

IN-CAMERA PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

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

CORRECTED

At Jubilee Room, Parliament House, Sydney on Monday 11 July 2022

The Committee met at 10:15.

PRESENT

Ms Cate Faehrmann (Chair)

The Hon. Robert Borsak (Deputy Chair)

The Hon. Wes Fang

The Hon. Scott Farlow

The Hon. John Graham

The Hon. Courtney Houssos

The Hon. Daniel Mookhey (participating)

The Hon. Penny Sharpe (participating)

PRESENT VIA VIDEOCONFERENCE

The Hon. Peter Poulos

The CHAIR: Welcome to this in-camera session of the Public Accountability Committee's inquiry into the appointment of Mr John Barilaro as Senior Trade and Investment Commissioner to the Americas. Before I commence, I would like to acknowledge the Gadigal people of the Eora nation, who are 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. I welcome Ms Jenny West, who has agreed to give evidence in private today.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. Please note that this is an in-camera hearing. The evidence is confidential. This means that this session is not being broadcast and the transcript of today's session will remain confidential to the Committee. In certain circumstances, the Committee may find it valuable to publish some of what you say. If so, the Committee secretariat will consult with you about this, taking into account your circumstances. Ultimately, the decision as to what is or is not published rests with the Committee. I will just say at this point, I will be making a statement about the release of the confidential transcript evidence. I will be making a statement about that, Ms West, at the public hearing, just so you're aware.

As you will be aware, your evidence is protected by parliamentary privilege. It is important to remember that privilege does not apply to what you say outside of your evidence at the hearing. If you 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. In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into the microphone.

Evidence in camera by **Ms JENNY WEST**, Former Deputy Secretary, Trade and International, Global NSW, Investment NSW, sworn

The CHAIR: I understand you have a statement to read for us. Is that correct?

JENNY WEST: I have a statement for the opening public address. For the in camera, given that the prior in-camera evidence is publicly available through the papers, I will be just providing an opening address in a public forum. I really don't have any additions privately to say to the Committee.

The CHAIR: All right. Thank you.

The Hon. DANIEL MOOKHEY: Can I take a point of order?

The Hon. JOHN GRAHAM: I think we should just proceed straight to the public hearing.

The CHAIR: So you would prefer to go straight into a public hearing?

JENNY WEST: Yes.

The CHAIR: Let's do that, then. I could have avoided reading that in-camera statement, but thank you very much. Let's open it up.

(Evidence in camera concluded.)

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PRESENT VIA VIDEOCONFERENCE

The Hon. Peter Poulos

The CHAIR: Welcome to the second 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, who are 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.

Before we commence, I would like to make some brief comments about the recent unauthorised disclosure of evidence that was given in camera and confidential to the Committee, and which unfortunately appeared on the front page of *The Australian* newspaper on Thursday 7 July. The disclosure of in-camera evidence is a very serious matter for a committee, as it can constitute a contempt of Parliament. Unauthorised disclosure of committee information may result in damage to individual participants in committee inquiries, the integrity of the committee system and the public interest. It can also jeopardise witnesses and others who provide confidential information to committees by exposing them to the risk of reprisals or other forms of adverse treatment as a result of giving evidence, deterring future witnesses from giving confidential evidence to committees. It undermines the relationship of trust between members of the committee, which is necessary for committees to function effectively, and lowering public confidence in the committee, the committee system and the Parliament generally. The Committee has begun its investigations into the disclosure and apologises to those who have been unfairly affected or involved.

I would also 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 you may make to the media or to others after you complete your 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 witnesses 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, could everyone please turn their mobile phones to silent for the duration of the hearing.

Today we will be hearing from one witness, Ms Jenny West, who is the former Deputy Secretary, Trade and International at Investment NSW. I thank Ms West for making time to give evidence to this inquiry.

Ms JENNY WEST, Former Deputy Secretary, Trade and International, Global NSW, Investment NSW, sworn and examined

The CHAIR: I understand you have an opening statement for the Committee?

JENNY WEST: Yes, I do. I am here today at the Committee's request. I have never spoken publicly about this matter. For the sake of my family and their privacy, I have been trying to move on from what has been a very disappointing episode in my life. I hope my evidence can help the Committee understand the facts of this matter. In that respect, I am happy to assist where I can. I commenced as the Deputy Secretary, Trade and International in NSW Treasury in October 2020. Prior to that, I had worked as the General Manager, Trade and Investment/Digital Innovation at Austrade for 18 months. I moved into the public sector after more than 20 years in the private sector in the banking and services industry, including leadership roles in Diageo, Telstra and Westpac, amongst others.

In March 2021 I moved into Investment NSW, an agency within the Department of Premier and Cabinet. I remained Deputy Secretary, Trade and International. I reported directly to Amy Brown, who had then been appointed as CEO. On 12 May 2021, with the support of Ms Brown, I applied for the senior trade and investment commissioner role for the Americas. I sent a cover letter of my CV to NGS Global, the external recruitment agency. On 21 July 2021 I appeared before the interview panel comprising Ms Brown; Mr Jim Betts, the incoming Secretary for the Department of Premier and Cabinet; an independent panel member; and Dr Marianne Broadbent of NGS Global. On 12 August 2021 Ms Brown told me I was the successful candidate. She sent me a briefing signed by Premier Berejiklian, noting my appointment as Senior Trade and Investment Commissioner to the Americas.

On 14 August 2021 Ms Brown approved my request regarding my contract terms. I was so excited about the appointment. I immediately shared the news with my family and friends. They were so happy for me. I began taking steps to relocate and had engaged a relocation company. I looked at rental accommodation in New York and researched colleges for my family. I thought I would be starting the new role in a matter of weeks and I wanted to have my affairs in order. Over the next four weeks I followed up on my written contract with human resources and legal. I was told that there were delays as Investment NSW was awaiting US taxation advice. On 16 September 2021 Ms Brown requested an in-person meeting the following day. In that meeting she told me that there was a submission going up to Cabinet requesting that the senior trade commissioner roles would become political appointments and not public sector appointments.

Ms Brown indicated that this meant that my Americas trade commissioner role would be on hold. Ms Brown then also told me at that meeting that the funding for my current position, the deputy secretary position, within Investment NSW had been reallocated and I may not have that position either. That news shocked me. On 18 September 2021 Ms Brown emailed me advising that any contract for me in the senior trade commissioner Americas role would have to await the outcome of the Cabinet decision. On 27 September 2021 Ms Brown told me that Cabinet had endorsed the request for senior trade commissioner roles to become political appointments. In the space of four weeks I went from having been appointed to the role of the Senior Trade and Investment Commissioner to the Americas to potentially not having a job. I felt so confused by what Ms Brown had told me.

On 11 October I emailed my one-up manager, Mr Michael Coutts-Trotter, the Secretary of the Department of Premier and Cabinet. I asked Mr Coutts-Trotter for a 15-minute meeting to explain my situation. I did not receive a response from him. The next I heard from him was by way of a formal letter terminating my employment one month later. On 14 October 2021 I had a Teams meeting with Ms Brown at her request. She told me that I would not be getting the senior trade and investment commissioner role for the Americas. Ms Brown said that the position—and this is a quote—"will be a present for someone". She added—and I again quote—"you are an extraordinary performer and I am upset that this has happened". On 19 November 2021 I received a letter terminating my employment, effective from close of business 30 November. This was clearly not how I had expected my public sector career to end.

Until the events of last year I thoroughly enjoyed my time in the Federal and New South Wales public sectors and I believe I achieved my goal of making a difference alongside many other hardworking and dedicated public servants who shared my values and integrity. Until Ms Brown's in-camera evidence before this inquiry on 29 June 2021, I have never been told that my appointment to the Senior Trade and Investment Commissioner to the Americas role had been withdrawn because of concerns about my professional experience or performance. I had received no explanation from Ms Brown or Investment NSW other than what I have outlined today. I am genuinely surprised by the matters raised now by Ms Brown in her evidence before this inquiry. Given those matters have now been made public, I believe I should be given an opportunity to respond to them, especially because many of the things said are inaccurate or even false.

I understand Ms Brown gave evidence to this Committee that she now thought me unsuitable for the appointment. This suggestion is contrary to my selection by an independent committee following a competitive process and contrary to what Ms Brown told me at the time of my appointment. During my employment in New South Wales government I have never received any negative feedback about my performance. The feedback I had received was positive. This included Ms Brown's support for me to apply for the position of trade commissioner to the Americas at a performance review at New South Wales Treasury. Ms Brown's suggestion that there were discrepancies in my curriculum vitae is false. My CV was given to an independent panel well ahead of the selection process. It was independently checked and vetted by an agency which has the skills to do so. The results of that vetting were part of the process which resulted in my selection. I stand by my CV.

Ms Brown says after she told me I was not getting the trade commissioner role to the Americas the relationship between us and between me and Investment NSW deteriorated somewhat and I was absent from work without explanation. This is untrue. The period to which she refers was a period during which I took sick leave and provided the appropriate medical certificates to justify the same. Ms Brown suggested that I had taken time away from work or misused resources by travelling when there was no need to do so and going so far as to imply that I was doing it for personal reasons. That is false. Ms Brown gave no details as to dates and I categorically deny such an allegation. Ms Brown suggested that I had concealed my diary. That is untrue. My diary was always available for inspection. My diary was open and my executive assistant had open access to it. I noticed that Ms Brown also suggested that I had mischaracterised some exchange between an unnamed person at Investment NSW and a prominent businessman. Like that prominent businessman, I have no idea what Ms Brown is talking about.

When I read Ms Brown's evidence I was very disappointed. Until this time I believed that we had a good relationship. As I have set out, much of what Ms Brown has said is simply untrue. Had she contacted me, I could have corrected her. She did not contact me. I now look at that evidence, combined with the fact that it seems to involve an investigation after the senior trade commissioner Americas role had been withdrawn, with dismay. I hope this opening statement has been of some assistance. I would request a copy of this statement to be tabled. I look forward to your questions. Thank you.

The CHAIR: Thank you very much, Ms West. Yes, we will get that opening statement tabled and distributed to Committee members. We will begin with questions from the Opposition.

The Hon. DANIEL MOOKHEY: Chair, I was just going to invite the witness to table the documents too.

The CHAIR: Yes, sorry, the whole lot.

The Hon. DANIEL MOOKHEY: Ms West, are you happy to table the documents?

JENNY WEST: Yes, I am.

The CHAIR: Yes. They have been tabled as well and distributed to Committee members. Thank you.

The Hon. DANIEL MOOKHEY: Thank you, Ms West, for appearing today and also thank you for preparing an opening statement. I might just take you to some of the key events that you mentioned in your opening statement, if you don't mind.

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: Can I just confirm again that you were offered the position on 12 August 2021 of Senior Trade and Investment Commissioner to the Americas?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: And from 12 August 2021 to circa 16 September 2021 you were, in effect, involved in negotiating the terms of your appointment?

JENNY WEST: Yes, that's correct.

The Hon. DANIEL MOOKHEY: And then, on 16 September, in a conversation—was it a conversation with Ms Brown? Was it an in-person meeting with Ms Brown? She tells you that the submission is going up to Cabinet and requesting that the senior trade commissioner roles to become political appointments and not public sector appointments. Is that correct?

JENNY WEST: Sorry, what date was that again?

The Hon. DANIEL MOOKHEY: It was 16 September. I'm just at paragraph 10 of your statement, Ms West.

JENNY WEST: Yes. On 16 September she texted me requesting a meeting the next day.

The Hon. DANIEL MOOKHEY: And in that meeting, which took place on the seventeenth, she told you there was a submission going to Cabinet converting these into political appointments?

JENNY WEST: Yes, that's correct.

The Hon. DANIEL MOOKHEY: At that point, did she indicate to you who was bringing that submission to Cabinet?

JENNY WEST: She did, but that would be Cabinet-in-confidence.

The Hon. DANIEL MOOKHEY: Okay. She sent you an email on 18 September 2021, advising you that the position would now have to await the outcome of Cabinet, correct?

JENNY WEST: Yes. That is correct.

The Hon. DANIEL MOOKHEY: And that email is produced in your documents, is it not?

JENNY WEST: Yes, it is.

The Hon. DANIEL MOOKHEY: Do you mind opening that document? I think you'll find it's towards the back.

JENNY WEST: Sorry. I am trying to find the page.

The Hon. DANIEL MOOKHEY: It follows the handwritten file note that is photocopied, if you're looking for it; so it's immediately after that. Perhaps I might read it to you.

JENNY WEST: Apologies, yes. Sorry, my filing is—

The Hon. DANIEL MOOKHEY: Can I just read you the key part from it?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: This is what Ms Brown says to you:

Given the Deputy Premier has now formally lodged a submission to Cabinet which would, if approved, affect Investment NSW's delegations in relation to appointment of all Senior Trade and Investment Commissioner roles, I won't be able to proceed with finalisation of your contract until I am aware of Cabinet's decision.

JENNY WEST: Yes, that's correct.

The Hon. DANIEL MOOKHEY: So I think we can infer from that that, according to this email, it was the Deputy Premier who brought the submission to Cabinet. That is correct?

JENNY WEST: That is my—that—

The Hon. DANIEL MOOKHEY: That is at least what you were told?

JENNY WEST: That is what I have been told.

The Hon. DANIEL MOOKHEY: Fair enough. On 27 September Ms Brown tells you that the Cabinet has acceded to the Deputy Premier's request to convert these into political appointments. That is clear?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: Can we now turn to the events of 14 October. You have a Teams meeting with Ms Brown at her request. Is that right?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: And that Teams meeting is when Ms Brown says that this position—and this is a quote—would be "a present for someone". Yes?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: That is your best recollection of that conversation?

JENNY WEST: Yes, that is.

The Hon. DANIEL MOOKHEY: Was that Teams meeting recorded, by any chance? Are you aware?

JENNY WEST: No. What I tend to do in any meetings that I have is I take notes so that I can do follow-up actions afterwards. Given that this was an important meeting, I was taking notes during the Teams meeting.

The Hon. DANIEL MOOKHEY: Okay. And you have provided an email in which, I think, this conversation is documented, have you not?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: You have provided that email?

JENNY WEST: Yes. I have.

The Hon. DANIEL MOOKHEY: I think I've got that in front of me. This seems to be an email that you have sent to, I presume, people at a law firm, which I am only inferring from the email address. Is that correct?

JENNY WEST: Yes, that is correct.

The Hon. DANIEL MOOKHEY: And were these your lawyers at the time?

JENNY WEST: Yes, that is correct.

The Hon. DANIEL MOOKHEY: The Teams meeting, according to this email, takes place at 5.15 p.m. on 14 October 2021. Is that so?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: And you sent this email at 5.35.

JENNY WEST: Yes, straight after it.

The Hon. DANIEL MOOKHEY: So you wrote this immediately after you heard Ms Brown say that this would be a present for someone. You immediately emailed your lawyers.

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: And you documented the call.

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: Can I take you to page—I think it is identified as page 2 of the email, or at least the second page of the email. Can you read the first paragraph, please, for me?

JENNY WEST: "I have spoken to Minister Ayres who has taken"—

The Hon. DANIEL MOOKHEY: Sorry, just from the start.

JENNY WEST: Okay. "Amy - I have spoken to Minister Ayres, who has taken over the Deputy Premier's portfolio, and he has confirmed that you will not be getting the Americas role. It will be a present for someone. There will not be a role in New York for you. It has also been decided, given the other band 3s around the world, we will not be having a Deputy Secretary, Trade and International—Onshore so the role won't exist in the new structure."

The Hon. DANIEL MOOKHEY: Thank you.

The Hon. JOHN GRAHAM: Just on that point, that role that is being referred to is your job.

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: The one you were performing at the time.

JENNY WEST: The job I was performing at the time. So, on the same day, I got informed that the Senior Trade and Investment Commissioner role that I had been offered would not be going ahead. On that same day at the same time I was also told that my existing role would no longer exist.

The Hon. JOHN GRAHAM: Thank you.

The Hon. DANIEL MOOKHEY: And you were told it was a "present for someone"—

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: —in the space of the same conversation?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: What was your reaction when you were told?

JENNY WEST: I was shocked. As I said previously, in four weeks I went from getting ready with my family to go overseas for three years to being told I wouldn't have a job.

The Hon. DANIEL MOOKHEY: I just want to unpack each of the aspects that were related to you on this Teams meeting that's documented in this email to your lawyer that you wrote 20 minutes afterwards. Just to confirm, your clear recollection was Ms Brown saying to you, "I have spoken to Minister Ayres, who has taken over the Deputy Premier's portfolio, and he has confirmed that you will not be getting the Americas role."

JENNY WEST: Yes. That's my clear recollection.

The Hon. DANIEL MOOKHEY: Did you at that point think the decision not to appoint you to the Americas role was Ms Brown's, Minister Ayres', or both?

JENNY WEST: I'm not sure on that.

The Hon. DANIEL MOOKHEY: But it's clear that in relaying this decision to you, Ms Brown was referring to a conversation that she had had with Minister Ayres?

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: Did she ever identify when that conversation took place?

JENNY WEST: No.

The Hon. DANIEL MOOKHEY: She has told us that she'd met with Minister Ayres sometime between 5 October and 8 October, upon him getting the portfolio. So it's quite possible that it may have been that conversation, I guess, from our view, but she shed no light as to whether it was that or if there was a second conversation.

JENNY WEST: I can't comment on that. I don't know.

The Hon. DANIEL MOOKHEY: To be clear, when she said, "It will be a present for someone", what did you think that meant?

JENNY WEST: I just thought it was an unusual turn of phrase, so I took notes of it.

The Hon. DANIEL MOOKHEY: Have you ever heard a person in the public service describe a job as a "present for someone"?

JENNY WEST: I can't comment on that.

The Hon. DANIEL MOOKHEY: But it's unusual; that's not common lexicon.

JENNY WEST: I just thought it was an unusual turn of phrase, yes.

The Hon. DANIEL MOOKHEY: This point is when she expresses a view that the existing position that you had been performing, at that point, at least for six months—

JENNY WEST: For over a year.

The Hon. DANIEL MOOKHEY: —for over a year would be terminated?

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: That was in the same conversation?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: At that point did she raise any concerns about your performance?

JENNY WEST: No. No concerns about my performance were ever raised until the in-camera evidence that she raised last week.

The Hon. DANIEL MOOKHEY: Your appointment was terminated on 19 November effective from 30 November, correct?

JENNY WEST: Yes, that is correct.

The Hon. DANIEL MOOKHEY: Were you terminated under section 41 of the Government Sector Employment Act?

JENNY WEST: Yes, that is correct.

The Hon. DANIEL MOOKHEY: And that is the section of the Act that says "termination for no cause"?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: As a result of you being terminated for no cause, did you receive your statutory entitlement under that Act?

JENNY WEST: Yes. All I received was my statutory 38 weeks and I received no further compensation for anything.

The Hon. DANIEL MOOKHEY: But, to be clear, you weren't terminated for cause and that payment wasn't withheld?

JENNY WEST: No.

The Hon. DANIEL MOOKHEY: At that point did Ms Brown indicate to you that she was launching an investigation into your conduct?

JENNY WEST: No, she did not.

The Hon. DANIEL MOOKHEY: At that point did she suggest to you that she would be making inquiries into your CV?

JENNY WEST: No, she did not.

The Hon. DANIEL MOOKHEY: At that point did she suggest to you that she would be making inquiries into your education?

JENNY WEST: No, she did not.

The Hon. DANIEL MOOKHEY: When was the first time you learnt that you were subject to an investigation into your CV, your education and your other career history?

JENNY WEST: Last week, when she raised it in the in-camera evidence.

The Hon. DANIEL MOOKHEY: And this investigation took place at the same time you were already effectively notified that there was a likelihood that you were to be terminated?

JENNY WEST: Sorry, repeat that question again.

The Hon. DANIEL MOOKHEY: This investigation, according to Ms Brown, took place sometime after 1 October, I think—according to Ms Brown's evidence—but at no point were you notified at all?

JENNY WEST: No. At no stage at any time in my career in New South Wales government have I been told that I was underperforming or had any conversations about that. In fact, I was told on numerous occasions by Ms Brown that I was a good performer. She'd encouraged me to apply for the STIC Americas role. I believed until the in-camera evidence last week that we had a very good relationship.

The Hon. JOHN GRAHAM: Could you go back to the last line of the email before that meeting ends and read out the last line to that point?

JENNY WEST: It reads:

Amy - yes of course. You are an extraordinary performer and I am upset that this has happened.

The Hon. JOHN GRAHAM: Thank you.

The Hon. DANIEL MOOKHEY: Ms West, when you found out last week that you were subject to this investigation, how did you react?

JENNY WEST: I was shocked, to be honest, because before that evidence came out from Ms Brown I thought we had a very good relationship. We had a very good professional relationship. We worked very closely together for over eight months. We had a very complementary skill set. She had a very strong domestic government background; I had a very strong international government and cross-industry background. So we complemented each other and we worked very closely for eight months. On numerous occasions she told me that she loved having me as part of the team and I never had any negative performance-related issues raised with me.

The Hon. DANIEL MOOKHEY: Ms West, one of the suggestions in front of this Committee is the investigation which took place after the offer of the Americas position was withdrawn from you, and now clearly after you were notified that you to be made redundant—one of the suggestions in front of the Committee is that such a campaign or investigation was launched, in effect, to retrospectively justify a decision to remove you. Do you have anything you would like to say to the Committee about that?

JENNY WEST: I can't comment on that. You would need to ask Amy Brown.

The Hon. DANIEL MOOKHEY: Sure. Can I go back to the very first part, about how you were chosen for this role? You said earlier in your statement that Ms Brown encouraged you, or you had the support to apply for this role?

JENNY WEST: Yes, that is correct.

The Hon. DANIEL MOOKHEY: How did she express that support?

JENNY WEST: I mentioned to her that, given that I had been in my dep sec trade and international role and helped set things up, I felt I could continue the good work that I was doing over in the Americas. She thought it was a great idea and said, "I think that's fantastic." She even said that with my knowledge of Federal government, and New South Wales government as well, I would also be able to help the other STICs, who were new in from the private sector, with my government background. So she actively encouraged me to take that role.

The Hon. DANIEL MOOKHEY: Then you did put an application in, did you not?

JENNY WEST: Yes, I did. I put in a formal application via NGS Global, the independent recruiter.

The Hon. DANIEL MOOKHEY: Then they presumably shortlisted you?

JENNY WEST: Yes. I went through an initial interview with the recruitment company. I was then shortlisted, as per New South Wales public sector guidelines, for an independent panel. I went through an—

The Hon. DANIEL MOOKHEY: We'll get to that, Ms West.

JENNY WEST: Yes, okay.

The Hon. DANIEL MOOKHEY: To be clear, to the best of your knowledge you were following the same process as every other applicant?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: You had no idea how many people had applied for the role?

JENNY WEST: No, I did not.

The Hon. DANIEL MOOKHEY: This was all being run by NGS Global, externally from Investment NSW?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: And they then shortlist you—

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: —and recommend you for an interview with the panel, which takes place on 21 July 2021? Is that correct?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: That panel comprised the then incoming secretary of the Department of Premier and Cabinet, did it not?

JENNY WEST: Yes, it did.

The Hon. DANIEL MOOKHEY: And Mr Betts' appointment to that role had already been announced at that point.

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: So you thought you were appearing before the next head of the public service.

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: And you prepared accordingly, did you not?

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: There was an independent panel member?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: Was that the Hon. Warwick Smith?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: It was Dr Broadbent of NGS who was running the recruitment process, correct?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: Did they question you?

JENNY WEST: Yes, they did. I went through a lengthy interview process. It was a range of different capabilities that they did the interview on.

The Hon. DANIEL MOOKHEY: And you emerged, did you not, as the preferred candidate?

JENNY WEST: Yes, I did. I was told I was the preferred candidate. Amy called me and sent me a text to congratulate me on the role.

The Hon. JOHN GRAHAM: The idea that you were the preferred candidate was conveyed to you by Amy Brown, was it?

JENNY WEST: Yes, it was.

The Hon. JOHN GRAHAM: Was it conveyed to you in any other way?

JENNY WEST: No. She sent me a text message saying, "Congratulations, this is one to frame." She had an emoji of a Statue of Liberty and a champagne bottle, and she attached the Premier's signed-off briefing note of my appointment to the senior trade commissioner's role to the Americas.

The Hon. DANIEL MOOKHEY: Which is somewhere in this document.

JENNY WEST: Yes.

The Hon. PENNY SHARPE: Are you aware that other Ministers signed off on the role as well?

JENNY WEST: I heard that through—

The Hon. PENNY SHARPE: The Treasurer at the time, Mr Perrottet.

JENNY WEST: My understanding is that they were all briefed.

The Hon. DANIEL MOOKHEY: To be very clear, you're sent the briefing note in which Premier Berejiklian notes your appointment to the role?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: So Ms Berejiklian is told you're appointed to the role before you are, because she presumably signed a briefing note before you're told.

JENNY WEST: Yes, correct.

The Hon. JOHN GRAHAM: That briefing note was signed on 12 August 2021, for the record.

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: So Premier Berejiklian had literally signed the briefing note that day before you're told.

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: I can only presume that when you were offered this job with a signed briefing note from the Premier of New South Wales—who, at this point, is also managing a lockdown—you may have been pleased.

JENNY WEST: Yes, I was, and I phoned my family to let them know the news.

The Hon. DANIEL MOOKHEY: Thereafter you go through the process of negotiating the contract terms?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: It seems that was not particularly difficult.

JENNY WEST: No, that was in two days' time, that it was done within. I sent a follow-up email to Amy following that on the—and by the thirteenth of the eighth I had the contract terms finalised, so one day later, by Ms Brown.

The Hon. DANIEL MOOKHEY: Ms West, do you think you were treated fairly in this process?

JENNY WEST: I was surprised with how the process had been done. I thought the process was unusual because it was a proper public sector process. I went for a job. I applied for it. I got offered the role, and then to have that role withdrawn and then to be told that it was going to be a political appointment and not a public sector appointment—I couldn't get my head around how a process could be stopped midway and then to be told that I'd lost my existing job. To be honest, I couldn't get my head around that.

The Hon. PENNY SHARPE: What did you think it meant when you were told that this was going to be "a present" for someone else?

JENNY WEST: I just thought that terminology was unusual.

The Hon. DANIEL MOOKHEY: Ms West, at any point did you consider reapplying for the role when it was offered a second time?

JENNY WEST: I would have reapplied for the role, but I couldn't. The reason I couldn't reapply for the role is that—people may not know that if you've actually been made redundant you can't reapply for a role in the public service for nine months. I did not believe that I would be able to reapply for the role because it was a political appointment and not a public sector appointment.

The Hon. PENNY SHARPE: Just to be clear, though, you lost your job on the day you were told you didn't have that role. But by losing it in the way that you did, it prevented you from being able to apply in the future.

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: Chair, with your indulgence, could I ask one question to close that line?

The CHAIR: Yes, if it is closing that line and not a new line of inquiry.

The Hon. DANIEL MOOKHEY: Is it not the case that there currently is a deputy secretary, trade and international at Investment NSW and that someone immediately moved in to fill your position that you were apparently made redundant from?

JENNY WEST: I actually saw on LinkedIn one month ago there was a managing director, trade and investment role advertised on LinkedIn. It was a band 3 role and not a band 2 role.

The Hon. PENNY SHARPE: In effect, you were made redundant and somehow a job very similar to yours was advertised just some months later.

JENNY WEST: That is my understanding.

The CHAIR: Ms West, how did you feel when you heard that the role had been given ultimately to John Barilaro?

JENNY WEST: I was disappointed when I was told that they were going to be political appointments rather than public sector appointments because I had a very strong vision and objectives around what I wanted to achieve in the Americas on behalf of the people and businesses of New South Wales. That was the main reason for my disappointment. But I did accept that they would be political appointments, so when Mr Barilaro was appointed I just assumed that was a political appointment.

The CHAIR: When Ms Brown said the position was "a present for someone", were you surprised then when you heard ultimately that it was John Barilaro who got that present?

JENNY WEST: I had moved on at that stage. I just assumed it was because it was a political appointment and that's who they had chosen and felt was right.

The CHAIR: Did you actually meet with any Ministers? Once you had been offered the role in the first instance, had you discussed or met with any Ministers regarding your potential appointment or was it just all through Ms Brown?

JENNY WEST: It was all through Ms Brown.

The CHAIR: I go back to the meeting that you had in person with Ms Brown on 17 September, where she raised with you the fact that there was a separate submission to Cabinet to make the senior trade and investment commissioner roles political and not public sector appointments. When Ms Brown spoke to you on 17 September about the STIC role, was there any discussion at that time by Ms Brown with you about the position you were currently in—the deputy secretary position?

JENNY WEST: Yes. The discussion we had then was that she said that she may be using some of the funding from my role to fund other roles.

The CHAIR: That was then. Was it at that point that the relationship potentially deteriorated between the two of you, and it was good before then?

JENNY WEST: I wouldn't say that the relationship had even deteriorated then. I had always got on very well with Ms Brown, and we had a very open relationship and good conversations. I understood the fact that they were moving from public sector to political appointments, and I accepted that—that that is part of being in the public service. I was trying to get my head around why my deputy secretary role was being made redundant, because I was in the middle of some very large programs of work on behalf of the people and businesses of New South Wales and I felt that I had a lot more to offer and a lot more work to do.

The CHAIR: Thank you. There's an email on 31 May 2021. It says that your executive assistant sent an email listing—and this was to Tim Reardon, Warwick Smith, Amy Brown and Jenny West as the panels for the interviews for the Singapore and India positions.

JENNY WEST: Yes.

The CHAIR: In that email it says that the Americas must be done "as soon as possible". Why did the Americas need to be done as soon as possible? That was back in May 2021.

JENNY WEST: The first two candidates, as you are aware, that were put forward were the Agent General in the UK and the STIC role for Japan and Korea. My understanding was the next role that was going to be done was the Americas role because there were still interviews being done with the other candidates. When I told Ms Brown that I was interested in the STIC Americas role, I completely withdrew myself from anything to do with any other appointments. So I can only comment about the first two roles to this Committee.

The CHAIR: I'm just trying to get to the sense of urgency back within the department at that time in May to recruit for the Americas role as soon as possible. There was also a slideshow that was released in the order for documents by the upper House that showed the fact that the New York office was going to have an official launch in November, for example.

JENNY WEST: Yes.

The CHAIR: So everything was well underway, as far as you were aware, ready to launch and hit "go" in November 2021.

JENNY WEST: Yes, that is correct.

The CHAIR: Did you have anything to do with, for example, helping plan the November launch? Were you involved in any way or had you not started because you hadn't been offered your contract?

JENNY WEST: I had not started because I had not been offered my contract. Because I was performing the dep sec trade and international role at the time, I would deal with Ms Brown's office directly on the Americas role, because I didn't want my team to get unsettled about me potentially having another role.

The CHAIR: Can I just check in terms of that almost \$1 million fit-out that was being reported for the New York office, all of that didn't start, as far as you're aware, during the time that you were in that period, in September. Do you know who signed off on that and how that was done?

JENNY WEST: In terms of the fit-out, as part of the planning for the international network fit-out, we had all been involved. And I was also involved in program planning of rolling out the offices, getting the legals, getting the risk, getting compliance, getting the fit-outs done around the world. And we were involved—we had an external company come in and negotiate leases and costs to get that done, but that was done within the operations area that came under the chief operations office.

The CHAIR: Thank you. I wanted to just go back again to some of the evidence that we heard from Ms Brown at the last hearing. She did inform this Committee that contract was never issued, and that's potentially—you're saying that was correct and the formal offer was never made. I just wanted to get a sense from you, because it says here—she said the formal offer was never made. In your view, in terms of that brief from the

Premier at the time, as well as what Amy Brown offered you, did you treat that as a formal offer when it was made?

JENNY WEST: Yes, I did. I got verbally offered the job. I'd negotiated the terms of my contract. I had had a signed-off briefing document from the Premier noting my appointment to the senior trade and Americas role and I was told that the contract would be ready in four weeks, and I was chasing that contract, so I thought that was a formal offer.

The CHAIR: And that the only thing that you have been informed, in terms of why that contract was never offered, was the payroll issue in terms of operating in New York?

JENNY WEST: Sorry, say that again.

The CHAIR: The reason that you were told, in terms of the delay in the contract beyond four weeks—

JENNY WEST: It was to do with trying to get US tax advice. In the end, it was on 14 August the terms of the contract were approved and on 16 September I was still chasing the contract. I was chasing the contract for six weeks. And you'll see from some of the text messages, they kept saying, "Oh, we're waiting on security clearance. We're waiting on US taxation advice. We're waiting on this." It was a few different reasons as to why the contract was delayed.

The CHAIR: Thank you. I just wanted to check as well, just in terms of—actually, I'll come back to it.

The Hon. ROBERT BORSAK: Ms West, thank you very much for coming today. Having read your statement and seen the evidence you've presented to us, I know how really hard this is. So thanks, indeed. Just initially, how would you characterise Ms Brown's evidence in terms of what she said about you both publicly and, unfortunately, that has been leaked into the public forum in relation to yourself?

JENNY WEST: As I said previously, I was very shocked because, until I heard Ms Brown's evidence, I thought that we had a very good professional relationship. We'd even had a very successful recent tour with a number of the European ambassadors up to the Hunter Valley. We'd sat next to each other on the bus. We'd talked about how we could support the people and businesses of New South Wales. And, until that evidence, I thought that we had a very, very good professional relationship.

The Hon. ROBERT BORSAK: So in a sense—I don't want to sound trite about it but, effectively, they closed ranks against you after you were gone and threw you under the bus. Is that right?

JENNY WEST: I can't comment on that, but all I can say is that I haven't been in Investment NSW since the end of November last year. I've tried to move on with my life and so to, in retrospect, have something like that said about me is quite disappointing.

The Hon. ROBERT BORSAK: You were sort of meeting with Mr Coutts-Trotter after you lost the senior trade role, and did he—I know in evidence you said he didn't revert to you formally, but were you reverted to in any way from anybody in relation to that request?

JENNY WEST: No, I was not.

The Hon. ROBERT BORSAK: So you were left completely in the dark? You didn't get a chance to answer anything or ask any questions?

JENNY WEST: No, I did not, and I had no idea what had happened until I heard that he had just referred that back to Investment NSW.

The Hon. ROBERT BORSAK: Next was your letter of termination. That's the next time you formally heard, or heard from him at all, in relation to this matter?

JENNY WEST: Yes, correct.

The Hon. ROBERT BORSAK: Why do you think you were terminated completely?

JENNY WEST: I honestly don't know. You'd have to ask Ms Brown.

The Hon. ROBERT BORSAK: You were obviously very disappointed by the evidence that was leaked into the public arena in relation to the in-camera evidence. Regarding the content of that evidence from Ms Brown, how did that actually make you feel at the time?

JENNY WEST: I was very shocked and upset. I've worked exceptionally hard for my career over the years and I'm a very professional person that works because I enjoy it. I love working with people. I love building great teams. So I was quite horrified by what she had said, because it is so different from who I am.

The Hon. ROBERT BORSAK: Do you think that that may have a longer-term effect on your ability to gain senior roles in the future, both in the private and in the public sector?

JENNY WEST: I am concerned about that. And I would hope, in the future, an organisation will take me for who I am and see the truth.

The Hon. ROBERT BORSAK: Thank you. You obviously may not know the answer to this question but, in terms of all things considered, what we know now is in the public arena—do you think it was part of a normal process for the appointment to change and be interfered with by Mr Barilaro's office?

JENNY WEST: I had questions around the process. As I said previously, I couldn't quite understand how there was a public sector process fully underway and that I had gone through an independent panel interview process, been deemed as the best candidate based on a range of criteria, been verbally offered the role and preparations underway to finalise a contract, and then to have that role rescinded and told it was on hold and then a process up through Cabinet to make it a political appointment. I couldn't understand that process.

The Hon. ROBERT BORSAK: Ms Brown gave us evidence, if I recollect correctly, that that occurred after she'd had a discussion with someone in Mr Barilaro's office.

JENNY WEST: You would have to ask Ms Brown about that.

The Hon. ROBERT BORSAK: I believe that's the evidence she offered to us at the time. Do you think Mr Barilaro himself may have interfered in the process? Have you got any inkling in relation to that?

JENNY WEST: I can't comment on that.

The Hon. ROBERT BORSAK: Okay. Thank you.

The Hon. WES FANG: Thank you, Ms West, for appearing today. I can appreciate it is extremely difficult, and I thank you for the candour with which you've provided the evidence to this point. The first question I'll ask is one that was asked of the previous witness in the hearing—it was I think the first question asked by the Opposition. Have you, or any representative, or part of your legal team, spoken to any member of this Committee or provided documents to them in relation to this matter before today?

JENNY WEST: No, they have not.

The Hon. WES FANG: In relation to STIC Americas, was it the only role, are you aware, that was not proceeded with under the restructure or reappointment process handled by government?

JENNY WEST: I can't comment about the other roles. The two roles that I can comment about is the Agent General role and the STIC Japan and Koreas role that were public sector appointments before the change in terms of political appointments.

The Hon. WES FANG: How many STICs are there in total, do you know?

JENNY WEST: Six, including the Agent General.

The Hon. WES FANG: So the change of mechanics around the appointment was not only affecting STICs America; is that right? It affected a number of the other STIC appointments?

JENNY WEST: That is my understanding. But you would have to ask Ms Brown on that, because I was not involved in the subsequent processes.

The Hon. WES FANG: Is it fair to then conclude that the STIC Americas position wasn't the only position that was potentially recruited for but then had to go back to a second round?

JENNY WEST: I can't comment on those other roles because I wasn't involved in that process.

The Hon. WES FANG: Okay. When you have communicated through email to, I think you said in answer to Mr Mookhey's question, your lawyers at the time that the role was a "present" for somebody, was that in reference to the position being a political or a ministerial appointment?

JENNY WEST: I can't comment on that. I just thought it was an unusual turn of phrase at the time.

The Hon. WES FANG: So you didn't draw any conclusions as to what made it a "present" to somebody, is that fair?

JENNY WEST: At the time I was just surprised at the turn of phrase so noted it down.

The Hon. WES FANG: Do you believe that the recruitment process that you underwent was rigorous and thorough?

JENNY WEST: Yes, I do. That wasn't just the first recruitment process that I had been in since moving into New South Wales government. When I went in as the Deputy Secretary of Trade and International I went through another independent recruitment process, I went through psychometric testings and I went through another independent panel interview. So this vetted independent recruitment process that I went through for the STIC Americas role was actually the second time in New South Wales government that I had gone through an independent panel and been told I was the preferred candidate.

The Hon. WES FANG: In relation to the members who were on your panel for interview, you had a number of people—Warwick Smith I believe was one and the person from NGS Global. Do you believe they conducted it with integrity and thoroughness and impartiality?

JENNY WEST: Yes, I do.

The Hon. WES FANG: Ms Kathrina Lo, have you met her previously?

JENNY WEST: Yes, I have.

The Hon. WES FANG: And would you say that she is somebody who acts with honesty and integrity?

JENNY WEST: Yes, I do.

The Hon. WES FANG: Having been through that recruitment process, which you have described as rigorous and thorough, do you think that would indicate that you are highly suitable for the role?

JENNY WEST: That is my understanding. It was an independent panel.

The Hon. WES FANG: Okay.

JENNY WEST: And that is what I was told by Ms Brown at the time as well.

The Hon. WES FANG: What we know now is that when the decision was made to relook at the STIC Americas position along with the other STIC positions which weren't concluded at the time we had the recruitment process, it didn't actually go to a ministerial or political appointment as you described it. Minister Ayres continued it with a public service appointment.

JENNY WEST: And I was not aware of that until it came out in the media.

The Hon. WES FANG: Right. So in that instance Mr Barilaro applied as a private citizen. Would you agree with that?

JENNY WEST: To be honest, I can't comment on things post my redundancy. I got made redundant on 30 November and those subsequent events happened once I had left the public service, so I don't feel that I'm in a position to answer that.

The Hon. WES FANG: No, that's fair. I guess I am just working through some of the issues that have come up. We know that you went through a very rigorous and very thorough recruitment process for the role. We know now that Mr Barilaro went through exactly the same rigorous, impartial process because it wasn't a political appointment; it was a public service appointment, which included a number of the members of the same board that you had your interview with. Kathrina Lo was on that interview panel. You have stated now that you have confidence in Ms Lo being impartial and thorough in her work. Would that not indicate to you that Mr Barilaro earned the job on merit, having passed the same recruitment process that you did for the role, not as a political appointment?

JENNY WEST: I can't comment on that. The reason I can't comment on that is that I was under the understanding, and I had been told in terms of my own role, that it was being changed to a political appointment and not a public sector appointment.

The Hon. WES FANG: I guess the question I am asking now is, given we have had more information come to light and you have the fortunate experience that you have undertaken that very rigorous recruitment process, would you agree that for somebody to have passed that rigorous recruitment process with a number of independent and highly regarded members on the interview panel, the person who came out on top of that list for the role would have earned it on merit?

JENNY WEST: I can't comment in relation to the—you would have to ask the panel members and Amy Brown. I don't feel that I am in a position to comment in regard to someone else's appointment.

The Hon. WES FANG: If you had gone through the recruitment process that you did for the role would you have considered it a "present" to you?

JENNY WEST: No, I have never perceived working for the people and businesses of New South Wales as a present. I feel like it is a duty by myself as a citizen to really make a difference out there.

The Hon. WES FANG: So it would be fair to say that if you had undergone the recruitment process as you did it would have been earned on merit not a present?

JENNY WEST: I can't comment on that.

The Hon. WES FANG: I'm going to take up the point that Mr Mookhey raised during his questioning around the emails that you sent to lawyers. You had engaged lawyers at that time?

JENNY WEST: Yes, I did initially because I was trying to understand—I had questions around the process and I was concerned that I may be made redundant without anything.

The Hon. WES FANG: Did those lawyers communicate with Investment NSW?

JENNY WEST: Yes, they did.

The Hon. WES FANG: What did they indicate they were representing you about?

JENNY WEST: About my role and understanding.

The Hon. WES FANG: Which of the roles are we talking about here? Are we talking about the STIC Americas component or are we talking about your deputy secretary role?

JENNY WEST: My understanding is it was about—

The Hon. WES FANG: Sorry, when you say your "understanding", I imagine you are instructing your lawyers.

JENNY WEST: Yes, I am.

The Hon. WES FANG: Can you clarify?

JENNY WEST: That would be, the legal letters would be, the conversation between the lawyers would be a conversation between the lawyers and government.

The Hon. WES FANG: I notice they are not actually tabled in any of the correspondence that we have been given here. Can you perhaps provide some elucidation to us as to—were they seeking something, were they seeking clarification?

JENNY WEST: I will have to take that on notice.

The Hon. DANIEL MOOKHEY: Point of order, Chair.

The CHAIR: Yes.

The Hon. DANIEL MOOKHEY: It is fine questioning but the questioner might be aware that the witness might be entitled to claim legal professional privilege over direct communications between her lawyers and others. There is an element, in the way you frame your questions, you may wish to do so in a way which doesn't invite the witness to have to give up her privilege.

The Hon. WES FANG: I do not believe that I was, but I will take the point on board. Thank you.

The CHAIR: That is to the point of order?

The Hon. WES FANG: No, I'm taking the point without you having to rule.

The CHAIR: That's fine. Continue.

The Hon. WES FANG: Thank you. So the lawyers that were representing you at the time wrote to, when you say the Government, who were they directing those letters to, do you know?

JENNY WEST: Ms Amy Brown.

The Hon. WES FANG: Ms Amy Brown, okay. Was it seeking compensation for what had occurred around the STICs role?

JENNY WEST: I feel that this is something between the Government and the lawyer and I don't feel I'm in a position to answer that.

The Hon. WES FANG: Well, I think in—

The CHAIR: Order! Mr Fang, I'll just have you note the witness's response and don't push that will line of questioning, given her response.

The Hon. WES FANG: No, no. I have not even said a word, Chair.

The CHAIR: It sounded like you were. I'm just—

The Hon. WES FANG: No, no. Well, thank you, Chair. I appreciate the mind-reading; but, however, I will continue with questioning, if that's okay.

The CHAIR: You can continue with questioning.

The Hon. WES FANG: Mr Mookhey actually raised this point so I'm just expanding on this. I'm just trying to find out exactly—

The Hon. PENNY SHARPE: I think he was warning you off the point rather than expanding the point.

The Hon. WES FANG: No, no. He raised it in his question—

The CHAIR: Order! Continue, Mr Fang.

The Hon. WES FANG: Thank you, Chair. Mr Mookhey obviously raised the issue of lawyers that you engaged. Therefore, I'm just seeking to find out what it was that they thought was the issue that they were discussing with the Government.

JENNY WEST: I was—

The Hon. ROBERT BORSAK: Point of order—

The CHAIR: Mr Borsak on probably the similar point of order as Mr Mookhey. Mr Borsak?

The Hon. ROBERT BORSAK: Yes. Mr Fang is doing exactly the same thing and ignoring your ruling. He is asking—

The Hon. WES FANG: You're using up my time now.

The Hon. ROBERT BORSAK: —for detailed information—

The Hon. WES FANG: If this is how we're going to go—

The Hon. ROBERT BORSAK: —about what Ms West's communications with her lawyers was.

The CHAIR: Yes, thank you, and I will—

The Hon. ROBERT BORSAK: That is covered by privilege and you should not be asking questions on that line. Even worse, don't expect an answer.

The CHAIR: Thank you, Mr Borsak. Just to the point of order, Mr Fang, please do not continue asking questions about what is being conducted between Ms West and her lawyers or her lawyers and the Government and just do not proceed along those lines of questions. We've had two points of order to it. If you could continue questions but on another line of questioning, please.

The Hon. WES FANG: It is interesting the number of points of order that have been raised on this issue. Okay. Ms West, in the documents that you've tabled are a number of certificates.

JENNY WEST: Yes.

The Hon. WES FANG: There's two medical certificates from 1 October to 8 October then from 8 October to 12 October.

JENNY WEST: Yes.

The Hon. WES FANG: Obviously, you have tabled those so you're happy for them to be made public.

JENNY WEST: Yes, I am.

The Hon. WES FANG: And they would correspond, obviously, with the timing of when you were notified by Ms Brown about your role in STICs. Is that correct?

JENNY WEST: Sorry. Say that question again?

The Hon. WES FANG: They would correspond with Ms Brown notifying you around the STICs role. Is that right?

JENNY WEST: Yes. Correct.

The Hon. WES FANG: Would it be fair to say that you were impacted by the news that you weren't to be the STIC Americas appointee?

JENNY WEST: I was very disappointed at the time to not be able—I was very disappointed in being told that I wasn't successful for the STIC Americas role and, as you're aware from my previous testimony, I had also at the same time been told I would not, potentially, have a current position. So my doctor advised that I just have some time out, which I did.

The Hon. WES FANG: Chair, can I check how much time I've got left before I continue?

The CHAIR: A few minutes.

The Hon. WES FANG: Okay. And what time are we breaking?

The Hon. JOHN GRAHAM: And then we'll proceed to the break, I think.

The CHAIR: Yes. Then we have a break.

The Hon. WES FANG: Okay. I just don't want to start a line of questioning without—

The Hon. SCOTT FARLOW: I've got a few.

The Hon. WES FANG: I'll pass to Mr Farlow.

The Hon. SCOTT FARLOW: Okay. Thank you very much, Ms West, for making yourself available today and being here. I just wanted to go through in terms of some of your negotiations that you had with Ms Amy Brown in terms of the cost of living. I note there's been a fair bit of criticism with respect to the salaries that are being paid with respect to these roles. I note in your documentation—I think it's in an exchange with Ms Brown—you actually raised the equivalent of Austrade's packages. Is that correct?

JENNY WEST: Yes, correct.

The Hon. SCOTT FARLOW: So the package with Austrade, the total package, is \$500,000 to \$600,000. Is that correct?

JENNY WEST: Correct.

The Hon. SCOTT FARLOW: And there has been some criticism in particular in terms of the salary that was paid to the Agent General in London. Now, there was some consideration of living expenses there. Is that correct? Did you have any knowledge of that at the time?

JENNY WEST: I can't comment on that. You'd have to ask Ms Brown.

The Hon. SCOTT FARLOW: Okay. And, with respect to your package, you were looking at the line of compensation that was provided for both New York and Tokyo—is that correct—because of cost of living challenges in both of those cities?

JENNY WEST: Correct.

The Hon. SCOTT FARLOW: With respect to that in that negotiation, I know of course that a contract wasn't settled in the end, but where did you reach? What was the total figure at that stage that you negotiated?

JENNY WEST: I would have to take that on notice.

The Hon. SCOTT FARLOW: But in regards to that package, that was seen as being equivalent to the Austrade equivalent roles—is that correct—and fair for that package?

JENNY WEST: Yes, correct.

The Hon. SCOTT FARLOW: Thank you.

The CHAIR: Okay. Let's go to a break now.

(Short adjournment)

The CHAIR: Welcome back. We'll get straight into questions from the Opposition.

The Hon. PENNY SHARPE: Ms West, I want to take you to one of the documents that you've got in the folder that you've provided to the Committee, which is from Friday 17 September 2021 at 7.00 a.m. It's one of your handwritten notes.

JENNY WEST: Yes.

The Hon. PENNY SHARPE: Could you take us through that? I suppose I'm asking if you can read that to the Committee.

JENNY WEST: Yes, sure. Seventeenth of—

The Hon. PENNY SHARPE: Yes, the 7.00 a.m. one.

JENNY WEST: Okay, sorry. Yes. You would like me to—

The Hon. DANIEL MOOKHEY: For context, Ms West, the file note says that Ms Brown texted you on Thursday night asking if she could catch up for a walking meeting the next morning at Balmoral.

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: And you agreed to go on the walk?

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: And this walk took place at circa 7.00 a.m. in the morning?

JENNY WEST: Yes, it did.

The Hon. DANIEL MOOKHEY: You say in this file note:

During our walk she went on to explain despite me being verbally offered the STIC Americas role, the Premier signing off on the job/brief she could not progress with my contract currently. She went on to inform me the DP had put up a separate submission to Cabinet to get the authority for decision making in regards to these roles ...

Did you understand the reference to "DP" to be the Deputy Premier?

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: Then apparently you responded by going—do you want to read your response?

The Hon. PENNY SHARPE: I want to check, in the note you talk about that the Deputy Premier had put up a separate submission to Cabinet to get the authority for decision-making in regard to these roles to go direct to himself and not Infrastructure NSW?

JENNY WEST: It would be Investment NSW.

The Hon. PENNY SHARPE: Yes, thank you.

The Hon. DANIEL MOOKHEY: Do you want to read your response?

JENNY WEST: I said I was horrified he could do that after going through the formal interview process panel, verbal offer and sign-off.

The Hon. DANIEL MOOKHEY: Did Ms Brown say to you she "didn't disapprove of anything I said" and had told them that "I'd already signed the contract"?

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: To be clear, you expressed your horror at the Deputy Premier filing a separate submission to Cabinet to get the authority for decision-making regarding these roles to go to himself and Ms Brown agreed with you that it was, effectively, horrible?

JENNY WEST: Yes, that's correct.

The Hon. DANIEL MOOKHEY: Is it the case that Ms Brown put some options to you as to what some alternatives could be? It says here:

Went on to say options:

— Push out 3 years

— India and Sing only

but hands were tied + couldn't do anything else until Cabinet decision to endorse or not.

JENNY WEST: Yes, that's correct. That's when she raised the question around my funding being reallocated elsewhere.

The Hon. DANIEL MOOKHEY: Which, to be fair, I think you may make a reference to. Do you mind reading onwards from the paragraph that begins "We also spoke" to the end of the first paragraph on the next page?

JENNY WEST: Yes. "We also spoke about my role moving forward. She said she had already used my salary to fund managing director investment and cover additional costs in Europe."

The Hon. DANIEL MOOKHEY: Can you go on for the next paragraph?

JENNY WEST: She said we would have to wait until Cabinet. I said I was happy to keep doing what I was doing based on decisions.

The Hon. DANIEL MOOKHEY: Can you read the first paragraph on the next page?

JENNY WEST: "How could he just change some things like that to put his mates in roles to help with the election?"

The Hon. DANIEL MOOKHEY: Is that a question that you asked in that conversation?

JENNY WEST: Yes, it was.

The Hon. DANIEL MOOKHEY: To be clear, you asked Ms Brown how could he just change something like that to put his mates in the role to help with the election? To be clear, when you said, "How could he", who were you referring to?

JENNY WEST: I can't remember at the time.

The Hon. DANIEL MOOKHEY: Is it possible you were making a reference to the Deputy Premier?

JENNY WEST: I can't remember at the time.

The Hon. DANIEL MOOKHEY: Okay. But you clearly had a suspicion that the reason why there was a change in the Cabinet process that led to the withdrawal of the offer that was made to you was so someone could put his mate in the role to help with the election?

JENNY WEST: I can't comment on that.

The Hon. DANIEL MOOKHEY: But that's the note you made?

JENNY WEST: Yes, it is the note that I made.

The Hon. DANIEL MOOKHEY: Can I go forward to the next note, which is timed Friday 17 September, 1:02 p.m. Before we do, the file note that we were reading from before about the Balmoral walk—how long was the walk?

JENNY WEST: About 20 minutes.

The Hon. DANIEL MOOKHEY: Presumably Balmoral was convenient to you or Ms Brown or both?

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: And you made this note as soon as the walk was finished?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: So you came home and you made the note?

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: Was this just to keep for your records?

JENNY WEST: Yes, it was.

The Hon. DANIEL MOOKHEY: On Friday 17 September we are in a lockdown, so you're working from home at this point in time?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: So you then have a discussion with Mr Carr, the head of legal at Investment NSW?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: Did that take place on the phone or on Teams?

JENNY WEST: Over the phone.

The Hon. DANIEL MOOKHEY: You spoke to him as well. Did he say that he was horrified to hear about the situation you were in and couldn't believe what was being proposed?

JENNY WEST: Yes, he did.

The Hon. DANIEL MOOKHEY: And were his comments, "You were offered the job, had it signed off and just making the contract and then this happens"?

JENNY WEST: Correct.

The Hon. JOHN GRAHAM: "Just waiting on the contract", I think that says.

JENNY WEST: It is "waiting". Sorry, it's my handwriting.

The Hon. DANIEL MOOKHEY: Can you read the next paragraph?

JENNY WEST: "I know how it feels having worked globally, you are uprooting your family, your life to go to another country and then they do this to you. If it was me I would be bitterly disappointed."

The Hon. JOHN GRAHAM: Those were Mr Carr's comments to you?

JENNY WEST: Those were Mr Carr's comments to me.

The Hon. DANIEL MOOKHEY: Can you read the next paragraph on the next page?

JENNY WEST: "I went on to explain the concerns I had about being promised the role and finalising details. I also raised concerns about the relevant experience levels of candidates the DP would put in."

The Hon. DANIEL MOOKHEY: So when you say, "I also raised concerns about the relevant experience levels of candidates the DP would put in," the "DP" there is Deputy Premier?

JENNY WEST: Correct. My understanding at that time was it would be a political appointment, and he was the trade Minister at the time.

The Hon. DANIEL MOOKHEY: Is it the case that the head of legal at Investment NSW replied by saying that that was why they specifically called out trade and investment experience in the job description?

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: So, effectively, the head of legal tells you that they are taking precautionary measures to ward off the prospect that the DP would indeed put in someone who doesn't have relevant experience. Is that how you interpreted his statement?

JENNY WEST: You would have to ask the legal counsel in that regard.

The Hon. JOHN GRAHAM: This discussion occurred at 1:02 p.m.?

JENNY WEST: Yes, it did.

The Hon. DANIEL MOOKHEY: And you made this note contemporaneously?

JENNY WEST: I made it on the spot after it, yes.

The Hon. DANIEL MOOKHEY: And this was because you were keeping records of conversations that you were having?

JENNY WEST: Yes. I was concerned about the process and the impact on the existing role I'd been performing. I felt that it was important to file note the conversations because I didn't know whether I had a job.

The Hon. DANIEL MOOKHEY: At this point these file notes are being made because earlier Ms Brown had expressed to you the reasonable possibility that you were facing a redundancy.

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: And, in fact, often in circumstances like that it is relatively prudent for all people to keep records of conversations they're having with their employer.

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: You are an experienced person who has worked in multiple organisations?

JENNY WEST: Yes, I have.

The Hon. DANIEL MOOKHEY: And that is basically common practice, is it not?

JENNY WEST: Yes, it is.

The Hon. COURTNEY HOUSSOS: I have one question. To be clear, Ms West, in the lead-up to this process, in your previous testimony you talked about there being no discussion about abolishing your role. In the lead-up to this process the first time you heard about it was on the Balmoral walk. Is that correct?

JENNY WEST: Yes. The only other prior discussion that I had had with Ms Brown was if I were to go to the Americas, given the huge workload that I had, how I could potentially continue to help on elements of that workload over in the Americas and then hand off elements of it to other people as well to do. Because I was working on a very large five-year strategic program of work and I didn't want that to be slowed down.

The Hon. DANIEL MOOKHEY: Ms West, I want to take you to one more file note before I hand to my colleague. This is the file note of the conversation that takes place on 27 September 2021, which is identified as "Call from Amy 5.48 p.m." This is the conversation where I think Ms Brown informs you of the Cabinet's decision. Having checked the calendar, the twenty-seventh is a Monday. It's common for Cabinet to meet on Monday. Some of the evidence we had earlier was that this submission went to the Cabinet on the Monday. At 5.48 p.m., which is presumably after the Cabinet deliberations, Ms Brown calls you and says, "It didn't go my way." Is that what it says?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: She said, "Unfortunately, no." What does it say? "The Cabinet passed the proposal"?

JENNY WEST: "Passed the proposal."

The Hon. DANIEL MOOKHEY: When Ms Brown was saying "It didn't go my way," was she leaving you with the impression that she had provided advice to the Cabinet not to proceed down the path that was being contemplated by the Deputy Premier?

JENNY WEST: I can't comment on that. My understanding from that comment was that by saying "It didn't go my way", I would not be getting the STIC Americas role.

The Hon. DANIEL MOOKHEY: That's how you interpreted it?

JENNY WEST: That's how I interpreted it at the time.

The Hon. DANIEL MOOKHEY: It says:

I have spoken to Tim Reardon and getting Chris Carr legal involved as you are the most impacted. The other STICs had been interviewed but no contracts issued but you were offered the job. I am so sorry.

Is that what Ms Brown said to you?

JENNY WEST: Yes, that is correct.

The Hon. DANIEL MOOKHEY: That's not what you said to Ms Brown?

JENNY WEST: No, that's what Ms Brown said to me.

The Hon. DANIEL MOOKHEY: Did she provide any detail as to the conversation she had with the then head of the Department of Premier and Cabinet, Mr Reardon?

JENNY WEST: No, she did not.

The Hon. DANIEL MOOKHEY: Can you read the last paragraph there? This is your response to Ms Brown.

JENNY WEST: Yes. "I can't believe it. I came into government to make a difference and have delivered so much over the past year: rolled out the international network; taken 150 exporters global; helped export diversification; set up services and tech export team, population skills and migration; returned international students; and delivered just to get my legs taken from underneath me."

The Hon. DANIEL MOOKHEY: Presumably that's how you felt at the time.

JENNY WEST: That is how I felt at the time.

The Hon. DANIEL MOOKHEY: Is that how you still feel now?

JENNY WEST: I moved forward. I'm a big believer in you have to back yourself and move forward. At the time, I was shocked. But I came into New South Wales government and the public service with a very clear view to give back to the people and businesses of New South Wales. I believed I did whilst I was there.

The Hon. DANIEL MOOKHEY: I have a few more questions on this before I pass to my colleagues. On the second page of this file note apparently Ms Brown replies to your expressing your view. I can't make out your handwriting. What does that say? "I don't have the—"

JENNY WEST: "I don't have the words."

The Hon. DANIEL MOOKHEY: Then she says, "Kate (Legal)"—which I think might be a reference to the general counsel of DPC. Is that your understanding?

JENNY WEST: That is my understanding.

The Hon. DANIEL MOOKHEY: "Kate said it got through. I don't know the specifics but the Premier said that there was a lot on the agenda for the meeting and sometimes she had to let go through." Is that what it says?

JENNY WEST: "Some items".

The Hon. DANIEL MOOKHEY: "Some items she had to let go through." Is that what Ms Brown said to you?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: Did you understand that to be a reference to a conversation Ms Brown had with then Premier Berejiklian?

JENNY WEST: I can't comment on that.

The Hon. DANIEL MOOKHEY: But that's at least what Ms Brown said to you?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: So she did specifically mention "I don't know the specifics but the Premier said there was a lot on the agenda for the meeting and some items she had to let go through."

JENNY WEST: I can't comment on that because that would be Cabinet in confidence. So I can't comment about what happened in Cabinet.

The Hon. DANIEL MOOKHEY: Sure, I won't press you then. Ms West, finally on this file note, can you read the last paragraph?

JENNY WEST: "I'm flabbergasted and still in shock. I don't know what else to say."

The Hon. DANIEL MOOKHEY: Is that how the conversation ended?

JENNY WEST: Yes, it did.

The Hon. DANIEL MOOKHEY: Was it a long conversation or was it a short, two-minute one?

JENNY WEST: It was relatively short. There wasn't a lot more to say, to be honest.

The Hon. DANIEL MOOKHEY: You then also wrote a record of the conversation immediately?

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: Thank you.

The Hon. JOHN GRAHAM: I ask you to turn to that note that was texted to you—the briefing note to the Premier. While you're finding that, I indicate that I particularly want to deal with the suggestion that's been made that a successful candidate was not identified in the process. If you've got that note in front of you—it's "Briefing for the Premier"—do you agree that the very first line says, "Appointment of Senior Trade and Investment Commissioner, Americas"?

JENNY WEST: Yes, correct.

The Hon. JOHN GRAHAM: The very first thing this note says is, "A successful candidate for the role of Senior Trade and Investment Commissioner (STIC) Americas has been identified." Do you agree with that?

JENNY WEST: Yes, correct.

The Hon. JOHN GRAHAM: Under "Purpose" it then states:

Ms Jenny West has been identified as the successful candidate for the STIC Americas role. The Deputy Premier and the Treasurer will also be notified of Ms West's selection.

Do you agree with that?

JENNY WEST: Yes, correct.

The Hon. JOHN GRAHAM: You are then identified as the successful candidate in the third dot point down under "Background". It states:

- After a full recruitment process, the recruitment panel has identified Ms Jenny West, Deputy Secretary, Trade & Investment Group, Investment NSW as the successful candidate.

JENNY WEST: Yes, correct.

The Hon. JOHN GRAHAM: Under "Consultation" it again refers to "the successful candidate" being "recommended by" the panel.

JENNY WEST: Correct.

The Hon. JOHN GRAHAM: The next dot point indicates that "the final panel selection report from NGS Global is attached" to this briefing note.

JENNY WEST: Yes.

The Hon. JOHN GRAHAM: Finally, it asks the Premier to note that:

Investment NSW will liaise with the Premier's office to offer a meeting between the Premier and Ms West to discuss priorities for international trade and investment for NSW prior to her relocation to New York.

Did that meeting ever happen?

JENNY WEST: No, it did not.

The Hon. JOHN GRAHAM: This is signed by the Premier on 12 August 2021, and the Premier's indicated that she is noting that briefing. Do you agree with that?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: Can I follow up on that? Down the bottom it states:

DPC final approver Approved CEO (Amy Brown) 11.08.2021

Do you see that?

JENNY WEST: Yes, I see that.

The Hon. DANIEL MOOKHEY: Were you aware at the time that such a briefing was being prepared for the Premier?

JENNY WEST: It was normal process with all the prior roles and my role that there would be briefings done to relevant Ministers' offices.

The Hon. DANIEL MOOKHEY: Those relevant Ministers included the Deputy Premier, correct?

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: Would it surprise you that a similar briefing note went to the Deputy Premier's office on 11 August?

JENNY WEST: No, that wouldn't surprise me. I can't comment on that because I don't know.

The Hon. JOHN GRAHAM: The other office that it would've gone to was that of the former Treasurer Perrottet.

The Hon. DANIEL MOOKHEY: The Treasurer.

JENNY WEST: You'd have to ask Ms Brown about that because I wasn't privy to when the briefing notes went to various ministerial offices.

The Hon. JOHN GRAHAM: But you agree that that's what this note says would occur.

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: To be fair to Ms West, we did ask Ms Brown and she did confirm.

JENNY WEST: Okay.

The Hon. DANIEL MOOKHEY: We took evidence from Ms Brown about an urgent desire from the Deputy Premier to receive a specific briefing on the STIC Americas position from 2 August. Were you working at Investment NSW at that time?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: Were you aware that the Deputy Premier's office was seeking an urgent briefing about the appointment to the Americas role prior to this briefing note?

JENNY WEST: No, I was not.

The Hon. DANIEL MOOKHEY: Were you aware that Ms Brown had facilitated that urgent request?

JENNY WEST: No, I was not.

The Hon. DANIEL MOOKHEY: Were you aware, as part of that ability to provide that briefing to the Deputy Premier's office as a matter of urgency—as it was described in one of the emails—that Ms Brown caused all the original panel members to sign the selection report? Were you aware of that?

JENNY WEST: No, I was not aware of that.

The Hon. DANIEL MOOKHEY: Were you aware that at that time the incoming head of the DPC, Mr Betts, had warned Ms Brown to expect ministerial meddling?

JENNY WEST: No, I was not.

The Hon. DANIEL MOOKHEY: Did Ms Brown ever have a conversation with you in which she informed you about the warning she had received from Mr Betts?

JENNY WEST: No, I had not.

The Hon. DANIEL MOOKHEY: At this point you were being kept away from a lot of this because presumably you were a candidate for the role.

JENNY WEST: Yes. As far as I was concerned, I was offered the job and it was put on hold and I was chasing a contract at this stage.

The Hon. DANIEL MOOKHEY: We also heard from Ms Brown that after receiving the briefing note—presumably very similar to this—Mr Barilaro's office made contact with the head of Legal at Investment NSW to seek advice about converting them into ministerial appointments. Were you aware that such a request had been received?

JENNY WEST: No, I was not.

The CHAIR: Ms West, I wanted to go to some of the transcript by Ms Amy Brown from the first hearing, where she states that she first informed the candidate on 17 September, as you have said, that things were likely to go this way, and it was then that the relationship between the candidate and Investment NSW became troublesome. She said:

By 1 October when I, as decision-maker, officially closed the recruitment process, I was of the view that there were no suitable candidates.

Do you know what Ms Brown was referring to when she says "troublesome"?

JENNY WEST: No, I don't, and I've struggled with that phrase, to be honest, because we had a very good relationship. And, if you look back to my chronology of events, on 17 September she had told me that I wasn't getting the Americas role, and she told me that I potentially wouldn't be getting my existing role, but then I was just waiting on advice at that stage as to whether it would be endorsed by Cabinet or not. I had no knowledge of that. And so I was continuing to do my existing role, and I was also working on a very large program of work on population skills and migration for the State, so I was just busily going about doing my job and chasing a contract at that stage. I did not feel that there was anything untoward at that stage.

The CHAIR: Yes, because the file note that you have, or the note that you sent to your lawyers, I believe, on 14 October—the note from the meeting with Amy Brown, that we have already discussed in this hearing, where it is stated, "14 October, re: note important confidential". This is the one that Amy Brown says to you, just before the end of the meeting, "Yes, of course, you are an extraordinary performer and I'm upset this has happened." That was on 14 October.

JENNY WEST: Yes, correct.

The CHAIR: Going back to 17 September, when she informs this Committee that the relationship between the candidate and Investment NSW became troublesome, it is clearly a relationship between—was she implying that there was a relationship between you and the department that had somehow become troublesome? Because, for all intents and purposes, at this stage Amy Brown was still incredibly impressed with your performance.

JENNY WEST: Yes, and I was—I don't believe that it was. She used the words, I think it was "irreconcilable".

The CHAIR: Irreconcilable differences.

JENNY WEST: Yes, and I would disagree with that completely. I had a very good relationship with Ms Brown. And we had literally gone down and had a chat about me not getting the STIC Americas role, and I was trying to understand why I couldn't continue doing the work I wanted to do in the dep sec trade and international role, because I was working on a five-year population skills and migration project for the entire State, which would have been very important—pivoting our kids for the future into new sectors, helping with skilled migration—and I felt very passionate about using my expertise to help with that. So even though I was shocked by the decision, I was looking forward to continuing in my public sector role, in my existing position at that stage, so I am unclear as to why she said that.

The CHAIR: Yes, because it does seem to imply that despite everything that we have heard this morning about you being the preferred candidate, given everything that the contract, in terms of the offer—then suddenly the relationship with the department, if you like, with Investment NSW, had become so troublesome, whatever that means, that both the potential commissioner role, as well as the deputy secretary role, were no longer tenable. Who do you—because Investment NSW isn't a person. You can't shed any light on why Ms Brown informed the Committee that it—did she use that word to you?

JENNY WEST: I had not heard any of these comments from Ms Brown, and I'd had no feedback in relation to my performance, how I worked with other people. I'd had no negative feedback during my entire time there. So it has come as a big shock and is very untrue.

The CHAIR: Yes, okay. This is my final question, actually, because a lot of my questions have been asked already.

The Hon. WES FANG: You usually coordinate better than that.

The CHAIR: I just wanted to go back to early in the piece when, I think, you were part of the recruitment process with the Agent General and the STICs for North Asia. Is that correct?

JENNY WEST: Yes, correct.

The CHAIR: There was evidence that was uncovered in some of the original documents that were released to the Parliament in November last year, but also Amy Brown confirmed this in her evidence that—this is in relation to preparing paperwork to go to Cabinet—

JENNY WEST: Yes.

The CHAIR: Amy said:

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.

As Amy Brown's 2IC, if you like, did she ever raise any concerns with you that the positions were going to Cabinet at any stage? Did she ever discuss this with you?

JENNY WEST: She discussed that they were going to Cabinet, but I can't comment on what was said publicly around "going in error". I can't comment on that.

The CHAIR: But did you and her have any discussions? Did she say to you, "You know what, the agent general and first North Asia STIC had already gone through but, in fact, now that I've thought about it, why are these going to Cabinet and, indeed, maybe we should reconsider that process"?

JENNY WEST: We had no conversation about that. There were conversations when I was in Investment NSW about the Agent General and the STIC Tokyo roles having to go up through Cabinet.

The CHAIR: Okay.

JENNY WEST: That's as far as I can talk about it, that I know.

The CHAIR: That you are aware of.

JENNY WEST: That I am aware of. Yes, correct.

The Hon. WES FANG: Thanks again, Ms West. I just wanted to go to the point that Ms Faehrmann was discussing with you earlier about the relationship between yourself and Investment NSW, we'll say, as the organisation. Would it be fair to say that you sought compensation from Investment NSW over the STICs appointment?

JENNY WEST: That would be a conversation between the Government and my lawyers.

The Hon. WES FANG: But did you seek, through either instructing lawyers, or just in general, compensation—

JENNY WEST: I received no compensation apart from my standard entitlement under a redundancy of 38 weeks.

The Hon. WES FANG: I appreciate that. The question I asked was did you instruct or seek that you, or somebody on your behalf—

The Hon. COURTNEY HOUSSOS: Point of order—

The Hon. DANIEL MOOKHEY: Point of order—

The Hon. ROBERT BORSAK: Point of order—

The Hon. WES FANG: It is a very valid question.

The CHAIR: Order!

The Hon. WES FANG: Just because—

The CHAIR: Mr Fang, no. Points of order have been taken, in fact by three members simultaneously.

The Hon. WES FANG: Interesting, that.

The CHAIR: I'll go to Ms Houssos first.

The Hon. COURTNEY HOUSSOS: My point of order related to the previous point of order that was taken. Ms West is entitled to claim legal professional privilege over the conversations that she has with her lawyers. She appears to have done that. Mr Fang is instead choosing to press that. I ask that you rule the question out of order.

The CHAIR: Yes, thank you. I uphold—

The Hon. WES FANG: To the point of order: While her conversations and her communications between her and her lawyer are privileged—understood—the question as to whether Ms West was seeking compensation from Investment NSW is not privileged, and the question should be ruled in order.

The Hon. DANIEL MOOKHEY: To the point of order: Perhaps the way through this is, rather than Mr Fang phrasing his question as "Did you instruct your lawyers?", which is clearly a confidential communication between Ms West and her lawyers, maybe the way Mr Fang should phrase it is "Have you sought compensation?"

The Hon. WES FANG: Which is what I asked in the original question.

The Hon. ROBERT BORSAK: It's funny nobody heard it that way.

The Hon. DANIEL MOOKHEY: And perhaps, without making any reference to lawyers, that might give the witness an opportunity to answer. Mr Fang might also want to ask whether or not Ms West has indeed commenced any action.

The Hon. WES FANG: I will invite you to read the transcript.

The CHAIR: Thank you, Mr Fang. I uphold Ms Houssos's point of order in terms of please respect the legal privilege of the witness—

The Hon. WES FANG: Which I did.

The CHAIR: —and redirect your question in a different manner.

The Hon. WES FANG: Ms West, have you sought compensation from Investment NSW over the STIC appointment?

JENNY WEST: Yes, I did. I received nothing more than the 38 weeks of entitlement.

The Hon. WES FANG: You sought compensation. Do you perhaps think that by pursuing that avenue the relationship between you and Investment NSW may have become strained?

JENNY WEST: I was trying to understand the process and what had happened and I wasn't getting sufficient answers.

The Hon. WES FANG: Did you resolve the compensation claim?

JENNY WEST: I got nothing more than the 38 weeks of entitlement that I was owed.

The Hon. WES FANG: Are you still pursuing the compensation claim?

The Hon. ROBERT BORSAK: Keep digging, Wes. You are digging a deep hole for yourself.

The Hon. WES FANG: I'm not asking you, Deputy Chair. I am asking the witness.

The CHAIR: Order!

The Hon. WES FANG: I am asking whether the witness is still pursuing—

The CHAIR: I will remind members not to interject.

The Hon. DANIEL MOOKHEY: I was going to take a point of order. Again we are straying a bit too close to matters that involve the witness's legal professional privilege. Equally, it is open to us to perhaps suggest that it might not be within the terms of reference as well. But I press the first point. I think it is getting precariously close to again inviting the witness to comment on privilege.

The Hon. WES FANG: To the point of order: Once again, I have not asked about instructions. I have just asked simply is Ms West, as a private citizen, seeking compensation at this stage, at the moment, from Investment NSW. The next question I will foreshadow will be: What happened to the claim that you did put in previously and how was it resolved?

The Hon. ROBERT BORSAK: Point of order—

The CHAIR: Is that to the point of order, Wes, because a point of order had been taken.

The Hon. WES FANG: I am providing some foreshadowing through the point of order. I am multitasking.

The Hon. ROBERT BORSAK: Ms West, you can elect not to answer these questions or take them on notice.

JENNY WEST: I will take them on notice, thank you.

The Hon. DANIEL MOOKHEY: Can I just also say to the point of order before you rule, Chair, inviting a witness to canvass what is a cause of action or not a cause of action is still getting precariously close to not just breaching this witness's legal professional privilege but also potentially impacting on the convention we obey when it comes to court proceedings in other courts. Perhaps the witness has taken it on notice.

The Hon. WES FANG: To the point of order: What I am seeking to do is find out whether it is a live issue still. To that point I need to know whether it is actually—

The Hon. PENNY SHARPE: It doesn't matter.

The Hon. ROBERT BORSAK: The Government will find out in due course, won't they?

The CHAIR: I just remind Mr Fang—

The Hon. WES FANG: I have never seen so many points of order in my life.

The CHAIR: Welcome to the—

The Hon. ROBERT BORSAK: We have to sit here and cop yours.

The Hon. PENNY SHARPE: If you would actually follow the rulings and understand the standing orders then maybe we would get there.

The Hon. WES FANG: I understand them very well, Ms Sharpe.

The Hon. COURTNEY HOUSSOS: It's a bit harder asking the questions, isn't it, Wes?

The Hon. DANIEL MOOKHEY: To the point of order: The Deputy President —

The CHAIR: Order! Mr Fang, we will just hear from Mr Mookhey.

The Hon. WES FANG: My whole time is being used up.

The Hon. DANIEL MOOKHEY: The Deputy President is entitled to explain his motivations but the Deputy President's motivations are not relevant as to whether or not they are within the orders to ask the question. No other member has strayed within a matter which is before the courts or could be before the courts, which is a convention that we follow and dare I say the Government insists we follow in hearings time and time again.

The CHAIR: Yes. I remind Mr Fang to just please be very careful with the questions he is asking and remind the witness that you are able to take questions on notice.

The Hon. WES FANG: I believe all the questions have been in order to this point, Chair. Am I allowed to continue my time or are we still going to eat into it?

The Hon. PENNY SHARPE: We can do a point of order on you basically arguing the Chair's ruling.

The Hon. ROBERT BORSAK: Well, we can just keep asking points of order.

The Hon. WES FANG: Thank you.

The Hon. SCOTT FARLOW: Let him go.

The CHAIR: Mr Fang, you have plenty of time left.

The Hon. WES FANG: Can I ask a question now?

The CHAIR: Please be very careful in terms of—

The Hon. WES FANG: To the point that Mr Mookhey made as to whether there is, I will say, a current issue before the court, did you continue with seeking compensation from Investment NSW?

The Hon. ROBERT BORSAK: Point of order: This is exactly the same question.

The CHAIR: Order!

The Hon. WES FANG: It is a relevant question.

The Hon. ROBERT BORSAK: It is exactly the same question.

The Hon. PENNY SHARPE: It is not.

The Hon. WES FANG: How is it not a relevant question?

The Hon. ROBERT BORSAK: You have been warned by the Chair not to go down that track and yet you continue to do it.

The Hon. WES FANG: It is a relevant question.

The Hon. PENNY SHARPE: To the point of order: You have ruled on this a number of times. Mr Fang keeps asking the same question. But the problem is that he is not permitted to ask this question within the standing orders. That is what we are actually drawing to—

The Hon. WES FANG: Under what standing order, Ms Sharpe?

The Hon. PENNY SHARPE: Legal professional privilege. Have you not been listening to the last six points of order?

The Hon. WES FANG: It is not legal professional privilege if Ms West is continuing to seek compensation from Investment NSW.

The Hon. PENNY SHARPE: You are just wrong.

The Hon. DANIEL MOOKHEY: To the point of order—

The CHAIR: Mr Fang, I suggest that you ask a different line of questioning. I am upholding various points of order that have been taken around this table that this is skirting very close to falling within what should be the witness's legal professional privilege. So another line of questioning, please.

The Hon. WES FANG: We will address this matter later because I don't believe that is the case.

The Hon. ROBERT BORSAK: You should just be ruled out of order.

The CHAIR: Let's do that.

The Hon. SCOTT FARLOW: Let him continue on to a new question, please.

The Hon. PENNY SHARPE: Why doesn't he stop arguing with the Chair over her rulings?

The Hon. SCOTT FARLOW: He is moving on.

The Hon. ROBERT BORSAK: Stop quibbling with the orders.

The Hon. WES FANG: Are we still going to continue?

The CHAIR: Yes, you have 11 minutes.

The Hon. WES FANG: Ms West, we discussed earlier that you included in the documents that you tabled a number of leave certificates from a doctor. They extended for 12 days. I presume then that you returned to work on 13 October.

JENNY WEST: Yes, that's correct.

The Hon. WES FANG: How was your interaction with your team and other members at Investment NSW at that time?

JENNY WEST: My recollection is it was fine.

The Hon. WES FANG: What project was it that you were working on when you did return to work on 13 October?

JENNY WEST: The population skills and migration program of work.

The Hon. WES FANG: That continued all the way through to 21 November. Is that correct?

JENNY WEST: No. In terms of the time line, I took personal leave from 18 October and then I was told my employment was terminated on 19 November.

The Hon. WES FANG: After the expiry of the certificate on 12 October, you returned from the thirteenth to the eighteenth?

JENNY WEST: The thirteenth to the fourteenth of October and then I took some sick leave on the fifteenth and on the eighteenth I took personal leave and both those leaves Ms Amy Brown was aware of as well.

The Hon. WES FANG: There wasn't a lot of interaction between yourself and members of Investment NSW around that period. Is that fair?

JENNY WEST: Yes, I was off work.

The Hon. WES FANG: Just going to the file note that you made and which Mr Mookhey referenced earlier.

The Hon. DANIEL MOOKHEY: Which one?

The Hon. WES FANG: I'm about to get to there. Just noting that you've already referenced it in case you want to raise a point of order about it. It says that you were worried that the changes were made to "put his mates in". Who "he" was I guess was canvassed by Mr Mookhey but it wasn't really identified. Do you believe that the STIC appointments that have occurred so far—have any of them been mates or been political appointees?

JENNY WEST: I can't comment on that. All I can comment on was the two appointments prior to the process being changed.

The Hon. WES FANG: And do you believe they were mates?

JENNY WEST: I believe they went through an independent panel process that was thoroughly vetted, as was mine.

The Hon. WES FANG: It is fair to say then that at this stage we have had an appointment to the STIC roles for the six positions that have all gone through a rigorous and independent appointment process. Is that fair?

JENNY WEST: I can only comment on the first two.

The Hon. SCOTT FARLOW: Sorry, just to that point: With the first two, you do think that was a rigorous, independent process.

JENNY WEST: That is my understanding, yes.

The Hon. SCOTT FARLOW: Thank you.

The Hon. WES FANG: Do you believe Mr Barilaro has in some way engineered a situation where the STIC Americas role was to go to him, or do you believe that it was a matter of circumstance, with the view that you had and your time in Investment NSW?

JENNY WEST: You would have to ask Ms Amy Brown about that. I can't comment. I don't know.

The Hon. ROBERT BORSAK: Why don't you ask Mr Barilaro that question?

The CHAIR: Order!

The Hon. JOHN GRAHAM: That may well happen.

The Hon. ROBERT BORSAK: Will we get a truthful answer?

The Hon. WES FANG: The Deputy Chair had plenty of time to ask his questions.

The CHAIR: Order! Just continue, Mr Fang. Continue.

The Hon. ROBERT BORSAK: I did actually ask the question. I got the same answer.

The Hon. WES FANG: You can keep interrupting, Robert, but it's not helping you, mate.

The Hon. ROBERT BORSAK: It's not helping you.

The CHAIR: Okay. Let's just keep going. Mr Fang?

The Hon. WES FANG: Thank you, Chair. Do you believe that the change in the appointment procedure for the four STIC roles that weren't already finalised was done at the same time with the same rationale and the same mechanism—that is, that they were all being recruited for, but a change in the Government process through Cabinet meant that they were going to re-look at the roles? Do you believe that that happened for all four at the same time?

JENNY WEST: I can't comment on that. That's a question for Ms Brown.

The Hon. WES FANG: Okay. Do you recall the period in October 2021? That was a time that Sydney, and in particular New South Wales, was in lockdown. Is that correct?

JENNY WEST: Yes. That's correct.

The Hon. WES FANG: Do you recall the Government's focus at the time? Was it primarily on the pandemic? Did you have much engagement with the trade Minister, who was the Deputy Premier at the time, in relation to trade matters?

JENNY WEST: I can't recall. I know that we were all in lockdown and working from home at that stage.

The Hon. WES FANG: Okay. Did you have the impression that the Deputy Premier had a strong focus on trade at the time of the pandemic?

JENNY WEST: I can't comment on that.

The Hon. WES FANG: Okay. Before I pass to my colleague, I just want to check: You said previously in relation to the remuneration package for the Agent General in London that you weren't sure about that. Is that correct? Is that my recollection of your—

JENNY WEST: I would have to take that on notice, yes.

The Hon. WES FANG: Okay. But today you gave some earlier evidence, is that—

JENNY WEST: I'd have to get Ms Brown to ask, come back, about the remuneration package for the Agent General. I don't know.

The Hon. WES FANG: Would it be fair to say that you don't have much of an idea about the remuneration package for the Agent General then?

JENNY WEST: No. I would need to take that on—ask Ms Brown and take it on notice.

The Hon. WES FANG: Okay. I believe that there is a return in the SO 52 with a brief that has been written and approved by you about the Agent General's package in London.

JENNY WEST: I would have to take that on notice.

The Hon. WES FANG: Okay. Mr Farlow?

The Hon. SCOTT FARLOW: Thank you very much. Ms West, the only other question from me is with respect to the evidence you gave, I think in the opening statement, about being barred from being able to apply for a new role—

JENNY WEST: Yes.

The Hon. SCOTT FARLOW: —into the future. Is it the case that if you were to apply for the role and to be successful that you wouldn't be barred but you would just need to pay a portion of that 38-week settlement?

JENNY WEST: I subsequently found that out. I didn't know at the time and my understanding at the time was that because I'd been made redundant I couldn't apply for the role, and then my understanding at the time, too, was because it was a political appointment I wouldn't be allowed to apply for the role. So, for those two reasons, I didn't apply for the role.

The Hon. SCOTT FARLOW: Thank you.

The CHAIR: We will go to questions from the Opposition again. Ms Penny Sharpe?

The Hon. PENNY SHARPE: Yes, thank you. Ms West, I want to take you to the email that you have provided to us that you sent to Michael Coutts-Trotter on Monday 11 October. Are you able to tell the Committee what were the circumstances that led you to reach out to Mr Coutts-Trotter in relation to what was going on at the time?

JENNY WEST: Yes, sure. I'll just get it, sorry.

The Hon. PENNY SHARPE: It's towards the back.

JENNY WEST: Yes. I've got it here. Thank you. So the circumstances leading into sending this note to Mr Michael Coutts-Trotter is that when you're in the private sector and you have any concerns you generally raise it to your one-up manager. So he was my one-up manager. I knew he was new coming into the Department of Premier and Cabinet so I requested a 15-minute sit-down with him. I did want to correct something that was said in the media—that there was 49 pages of concerns. There was not 49 pages of concerns. All there was was a simple one-page email and then attached to that I sent out the trade and international strategy document to give him a background on what we did and who the team were. I also attached my CV, Premier Berejiklian's signed brief, briefing note, and my letter of application to the STIC Americas role.

The Hon. PENNY SHARPE: Yes. That's great.

The Hon. DANIEL MOOKHEY: Can I just clarify one point?

The Hon. PENNY SHARPE: Yes, sure.

The Hon. DANIEL MOOKHEY: Just to be clear, Ms West, when you say that Mr Coutts-Trotter was your one-up manager, he was the incoming head of the Department of Premier and Cabinet. Correct?

JENNY WEST: Yes, he was.

The Hon. DANIEL MOOKHEY: I think you may have emailed him on his first day actually—Monday the eleventh—but equally at this point Investment NSW is within the cluster of Department of Premier and Cabinet. Correct?

JENNY WEST: Yes, it was. Correct.

The Hon. DANIEL MOOKHEY: And that's why you assumed he was your one-up manager.

JENNY WEST: Yes. That is correct.

The Hon. PENNY SHARPE: Thank you. Obviously you outline in the email your CV and the work you have been doing on the global strategy. I am just wondering: Can you just relay basically where you talk about the current situation, which is where you're talking about reaching out and you currently don't know whether you had a job. Can you just take us through that part of the email, please?

JENNY WEST: "The current situation"?

The Hon. PENNY SHARPE: Yes.

JENNY WEST: "I'm reaching out to you directly as I currently don't know whether I have a job. I applied for and was successful to take up the Senior Trade and Investment Commissioner role running the Americas—see my background and resume for your reference. This role was briefed into all Ministers' offices, including the Premier's—see attachment below—and my appointment into the role approved."

The Hon. PENNY SHARPE: Yes. Can I just stop you there. I know that you've confirmed this a couple of times but I just want to make sure: Your understanding of which Minister offices were briefed was the then Premier, Gladys Berejiklian; the Deputy Premier, John Barilaro; the Treasurer, Dom Perrottet; and was it the investment Minister?

JENNY WEST: Minister Ayres' office as well, correct.

The Hon. PENNY SHARPE: Yes. Thank you. Sorry. Go on.

JENNY WEST: "I was following up with HR Legal for three and a half weeks to get my contract and in the meantime ... lodged a submission to Cabinet, which was approved, that affected Investment NSW delegations in regards to the appointments. They've moved from public service band 3 roles to political appointments."

The Hon. PENNY SHARPE: Yes. Then can you just read that last part?

JENNY WEST: "Upon hearing the news and speaking with Amy Brown, my manager, I asked, 'So do I still have a current role?', and her answer was, 'I don't know'. From discussions with her, I found out that she had already used the money from my role to fund two other roles in Investment NSW so I was out of a job. I am now currently waiting for confirmation of my redundancy."

The Hon. PENNY SHARPE: Thank you. So even though we have heard this morning that basically a role was created, which was essentially your old job, there was never any—you heard nothing until you just got your termination letter. Is that right?

JENNY WEST: Correct.

The Hon. SCOTT FARLOW: Can I just ask one quick point of clarification? The Government did go under time. But you mentioned as well that that was at a different band. Is that correct? A band 3 or band 2?

JENNY WEST: Yes. So my current role as a Deputy Secretary was a band 3 role and I had been told that money from my role was being used elsewhere and that they would be band 2 roles, and then subsequently one month ago there is a Managing Director, Trade & Investment role advertised on LinkedIn and it's advertised as a band 3 role.

The Hon. SCOTT FARLOW: Okay. Thank you.

The Hon. DANIEL MOOKHEY: So your role was restored after you were paid out.

The Hon. PENNY SHARPE: Yes, after you are paid out.

JENNY WEST: I can't comment on that.

The Hon. DANIEL MOOKHEY: Well, I'll put it this way: Your job was re-advertised within the 38 weeks for which you were paid?

JENNY WEST: Yes. Correct.

The Hon. PENNY SHARPE: In terms of the loss of your permanent position over that period of time, given that it was restored within the 38 weeks, do you believe that Amy Brown was working with and/or liaising with Ministers' offices in relation to that?

JENNY WEST: I can't comment on that. That would be a question for Ms Brown.

The Hon. DANIEL MOOKHEY: But the decision about organisational structure belongs to the CEO, does it not?

JENNY WEST: Yes, it does.

The Hon. DANIEL MOOKHEY: And there is no board at Investment NSW that has the ability to exercise decision-making in that respect? That's your understanding?

JENNY WEST: That is my understanding. I'm not sure.

The Hon. DANIEL MOOKHEY: The ability to both terminate the role and restore the role is a prerogative of the CEO. Is that an accurate statement?

JENNY WEST: Yes, correct.

The Hon. COURTNEY HOUSSOS: I have two further questions. Going back to that email to Mr Coutts-Trotter, under "The Current Situation" it says, "This role was briefed into all Ministers Offices". You

meant in the relevant Ministers' offices, being the Premier, the Deputy Premier, the Treasurer and the investment Minister? Is that correct?

JENNY WEST: Yes, correct—relevant, not all. Correct.

The Hon. COURTNEY HOUSSOS: But they are the Ministers who you expect received a—

JENNY WEST: Yes, as per the previous STIC appointments and Agent General appointment. Correct.

The Hon. COURTNEY HOUSSOS: And a similar briefing to what then went to the Premier.

JENNY WEST: Correct.

The Hon. COURTNEY HOUSSOS: Turning over the page to the top, it says you've been on the band 3 leadership academy. So you were not only doing well—as you said previously, you'd received performance reviews and you'd obviously progressed through the public service—you'd also been identified for a further leadership opportunity.

JENNY WEST: Yes. I've been put on a—it's called the band 3 leadership academy for public servants on the way to secretary level.

The Hon. COURTNEY HOUSSOS: How many other participants were there in that leadership academy?

JENNY WEST: Probably about 15.

The Hon. COURTNEY HOUSSOS: So across the entire public service there were 15 people identified as possible future secretaries, and you were amongst them.

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: To be clear, there are roughly 200 people at level 3 across the public service? Is that right? That's what the statistics would say.

JENNY WEST: I'm not sure of the actual number.

The Hon. DANIEL MOOKHEY: But it is fair to characterise it as not every level 3 deputy secretary gets this opportunity.

JENNY WEST: No, they do not.

The Hon. DANIEL MOOKHEY: And the people who are chosen for this program are chosen because, for want of a better term, it is worth the public investing in their skills to they can lead departments.

JENNY WEST: Yes, that is my understanding.

The Hon. DANIEL MOOKHEY: Did you have to apply for it or were you invited to apply?

JENNY WEST: No, my understanding is you have to get nominated by various people to be put on it. You don't apply.

The Hon. DANIEL MOOKHEY: Were you aware of who nominated you?

JENNY WEST: The secretary of Treasury at that time, Michael Pratt, did.

The Hon. DANIEL MOOKHEY: Were you aware that the then secretary was going to nominate you?

JENNY WEST: No, I was not.

The Hon. DANIEL MOOKHEY: So he ambushed you with a nomination for an elite leadership academy for which you were then successful.

JENNY WEST: No, sir. I'm so sorry. My understanding is that on these band 3 leadership academies, you need to get nominated by someone to go on it. I had a performance review with the secretary, Mr Pratt, at the time. It was a very good performance review, and at the end of the performance review he told me that he had nominated me for the band 3 leadership academy.

The Hon. DANIEL MOOKHEY: Congratulations. And you went on the academy?

JENNY WEST: Yes, I went on the academy.

The Hon. DANIEL MOOKHEY: How long was the academy?

JENNY WEST: It was over a number of months and a number of weeks, and it was with other dep secs from various departments across New South Wales government.

The Hon. DANIEL MOOKHEY: When did it finish?

JENNY WEST: It finished after I was made redundant; I didn't get to graduate.

The Hon. DANIEL MOOKHEY: Did you get the opportunity to do most of the program?

JENNY WEST: Yes, I did. I got to do three-quarters of the program. I thought it was very good.

The Hon. DANIEL MOOKHEY: But you didn't get a chance to graduate because you were made redundant?

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: On the Coutts-Trotter email, which you sent on 11 October, I think you've already said you didn't hear back from Mr Coutts-Trotter.

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: And is it your understanding that Mr Coutts-Trotter then referred this back to Investment NSW for response?

JENNY WEST: I was not aware of that; I just hadn't heard back. Then subsequently through the media I heard that he had referred this back to Investment NSW, but I had no knowledge of that.

The Hon. DANIEL MOOKHEY: Can I take you to the letter that he sends you on 19 November, which is, I think, your notification letter about your redundancy?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: To be clear, Mr Coutts-Trotter seems to be following the standard process when it comes to section 41 terminations. Is that your understanding as to what he was doing?

JENNY WEST: Yes, that is my understanding.

The Hon. DANIEL MOOKHEY: We've previously inquired into other people who have been through section 41 appointments and it looks like that's what he's doing. In the first paragraph he said:

I refer to previous correspondence concerning my intention to terminate your employment ...

Do you see that?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: I presume that is the letter of warning or the notification?

JENNY WEST: Yes, it is. That was all it was.

The Hon. DANIEL MOOKHEY: And it was presumably given to you seven days prior?

JENNY WEST: On 19 November I received the letter terminating my appointment, effective the thirtieth. I would have to take on notice the exact date of the prior—

The Hon. DANIEL MOOKHEY: But it was thereabouts or close to then?

JENNY WEST: It was thereabouts.

The Hon. DANIEL MOOKHEY: Presumably—and this is standard procedure—you're given the opportunity to make a submission. Were you given the opportunity to make a submission to Mr Coutts-Trotter prior to him issuing you this letter?

JENNY WEST: No.

The Hon. DANIEL MOOKHEY: So he provided you a notification that he was considering a redundancy, and then thereafter you weren't invited to make a submission and you were provided this letter?

JENNY WEST: I would have to take that detail on notice; I don't have it in front of me.

The Hon. DANIEL MOOKHEY: But, to be clear, at no point did you ever speak with Mr Coutts-Trotter?

JENNY WEST: No, I did not.

The Hon. DANIEL MOOKHEY: At any point did you speak to anybody else in DPC who wasn't in Investment NSW?

JENNY WEST: No, I did not.

The Hon. DANIEL MOOKHEY: Did you have any engagement with the HR team at DPC?

JENNY WEST: No, I did not.

The Hon. DANIEL MOOKHEY: No-one sought to meet with you or sought to have a conversation with you?

JENNY WEST: No, they did not.

The Hon. DANIEL MOOKHEY: Inside Investment NSW, were you given the opportunity to have any meeting with their HR teams?

JENNY WEST: No, I was not.

The Hon. DANIEL MOOKHEY: So, basically, you just get sent a letter?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: Whilst you're in the middle of a leadership academy?

JENNY WEST: Yes, correct.

The Hon. COURTNEY HOUSSOS: How was the letter sent to you?

JENNY WEST: It was sent via my lawyers.

The Hon. COURTNEY HOUSSOS: Emailed?

JENNY WEST: Emailed to my lawyers and then they emailed it to me.

The Hon. DANIEL MOOKHEY: At this point, were your correspondence with Mr Coutts-Trotter from 11 October and your actions after that intended to maintain your existing employment? Was that your motivation?

JENNY WEST: Yes, it was. I would've loved to have stayed in the public service. I felt there was a lot more that I could add in terms of my skills.

The Hon. DANIEL MOOKHEY: So at this point you aren't negotiating over the terms of any separation; you are trying to convince the public service to continue to employ you.

JENNY WEST: Yes, that was the intention of my 15-minute discussion with Mr Michael Coutts-Trotter. I did have concerns over the prior process, but I had accepted that it was a parliamentary appointment versus a public sector appointment. I had accepted that. But I did want to stay in my current role because I felt that I had a lot more to offer and I was quite passionate about some of those key projects that I was working on that I wanted to make a difference to.

The Hon. JOHN GRAHAM: Can I take you very briefly back to that question about whether a successful candidate was identified? Given that the briefing note to the Premier indicates in five different places that there is a successful candidate and names you as the successful candidate—we'll obviously take that up elsewhere—were you ever in any doubt—

JENNY WEST: No, I wasn't.

The Hon. JOHN GRAHAM: —that you were the successful candidate?

JENNY WEST: No. My understanding was that I was the successful candidate, and my understanding was that I had been fully offered the job. I had negotiated my contract and I had been discussing—I was literally waiting for me to sign the contract and my understanding was that all the Ministers' offices were across it, had been briefed and I was ready to go.

The Hon. JOHN GRAHAM: And that's plainly what this briefing note says. I want to offer you the chance to respond to the suggestion that's been made, in any way you choose to, that, in fact, there was no successful candidate identified for this role.

JENNY WEST: I would disagree with that; I would say I was the successful candidate identified for the role at the time.

The Hon. DANIEL MOOKHEY: Ms West, in the process of applying for the job that you were then recommended for, and received an offer for, did you go through a criminal history check?

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: Did it identify any issues?

JENNY WEST: No. Also at a Federal government level I've been NV2 cleared. So I've been security cleared at a Federal government level as well.

The Hon. DANIEL MOOKHEY: Did you go through a media check?

JENNY WEST: A media check?

The Hon. DANIEL MOOKHEY: Yes.

JENNY WEST: I assume so, as part of the vetting process.

The Hon. DANIEL MOOKHEY: And no issues were identified with you?

JENNY WEST: No.

The Hon. DANIEL MOOKHEY: Did NGS Global undertake an education verification check?

JENNY WEST: Yes. My understanding is that they do proper external vetting of everyone's credentials, everyone's degrees, everyone's referees—everything.

The Hon. DANIEL MOOKHEY: And that raised no issues with you?

JENNY WEST: They raised absolutely no issues with me whatsoever.

The Hon. DANIEL MOOKHEY: Is it the case that you were also subjected to an ASIC banned and disqualified search?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: An ASIC enforceable undertakings register search?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: An Australian Financial Security Authority National Personal Insolvency Index search?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: You were subject to psychometric testing?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: You went through seven separate checks, did you not?

JENNY WEST: That is my understanding, as part of the process.

The Hon. DANIEL MOOKHEY: At no point did anybody raise any concerns with you?

JENNY WEST: No, they did not.

The Hon. DANIEL MOOKHEY: No concerns were ever reported to the selection panel, which is part of the reason why, you understand, that you were offered the role?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: Ms West, since this matter has come to light, have various journalists tried to contact you?

JENNY WEST: Yes, they have.

The Hon. DANIEL MOOKHEY: Have you had questions put to you via them that would lead you to conclude that your education was being challenged?

JENNY WEST: I have not spoken to any journalist whatsoever.

The Hon. DANIEL MOOKHEY: Have you been asked to respond to claims?

JENNY WEST: No, I have not.

The Hon. DANIEL MOOKHEY: What about with respect to your CV?

JENNY WEST: No, I have not.

The Hon. DANIEL MOOKHEY: Just going back to the investigation that took place into the matters that were subject to seven separate checks, I want to be abundantly clear that at no point were you told that you were being subjected to additional levels of checks after you were notified.

JENNY WEST: No, I was not.

The Hon. DANIEL MOOKHEY: At any point in that process was any reference made to it in the decision to terminate your position?

JENNY WEST: No, it was not.

The Hon. DANIEL MOOKHEY: In any conversation whatsoever when redundancy was canvassed with you, did anybody suggest that there was an issue with your performance?

JENNY WEST: No, it was not. I was told it was because it was moving from a public sector appointment to a political appointment and that my salary would be used elsewhere.

The Hon. DANIEL MOOKHEY: Just to be very clear, according to Mr Coutts-Trotter's letter, you were formally terminated under section 41 (3) of the Act, which is a no-cause termination?

JENNY WEST: Correct.

The Hon. DANIEL MOOKHEY: Had you not been terminated but otherwise would've been terminated for cause, is it your understanding that you wouldn't have been entitled to the statutory entitlement?

JENNY WEST: I'm not sure on that.

The Hon. WES FANG: Ms West, given that you've been through the recruiting process for the STIC role, would you concur that a candidate such as the Deputy Premier, as the former trade Minister with the understanding that he has of New South Wales and also the experience in government, would likely mean that, had somebody with similar experience been a candidate, they would've been ideal for the role?

JENNY WEST: I can't comment on that. That would be a question for Ms Brown and the committee.

The Hon. WES FANG: Do you agree at all that it would make reasonable sense to have a former trade Minister in that role?

JENNY WEST: I can't comment on that. That would be a question for Ms Brown and the committee.

The Hon. WES FANG: Fair enough.

The Hon. DANIEL MOOKHEY: Ms West, just to cover this off more than anything else, in your opening statement you outlined your qualifications for the role. Just to be clear, you were working in the New South Wales Treasury before you were working for Investment NSW?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: What were you doing at the Treasury?

JENNY WEST: I was working in my deputy secretary, trade and international role for six months in New South Wales Treasury before Investment NSW was created.

The Hon. DANIEL MOOKHEY: At that point you were directly reporting to the Secretary of the Treasury?

JENNY WEST: Sorry?

The Hon. DANIEL MOOKHEY: For that six-month period, you were reporting directly to the Secretary of the Treasury?

JENNY WEST: Yes, I was. Correct.

The Hon. DANIEL MOOKHEY: Just to be clear, at that point in time the Treasury was responsible for the development of the Global NSW strategy?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: You were leading that work, or part of that?

JENNY WEST: I was part of that.

The Hon. DANIEL MOOKHEY: But you were a very senior leader in that project, correct?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: For how long had you been with Treasury?

JENNY WEST: I was with Treasury for six months prior to Investment NSW being created.

The Hon. DANIEL MOOKHEY: Were you informed at Treasury at all that Investment NSW was going to be created?

JENNY WEST: No, I was not.

The Hon. DANIEL MOOKHEY: We've had it established previously in estimates hearings that nor was the rest of the Treasury. In fact, the transfer of personnel took place after the announcement. Is that your understanding too?

JENNY WEST: That is my understanding.

The Hon. DANIEL MOOKHEY: You switched from Treasury to Investment NSW as a result of the decision to form Investment NSW. Is that correct?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: The reason you carried over as a deputy secretary from Treasury to Investment NSW was that, in part, you were performing the job already.

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: But you were then subjected to another check through Investment NSW to get the job permanently?

JENNY WEST: No. I went through all of the detailed interviews, psychometric testing and job applications to get into the deputy secretary, trade and international role in New South Wales Treasury. Then I had to go through the same process when I applied for the STIC Americas role. But I went across from Treasury into Investment NSW, and then I was confirmed as part of the leadership team by Amy Brown and went through leadership team-building sessions with her finalised leadership team as well at the time.

The Hon. DANIEL MOOKHEY: You hold a masters of business and international marketing?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: Do you hold a Bachelor of Economics?

JENNY WEST: Yes, I do.

The Hon. DANIEL MOOKHEY: Were you told at all points it was an essential requirement for the Americas role that you have tertiary education qualifications?

JENNY WEST: I'd have to go back to the original job description, but I think that in the—

The Hon. DANIEL MOOKHEY: Candidate packs.

JENNY WEST: —candidate packs it did say tertiary qualifications. But I would have to go back and check, and take that on notice.

The Hon. DANIEL MOOKHEY: That's okay, Ms West. We have the document. It states that it was an essential requirement. But that's your understanding too?

JENNY WEST: Yes, it was.

The Hon. DANIEL MOOKHEY: You are a Westpac Women of Influence award winner?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: How does one become a Westpac woman of influence?

JENNY WEST: That was an internal Westpac Women of Influence award. At the time Phil Coffey gave me that award. It was for business outcomes and talent development across all of Westpac.

The Hon. DANIEL MOOKHEY: He was the CEO of Westpac?

JENNY WEST: CFO.

The Hon. DANIEL MOOKHEY: The CFO of Westpac at the time?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: Were you a governor of the American Chamber of Commerce?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: How long were you a governor of the American Chamber of Commerce?

JENNY WEST: I was a governor for two years, and that finished up at the end of May 2022.

The Hon. DANIEL MOOKHEY: How does one become a governor of the American Chamber of Commerce?

JENNY WEST: I was working very closely with the American Chamber of Commerce in my prior role in Austrade, and I'd had numerous conversations with them around trade and investment opportunities across America. So I was invited to become a New South Wales governor.

The Hon. DANIEL MOOKHEY: You were invited to become a governor on the American Chamber of Commerce board?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: By the chairperson?

JENNY WEST: The CEO.

The Hon. DANIEL MOOKHEY: Equally, you're a member of the Australia India Business Council, which is an organisation that Mr Farlow and I know quite well.

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: You are a member of the Australia China Business Council?

JENNY WEST: I was, yes.

The Hon. DANIEL MOOKHEY: You are a member of the Women in Global Business network?

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: You would've considered these to be key requirements that would have assisted you to do the role in the Americas?

JENNY WEST: Yes, I think it's very important to have diverse cultural relationships around the world, so I have a great interest in global issues and cultural issues, which is why I was a member of those organisations.

The Hon. DANIEL MOOKHEY: Previously you also worked at Austrade?

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: What did you do there?

JENNY WEST: I was the general manager for trade and investment across Australia and also, towards the end, was doing digital innovation and client services across the organisation. My role there was at the same level as the regional roles internationally as well.

The Hon. WES FANG: Chair, at this juncture I note that Government members did not use all their time. I am seeking some advice.

The CHAIR: If you have a few more questions, Mr Fang, I can give the Government the last five minutes after Mr Mookhey finishes his questions.

The Hon. DANIEL MOOKHEY: Ms West, you were substantially performing a similar role at Austrade? Is that what you were saying?

JENNY WEST: Yes, I ran the trade and investment teams across Australia.

The Hon. DANIEL MOOKHEY: Did you facilitate over \$8 billion in productive foreign direct investment during your time there?

JENNY WEST: In conjunction with the team around the world, correct.

The Hon. DANIEL MOOKHEY: Are these all the qualities that you nominated for why you thought you would be an appropriate candidate?

JENNY WEST: Yes, I felt that with my background across both government and multiple industries over my career I could help New South Wales and use those skills to help the businesses and people of New South Wales globally.

The Hon. DANIEL MOOKHEY: Just to be clear, you were questioned about those experiences by the selection panel?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: You were asked to describe certain situations that you would've encountered in performing those roles?

JENNY WEST: Yes, I was.

The Hon. DANIEL MOOKHEY: Like how to undertake complex negotiations?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: Did you leave with the impression that your answers were satisfactory?

JENNY WEST: Yes, I did.

The Hon. DANIEL MOOKHEY: Do you maintain your view now that you would have been qualified to perform this role?

JENNY WEST: Yes, I do.

The Hon. DANIEL MOOKHEY: Were you ever told when the role was meant to commence?

JENNY WEST: My understanding was it was around—I'd have to check but it was sort of around October timing.

The Hon. DANIEL MOOKHEY: Yes. We have seen emails which suggested that the role was to commence around October, but you were working—part of the reasons why you were sourcing an apartment and finding appropriate schooling for your children or dependants was because you were under the impression that you'd have to move to New York within a month.

JENNY WEST: I was under the impression that I would have to move quickly and that I had to get my affairs in order quickly.

The Hon. WES FANG: Before I start the next line of questioning, I want to draw to other members' attention that pages 810 to 811 of Lovelock and Evans second edition states that legal professional privilege is not applicable to committee hearings, and it includes advice from Mr Brett Walker. So, with that in mind, Chair, I'm going to ask Ms West now some of the questions that I asked previously, which were—

The Hon. DANIEL MOOKHEY: Point of order—

The Hon. ROBERT BORSAK: I'm going to take a point of order.

The Hon. DANIEL MOOKHEY: Just simply reading out a reference from Lovelock and Evans does not give the member the prerogative to just pursue questions. Now, if the member wants to go point by point about what the appropriate use of legal professional privilege is in the committee setting, we are happy to do that. But to be very clear here, there are multiple precedents and multiple rulings, often assisted by Government members—

The Hon. WES FANG: You're burning up my time.

The Hon. DANIEL MOOKHEY: —that we do respect legal professional privilege, especially because a witness is not appearing here under subpoena. There is a distinction to be drawn. Given the witness has not been subpoenaed, and therefore does not have the protection of a subpoena, it would be highly inappropriate for us to allow the member to continue. The witness has appeared here voluntarily.

The Hon. WES FANG: My time is being burnt up now, Chair.

The CHAIR: Order! We will hear the point of order.

The Hon. DANIEL MOOKHEY: I would suggest that the witness wasn't even provided notice that she may well be invited to take questions on legal professional privilege, for which I imagine she would have insisted that she does appear here under privilege so she got protection in those proceedings. The fact is that any

matter that canvasses the law is not protected and can be used against this witness in any other court proceeding. It would be highly outrageous for us to put the witness in that position.

The CHAIR: Thank you, Mr Mookhey.

The Hon. SCOTT FARLOW: Madam Chair, to the point of order—

The Hon. ROBERT BORSAK: To the point of order—

The CHAIR: Mr Farlow?

The Hon. ROBERT BORSAK: I was first.

The CHAIR: Okay. Mr Borsak?

The Hon. ROBERT BORSAK: I would just like to remind the witness, in light of what Mr Mookhey was saying, which I obviously echo, that it is purely up to you whether you want to answer any of these questions or not. You are not compelled to answer questions.

The CHAIR: Thank you, Mr Borsak. Mr Farlow?

The Hon. SCOTT FARLOW: If I could just suggest that, potentially, rather than relying on the assertions of Mr Fang or Mr Mookhey with respect to this regard, if we could go into a closed session of the Committee and get the advice of the Committee secretariat on this matter.

The Hon. WES FANG: I'm happy, in this regard, that I can put the questions perhaps on—

The Hon. DANIEL MOOKHEY: To the point of order: If the Government wishes to recall the witness under subpoena, so at least the witness has the ability to go to any other court proceeding and say that they cannot use it against her, that's one option that's available to the Government. But they cannot turn up three minutes before a hearing and try to ambush a witness—of any type—in the manner that the Deputy President is currently proposing to do.

The CHAIR: I uphold the point of order by Mr Mookhey, and I was convinced by his argument. Mr Fang, we have got just under two minutes left. If you wish to ask the witness different questions, please proceed. If you are finished with questions, that is the end of today's hearing.

The Hon. WES FANG: I will take advice from the Clerk, so I can put any questions that I have as supplementaries.

The CHAIR: Thank you. Okay. That is the end of today's hearing. Thank you so much for coming.

JENNY WEST: Thank you.

The CHAIR: You did take questions on notice, and the secretariat will be in touch with you about those. You will have 21 days to get those back to the Committee. Thank you again. I really appreciate, as all members do, you giving us your time today and appearing before this Committee.

(The witness withdrew.)

The Committee adjourned at 12:58.