROWN:** But that's not the criteria, Mr Mookhey.

**The Hon. ROBERT BORSAK:** But he hasn't got an MBA from the National Party.

**The Hon. DANIEL MOOKHEY:** Ms Brown, I'm asking you to explain, because it appears to us that we have an MBA graduate from Wharton who is a member of the AID; holds a degree in economics and law; has experience working around the world; and has worked for McKinsey, Optus communications and many other startups, who doesn't get the role but John Barilaro does. I'm accepting you at your word when you say this is a merit-based decision. Can you explain the merit of John Barilaro over a candidate like this?

**AMY BROWN:** In terms of why Mr Barilaro was the first-ranked candidate, there are a couple of factors. One is knowledge of New South Wales industry strengths and capabilities and having a strong network within government, industry and business, and being able to use that network, and also understanding what the potential is in terms of New South Wales' competitive advantages and how we can leverage them into the US. Mr Barilaro showed superior knowledge of that and we, as the panel, had more confidence that he would be able to get outcomes in that market.

**The Hon. DANIEL MOOKHEY:** He's been the chief executive of a peak industry group for those in the technology sector. The membership of his industry sector includes Google, Apple, Microsoft, Telstra and Optus. I accept that Minister Barilaro has experience with Google—I'm not sure it's positive—but are you seriously telling me—

**The Hon. ROBERT BORSAK:** It is; he got paid out.

**The Hon. DANIEL MOOKHEY:** —that John Barilaro has more international experience than this particular candidate? Are you seriously suggesting that, on a merit-based level, he has more ability to do the job than a person who has dealt with these companies throughout his entire career? That's your evidence to us?

**AMY BROWN:** There are a number of criteria against which Mr Barilaro was assessed against other candidates. Once all of those were weighed up, the panel of five people concluded that he was the first-ranked candidate.

**The Hon. COURTNEY HOUSSOS:** And the first criteria lists postgraduate qualifications?

**AMY BROWN:** No, it's a suitability assessment criteria. It's not about—

**The Hon. PENNY SHARPE:** Can you give the Committee the weightings of each criteria? I assume that they're in that process.

**AMY BROWN:** I think you'll be provided with this, as per your order that we're compiling as we speak.

**The CHAIR:** I want to go back to make sure of your response to the internal email that has been mentioned in the media, dated 6 April 2021, which talks about that structured approval process. That's the one that states:

If endorsed by all three—

that's the Treasurer, the Deputy Premier and the Premier—

a cabinet appointment form is prepared and added as a cabinet agenda item. Once endorsed by cabinet, a contract can then be offered to the candidate for negotiation.

Then in a subsequent email chain you use the word "erroneous". Could you explain again why the structured approval protocol that was so clearly laid out on 6 April wasn't followed?

**AMY BROWN:** That is a great question. At 6 April 2021 Investment NSW had only been established for a week. That email came from someone who is not particularly senior in our HR team who was following the way the approvals process was relayed to her when she was in NSW Treasury, so that is how we proceeded. But as things unfolded, something about that approval process didn't seem right to me because it's a GSC Act appointment and it's not usual to send them to Cabinet, so I checked it.

**The CHAIR:** To be clear, you said that somebody within HR who was relatively junior wrote that email. Fair enough that she puts that in an email, but everybody else who is senior within the department follows it by the letter for many months.

**AMY BROWN:** They do.

**The CHAIR:** To blame whoever it was within HR who put that together—it certainly sounded like it wasn't coming from a thought bubble in their head—

**AMY BROWN:** That's right.

**The CHAIR:** They had been given something to compile the email with which you and others followed for many months.

**AMY BROWN:** I apologise to that person for making it sound like they didn't know what they were doing. They were following the process that was set up by NSW Treasury when the global New South Wales network was first envisaged. Again, as you say, we followed the process for a good few months. That's why the Agent General—

**The CHAIR:** Up until when, exactly?

**AMY BROWN:** Until 11 August, when I sought clarification from the general counsel of the Department of Premier and Cabinet, because she's very familiar with these legislative and Cabinet matters.

**The CHAIR:** Why did you seek advice? What was behind that?

**AMY BROWN:** The Agent General and the Senior Trade and Investment Commissioner for North Asia had already gone through. Then we were preparing the paperwork for the next three: ASEAN, India and the Middle East, and the Americas. I actually caught myself and said, "I don't think this is quite right that they're going to Cabinet, but let me check with somebody who knows a more than I do." I did that and it was confirmed that, indeed, the previous appointments went to Cabinet in error.

**The CHAIR:** And you made that 11 August decision off your own back in conversations with nobody when you sought advice?

**AMY BROWN:** I would have brought my team into the loop: my chief of staff; the executive director, who's in charge of the global rollout; and perhaps the general counsel of investment. But I used to work in Premier and Cabinet, so the general counsel there is a bit of a go-to.

**The CHAIR:** Any Ministers, anybody else outside your team?

**AMY BROWN:** No, certainly not.

**The CHAIR:** No?

**AMY BROWN:** No.

**The Hon. ROBERT BORSAK:** Ms Brown, given Mr Barilaro's well-publicised mental health situation following the Friendlyjordies incident, did you consider or have any concerns about his suitability for the role based on what was publicly revealed by him and what was in the newspapers?

**AMY BROWN:** Mental health struggles are not a criteria for being given or not being given a job.

**The Hon. ROBERT BORSAK:** So the psychological testing that was done in relation to this role didn't reveal any matters of concern?

**AMY BROWN:** Psychometric testing was satisfactory, or else Kathrina Lo, the independent Public Service Commissioner, would never have approved.

**The Hon. WES FANG:** Nice try with a low blow.

**The Hon. COURTNEY HOUSSOS:** I want to turn to the NGS Global essential requirements for the candidates for the role. The first one states:

- Tertiary qualifications including postgraduate qualifications in international relations and trade, economics, public policy/administration, business management or in a related discipline, or demonstrated, equivalent, relevant professional experience and training.

It states that a postgraduate qualification is an essential requirement for the role, and yet, as per the extensive résumé that was read out by my colleague earlier, you judged John Barilaro to be superior to that. Can you explain that to the Committee?

**AMY BROWN:** I think you'll find that there are a number of band 3s and 4s across government who do not have an undergraduate or postgraduate degree. So when someone has the right experience, aptitude, attitude, skills and capabilities, we would never then veto the appointment because of what degree they do or don't have.

**The Hon. COURTNEY HOUSSOS:** On your criteria list, the essential weighting was for a postgraduate criteria.

**AMY BROWN:** That is the way the role description was constructed. Although I don't have it in front of me and you do, so I'm happy to take a look.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, prior to your appointment of former Deputy Premier Barilaro to this role, did you seek any legal advice about whether or not Minister Barilaro was in compliance or otherwise with the Independent Commission Against Corruption Act?

**AMY BROWN:** No, not with respect to that Act, but there are standard police checks, insolvency checks and ASIC checks that are done.

**The Hon. DANIEL MOOKHEY:** Section 10 (1) of the Act says, "A Minister must not improperly use any information acquired in the course of their official functions, including in the course of Cabinet deliberations, for the private benefit of themselves or any other person." What steps did you take to ensure that Minister Barilaro didn't use any of the information that was provided to him as Deputy Premier when he lodged his application on 19 January?

**AMY BROWN:** I had no view that Mr Barilaro had acted improperly in bringing a submission to the Government to then make a decision on.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, that wasn't my question. My question was what steps did you take to ascertain whether any of the information that was used by Mr Barilaro in his application did not derive from his service as the Deputy Premier?

**AMY BROWN:** Mr Barilaro applied for this job as a private citizen, and it's a public service job. That is the frame with which I—

**The Hon. PENNY SHARPE:** But you are aware that Ministers are subject to some restrictions and protocols in relation to post-separation employment. You don't believe that this was an issue, given that he had resigned in October and was applying for this job in December?

**AMY BROWN:** Not that I or the Public Service Commissioner was alerted to or discussed about.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, you formerly worked for the DPC, the Department of Premier and Cabinet, did you not?

**AMY BROWN:** I formerly worked for Premier and Cabinet, yes, I did.

**The Hon. DANIEL MOOKHEY:** You are aware that there is a ministerial code of conduct, are you not?

**AMY BROWN:** I am aware, yes.

**The Hon. DANIEL MOOKHEY:** You are aware that that ministerial code of conduct says that no former Minister can obtain a job in relation to any matter for which they had portfolio responsibility within 12 months?

**AMY BROWN:** I would need to take advice on that.

**The Hon. DANIEL MOOKHEY:** Well, you're invited to take advice on that. That is a point that the Premier has himself identified. What steps did you take to ensure that the Minister's application wasn't prohibited by grounds of the Premier's own ministerial code of conduct?

**AMY BROWN:** It was for the previous Deputy Premier, then private citizen, to satisfy himself that he had complied with all obligations under his previous and continuing ministerial code of conduct.

**The Hon. DANIEL MOOKHEY:** Indeed. I agree, Secretary, that the obligation is on Minister Barilaro.

**AMY BROWN:** Correct.

**The Hon. DANIEL MOOKHEY:** But surely, with the Public Service Commissioner and others involved in this process, no-one said to you that this Minister was directly responsible for these roles? He is now taking these roles. At first instance, at least, that's prohibited by the ministerial code of conduct. No-one brought that to your attention?

**AMY BROWN:** No-one brought that to my attention.

**The CHAIR:** Was it brought to the attention in the interview itself with Mr Barilaro?

**AMY BROWN:** No, it was not.

**The Hon. DANIEL MOOKHEY:** Was Minister Barilaro ever asked about whether or not he was complying in the selection panel?

**AMY BROWN:** Not to my knowledge.

**The Hon. DANIEL MOOKHEY:** Did you make any inquiries as to whether Minister Barilaro took the advice of the Parliamentary Ethics Adviser, as he is required to—to be fair, as all members of Parliament are required to do—before taking a job?

**AMY BROWN:** I did not inquire with Mr Barilaro as to what steps he had taken to satisfy himself as to his obligations from when he was previously a Minister.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, do you accept that the moment you sign the contract you are validating the fact that it's an appointment that legally can be made?

**AMY BROWN:** No.

**The Hon. DANIEL MOOKHEY:** Do you wish to take advice on that?

**AMY BROWN:** I mean, it's an offer to take a certain role with Investment NSW between Investment NSW and an individual. It is not verifying everything that happened prior to that moment in time in somebody's previous personal and professional capacity. I don't think that's what signing an employment contract entails, but I am happy to take advice.

**The Hon. JOHN GRAHAM:** Chair, I might just indicate to the witness that she will be asked at the conclusion of proceedings whether she can table that contract as flagged earlier. That's just for her and her advisers.

**AMY BROWN:** That's a good question. I have some—

**The Hon. JOHN GRAHAM:** We will come to it at the end.

**The Hon. COURTNEY HOUSSOS:** Ms Brown, did you make any conflict-of-interest declarations in the first round of recruitment?

**AMY BROWN:** No. Nobody on the panel did.

**The Hon. DANIEL MOOKHEY:** Sorry, in respect to any of the STIC positions?

**AMY BROWN:** What do you mean, sorry? In the first round?

**The Hon. COURTNEY HOUSSOS:** In previous recruitment processes, did you make any other declarations of conflicts of interest?

**AMY BROWN:** No.

**The Hon. DANIEL MOOKHEY:** For any STIC position.

**The Hon. COURTNEY HOUSSOS:** For any STIC position?

**AMY BROWN:** No.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, at estimates we talked about this. You and I had a good discussion about the fact that two former PwC partners were appointed to this job.

**AMY BROWN:** We started the discussion; we were timed out.

**The Hon. DANIEL MOOKHEY:** That's true. Here we are again, where we can pick it up. I asked you:

**The Hon. DANIEL MOOKHEY:** What I am interested in is that we have this process, which came at some expense, to recruit these commissioners and two of them happen to be partners of PwC. Ms Brown, do you have a history with that firm?

**AMY BROWN:** I was a partner ...

**The Hon. DANIEL MOOKHEY:** Was that a conflict? Did you know them?

**AMY BROWN:** I believe—and I can double-check this ... I think, worked at PwC ... I was in infrastructure ...

I think you go on to say that you declared it for noting that you were a PwC partner.

**AMY BROWN:** No, I wouldn't have declared it for noting. I would have mentioned it in the course of the conversation prior to the candidate entering the room to say, "It's a partner of PwC. I didn't work closely with him, but I know of him."

**The Hon. DANIEL MOOKHEY:** The very specific exchange we had was:

That was not necessarily my question. My question was did you have a conflict and did you declare one?

**AMY BROWN:** No, I did not declare one.

**The Hon. DANIEL MOOKHEY:** Then you said:

I noted and made the panel aware that I was a partner of PwC.

**AMY BROWN:** Yes, that's right. Ms Houssos, I just note that it says "postgraduate degree, essential or relevant experience". That is how we would have got to that.

**The Hon. COURTNEY HOUSSOS:** Ms Brown, I want to press this question about the conflict of interest. In the previous round of recruitment for STICs, you had indicated that you had a tangential relationship with someone, that you hadn't worked closely with them. Did you make a similar declaration before you interviewed Mr Barilaro?

**AMY BROWN:** No, because I didn't make a declaration the first time. I don't make declarations because I have worked with people in the past. I note in the case of PwC there are over 600 partners, and I—

**The Hon. PENNY SHARPE:** In the case of John Barilaro, he had been your boss.

**AMY BROWN:** I did not make a conflict-of-interest declaration because there was no personal benefit to be obtained, and he was not my boss. That mischaracterises the relationship between the agency head and a Minister to whom they are accountable.

**The Hon. COURTNEY HOUSSOS:** But, Ms Brown, you know that a conflict-of-interest declaration is much broader than just a personal interest, as you did in the previous interview round for noting and said, "I might have known these people in the past."

**AMY BROWN:** Of course I knew Mr Barilaro in the past. I was with the Public Service Commissioner, who knows the structure of the public service and that he was the Minister for trade and industry.

**The Hon. COURTNEY HOUSSOS:** Ms Brown, you have just said that you didn't insist on Mr Barilaro completing his own declarations, but you could have made your own about a conflict-of-interest declaration. Why didn't you?

**AMY BROWN:** I could have but there was no conflict of interest, so I did not. Kathrina Lo, who is the Public Service Commissioner—hopefully you will call her and she can talk to that point.

**The Hon. WES FANG:** What's the conflict?

**AMY BROWN:** I don't know.

**The CHAIR:** Order! Mr Fang, we're doing so well.

**The Hon. DANIEL MOOKHEY:** Secretary Brown, can I take you to page 12 of the tender bundle?

**The CHAIR:** What page did you say?

**The Hon. DANIEL MOOKHEY:** Twelve. This is correspondence that you sent to your chief of staff, in which you say:

Here you go. Thanks so much for preparing. Jim B—

which is a reference to Jim Betts, who at the time was the incoming Secretary of the Department of Premier and Cabinet—

strongly recommends that the recruitment reports fully signed by each panel member ... be completed before this brief is sent up to the Ministers, in anticipation of them messing with due process ...

Did you have a conversation with then Secretary Betts about signing the selection reports?

**AMY BROWN:** I did have a conversation with Secretary Betts about signing the selection report.

**The Hon. DANIEL MOOKHEY:** Did he warn you that there was a chance that Ministers would mess with due process?

**AMY BROWN:** We had a conversation about the fact that because the other two appointments went to Cabinet, there was a lot of confusion, and I was concerned that certain Ministers or their offices may feel that they have veto rights over my appointment.

**The Hon. DANIEL MOOKHEY:** Who were you concerned would have veto rights over your appointment?

**AMY BROWN:** I was concerned that the Deputy Premier's office would feel that they had veto rights.

**The Hon. DANIEL MOOKHEY:** You were concerned that the Deputy Premier's office would, and then Secretary Betts gave you the advice to make sure that every panel checked it. Is that correct?

**AMY BROWN:** Yes, and particularly because the first-ranked candidate was a current bureaucrat.

**The Hon. DANIEL MOOKHEY:** Can we now turn to page 35 of the bundle? You will have to start on page 36, and then we will go to 35. It's an email chain that starts on the bottom of page 36 and then goes up, so we will have to start on 36. You can see here right at the bottom of 35, I think one of your executive assistants chases up for the signed panel report that Secretary Betts recommended. You see right at the bottom here your executive assistant is informing someone else—your chief of staff, I think—that:

Amy would like to arrange for the DPO to have a copy today if possible.

Do you see that?

**AMY BROWN:** Yes, I do.

**The Hon. DANIEL MOOKHEY:** Can you go to page 35?

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you go up the page?

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** You see here that this person, who is the executive assistant, is emailing now the executive assistant of Secretary Betts?

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** So your EA is emailing Mr Betts' EA.

**AMY BROWN:** Yes.

**The Hon. DANIEL MOOKHEY:** It says this:

Hi ...

Just wanted to confirm when we might receive an approved/signed copy of the panel selection report.

We need to include this with our brief to the DPO and across ASAP.

You understand "DPO" to be a reference to the Deputy Premier's office?

**AMY BROWN:** That is true.

**The Hon. DANIEL MOOKHEY:** Why was it so urgent to send it to the Deputy Premier's office?

**AMY BROWN:** I wanted to provide briefs for noting briefs to the four Ministers who I referred to before, and I wanted the selection reports to be signed before I did that.

**The Hon. DANIEL MOOKHEY:** Indeed.

**AMY BROWN:** I had already verbally offered—well, no, at this point I hadn't verbally offered the candidate, but I wanted to get going on the appointment. So "ASAP" was—

**The Hon. DANIEL MOOKHEY:** But you don't mention the other offices in this email: "We need to include this with our brief to the DPO and across". It's not "DPO and Treasury", "DPO and Premier", "DPO and Ayres". It's DPO.

**AMY BROWN:** He was the portfolio Minister, so—

**The Hon. DANIEL MOOKHEY:** But was he asking for this brief urgently?

**AMY BROWN:** His office was.

**The Hon. DANIEL MOOKHEY:** His office was asking for an urgent brief outlining the selection report for the New York position?

**AMY BROWN:** They wanted to know the outcome of the process.

**The Hon. DANIEL MOOKHEY:** Can I have an indulgence, Chair? Can I just ask a few more questions?

**The CHAIR:** Just one—

**The Hon. SCOTT FARLOW:** No.

**The Hon. WES FANG:** You've had two hours.

**The CHAIR:** Finish the line of questioning.

**The Hon. DANIEL MOOKHEY:** Thank you. The only line of questioning is: Did you then send the report to the Deputy Premier's office?

**AMY BROWN:** It was attached to the for noting brief that went up on 11 August.

**The Hon. DANIEL MOOKHEY:** It went up on 11 August?

**AMY BROWN:** That's right.

**The Hon. DANIEL MOOKHEY:** The report went to the Deputy Premier's office about the Americas position?

**AMY BROWN:** Yes. Because it was attached to the briefing.

**The CHAIR:** Thank you very much. We finish at midday, unless the Government would like to, with the permission of the witness—

**The Hon. SCOTT FARLOW:** The Government does.

**The CHAIR:** If the witness is able to stay, the Government would like to ask questions for the remaining 15 minutes, with the indulgence of the—

**AMY BROWN:** Yes, okay.

**The Hon. SCOTT FARLOW:** I thought that was the resolution of the Committee.

**The Hon. WES FANG:** I note, also, that Ms Brown said she's got some answers to provide to the—

**The CHAIR:** Questions from the Government. Who would like to—

**The Hon. SCOTT FARLOW:** I will start off, thank you. Just for clarification, with respect to the obligations of a Minister in seeking future employment and whether you gave any reference to this, the NSW Ministerial Code of Conduct at 24 (2) specifically says that the "clause does not apply to any offer of post-separation employment by the State of New South Wales or any agency representing the State". Is that something you would've considered, perhaps, in terms of your discussions with Mr Barilaro?

**AMY BROWN:** That's very helpful. I suspect that the Public Service Commissioner is very aware of that provision, as I also would expect my general counsel is. That is why I did not receive any counsel or advice to the contrary.

**The Hon. SCOTT FARLOW:** Also turning back to the evidence you gave with respect to there being no suitable applicant at the end of the process on 1 October, as I understand it, you outlined that in about mid-September you started to make Ms West aware of the potential that there was going to be some changes in terms of how that role was appointed. I think you invited the Committee before that potentially you were happy to go into—maybe not happy but could go into why you'd come to that view that Ms West was not suitable for the role. I invite you to perhaps outline to the Committee why, as of 1 October, you had come to the view that she was not suitable for the role.

**The Hon. DANIEL MOOKHEY:** Point of order: As I recall, what the secretary said was that she was happy to provide further evidence in camera. I'm happy to resolve that we go in camera to hear the evidence, because it's a good question. I think the appropriate thing to do would be to go in camera.

**The CHAIR:** That's correct. We have also been very careful throughout the past two hours. I remind Government members to try not to name individuals.

**The Hon. SCOTT FARLOW:** I think Ms West has been quite high profile in this inquiry.

**The CHAIR:** To use these final 15 minutes of a public hearing to outline why an applicant is not suitable—I would suggest we go in camera for that.

**The Hon. SCOTT FARLOW:** I think that it's fundamental when it comes to the actual nature of this inquiry that there was a candidate who was deemed to not be suitable for a certain reason by 1 October.

**The Hon. DANIEL MOOKHEY:** Just to be clear about the point of order, I am not challenging the right of the Government to ask the question. The Government has the right to ask the question. There has been previous practice in the Legislative Council that we go in camera when we are giving sensitive information about a person. The Committee can make a decision later as to whether we publish the transcript. My view is that if the Government wishes to continue to move down this path—because it's a valid question—the appropriate way for us to deal with it would be in camera, with the Committee making a decision later as to whether we publish it.

**The Hon. JOHN GRAHAM:** If that was the wish of the witness, yes.

**The CHAIR:** If that was the wish of the witness and if the Opposition members wanted to move that way, then that's what we do. Does the witness wish to proceed in that manner in terms of discussing—

**AMY BROWN:** Other than to say the relationship deteriorated, specific details of that are probably best for in camera.

**The CHAIR:** Yes. If that's the way—

**The Hon. DANIEL MOOKHEY:** We will happily move—

**The CHAIR:** Okay. Let's proceed—

**The Hon. SCOTT FARLOW:** Why don't we come back to this line of—if I can pass to my colleague Mr Fang and return to this in an in-camera hearing—

**The Hon. PENNY SHARPE:** The other option is to do that on a different day.

**The Hon. DANIEL MOOKHEY:** Yes, we can do it on a different day.

**The CHAIR:** Order! What we are going to do—any other questions from the Government that don't require us to go in camera, then, if time permits, we will go in camera to go down that line of questioning by Mr Farlow. Mr Fang—



**The Hon. WES FANG:** Thank you, Chair. Thank you very much, Ms Brown. I imagine you've been involved in a number of recruitment processes, not just this one for the STICs. Would that be fair?

**AMY BROWN:** Very many.

**The Hon. WES FANG:** Is it fair to say that when you're recruiting for a role, sometimes the best candidate on paper isn't necessarily the best candidate for the role, given a number of issues—their interpersonal skills, the way that they interact and the way that they relate and communicate. Is that fair?

**AMY BROWN:** Relatively often.

**The Hon. WES FANG:** Would it be reasonable to suggest that trying to make a decision for a high-profile role such as a trade commissioner to the Americas, or any other of those roles, to have gone purely off academic qualifications would have been misguided?

**AMY BROWN:** That's the point of a panel interview process, yes.

**The Hon. WES FANG:** If one of the candidates was to have a broken leg, would that preclude them from running for the role?

**AMY BROWN:** Certainly not.

**The Hon. WES FANG:** Given that a broken leg is effectively a medical condition, as is another issue like a mental health challenge you may have at some point in your life, that wouldn't preclude you from a role if you were able to pass the aptitude testing. Is that correct?

**AMY BROWN:** Our diversity inclusion targets in the public service have targets specifically around people with a disability.

**The Hon. WES FANG:** And it would've been discriminatory to exclude somebody—

**AMY BROWN:** On the basis of mental health challenges?

**The Hon. WES FANG:** Yes.

**AMY BROWN:** Absolutely, it would.

**The Hon. WES FANG:** Can I confirm that the process has been completely independent of Government and that, in the second round, the candidate with the highest criteria across the selection criteria was the person that was offered the job?

**AMY BROWN:** Not necessarily across each individual criteria but across all criteria when taken together.

**The Hon. WES FANG:** Thank you. I think that pretty much concludes the questions.

**The Hon. SCOTT FARLOW:** When Ms West applied for the job, she was working within trade and Investment NSW at the time. Is that correct?

**AMY BROWN:** She was with Investment NSW as Deputy Secretary of Trade and International.

**The Hon. SCOTT FARLOW:** What conflict of interest protections were put in place, as that was an internal applicant? Was there a process there?

**AMY BROWN:** She was not permitted to be involved in any of the recruitment of Senior Trade and Investment Commissioners that were happening in parallel so that she didn't have visibility of what questions we were asking or the candidates who had applied for a number of—some people applied for more than one STIC position.

**The Hon. JOHN GRAHAM:** Chair, I think the witness might've had some additional answers that she was able to provide, so perhaps we might deal with those first.

**AMY BROWN:** With respect to Mr Barilaro's cost-of-living allowance that has been included in his contract, while the information in contracts is private and confidential, I can confirm the cost is less than \$16,000.

**The Hon. WES FANG:** There goes that line of questioning.

**AMY BROWN:** I need to correct the—

**The CHAIR:** Please proceed.

**AMY BROWN:** I wish I had known that when I said "marginal" because that is an accurate description. It was actually 9 June when he signed his contract. I said it commenced on 20 June, which is true, but he signed it on the ninth. And the fit-out cost for our New York office was \$905,000.

**The Hon. DANIEL MOOKHEY:** US or Australian?

**AMY BROWN:** AUD.

**The Hon. JOHN GRAHAM:** Can I just ask about the issue about tabling the contract of John Barilaro? I know it will be produced as part of the call for papers, but you've been requested to table it today at the hearing. Is that possible?

**AMY BROWN:** Advice is still being obtained, and I am unable to table it today, I'm afraid.

**(The witness withdrew.)**

**The Committee adjourned at 12:09.**