

REPORT ON 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 Tuesday 19 July 2022

The Committee met at 10:05.

PRESENT

The Hon. Robert Borsak (Acting Chair)

The Hon. Wes Fang

The Hon. Scott Farlow

Ms Sue Higginson (substituting for Ms Faehrmann)

The Hon. Courtney Houssos

The Hon. Taylor Martin (substituting for Mr Farlow)

The Hon. Daniel Mookhey (participating)

The Hon. Peter Poulos

The Hon. Penny Sharpe (substituting for Mr Graham)

The ACTING CHAIR: Welcome to the third 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 or Torres Strait Islander people joining us today.

Before we commence, I will make some brief comments about 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 may say outside of their evidence at the hearing. Therefore, I urge witnesses to be careful about comments they make to the media or to others after they complete their evidence.

Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily. All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, they 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, they 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 microphones. For those who have hearing difficulties 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, would everyone please turn their mobile phones to silent for the duration of the hearing.

Mr CHRIS CARR, General Counsel, Department of Enterprise, Investment and Trade, sworn and examined

The ACTING CHAIR: I thank Mr Carr for making time to give evidence to this inquiry. Mr Carr, would you like to start by making a short opening statement?

CHRIS CARR: Thank you, Chair. I would.

The ACTING CHAIR: Please keep it to a couple of minutes.

CHRIS CARR: Thank you for the opportunity to assist this inquiry. As explained to the Committee prior to my attendance today, there may be limitations on the evidence that I provide, noting that legal professional privilege and the protection of Cabinet-in-confidence information may apply. At the outset I want to outline my limited role in these matters and respond to inaccuracies in evidence provided so far. First to my role. For context, I joined the New South Wales public service on 16 June 2021 as General Counsel of Investment NSW—essentially the director responsible for the very small function of a then new agency. On STIC recruitment, my role was usually limited to advice on STIC contracts, discussions in the final stages of the processes.

As has now become clear, in mid-August 2021 the relevant portfolio Minister became aware that under existing New South Wales legal framework the STIC appointments did not need to go to Cabinet for approval, and that he and others would be asked going forward to note the appointments, not approve them. I was then asked to provide advice in relation to a policy question, being: Why is it that in New South Wales the law provides that these appointments go through the public service and what would it take to change that to ministerial appointments? I understand that what happened next was, through his advisers, the Minister then sought that advice from the Investment NSW CEO in early September, who then asked me to prepare advice on that question. The advice I provided—while legal advice, essentially—then formed the basis for Cabinet deliberations on policy.

In relation to the matters the Committee is looking into, I have four initial comments. One, the instructions I received on the policy question were from a combination of the Investment NSW CEO and her then chief of staff. I was not contacted by Mr Barilaro's office to provide that advice. Two, I have never met, spoken to nor communicated directly with Mr Joseph Brayford. My only contacts with him that I'm aware of are that I was copied on one email on 9 September 2021 that attached my initial advice and then copied on two emails after 27 September 2021 to arrange a call to discuss the decision of government. That call never happened.

I had only one interaction with Minister Barilaro's office during the time he was a Minister. A junior adviser asked me questions on a Teams call in relation to the foreign affairs powers in the Commonwealth Constitution and a question regarding the Commonwealth's foreign relations Act, with her other questions having already been addressed by others. Four, I did not ever meet nor have any contact with Mr John Barilaro until finalising his contract in mid-2022, by which time he was a private citizen. I have only ever met him once via one Teams call. Similar calls have happened with other STIC candidates who emerged from the selection part of the process as they get towards the end of the overall recruitment process. Those are the facts as they relate to my role.

Secondly, I would like to take the opportunity to respond to evidence that has been provided on matters that are within my knowledge. The purpose is to correct the record. One, Ms West's evidence was that her contract terms were finalised on 13 August 2021. She also stated that she was "fully offered the job"—her words. That is not correct. In the documents that Ms West tendered, she identified material tax items that were unresolved as late as 16 September 2021—that is, in her own words, on 16 September. More than a month later Ms West said:

I need to find an expert here in US Taxes that can advise me as you will see there are implications in many areas—
and, importantly—

I can't move forward until this is sorted.

When I received that email, I felt there were material contract terms that had not yet been finalised, particularly as to tax. In my experience tax issues usually have cost implications that individuals seek to negotiate. Further, and relevantly, because of matters related to Investment NSW's US structure, Investment NSW was not in a position to issue any contract or offer to any candidate prior to mid-December 2021. Until the agency signs an agreement, countersigned by an applicant, a person remains an applicant. My understanding is that Ms West was well advanced in the process but not at the end of it.

Two, Ms West said that Investment NSW did not communicate with her and that she "heard nothing" from when she spoke with the Investment NSW CEO on 14 October 2021 until her termination letter, dated 19 November 2021. That is not correct and could create the perception of an uncaring public service. Investment NSW received letters from Ms West's lawyers as early as 19 October 2021. Investment NSW had

responded by 22 October 2021 and continued to correspond through lawyers throughout that time, including on such things as porting telephone numbers, leave arrangements et cetera. As early as 28 October 2021 Investment NSW sought confirmation from Ms West's lawyers for her preferred method of correspondence regarding an intention to terminate. Finally, after repeated attempts to confirm this, Ms West's lawyers wrote on 2 November 2021 confirming that Investment NSW should communicate through them rather than to Ms West directly. Investment NSW respected and adhered faithfully to that request.

Three, Ms West gave evidence that she was not given a chance to explain her situation. Ms West was asked whether she was given an opportunity to make a submission to Secretary Coutts-Trotter, to which she replied, "No." That is not correct. On 8 November 2021 Secretary Coutts-Trotter provided an intention-to-terminate letter to Investment NSW, which was then provided to Ms West's lawyers—that is, the secretary of the Department of Premier and Cabinet, who was the only person who could terminate Ms West's employment, wrote to Ms West, where she specifically asked if she would like to make any submissions in relation to her deputy secretary role becoming redundant. It is therefore my understanding of those events that Investment NSW afforded Ms West customary procedural fairness on her termination.

Four, Ms West said she was unaware that she could reapply for the STIC Americas role. I have seen reports saying that she was somehow barred or prevented from applying for the STIC Americas role when it was readvertised. Ms West was clearly informed at the time that if she was successful in securing re-employment in the public sector, the termination payments she received could be required to be paid back pro-rata. These matters were explained in Ms West's termination correspondence from the secretary of the Department of Premier and Cabinet, dated 19 November 2021. Ms West's decision to not apply is therefore a matter for her. With that, and mindful of the potential limitations that may apply to my evidence today, I'm open to assist the Committee to the extent that I am able to.

The Hon. DANIEL MOOKHEY: Thank you, Mr Carr, for your appearance today. We appreciate your time as well. You are the general counsel of the Department of Enterprise, Investment and Trade, correct?

CHRIS CARR: I am now, yes.

The Hon. DANIEL MOOKHEY: When were you appointed to that role?

CHRIS CARR: I was appointed as an acting general counsel on or about 31 January 2022. A recruitment process, including advertising and the normal processes for a role like that, was then gone through and I was appointed—I couldn't pin the date of it but it would be some point around April, I think, that I was appointed.

The Hon. DANIEL MOOKHEY: And prior to that you were the general counsel of Investment NSW, correct?

CHRIS CARR: Immediately prior, yes, I was the general counsel. The time line we're talking about is Christmas, so there may have been some time I was on leave and somebody else was acting. But yes.

The Hon. DANIEL MOOKHEY: And you said in your opening statement that you started that role in June?

CHRIS CARR: June 2021.

The Hon. DANIEL MOOKHEY: And how were you appointed to that role?

CHRIS CARR: I applied online through I Work For NSW.

The Hon. DANIEL MOOKHEY: Who do you answer to?

CHRIS CARR: Ultimately I answer to the secretary but I also have a line manager, who is the deputy secretary for engagement, operations and governance.

The Hon. DANIEL MOOKHEY: When you were the general counsel of Investment NSW, did you report directly to the CEO?

CHRIS CARR: No, I didn't.

The Hon. DANIEL MOOKHEY: Who did you report to?

CHRIS CARR: I reported to the chief operating officer.

The Hon. DANIEL MOOKHEY: Who was?

CHRIS CARR: Who is Lisa Braid.

The Hon. DANIEL MOOKHEY: And through that Ms Braid was responsible for imparting views to the CEO?

CHRIS CARR: I don't think that's how these things typically work, Mr Mookhey. She was my manager, as she was responsible for the operations of Investment NSW. The legal function, as you can appreciate, is part of the operations function. But, in terms of the giving or—

The Hon. DANIEL MOOKHEY: That's okay, I understand.

CHRIS CARR: Okay.

The Hon. DANIEL MOOKHEY: You were a member of the program steering committee that was responsible for the rollout of the global New South Wales network, were you not?

CHRIS CARR: That steering committee, which, I think, from my recollection—I'm looking at who's listed on there. They may have had one meeting, or maybe two.

The Hon. DANIEL MOOKHEY: Can I table this tendered bundle formally, Chair, because I think the witness is making reference to it. Mr Carr, if you turn to page 2 of it, this is from the July production to the Parliament—sorry, the production was in December; it's from a July PowerPoint presentation. This is a group that was responsible for rolling out the global New South Wales network and it lists you as a member of the program steering committee. So we can infer—for my first question, that you were a member of that committee—you were a member of that committee?

CHRIS CARR: I was a member of that committee.

The Hon. DANIEL MOOKHEY: And you're saying that that committee only met once?

CHRIS CARR: I think what I said was I think it only met once or twice, in my memory.

The Hon. DANIEL MOOKHEY: But to the extent to which you said in your opening statement you had a limited role, that doesn't provide the full picture, does it, Mr Carr? Because you clearly were a member of the program steering committee that was rolling out the entire network, correct?

CHRIS CARR: Perhaps for context, Mr Mookhey, the program steering committee makes reference to a Sue Doyle—I'm not even sure I know who that is—and a Tracy Wilson, who is the CIO of NSW Treasury. I'm also not sure who she is.

The Hon. DANIEL MOOKHEY: Mr Carr, to return to the question, you were a member of the program steering committee, correct?

CHRIS CARR: Yes, I was.

The Hon. DANIEL MOOKHEY: And that committee was responsible for the rollout of the global network, correct?

CHRIS CARR: No, Mr Mookhey. That steering committee was set up—I will take a step back. As you will note from the document, Mr Mookhey, the chair was the program sponsor, Jenny West. So she had established this. The meeting document that you've tendered from July was very shortly after I had joined the Government. Ms West, I think, was attempting to set up a form of oversight for the rollout of the program, but the actual rollout was dealt with more at an operational level because the operational questions don't go to a level that, for example, Steve Cox, the Destination NSW CEO, would be across, and he was also a member of that steering committee.

The Hon. DANIEL MOOKHEY: Thank you, Mr Carr. I appreciate that. All I'm saying is when you said you had a limited role, that's not the full picture, is it? You were part of this committee. As you just said there, it was an oversight committee.

CHRIS CARR: Sorry, I did have a limited role.

The Hon. DANIEL MOOKHEY: Thank you.

CHRIS CARR: I think attending a one-hour meeting in July is not—

The Hon. DANIEL MOOKHEY: I will move on, Mr Carr. Before we get into the main line of questioning, you made reference in your opening statement to emails you were copied in on on 9 September 2021. Did I read that correctly?

CHRIS CARR: One email, yes.

The Hon. DANIEL MOOKHEY: Do you have a copy of that?

CHRIS CARR: Not with me, no.

The Hon. DANIEL MOOKHEY: Do you know why that wasn't produced to the upper House when we called for it?

CHRIS CARR: My understanding, Mr Mookhey, is that documents that are ultimately used for the purposes of Cabinet deliberations are not normally lawfully required to be produced under Standing Order 52.

The Hon. DANIEL MOOKHEY: Okay, thank you. You say in your opening statement that you had limited to no contact with the Deputy Premier's office. Is that correct? Is that a fair summation?

CHRIS CARR: Yes.

The Hon. DANIEL MOOKHEY: Did you attend any of the fortnightly meetings that the Investment NSW CEO had with the Deputy Premier's office?

CHRIS CARR: I never attended one of those meetings—not one.

The Hon. DANIEL MOOKHEY: Did you ever have any routine calls of any type with any member of the Deputy Premier's office?

CHRIS CARR: Sorry, I didn't hear the question.

The Hon. DANIEL MOOKHEY: Did you ever have any routine engagement or contact with any member of the Deputy Premier's office?

CHRIS CARR: I don't know how best to summarise this, Mr Mookhey. The entirety of my engagement with the Deputy Premier's office was around that time. I've best summarised in my opening my interactions. Before that I had no interactions with the Deputy Premier's office.

The Hon. DANIEL MOOKHEY: And you never briefed the Deputy Premier directly?

CHRIS CARR: No.

The Hon. DANIEL MOOKHEY: And you never had any contact with Mr Brayford directly on the phone?

CHRIS CARR: Not that I am aware of. I went back and checked my files and all I could uncover was what I've referred to.

The Hon. DANIEL MOOKHEY: Can you turn to page 16 of the tender bundle? This is an email that we asked Ms Brown about when she was in front of us. Did you see Ms Brown's evidence, by any chance?

CHRIS CARR: I did.

The Hon. DANIEL MOOKHEY: Have you had the opportunity to familiarise yourself with the transcript?

CHRIS CARR: I've read it.

The Hon. DANIEL MOOKHEY: Can you turn to page 19 of the tender bundle? We asked Ms Brown who precisely was responsible for commissioning the production of the advice which you referred to in that email. She says the Deputy Premier's office got in touch with you directly. That is the highlighted section at the bottom of page 19. You can see on page 20 Ms Brown tells us:

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

Then I asked:

Was it an adviser in the Deputy Premier's office or was it the Deputy Premier himself?

Ms Brown quite definitively replied:

It was an adviser in the Deputy Premier's office.

I said:

So the Deputy Premier's office asks. Were you notified of that request ...

Ms Brown replied:

I was already aware of the request ...

There is a straight contradiction between what you've told us and what Ms Brown told us. Ms Brown has told us quite clearly that this particular advice that was sought by the Deputy Premier's office came to you directly from an adviser in the Deputy Premier's office. Was Ms Brown wrong?

CHRIS CARR: Ms Brown's evidence, Mr Mookhey, was "I don't know the chain of how he was instructed".

The Hon. DANIEL MOOKHEY: Yes, I see that too. But she also says—

CHRIS CARR: But my evidence, Mr Mookhey, is that I was instructed through a combination of the chief executive officer of Investment NSW or her office.

The Hon. DANIEL MOOKHEY: So Ms Brown instructed you directly?

CHRIS CARR: Some of the instructions around that time would have come from Ms Brown—sorry, the Investment NSW CEO—and some of them would have come from her chief of staff.

The Hon. DANIEL MOOKHEY: I asked Ms Brown, "Did you instruct the general counsel?" and she said no.

CHRIS CARR: I think, Mr Mookhey—

The Hon. DANIEL MOOKHEY: I asked, if you go back to the bottom of page 19:

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

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

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

AMY BROWN: The Deputy Premier's office.

Mr Carr, to be very clear, I'm not suggesting you're wrong, but there are two straight-out contradictions between what you're telling us and what Ms Brown told us just two weeks ago. She told us she didn't ask you; you're telling me that she did. Can you tell us: When did she ask?

CHRIS CARR: To be clear, I said in my opening and again my evidence has been that at that time the instructions I received were through a combination of the CEO of Investment NSW and her chief of staff.

The Hon. DANIEL MOOKHEY: I'm sorry, I don't see how we can draw a distinction between her and her chief of staff. So if it came from her chief of staff, I'm presuming that the chief of staff was acting on Ms Brown's decision. Do you want to tell us when did you get the request from Ms Brown?

CHRIS CARR: I don't have the date with me but it would have been early September.

The Hon. DANIEL MOOKHEY: She says that she got the request from the Deputy Premier's office around 6 September. Was it on 6 September?

CHRIS CARR: I think I just gave the answer to that, that it was early September.

The Hon. DANIEL MOOKHEY: No, Mr Carr, I'm pushing you for a more direct answer. I'm asking you: There's a two-week discrepancy between 6 September and when you write this email on the twenty-first.

CHRIS CARR: I'm sorry, Mr Mookhey, but I think in my opening I was quite clearly saying that my initial advice was provided on 9 September, just to be clear. So the instructions would have come before 9 September in order for me to have produced initial advice.

The Hon. DANIEL MOOKHEY: Thank you, Mr Carr. That's helpful. How many advices did you produce?

CHRIS CARR: There would be more than one because, as I've also outlined, I did receive some questions subsequent to that from a junior officer in Minister Barilaro's office. But they were related to the Commonwealth Constitution and they were related to the Commonwealth's foreign relations Act.

The Hon. DANIEL MOOKHEY: In your opening statement you said you were "copied on one email on 9 September 2021 that attached my initial advice". Did you send your advice to Ms Brown or did you send it directly to the Deputy Premier's office?

CHRIS CARR: I did not send anything directly to the Deputy Premier's office. It would have gone either through—possibly in combination; I would need to check that.

The Hon. DANIEL MOOKHEY: Do you know why that advice wasn't produced to the upper House?

CHRIS CARR: I think that's the same advice that you have asked the earlier question about.

The Hon. DANIEL MOOKHEY: No, it's a different issue. Legal advice is routinely provided to the upper House.

The Hon. PENNY SHARPE: Are you claiming that it was a Cabinet document?

CHRIS CARR: I'm claiming that the advice that was given was then used for the purposes of Cabinet deliberations, which my understanding is should not need to be lawfully produced under a Standing Order 52 request.

The Hon. DANIEL MOOKHEY: So you provided your first advice—or "initial advice", is the term you use—on 9 September to somebody. Do you remember who?

CHRIS CARR: It was either—and this is an either/or, Mr Mookhey, just to be clear—the Investment NSW CEO or a combination of her and her chief of staff.

The Hon. DANIEL MOOKHEY: And then she presumably sends it on to Mr Brayford?

CHRIS CARR: The email to Mr Brayford, if it would be helpful, Mr Mookhey, was sent by the Investment NSW chief of staff.

The Hon. DANIEL MOOKHEY: That is helpful, thank you. And that includes your advice and that's cc'ed, correct?

CHRIS CARR: I was cc'ed, yes.

The Hon. DANIEL MOOKHEY: And the request for that initial advice, was that given to you in writing?

CHRIS CARR: No.

The Hon. DANIEL MOOKHEY: So how were you asked?

CHRIS CARR: I would have taken a phone call from, again, without belabouring the point, either—my phone doesn't go back in sufficient time to know; I certainly tried to check that in order to prepare.

The Hon. DANIEL MOOKHEY: Sure, Mr Carr. I appreciate that.

CHRIS CARR: It would have been either/or. I'm trying to be as helpful as I can.

The Hon. DANIEL MOOKHEY: You are, Mr Carr. To be clear, you are being helpful.

CHRIS CARR: One of those two people would have called me and asked, "This request has come."

The Hon. DANIEL MOOKHEY: Presumably, if you got the request circa sometime from 6 September onwards and you turned around initial advice, I presume you were instructed or asked to provide that advice quickly?

CHRIS CARR: Mr Mookhey, unfortunately, in my limited experience in government, every piece of advice I'm asked seems to come with a degree of urgency, and that was no different.

The Hon. DANIEL MOOKHEY: I'm sure, Mr Carr. But I'm asking you, were you asked specifically to provide the advice quickly?

CHRIS CARR: I don't have the calendar in front of me but I feel like it was done over the weekend, during lockdown.

The Hon. DANIEL MOOKHEY: Ms Brown or her chief of staff asked you for that advice. That is your clear recollection?

CHRIS CARR: I was asked the specific policy question that we had. It's a question that I took the time that I had available to assess why they are done that way in New South Wales, and I was asked in relation to how they would be converted to ministerial appointments, given that, for example, Victoria does it that way.

The Hon. DANIEL MOOKHEY: But, again, Mr Carr, I'm now going to go back to the fact that there is now an even bigger contradiction between what you're saying and what Ms Brown told us. Ms Brown never disclosed that she asked you for the advice, let alone that you provided it to her and let alone that she forwarded it on to Mr Brayford, and that this all took place two weeks prior to any point that we knew before.

CHRIS CARR: To be very clear—and I'm not sure if I said this earlier—but the email that was sent to Mr Brayford came from the chief of staff of the CEO of Investment NSW. I want to be very clear on that point.

The Hon. DANIEL MOOKHEY: You are very clear on that point, and I'm not disputing that. But my point is—

CHRIS CARR: But you just said that the CEO—

The Hon. WES FANG: Point of order: Mr Carr is making his answers quite clear. What Mr Mookhey is doing is rephrasing the answers given by Mr Carr, claiming that they're a contradiction, which they are not.

The Hon. PENNY SHARPE: Point of order—

The ACTING CHAIR: What's the point of order? That's not a point of order; that's an argument.

The Hon. WES FANG: The point of order is that Mr Mookhey is respondent to the procedural fairness resolution of the House. The line of questioning at the moment I do not believe is respondent to that resolution.

The Hon. PENNY SHARPE: To the point of order: To be honest, I think Mr Carr is doing very well.

The Hon. WES FANG: He is.

The Hon. PENNY SHARPE: I think that Mr Mookhey is asking him questions that flow from the answers that he's giving. I don't believe that this is a point of order at all.

The Hon. WES FANG: Further to the point of order: I understand Mr Mookhey asking questions—

The Hon. COURTNEY HOUSSOS: Come on, Wes. He doesn't need your help.

The ACTING CHAIR: Order!

The Hon. WES FANG: Courtney, I'm taking a point of order here.

The ACTING CHAIR: Order! Address the Chair.

The Hon. WES FANG: I will if I'm not interrupted by other people.

The ACTING CHAIR: Address the Chair.

The Hon. WES FANG: Chair, the point is that Mr Mookhey is entitled to ask questions out of the answers given by Mr Carr. What he's not entitled to do is make reflections on those answers, claiming that they are creating an incomplete picture, when I'm getting the complete picture from the answers that Mr Carr is giving.

The ACTING CHAIR: There is no point of order.

CHRIS CARR: Can you repeat the question?

The Hon. DANIEL MOOKHEY: To be clear—and I want to do this because I want to be very fair to Ms Brown too—there's an apparent contradiction between what you're telling us and what Ms Brown told us. Ms Brown has said quite clearly that she didn't make the request to you and that the request came from an adviser in the Deputy Premier's office. I want to be very clear—and then I want to move on from this particular point, Mr Carr—that your best recollection is that in some phone call from probably the Investment NSW chief of staff to the CEO sometime between 6 and 9 September, you were asked to provide advice on conversion to ministerial appointments, and you then did provide that advice?

CHRIS CARR: There are two limbs to the question I was asked, to be very clear. I was asked for advice on why in New South Wales they are public service appointments. The evidence I have given, I think, Mr Mookhey, touches on this. It was not an instruction that came directly from the Deputy Premier's office, which I think is where you're heading with this, and I'm categorical on that. As to who rang me at the time, Mr Mookhey—

The Hon. DANIEL MOOKHEY: It was either one of those two.

CHRIS CARR: —I really did check.

The Hon. DANIEL MOOKHEY: But it was one of those two?

CHRIS CARR: It was one of those two.

The Hon. DANIEL MOOKHEY: Thank you. That's fine, Mr Carr. I appreciate that.

CHRIS CARR: If I were able to go back and if the phone accounts would show me, I'd be happy to give that account. But I think, under questioning—my understanding of the secretary's evidence at the time is that she wasn't sure of the chain of instructions, and I think that's consistent with my recollection. I'm not specifically familiar with the chain of how that came to be with me.

The Hon. DANIEL MOOKHEY: Thank you, Mr Carr. Is it your recollection that that was the first time you were asked? Was the first time you were asked to provide advice on that policy question around 6 September?

CHRIS CARR: It was the first time in terms of the full question, yes.

The Hon. DANIEL MOOKHEY: Was there no other earlier incident that you can recall?

CHRIS CARR: I think at one stage the deputy secretary's office—and, to be clear, that's Ms West we're talking about—asked me in relation to whether these roles should go to the Governor, which I provided advice on, which was that they don't. I may have been asked other advice intermittently. I should also point out that prior to this being with Investment NSW—

The Hon. DANIEL MOOKHEY: It was with Treasury, yes.

CHRIS CARR: —because we've got to bear in mind that this was very newly into Investment NSW, we're talking—another department had carriage of that. Also I wasn't working in government, so we're talking about a very small window.

The Hon. DANIEL MOOKHEY: Indeed, Mr Carr, we are.

CHRIS CARR: There may have been occasions when I was asked questions.

The Hon. DANIEL MOOKHEY: Can I ask you to search your memory? Do you recall any specific requests around the question of conversion to ministerial appointments around July last year?

CHRIS CARR: Conversion to ministerial appointments around July—I've got no recollection of that.

The Hon. DANIEL MOOKHEY: Do you recall any conversations with Ms Brown in which she sought your advice or requested any information on that around June or July last year?

CHRIS CARR: I think over time, to be clear, the CEO of Investment NSW would, on occasion, ask or discuss how these appointments get made and the overlay of the GSE Act and the GSE regulations. I think, as everybody probably by now appreciates, these are not ordinary public service roles.

The Hon. DANIEL MOOKHEY: Indeed.

CHRIS CARR: They're a little bit—

The Hon. PENNY SHARPE: So we've found out.

CHRIS CARR: In order to therefore get to where these things are done in the way that they ought be done, it is open to the CEO to seek the advice of their lawyer.

The Hon. DANIEL MOOKHEY: And there's nothing inappropriate with that, Mr Carr, just to be clear.

CHRIS CARR: I don't think the question of conversion, though—which I think was your question, Mr Mookhey—had ever come up. But the question as to process and how it gets done, I think, would've come up.

The Hon. DANIEL MOOKHEY: Can I ask you to again search your memory for July last year about whether or not the CEO or the chief operating officer, Ms Braid—did any of them, the chief of staff or anyone else in Investment NSW, but particularly those three, inform you that a request had come from the Deputy Premier's office in July last year for advice on this question?

CHRIS CARR: You've asked me to search my memory for that, Mr Mookhey. I can take that question on notice, if that would assist.

The Hon. DANIEL MOOKHEY: But you don't have any immediate recollection?

CHRIS CARR: In terms of my immediate thoughts as to what transpired at the time, can we contextualise it that if you start a role in government on 16 June—I had eight days physically present in the office before the State went into lockdown. Subsequent to that we were managing things like potential RNA projects. We were managing how do we manage and support our staff and other—

The Hon. DANIEL MOOKHEY: Mr Carr, I don't disagree with you. I'm just asking you—

CHRIS CARR: The fact that there may or may not have been questions around this would have been on the periphery, frankly, of my broader role for the agency.

The Hon. DANIEL MOOKHEY: I appreciate that. Can I ask you to turn to page 10 of the tender bundle? At the bottom of page 10 of the tender bundle is an email from Ms Brown to Mr Brayford in the Deputy Premier's office that is dated 2 July 2021, at 10.24 p.m. It reads:

Hi Joseph.

Further to your question on the above:

Can you turn to the next page?

CHRIS CARR: Yes.

The Hon. DANIEL MOOKHEY: You can see here that Ms Brown provides seven points of advice in response to what I infer is a question about conversion. If you go to the last dot point, you can see it states:

There is complexity around the STICs being statutory officers which may make it more appropriate to retain their status as public servants. The day-to-day activities of the STICs are subject to the direction and control of the CEO of Investment NSW and each STIC will have strong KPIs around their outputs and performance. Statutory officers appointment to a Minister are not subject to the direction and control of an agency CEO, making those KPIs difficult to monitor and enforce. Additionally, all the staff supporting the STICs offshore in NSW Government offices will continue to be public servants. Their reporting lines will be difficult to maintain where the STIC is an independent statutory officer but their staff are not.

That is the sixth point of advice on substantially the same question that you were asked in September, which is around conversion. Firstly, I presume you haven't seen this email before?

CHRIS CARR: No.

The Hon. DANIEL MOOKHEY: Did you provide any draft instructions to Ms Brown similar to this?

CHRIS CARR: Again, Mr Mookhey—

The Hon. DANIEL MOOKHEY: Just because these are technical legal points; some of these are technical legal points.

CHRIS CARR: I understand that, but I also understand that the head of an agency would probably have some familiarity with how their employer functions would operate.

The Hon. DANIEL MOOKHEY: Mr Carr, that wasn't my question. My question was did you provide any of the text that was used in this email?

CHRIS CARR: Sorry, and I'm not meaning to quarrel with you, Mr Mookhey, but you did say that it was technical advice and complex advice. So I was in response to the question you asked.

The Hon. DANIEL MOOKHEY: And I'm not offended, Mr Carr. Did you provide any of the draft text?

CHRIS CARR: As I said, I haven't seen this email. Whether I was asked within the first two weeks of my employment in the Government this particular question, bearing in mind, Mr Mookhey—and it is relevant—that until 1 July, which is a day before this email was sent, a lot of the carriage of that was actually with Treasury as part of the transition to Investment NSW. For instance—and I think it's helpful—when I started on the sixteenth I didn't have an @investment email address; I had an @treasury email address. I want to be very careful to say to you—I'm not going to say absolutely I wasn't asked that question; I'm just saying to you that in the first two weeks I struggle to see how, given that others had carriage of this before that, there is not an alternate fact pattern.

The Hon. DANIEL MOOKHEY: Mr Carr, you make a good point. Part of the issue that is interesting about this particular email is that it is sent the second day after Investment NSW takes responsibility for this. That's the point, actually.

CHRIS CARR: Sorry, to be very clear, Mr Mookhey, I wasn't saying that it was the day after Investment NSW took responsibility; I was saying it was the day after the legal support for Investment NSW had transitioned off Treasury.

The Hon. DANIEL MOOKHEY: Agreed.

CHRIS CARR: Because Investment NSW would have taken responsibility for this on 29 March, when it was established under those administrative arrangements orders.

The Hon. DANIEL MOOKHEY: That's helpful context, Mr Carr. But the point is—the actual question is you didn't provide the draft text to Ms Brown, to the best of your recollection?

CHRIS CARR: Chair, with respect, I'm trying very hard to answer. I believe I've answered that question.

The Hon. DANIEL MOOKHEY: I'll move on, Mr Carr. It is clear that the Deputy Premier's office is inquiring from Investment NSW as early as July 2021 around conversions. Were you aware of that when you were requested to provide the advice around 6 September?

CHRIS CARR: I'm sorry. Could you repeat that question, Mr Mookhey?

The Hon. DANIEL MOOKHEY: Given that it is quite clear that the Deputy Premier's office was making inquiries about converting—of Ms Brown, at least—the STIC appointments into ministerial appointments from at least 2 July 2021, were you aware of that when you were asked to provide the advice on 6 September?

CHRIS CARR: Was I aware in September—and I don't think I said that the advice was 6 September; I think I said it was early September.

The Hon. DANIEL MOOKHEY: You said it was 9 September.

CHRIS CARR: Was I aware at that time of this previous email from July? I think when it was raised with me in early September I was eager to ensure that I looked at this with fresh eyes, Mr Mookhey. As I said very clearly, I haven't seen this email. You've produced it to me today; it's the first time I've seen it. If I'd been provided it in the context of a later advice that I was asked to provide I would have given it consideration, but it wouldn't have informed the heavy basis for it.

The Hon. DANIEL MOOKHEY: Returning to the request that you received, I think, sometime between 6 and 9 September—

CHRIS CARR: Mr Mookhey, I've just been handed a note in clarification of one of your questions. I understand that the advice that you're talking about at the bottom of this 2 July email that I've just been provided was actually provided by the general counsel of the Department of Premier and Cabinet. And, as you will appreciate, Investment NSW was a related department to the Department of Premier and Cabinet at the time.

The Hon. DANIEL MOOKHEY: Thank you. That's very helpful.

CHRIS CARR: To your actual question, having never seen this email, I therefore probably wouldn't necessarily have taken it in mind.

The Hon. DANIEL MOOKHEY: You've answered the question now very clearly, Mr Carr. Thank you very much.

The Hon. PENNY SHARPE: We've got the September advice, where you've provided extensive advice in relation to the conversion of the things. How many other times did you verbally or otherwise provide advice to Ms Brown or to her chief of staff in relation to the conversion of these appointments?

CHRIS CARR: To be very precise to your question, Ms Sharpe, about conversion—because I was asked, as I've said on multiple occasions, as to why these people are appointed as public servants. As to the question of conversion, it first meaningfully came up on this phone call—and I can't determine whether it was the CEO or the chief of staff—in early September as to conversion.

The Hon. COURTNEY HOUSSOS: But the method of appointment was a discussion point within the department. It was something that was being actively canvassed by the CEO, or her chief of staff, with you over a period of time.

CHRIS CARR: I want to be careful about the word "canvassed", if I can, Ms Houssos, because I think it's become clear that there were two appointments that went where they ought not have gone. So, therefore—

The Hon. DANIEL MOOKHEY: Sorry, you mean two appointments that went to Cabinet?

CHRIS CARR: That went to Cabinet. And, in my defence, at least one of those happened before I was even working for the New South Wales Government. I've got to be careful about the idea of something being canvassed. No, there was an ongoing desire to ensure that we were doing these things in the appropriate way.

The Hon. PENNY SHARPE: But there was complete confusion. The Parliament has been given a lot of advice from the Premier and the Minister responsible in relation to what did or didn't happen, and they're very quick to say that these were hands-off appointments that didn't require sign-off. We've seen through the entirety of this process to date that there were some that went to Cabinet; there were some that didn't go to Cabinet. There were some that were actually signed off and approved by Ministers; there were some that were not. You're trying to be very precise within a very close period, but we're trying to understand your involvement in the ongoing discussions about the way in which these appointments were made.

CHRIS CARR: I would categorise my involvement in this as quite limited, Ms Sharpe.

The Hon. PENNY SHARPE: I would actually disagree.

CHRIS CARR: Okay.

The Hon. PENNY SHARPE: It's clear, you've given some advice and you're not able to—what I'm asking for is it's clear that there's a lot of discussion—if you don't like the word "canvass", I'm happy to go with "discussion"—about the nature of these appointments, the way in which people were employed and under what circumstances. I'm trying to ask you to tell us, aside from the formal written advice, which you didn't provide because it was a Cabinet process, what other discussions did you have with the chief of staff or with the CEO of Investment NSW from the time that you were appointed in relation to these positions?

CHRIS CARR: Apologies—and, again, I'm not trying to quarrel—but part of the difficulty I have is that, yes, there was advice prepared, but it takes time in an organisation to filter down to operational people. I would say that throughout that time I did find myself repeating myself to say that these are public service appointments; they're not to be Cabinet appointments. So the idea that it instantly flows through from advice that's provided at that level all the way down to operational is not quite correct. It's not an instant thing; it does take time. And we got there, but it did take some time.

The Hon. DANIEL MOOKHEY: Mr Carr, that is helpful. Can we return to page 16 of the tender bundle, if you don't mind? We've established that you provided "initial advice"—that is the way in which you termed it in your opening statement—to the Investment NSW CEO that was then forwarded by them to Mr Brayford. Can you take us through what happens between that and 21 September 2021?

CHRIS CARR: Between 9 September and 21 September?

The Hon. DANIEL MOOKHEY: Yes, between your initial advice and 21 September.

CHRIS CARR: The advice went out. I think in that time, as I mentioned in my opening, I was asked to attend one call. I think that there would have been consideration had, given the relevant window, as to how that advice was to be applied.

The Hon. DANIEL MOOKHEY: Sorry, one call with whom?

CHRIS CARR: With a junior adviser—I'm careful not to name people, Mr Mookhey. It's a junior adviser in the former Deputy Premier's office.

The Hon. DANIEL MOOKHEY: Why don't we refer to them as the adviser on trade?

CHRIS CARR: No. To be clear, it was not Mr Joseph Brayford; it was another adviser, a junior adviser.

The Hon. PENNY SHARPE: It was not Mr Brayford.

CHRIS CARR: I'm being careful because I had one interaction with a small number of questions in that time.

The Hon. DANIEL MOOKHEY: Who else was on the call?

CHRIS CARR: Nobody.

The Hon. DANIEL MOOKHEY: Just you and that person?

CHRIS CARR: Yep.

The Hon. DANIEL MOOKHEY: Did you organise it or did they organise it?

CHRIS CARR: My recollection was that the adviser had a series of questions, and then by the time the call was—

The Hon. DANIEL MOOKHEY: Sorry, but who organised the call?

CHRIS CARR: The call went via—the CEO's chief of staff sent a meeting invite both to that adviser and to myself. But, as I've said, the chief of staff didn't attend the call. It was on some very narrow legal questions. I was given a—

The Hon. DANIEL MOOKHEY: Sorry, but what were you told was the purpose of the meeting?

CHRIS CARR: To address some questions out of my advice.

The Hon. DANIEL MOOKHEY: Because we were in lockdown at this time, was it on a Teams call?

CHRIS CARR: It was a Teams call.

The Hon. DANIEL MOOKHEY: What were the questions you were asked to provide further follow-up on?

CHRIS CARR: I think I covered that in my opening, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Do you mind repeating it for me now, Mr Carr?

CHRIS CARR: Yes. Whereas I was sent questions in advance, those questions were not particularly raised. There was a question on the Commonwealth's foreign relations Act and a question in relation to the foreign affairs power and the Commonwealth Constitution.

The Hon. DANIEL MOOKHEY: And they sent you questions in advance, you said?

CHRIS CARR: I was sent additional questions in advance, but they weren't discussed on the call because it was—

The Hon. DANIEL MOOKHEY: What were the additional questions?

CHRIS CARR: The additional questions—I'm going to be very careful here because the additional questions, therefore, go to matters of deliberations subsequent.

The Hon. DANIEL MOOKHEY: To be fair, Mr Carr, that's not necessarily the case. But I'll hear you out first and then we'll see. Let's go.

The Hon. WES FANG: Point of order: Mr Carr is clearly trying to articulate that he is going to be very careful with the answers. It is obviously open to Mr Carr that he can take the question on notice and provide it in a written form later.

The ACTING CHAIR: What's the point of order?

The Hon. WES FANG: I think Mr Mookhey—

The ACTING CHAIR: You're not here to coach the witness, Mr Fang.

The Hon. WES FANG: Chair, I'm not coaching the witness.

The Hon. PENNY SHARPE: You're not taking a point of order either.

The Hon. COURTNEY HOUSSOS: What's the point of order?

The Hon. WES FANG: Are we going in stereo now? I'm trying to address the point of order in a calm, concise manner.

The ACTING CHAIR: Address the Chair.

The Hon. WES FANG: I don't need interjections from the Opposition.

The ACTING CHAIR: I'll decide that, not you. Address the Chair.

The Hon. WES FANG: Chair, I'm going to take the point of order yet again that the procedural fairness resolution is quite clear. Mr Carr can elect to answer the question in the way that he wishes and Mr Mookhey directing him and badgering him, as he is, is not recognising that procedural fairness resolution. I ask that you direct him to do so.

The ACTING CHAIR: I've seen Mr Mookhey badger witnesses in the past, and this is not an exercise in badgering by Mr Mookhey. There is no point of order.

The Hon. DANIEL MOOKHEY: Mr Carr, I was asking you what were the additional questions you were asked that were not addressed?

CHRIS CARR: Chair, I'm afraid that they go to detail of a meeting invite that would have sent to me a year ago.

The ACTING CHAIR: Mr Carr, you can answer the question or not; it's up to you.

CHRIS CARR: I would like to take that question—

The ACTING CHAIR: I would clearly state that you will or will not answer it and on what grounds you're not going to answer it.

CHRIS CARR: I'm actually saying, Chair, that I'd like to take that question on notice.

The ACTING CHAIR: Okay, thank you.

The Hon. DANIEL MOOKHEY: Point of order: Chair, the witness is entitled to take questions on notice. But, to be clear, that is a discretion of the Committee, actually, and the Committee is entitled to understand the reasons for why the witness is taking it on notice. I understand that the witness may wish to—and, to be fair, we may agree with them. If the witness can establish that this is material which is Cabinet-in-confidence, then

that's one issue, but there's no basis to decline answering a question or taking a question on notice without providing us with at least some loose reasons as to why the question has been taken on notice.

The Hon. WES FANG: I believe he has, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Maybe we can let the witness provide those reasons.

The ACTING CHAIR: I think that's what I said in my previous ruling.

The Hon. DANIEL MOOKHEY: I will stress that whether or not these are matters to Cabinet is a complicated question. If it is the case that the witness is taking it on notice because a witness is of the view that this is Cabinet-in-confidence information, I would point out that that would jar with all the rulings that the House has adopted when it comes to what is and what is not Cabinet information. What we've always consistently maintained as a House is that only information which relates to the deliberations of Cabinet falls within the privilege.

The Hon. WES FANG: To the point of order—

The ACTING CHAIR: So, Mr Carr, on what basis are you—

The Hon. DANIEL MOOKHEY: Sorry, I haven't finished, Wes.

The Hon. PENNY SHARPE: He hasn't finished.

The Hon. DANIEL MOOKHEY: Information that is provided to the witness in an email for a meeting request doesn't fall within—it is unlikely to reveal the actual deliberations of Cabinet because, to be clear, Cabinet hasn't yet deliberated on any of these questions, and that Cabinet deliberation took place ten days after the chronology.

The ACTING CHAIR: What's the basis upon which you're taking this on notice, Mr Carr?

The Hon. WES FANG: To the point of order—

The ACTING CHAIR: Hang on, I've asked a question now.

The Hon. WES FANG: Yes, and I'm addressing the point of order that Mr Mookhey raised.

The ACTING CHAIR: I've asked a question and you can address it afterwards.

The Hon. WES FANG: I'm addressing the point of order that Mr Mookhey has raised.

The ACTING CHAIR: Are you dissenting from my motion?

The Hon. WES FANG: No, I'm asking you to hear my addressing of Mr Mookhey's—

The ACTING CHAIR: I will hear you after I hear Mr Carr.

CHRIS CARR: Mr Mookhey, the purpose of that call was that in preparation for what would need to come next, I had a request from an adviser through the Investment NSW's chief of staff if I could provide some answers to some questions. As to the specifics, Chair, as to why I need to take the question on notice, I don't have an immediate recollection of the specifics of that particular request. I think, in fairness, I'm being asked about a meeting invitation that was sent close to a year ago. I went back and checked what was actually discussed, and that's why I gave that answer in my opening. As to what was not discussed, I tend not to retain that.

The Hon. DANIEL MOOKHEY: Chair, I won't push the point of order.

The ACTING CHAIR: Okay, thank you. Mr Fang?

The Hon. WES FANG: I was going to take the point of order, Chair, that if there are questions around whether evidence is Cabinet-in-confidence or not and the witness needs to seek advice on that, then that is well within the remit to take the question on notice.

The ACTING CHAIR: That's not a point of order, but anyway, okay.

The Hon. WES FANG: That's not a point of order? It was addressing the point of order that Mr Mookhey raised.

The ACTING CHAIR: Order!

The Hon. PENNY SHARPE: You don't make debating points.

The Hon. DANIEL MOOKHEY: Mr Carr, you don't have a specific and direct recollection. Do you have any recollection of the questions you were asked to address ahead of that meeting, regardless of whether or not you addressed them?

CHRIS CARR: As I said, a meeting—I get—

The Hon. DANIEL MOOKHEY: Mr Carr, you've established that—

CHRIS CARR: I'm not trying to be difficult. It's a meeting invitation that was sent a long time ago, Mr Mookhey, and we've had a lot to deal with in the interim.

The Hon. PENNY SHARPE: But, Mr Carr, you've been able to say that you weren't asked about any of those issues at the meeting.

CHRIS CARR: Yes.

The Hon. PENNY SHARPE: So surely you do then recall what the questions were.

CHRIS CARR: No. I think the point is that in preparation for today I went back and checked what my summary of that meeting was.

The Hon. DANIEL MOOKHEY: Did you keep a written record of the meeting?

CHRIS CARR: What I did was I corresponded back with the chief of staff as to the outcomes of that meeting.

The Hon. DANIEL MOOKHEY: Which chief of staff? The Investment NSW chief of staff?

CHRIS CARR: Yes, the Investment NSW chief of staff.

The Hon. DANIEL MOOKHEY: So, again, none of these records have been produced to the upper House at all. Given that they are unlikely to contain the specific deliberations of Cabinet, because the Cabinet hadn't yet deliberated, can you explain why none of these documents have been produced? Did you provide them for production?

CHRIS CARR: I'm sorry?

The Hon. DANIEL MOOKHEY: Did you provide them for production?

CHRIS CARR: So you're asking me in relation—we can get the order out from last year, if you'd like.

The Hon. DANIEL MOOKHEY: I have, Mr Carr.

The Hon. WES FANG: Point of order—

The Hon. DANIEL MOOKHEY: No.

The Hon. WES FANG: Don't tell me I can't take a point of order, Mr Mookhey. Chair, I'm going to take a point of order. The SO52 related to documents related to this appointment. My understanding is that—

The Hon. COURTNEY HOUSSOS: What's your point of order?

The ACTING CHAIR: What's the point of order?

The Hon. WES FANG: I'm getting to it. Would you stop interjecting and interrupting?

The Hon. PENNY SHARPE: On what basis are you taking the point of order?

The ACTING CHAIR: Order! Don't get excited.

The Hon. PENNY SHARPE: It's very straightforward. You actually have to raise where the standing orders have been breached, not just what you think—

The Hon. WES FANG: Pot calling the kettle black. The last time I asked you, Ms Sharpe, about what the standing order was, you couldn't identify it—

The Hon. DANIEL MOOKHEY: Can I encourage the Deputy President—

The ACTING CHAIR: Address the Chair.

The Hon. WES FANG: —and it turned out I was right last week. Chair, the Standing Order 52 returns related to the role. If Mr Mookhey believes there are documents that are outside of that that fall within it from this, then it's up to Mr Mookhey to identify—

The Hon. DANIEL MOOKHEY: Yes, I'm happy to do that. Chair, I'm very happy to identify—

The Hon. WES FANG: I would seek him to do so before he questions the witness on it.

The Hon. DANIEL MOOKHEY: I will. I'm very happy to take the Deputy President's suggestion. I am happy, because the Deputy President is right, to put this to Mr Carr. Mr Carr, the correspondence that you just referred to and your summary of the meeting that you had with the chief of staff has not been produced to the upper House. Can you explain to me why not?

CHRIS CARR: I'll take that on notice.

The Hon. DANIEL MOOKHEY: Did you provide those emails to the Department of Premier and Cabinet for production?

CHRIS CARR: I'll take that on notice.

The Hon. DANIEL MOOKHEY: Do you have any recall of doing it?

CHRIS CARR: At the time, I wasn't overseeing the return, Mr Mookhey.

The Hon. DANIEL MOOKHEY: You're the general counsel but you're telling me that, as general counsel of Investment NSW, you were not overseeing the return. Then who was?

CHRIS CARR: Okay. That's—I'm sorry.

The Hon. WES FANG: Point of order: There was an agreement prior to this meeting that the Government would be provided some time to question the witness.

The Hon. DANIEL MOOKHEY: Sure, whenever you like.

The Hon. WES FANG: We are now almost an hour into the meeting.

The ACTING CHAIR: Order! Mr Mookhey is using crossbench time.

The Hon. WES FANG: As I was going to point out, the agreement was 20, 20, 20.

The Hon. PENNY SHARPE: We've got 30 seconds left.

The ACTING CHAIR: You've got to 30 seconds left.

The Hon. WES FANG: Okay.

The ACTING CHAIR: And you've wasted most of it, so I'll give him another 30 seconds.

The Hon. DANIEL MOOKHEY: If you aren't responsible, as general counsel, for complying with the House's orders, for ensuring that your agency does, who is responsible for complying?

CHRIS CARR: Mr Mookhey, I was about to answer.

The Hon. DANIEL MOOKHEY: Thank you.

CHRIS CARR: And in the context that there's an existing standing order, you will appreciate, for example, the last time I checked on the current standing order there's been a return or there's been an uncovering of around three million documents that need to be sorted.

The Hon. DANIEL MOOKHEY: Mr Carr—

CHRIS CARR: To be fair, I don't sit there and review and go through all those documents.

The Hon. DANIEL MOOKHEY: Mr Carr, I appreciate that, but the question I asked you is about a return to order that was made last year, not this year.

CHRIS CARR: Sure.

The Hon. DANIEL MOOKHEY: It was made in November—October last year. If you didn't oversee the production of that, who did?

CHRIS CARR: I would have instructed lawyers from my very small and hardworking team to assist with that.

The Hon. DANIEL MOOKHEY: So you did oversee it?

CHRIS CARR: Well, you asked me—sorry, can I take a step back, Chair? The question I was asked was: Do I have a recollection of providing that as part of a return? What my answer was was that I don't sit there and review all the documents that go in as part of a return and I think that asking—

The Hon. DANIEL MOOKHEY: But, Mr Carr, this was a document that you produced. It's not like someone else produced it. The reason I'm asking you specifically is because there's no-one else I could ask. You had to. It was your email. Hence it is Government time—

CHRIS CARR: I understand the question, Mr Mookhey.

The Hon. WES FANG: I am now going to ask a clarifying question on that point. Mr Carr, in your statement you identify on the front page that you have four initial comments. On the third one it is related to the interactions that you had with Minister Barilaro's office during the time he was Minister. It was about a junior adviser asking questions on the Teams call. Now, I believe that the email that you sent to the chief of staff related to the meeting that you had with that junior adviser from that meeting. Is it possible that during that meeting you did not discuss the trade STICs appointments at all and that it related to other matters, such as the Commonwealth Constitution and the Commonwealth foreign relations Act questions, and that the reason the documents weren't returned in the SO 52 is because it didn't actually relate at all to the STICs advice? There was no STICs advice because that wasn't actually in relation to the call. You were only addressing the times that you've had interaction with Mr Barilaro's office.

CHRIS CARR: Thank you for the question. The reality was I had provided advice. My understanding—and I can't speak for the intention of others—was that that advice was then to be used as the formation for matters that were then to be deliberated before Cabinet. It is—I don't think it's right to say that it had nothing to do with the STICs because the question related to the ability of the Commonwealth potentially to stop legislation or stop political appointments. That is my recollection of how that went and likewise the foreign relations Act was very new and we didn't understand—we didn't have a proper or full understanding of the implications that might have, and whether that would be something that would be deliberated subsequently I can't speak to. But that was the nature of the advice. So, I can't really add to that. It was one very short phone call one very long time ago.

The Hon. WES FANG: And so it's possible that, in relation to the response that you gave to the chief of staff by correspondence afterwards, you detailed of the interaction between the Commonwealth Constitution and the advice relating to the foreign relations Act. If the search terms—for example, STICs or whatever—were to not have been mentioned in that email, then it may not have come up in the search. Is that fair to say?

CHRIS CARR: Well, it's hard. Just give me a chance to find the order. The order itself is not particularly clearly worded in some respects.

The Hon. WES FANG: Destined not to be.

CHRIS CARR: All documents related to the recruitment process—just to be clear, the questions I was discussing with the Deputy Premier's office were not about the recruitment process, which was the scope of this order. They were related to how do you appoint these people and a technical question as to the ability of other arms in our system to prevent that. I take a recruitment process to people—"How do you advertise?" "How do you do this?"—whereas this was more on question as to—

The Hon. WES FANG: High level technical legal?

CHRIS CARR: But, more than that, the questions were not about recruitment processes. As the general counsel, they are typically not asked about recruitment processes. I'm more usually or typically asked to provide legal advice. So, having just re-read this, in fairness, the order is about recruitment processes. But the questions we're talking about—

The Hon. PENNY SHARPE: How someone is appointed is fairly immaterial to the recruitment process.

The Hon. WES FANG: Ms Sharpe, it's not your time and, unless you're raising the point of order, as you quite rightly said—

The Hon. PENNY SHARPE: No, I'm interjecting.

The Hon. WES FANG: Well, you're just interjecting!

The ACTING CHAIR: Order!

The Hon. TAYLOR MARTIN: Let's hear the rest of Mr Carr's answer.

The ACTING CHAIR: Interjections are disorderly—

The Hon. TAYLOR MARTIN: He was halfway through it.

The Hon. PENNY SHARPE: Yes, Mr Chair.

The ACTING CHAIR: —unless you're Mr Fang.

CHRIS CARR: Look, I'm happy to leave it at that. Look, I took the advice I was providing to be more in relation to how these appointments could be, to use others' terms, but how they could be converted to ministerial appointments.

The Hon. WES FANG: So, to Mr Mookhey's point—that he is attempting to suggest you were somewhat delinquent in your role in returning these documents as the order articulates, it would be an unfair characterisation by Mr Mookhey to say that you weren't diligent in trying to provide everything to the Parliament. Would that be fair?

CHRIS CARR: Mr Fang—

The Hon. DANIEL MOOKHEY: I didn't say that.

The Hon. WES FANG: Well, that's what you inferred, Mr Mookhey.

The Hon. PENNY SHARPE: Point of order—I'm actually going to take a point of order.

The Hon. WES FANG: Please, and under what standing order?

The Hon. DANIEL MOOKHEY: Relevance.

The ACTING CHAIR: Order!

The Hon. PENNY SHARPE: Relevance in terms of the question and actually not verballing other members of the Committee about the way they ask a question.

The Hon. WES FANG: Like the member verbals!

The Hon. PENNY SHARPE: Sorry. Are you interrupting now?

The Hon. WES FANG: Well, you're interjecting. Apparently, that's the rules now.

The ACTING CHAIR: Order!

The Hon. PENNY SHARPE: My point of order is that if the member has a problem with the way in which Opposition members are asking questions, he can actually raise that in relation to the way in which they ask questions.

The Hon. WES FANG: I did.

The Hon. PENNY SHARPE: I would not reframe these and make assertions to Committee witnesses in relation to those questions.

The ACTING CHAIR: I uphold the point of order.

The Hon. WES FANG: Oh, of course you do.

The ACTING CHAIR: The member should not be putting words in the witness' mouth seeking the sort of answers he's looking for.

The Hon. WES FANG: I'll remind you of that ruling when Mr Mookhey's asking questions again, Chair.

The ACTING CHAIR: Order!

The Hon. WES FANG: Mr Carr, in relation to the other interactions that you've had with Mr Barilaro's office, they're as you've outlined in your opening statement. Is that correct?

CHRIS CARR: Yes. "Very limited" is how I would characterise it.

The Hon. WES FANG: At no time did you ever take direction from Mr Barilaro's office or Mr Barilaro to seek advice; they sought advice from you, written or otherwise, about these matters?

CHRIS CARR: No. Not to me, no.

The Hon. WES FANG: And they haven't directed you in any way around this evidence today?

CHRIS CARR: No. Can I clarify?

The Hon. WES FANG: Please.

CHRIS CARR: I don't know these people. I haven't met them. I haven't interacted with them. We were in lockdown and I was copied in on a couple of emails and I attended one Teams call. Like, it's really, really limited.

The Hon. WES FANG: Yes. So, the attempt to characterise your involvement as anything other than on the periphery and limited is, in your view, unfair?

CHRIS CARR: I'm not giving opinions on people's views on these things. All I've said is I don't—I really don't know these people. I don't. I haven't dealt with them. I have set out the extent of it and, it's very difficult. I should say, Mr Fang. It's very difficult for a public servant to sit here who was asked advice to then be having to, sort of, go into chapter and verse as to other aspects. I just do not pass opinion. It's for other people to make contributions on.

The Hon. WES FANG: I appreciate that and I think the candour with which you have provided your evidence today has really shone through. So, I'm prepared now to pass the questioning back over, but I will reserve some further time later.

The Hon. DANIEL MOOKHEY: Mr Carr, can we just turn back to where we were up to in the chronology—

CHRIS CARR: Which was, sorry?

The Hon. DANIEL MOOKHEY: We can turn to page 16 of the tender bundle. I think you just established—and I am not going to pursue it any further—that there was a team's call with a junior member of the Barilaro team in which you addressed the issues you referred to in your opening statement: that there were questions that you were asked prior that weren't raised. What happened after that?

CHRIS CARR: I had very limited involvement I think, and subsequently I think there are some emails on the twenty-seventh or thereabouts that ask for a follow-up call.

The Hon. DANIEL MOOKHEY: Can we turn to the email on page 16—

CHRIS CARR: Yes.

The Hon. DANIEL MOOKHEY: which is a draft email that I think Ms Brown tells us that you end up sending to, I think, the general counsel of the Public Service Commission. Is that your recollection?

CHRIS CARR: That is my recollection, yes, because as I pointed out Mr Mookhey the advice that was on the ninth would have been preliminary advice or initial advice I think is how I would characterise it. We had to expand on that because as these things evolve, as you appreciate, people have questions; you then expand on the advice and it gets broader. One of those things that occurred or one of those things that we wanted to explore was the highly technical question as to whether instead of a conversion via legislation, whether in fact you could convert or amend regulation 10A which deals with overseas trade employees. These were six of many overseas trade employees. So the Public Service Commission being an independent overseer—custodian, if you like—of the public service and these Acts and these regulations I felt was probably a good starting place to test whether that could be—

The Hon. DANIEL MOOKHEY: So you sought their advice because predominantly they are experts in that part of the world?

CHRIS CARR: I just couldn't imagine a scenario where you would be changing regulation 10A without consulting with the Public Service Commission. I don't see how it would be appropriate.

The Hon. DANIEL MOOKHEY: Sure, and so you therefore initiated the contact with the Public Service Commission?

CHRIS CARR: I reached out. The email that you've tendered Mr Mookhey, just to be clear, was a draft email.

The Hon. DANIEL MOOKHEY: Yes, but you reached out?

CHRIS CARR: I did reach out.

The Hon. DANIEL MOOKHEY: You presumably had a call scheduled that day—

CHRIS CARR: I don't know if it was that day. It may have been the next day.

The Hon. DANIEL MOOKHEY: I am just going from the top of the email. You said "Ahead of our call today".

CHRIS CARR: Yes.

The Hon. DANIEL MOOKHEY: It would have been around that time. Correct?

CHRIS CARR: Yep, that day or the next day.

The Hon. DANIEL MOOKHEY: And you ended up sending this email or a version of this email.

CHRIS CARR: Very, very similar to this I would think.

The Hon. DANIEL MOOKHEY: I think you may have sent it on the same day or thereabouts. Is that correct?

CHRIS CARR: I guess I would've waited for feedback. I'd sent it to a colleague for comments. Usually you'd wait for comments. I suspect after that I would've sent it properly.

The Hon. DANIEL MOOKHEY: I think you did, to be fair. If you go the first highlighted section of the page which says:

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

Who asked you to consider that?

CHRIS CARR: I am sorry but I think that's essentially what I've covered: that I was asked the advice originally in terms of why these appointments are under the GSC Act, the reg—

The Hon. DANIEL MOOKHEY: I appreciate that Mr Carr but in the chain of events you've provided initial advice on that question on the ninth.

CHRIS CARR: Mm-hmm.

The Hon. DANIEL MOOKHEY: You had another meeting with the Deputy Premier's office on the seventeenth for the first meeting and then four days later still the request is present in the system because you are—this is an email that you were being sent on the twenty-first. The reason why I am pushing you specifically on this point is that who was asking you at that point in time to consider whether there were alternative methods?

CHRIS CARR: So, as you would appreciate, I want to be very careful not to go into the realms of Cabinet processes but if a Minister were minded to make submissions to Cabinet they may well seek advice around that. I think my advice, which on or about 9 September was initial advice that was then expanded upon. As it was expanded upon it became clear that there were questions emerging that needed to be addressed. One of those questions—and I don't really remember how the question came about—but one of the questions that had come about was regulation 10A because these are overseas trade employees so to start with that and, just to be clear, I don't think it had been picked up in my earlier advice.

The Hon. DANIEL MOOKHEY: I appreciate advice expands. Were you asked to expand the advice to consider this by the Deputy Premier's office?

CHRIS CARR: No.

The Hon. DANIEL MOOKHEY: If it wasn't the Deputy Premier's office—

CHRIS CARR: Sorry, I don't mean to belabour the point Chair but I think I've already addressed my extent of contact with—

The Hon. DANIEL MOOKHEY: Sure. Mr Carr, I appreciate that. I will move on.

CHRIS CARR: I keep getting asked the question.

The Hon. DANIEL MOOKHEY: Well, no, because you just made a reference there that you had to be careful in respect of Cabinet.

CHRIS CARR: Yes.

The Hon. DANIEL MOOKHEY: I am asking, firstly, was Investment NSW at this point in time preparing Cabinet advice?

CHRIS CARR: I think I would want to take that on notice.

The Hon. DANIEL MOOKHEY: Why?

CHRIS CARR: As a public servant, Mr Mookhey, I am very apprehensive about questions that go to Cabinet process. I think these are not matters for me to overturn. I need to seek advice on that.

The Hon. DANIEL MOOKHEY: I appreciate that Mr Carr but there is a real question in front of us which is who actually produced the Cabinet submission?

The Hon. WES FANG: Point of order: There is a very real question, which has been taken on notice by the witness.

The Hon. DANIEL MOOKHEY: And I have moved on.

The Hon. WES FANG: Despite Mr Mookhey seeking to amend what has been a very adopted practise in these committees that when a witness takes a question on notice that they be allowed to do so, I don't ever recall the requirement for us to seek an elucidation from the witness as to why exactly they are seeking to take that question on notice. If it is, then by all means we will start doing that as a routine part of committees. But if Mr Mookhey wants to continue that then I would caution him that that will continue across all committees.

The ACTING CHAIR: Order! Mr Mookhey can ask any question he likes and Mr Carr can take whatever he likes on notice.

The Hon. WES FANG: That is apparently not what—

The ACTING CHAIR: If Mr Mookhey wants to ask for a reason Mr Carr can either give it or not.

The Hon. DANIEL MOOKHEY: To be fair, Mr Carr did and I had moved on, Chair.

The ACTING CHAIR: Yes.

The Hon. DANIEL MOOKHEY: I appreciate that as well. Mr Carr, the question that I was just asking was: There is a material question here about whether or not Investment NSW produced the Cabinet submission or the Deputy Premier's office produced the Cabinet submission. Did Investment NSW produce the Cabinet submission?

The Hon. WES FANG: That was taken on notice, Chair.

The Hon. DANIEL MOOKHEY: No, no, it was a different question.

The ACTING CHAIR: Order! Mr Fang, you are not answering the questions.

CHRIS CARR: Sorry, can I just understand the distinction between the two questions?

The Hon. DANIEL MOOKHEY: Yes. Did Investment NSW produce the first draft of the Cabinet submission?

CHRIS CARR: I think—and again I want to be careful as to how we characterise or deal with matters—

The Hon. PENNY SHARPE: Mr Carr, just to be clear, it is already on the public record that the Deputy Premier—

The Hon. DANIEL MOOKHEY: Took it—

The Hon. PENNY SHARPE: —took a Cabinet minute to Cabinet to change the nature and the way that these were appointed in this period of time. I don't think you are stepping outside—

The Hon. DANIEL MOOKHEY: We are not asking you to go into the details.

The Hon. PENNY SHARPE: We are just simply saying: Who prepared the Cabinet minute? Even if it was the Deputy Premier, was it your—

The Hon. DANIEL MOOKHEY: —agency.

CHRIS CARR: So, where I struggle with this, and why I have asked if I can take it on notice, is because you are going to an area where I have provided legal advice and I don't believe that this is the forum or the setting for me to be detailing the legal advice that I've provided.

The Hon. DANIEL MOOKHEY: Sorry—

CHRIS CARR: No, sorry.

The Hon. DANIEL MOOKHEY: Point of order: No witness in any committee—it is not a matter for a witness to decide what is relevant to the Committee; it is actually a matter for you and the Committee to decide what is relevant. Secondly, I point out, as we do with all government lawyers, the House's responsibilities of overseeing Executive function include legal advice obtained by the Executive arm of government. That is why there is a distinction to be drawn between a government lawyer and a lawyer who appears for a private citizen, or a private citizen, because our responsibilities of oversight include the quality and calibre of the legal advice that

has been provided to the Executive Government which, as this point, we are not even getting into. We are just asking the witness to see whether he is in a position to answer whether or not the matters to which he is referring went to Cabinet or not. Maybe it would be helpful, Chair, if we could just allow the witness to understand that they are the rules that apply to the upper House when it comes to oversight.

The Hon. WES FANG: To what I think was a point of order, although I am not actually sure, I agree with Mr Mookhey in that I did point out last week that the oversight rules of this Committee extend past many of the conventions that we have in this place in legal framework. However, it is also of the witness's remit that they can take the question notice, which this witness has done. To that point, as your ruling earlier Mr Chair, the witness can take the question on notice and he has. So, I think that is the end of that matter.

The Hon. DANIEL MOOKHEY: Chair, the Deputy President is incorrect when he says the witness took it on notice. The witness was saying he's not in a position to answer. There's a difference. I point out this is a lawful question. Under the Parliamentary Evidence Act there is no—

The Hon. WES FANG: There were many lawful questions.

The ACTING CHAIR: Do you want to reframe the question?

The Hon. DANIEL MOOKHEY: I'm happy to return to the core question, which I'm seeking an answer to, if that's all right, Chair.

The ACTING CHAIR: I think we've lost the thread of all of this.

The Hon. DANIEL MOOKHEY: Mr Carr, did Investment NSW create the first draft of the Cabinet submission?

CHRIS CARR: Mr Mookhey, respectfully—maybe, Chair, would it help that, on occasion when providing legal advice, and I'm not speaking to specifics but generalities, it is possible for that advice to include formulations that a Minister or others may consider if they wanted to take it forward for Cabinet consideration.

The Hon. DANIEL MOOKHEY: Okay, I won't press you further.

CHRIS CARR: I'm being careful because it's not my privilege to waive. Mr Mookhey, if you do want me to go and seek the Crown Solicitor's advice, that's where I have to go for this, because it is not my privilege to waive.

The Hon. DANIEL MOOKHEY: To be fair, Mr Carr, I'm not seeking that.

CHRIS CARR: Okay.

The Hon. DANIEL MOOKHEY: I'm prepared to move on. But just to be clear here, when you said on page 16, "We are now asked to consider whether there are alternative methods," do you have any recollection of who was asking you at this point in time to continue on this line of inquiry?

CHRIS CARR: I think at the time, if my recollection is correct, given Investment NSW was an agency related to the Department of Premier and Cabinet, I recall that I had a conversation with the general counsel of the Department of Premier and Cabinet, because as an agency as opposed to a department, they would have ordinary carriage of matters that were going to Cabinet. My recollection is that I would've discussed 10A with the general counsel at that point.

The Hon. DANIEL MOOKHEY: I am not going to have too many more questions about this particular email, but if you go down to the second highlighted section on page 16, which is a specific suggestion which you've made reference to in your earlier answer around amending regulation 10A so it's feasible to provide for the relevant Minister to make recommendations to the CEO, you say again you were asked whether or not there could be an amendment. This is a very specific idea, designed to achieve—as I read it—a specific purpose. Who came up with this idea?

CHRIS CARR: Mr Mookhey, when we provide advice, we assess all of the different options and we put them forward. It is not for me to give views or opinions on the relative merits of them but it is my job to put the available options on the table.

The Hon. DANIEL MOOKHEY: So that was your idea? Did you put that up?

CHRIS CARR: I think I just outlined that I discussed regulation 10A with the general counsel of the Department of Premier and Cabinet at the time. And then, realistically, it's appropriate to put that question to the Public Service Commission in order to get their views, which count more than mine.

The Hon. DANIEL MOOKHEY: That's fair, Mr Carr. Again, can I ask you, Investment NSW was a cluster agency within the DPC at the time, correct?

CHRIS CARR: At that time it was, yes.

The Hon. DANIEL MOOKHEY: So why was the department, separately to Investment NSW, engaging at this level? It's not routine for a general counsel of DPC—or at least to my knowledge it's not—to be weighing in at this level of specificity.

CHRIS CARR: I think we've talked about what the advice was ultimately being used for, Mr Mookhey.

The Hon. DANIEL MOOKHEY: We will move on to the next matter, if that's all right. Mr Carr, do you mind turning to page 14 of the tender bundle? As part of general counsel, you made the point that you were involved in the negotiating of contracts with potential STIC appointments, correct?

CHRIS CARR: To be clear, I come in very late in the process. I don't draft the contracts; Investment NSW engaged external lawyers to assist with that. I was typically brought in to explain to candidates, as they were nearing the end of the process, the terms of the contract if they had any questions. On occasion I would assist with the final negotiations. But it wasn't that I was negotiating the contract; I was assisting.

The Hon. DANIEL MOOKHEY: And you were providing assistance to Ms West in this period of time, correct? From 12 August onwards until about 27 September?

CHRIS CARR: No, I wasn't.

The Hon. DANIEL MOOKHEY: I want to turn to the events of Friday 17 September. Did you speak to Ms West on that day?

CHRIS CARR: I did.

The Hon. DANIEL MOOKHEY: Was it in the form of a phone call or Teams call?

CHRIS CARR: Yes.

The Hon. DANIEL MOOKHEY: It was a phone call?

CHRIS CARR: Yep.

The Hon. DANIEL MOOKHEY: Did she call you or did you call her?

CHRIS CARR: I went back and tried to check this fact, Mr Mookhey, but I was unable to confirm that. But, either way, we spoke on the telephone.

The Hon. DANIEL MOOKHEY: Did she inform you at that point that the verbal offer that was made to her for the appointment had been withdrawn, or that she was notified that there was a reasonable possibility that it was going to be withdrawn?

CHRIS CARR: I think she had outlined the nature of her conversation with the CEO that had taken place earlier that day.

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

CHRIS CARR: I heard Ms West's evidence and I think a plain English reading of her notes suggests that my actual comments were below. The summary at the top was her interpretation. That was not a word that I would've used.

The Hon. DANIEL MOOKHEY: Okay. Did you say, therefore, "You were offered the job, had it signed off and just waiting on the contract, and then this happens"?

CHRIS CARR: Again, part of that is incomplete, which is the part which refers to "had it signed off"—and I'm happy to speak to that—which is that Ms West was referring to the for noting brief that has come up. And I know that because, while we were speaking at that time—and that's how I know we spoke—I had a text message from Ms West where she forwarded me the for noting brief. The conversation was in relevance to that, not that the overall package was signed off or anything of that nature.

The Hon. DANIEL MOOKHEY: Sure, I agree. To be fair, it's a fair point but it's not really the point that I getting to, but do you recall that you said words to the effect that "you were offered the job, had it signed off and were waiting on the contract and then this happens"?

CHRIS CARR: Mr Mookhey, I suppose I have difficulty with this note in the sense that I was speaking with a colleague who was quite plainly in a situation where I felt the need to console her because she was on the receiving end of the vicissitudes of life. I felt that it was open to me as a colleague, just at a human level, to give her some degree of comfort.

The Hon. DANIEL MOOKHEY: Of course. To be clear, Mr Carr, that's highly reasonable and understandable in the context that you were in too. Just to be very clear, there are no inferences being made about you here.

CHRIS CARR: What I struggle with, I suppose, Mr Mookhey, when I see this is that you will often—again, in the interests of being collegiate—try to deal with people on a human level. Yes, I would've been saying words that were of comfort on that call. I believe that's in my nature; I believe that's who I am.

The Hon. DANIEL MOOKHEY: Of course, Mr Carr, and I'm not disagreeing. But, in the same vein of providing collegiate support, pastoral support or basic human friendship, do you recall saying, "I know how it feels, having worked globally. You are uprooting your family, your life, to go to another country and then you do this to you. If it was me, I would be bitterly disappointed"?

CHRIS CARR: I don't know what "then you do this to you" means. But I can say that if I had a role that I coveted and I went a long way through the process—I have no doubt she felt the finish line was in sight. Any time a colleague comes up against a disappointment, you would, of course, try to empathise and contextualise for yourself. I have moved countries, Mr Mookhey, multiple times, and I was empathising with the excitement and the enthusiasm that comes. For somebody to be in a situation where, having gone through all of that and so close to the end you find out that it's suddenly getting to a point where it's looking difficult, of course you try to relay your own experiences of that to give them some comfort. I would have thought that's a perfectly normal reaction.

The Hon. DANIEL MOOKHEY: It speaks well to your character, Mr Carr, to be very clear.

CHRIS CARR: Okay.

The Hon. DANIEL MOOKHEY: But we're just checking the accuracy, really.

CHRIS CARR: Okay. I guess what I'm saying is there are some inaccuracies, but I didn't outline them at the beginning because they go to a private conversation.

The Hon. DANIEL MOOKHEY: But, basically, you did empathise with the situation that she was in at a human level, as anyone would.

CHRIS CARR: At a human level, of course.

The Hon. DANIEL MOOKHEY: I want to turn to the next page of this, which becomes a bit more material. Ms West says, in this conversation, "I also raised concerns about the relevant experience levels of candidates the DP would put in." We asked Ms West whether she was making a reference to the Deputy Premier and she said she was. She says:

Chris went onto explain that that was why they specifically called out Trade + Inv/Biz experience in the Job Description. He asked for me to send relevant emails + paperwork which I did.

Do you recall Ms West raising with you concerns about the relevant experience levels of a candidate the Deputy Premier would put in?

CHRIS CARR: My recollection of the conversation is that Ms West was sounding upset and frustrated. So the prospect of her having raised those concerns, given that the scenario you're talking about is that somebody else will get that job—I think as somebody who has applied for overseas jobs, you always think that you're best qualified and any other candidate is not. I think she would've expressed some concern. The nature of my response—just to round that out—I think is contested. I'm not sure that I would've spoken to the specificity of a job description because it was not really within the purview of my role.

The Hon. DANIEL MOOKHEY: Sure. We'll get to that bit too, to give you, Mr Carr, a fair opportunity to account for that second part. But I want to stay on the first part. No doubt any person who misses out on a role, particularly in the circumstances in which Ms West did, may well raise it. But at this point she did say to you, to your recollection, the experience levels of a candidate who the Deputy Premier would put in—as in she raised concerns specifically about an appointment by the Deputy Premier to the role.

CHRIS CARR: I think, for context, Mr Mookhey, we were talking about converting these roles to ministerial appointments. My understanding, or my recollection, is that whilst that is a reference to the Deputy Premier, he was also the relevant portfolio Minister at the time.

The Hon. DANIEL MOOKHEY: Sure, that's absolutely correct. But, to be very clear, Ms West did raise concerns with you about the Deputy Premier's involvement in that conversation.

CHRIS CARR: Ms West was, as I said, in a state that I would—she was obviously—

The Hon. DANIEL MOOKHEY: We're not necessarily asking you to comment on her state, Mr Carr.

CHRIS CARR: I know. But what you have to understand is that I wasn't—the nature of this call was less about me being there to advise. I wasn't giving advice; I wasn't doing anything like that. The nature of that call was, effectively, a person who I felt was in a situation that I felt empathy for. So, therefore, any comments she was making—any of my responses would've been taken with a grain of salt because it was in an environment where we had a person who was disappointed with where things were trajecting.

The Hon. DANIEL MOOKHEY: Mr Carr, I don't dispute that—I appreciate you saying you may not have put much weight on it. That's fine; that's legitimate. But I'm being very clear here, because this is the part that's relevant directly to what we're inquiring into. To be clear, Ms West did raise concerns about the Deputy Premier's involvement in the conversation with you, regardless of what you thought about it.

CHRIS CARR: The way I took that comment, Mr Mookhey, was more broadly around ministerial appointments. She was expressing an opinion based on a policy which I'm not here to express an opinion on.

The Hon. DANIEL MOOKHEY: Sure. I won't push you much further on that point.

The Hon. WES FANG: Can I confirm, Chair, that the Opposition have been gifted the crossbench's time? Is that correct? They are taking all the crossbench time?

The Hon. DANIEL MOOKHEY: Yes.

The Hon. WES FANG: Thank you.

The Hon. DANIEL MOOKHEY: Mr Carr, I think the second point you were getting to was whether or not you went on to explain that that was why they specifically called out trade and investment biz experience in the job description. You can test that?

CHRIS CARR: I think what I'm saying is I would've provided some comfort to Ms West, but I don't think I was passing an opinion on the job descriptions or the role descriptions for these roles because that's not something I had purview of.

The Hon. DANIEL MOOKHEY: But, to be clear, the comments can be read in light of that. Was part of your attempt to provide comfort to Ms West telling her that you were specifically calling out trade and investment business experience in the job description?

CHRIS CARR: I'm not sure that I called it out or whether she called it out and I may have agreed or may have given her comfort to agree to it. As you know, in conversations sometimes people put things to you and you find a way to support them by agreeing. That may have been taken by her as me explaining that. I don't believe that—

The Hon. DANIEL MOOKHEY: Before I pass to my colleague, did you keep any record of the conversation yourself?

CHRIS CARR: Mr Mookhey, firstly, this was not a conversation where I was called to give advice. I had a colleague who was upset. When giving comfort and consolation to a colleague in a particular time, it's not my practice to use that as some sort of time to take notes and submit them later and file note them and say that this is an aspect that needs to be captured. There was nothing here—nothing here—that went to my professional responsibilities, other than as a colleague.

The Hon. DANIEL MOOKHEY: Of course.

CHRIS CARR: And, frankly, I don't keep file notes or I don't keep notes of circumstances where I'm consoling colleagues.

The Hon. DANIEL MOOKHEY: Mr Carr, to be clear, I'm not making any inference. It's more a case of we've had one contemporaneous record produced. It was a matter of fairness to ask you whether you had any other.

CHRIS CARR: Mr Mookhey, this is the first time in my life—and I've supervised people, I've dealt with people in incredibly difficult scenarios—that I've ever had read back to me the contents of a conversation where I'm offering care, support and guidance to someone in a very difficult situation. I can say that it, in and of itself, has caused a degree of distress on me because you treat colleagues respectfully in my world and you

approach them with that respect and dignity. You do not normally expect them—when you offer a hand, especially of collegiality and friendship—that they're going to be taking notes in response.

The Hon. PENNY SHARPE: I want to ask you a couple of questions moving on, really. I want to ask you some questions about the unwinding of the position from being the Cabinet decision that basically wanted to convert those positions from public service positions to ministerial positions. It was the case that Cabinet decided that these would in the future—and on or around 27 September last year—be now ministerial appointments. Is that correct?

CHRIS CARR: Broadly speaking, yes.

The Hon. PENNY SHARPE: I don't want to revisit all the—once you became aware of that—how did you become aware of that? Did Ms Brown tell you?

CHRIS CARR: I would've been informed of it more likely, I think, on the next day—the twenty-eighth, somewhere around that order—if not from the CEO then from her chief of staff.

The Hon. PENNY SHARPE: What flowed from that then was action that you were then getting ready to prepare—

CHRIS CARR: Yes.

The Hon. PENNY SHARPE: —was whether it was regulations or legislation to actually enact that.

CHRIS CARR: Yes. I think we've talked about that I was approached to join a call with the Deputy Premier's office, which never happened. In the interim I also took the time—

The Hon. PENNY SHARPE: When was that call due to happen?

CHRIS CARR: It was never arranged.

The Hon. PENNY SHARPE: So there was supposed to be a call.

CHRIS CARR: There was supposed to be a call—sorry, the two emails were very ephemeral in nature, as in, "We should talk about that decision. Could we have a call at some point?" It was either to be that week or the following week. As fate would have it, as people know the Deputy Premier in that window had resigned, and so, therefore, the call never happened.

The Hon. PENNY SHARPE: What action did you take to start preparing legislation?

CHRIS CARR: I very promptly took the steps of assessing what would actually be required. There is a lot of detail that goes into this which contributes to what is required. I want to be very careful here because the complete universe of what is required is relevant. It's not just that you look at one bit and say that that's the relevance. On or about the twenty-eighth I started the review of the Western Australian Government's audit and review of their trade officers. I reviewed the Joyce report from the South Australian Government. I have also started the process of looking at the Trade and Investment Queensland Act and the Agent-General and Commissioners for Victoria Act to get some guidance from other States. I found that the Western Australian audit report and review provided probably the best of all of that, of the colour of what are the options, because it's not a simple process.

I then started the process of digesting what would be required in the light of the Investment NSW offshore structure. A couple of the things that really matter here are that if you were to convert these to ministerial appointments via legislation, we were at risk, I think, in two markets at least that I can recall—one of which was the United States—of potential duplication and the costs of that, because you have a corporate structure that we were still seeking advice on, but the reality would be that making these ministerial appointments rather than regulation 10A overseas trade employees created the very live question as to whether, in fact, our US structure should be set up as what's called a miscellaneous foreign government office. In order to do that, you'd require additional consideration, which is that you'd need to speak to the Commonwealth around how they would interact with the US State Department.

The Hon. PENNY SHARPE: Is that the nature of the discussion you had with the junior trade Minister in Barilaro's office around those kinds of—does that get to that point?

CHRIS CARR: No.

The Hon. DANIEL MOOKHEY: To be clear on that timescale, you started that on 28 September?

CHRIS CARR: I started a more in-depth review of what would be required. It's not that we didn't think about it; of course we'd thought about it.

The Hon. DANIEL MOOKHEY: But the decision of government was made well before.

CHRIS CARR: A decision of government can take all sorts of forms. But in terms of how you proactively and prospectively implement it, it was of course going to require significantly more work in order to deliver on it.

The Hon. DANIEL MOOKHEY: Just to be clear here, the government decision was made on 27 September.

CHRIS CARR: Or thereabouts, I believe.

The Hon. DANIEL MOOKHEY: No. We've had it confirmed.

CHRIS CARR: Okay.

The Hon. DANIEL MOOKHEY: That decision took place, despite all these considerations you were raising, on the twenty-eighth—as in, the Cabinet had already agreed at this point in time to convert these into ministerial appointments the day before you were turning your mind to these very detailed and complicated questions. Is that fair?

CHRIS CARR: Mr Mookhey, the evidence I was giving was that I was turning my mind to what would be the best methodology and best pathway to move forward to implement the decision of government.

The Hon. PENNY SHARPE: I appreciate that.

CHRIS CARR: There is more detail to this that needs to be considered as to what would be required.

The Hon. PENNY SHARPE: Before you get to that, can I just ask you this question—

CHRIS CARR: Sure.

The Hon. PENNY SHARPE: —which is: What time frame were you given by the Government to establish legislative change for these positions?

CHRIS CARR: I can't recall we were given a specific deadline by which we had to implement that.

The Hon. PENNY SHARPE: The advice all the way along had been that there was some urgency to these appointments, and don't forget there were several that had been in play that were then—they hadn't gone to offer but they were basically in play. So you are saying there wasn't a time frame in relation to that?

CHRIS CARR: I took the ongoing importance of the program to be evidence that we needed to move with haste in terms of preparing and understanding what that would look like. I felt at the time the advice that would have to come later needed to be as comprehensive as possible because, frankly, we are talking about a program where I need to be mindful to ensure in markets—not all markets are like the US. There are markets where our structure needs to be very carefully considered for the safety and welfare of all of our people, not just the STICs. So I took it that there was a degree of haste being required in all this. That's why I started immediately to go back and really deeply think about what this would look like overlain on top of Investment NSW's structure. I had already formed the view that it would be possible to reach a solution. But from my perspective before you—

The Hon. PENNY SHARPE: But just to be clear, that's never been actioned?

CHRIS CARR: Before we go and brief the Parliamentary Counsel's Office to draft up some legislation, we do need to have thought through—there were three limbs of concerns that we had. One was a New South Wales law concern, to make sure that it was fully compliant. One was a Commonwealth law—as in, were we going to do something that somehow would fall us foul of the Commonwealth legislation? Because, in fairness to the Victorians, they implemented this under the Brumby Government, so we're talking about something that's come much later. And then we also had local law matters that we had to deal with separately. So we would have come up with something, I'm sure—I'm very confident of it—but we had not got there by the time that the intervening events that I think the secretary has dealt with came along.

The Hon. PENNY SHARPE: Just to be clear, basically this was never progress but it did go to Cabinet to reverse—so Cabinet makes the decision that they're going to be ministerial appointments. At some point it goes to Cabinet again to say that the recruitment of these other STICs was going to proceed under the original process. Is that correct?

CHRIS CARR: My involvement in that aspect of it, Ms Sharpe—I don't have anything to add to the evidence that was given by the secretary because I wasn't—

The Hon. PENNY SHARPE: Well, I would like the time frame of when it went to Cabinet to reassert that these positions were going to be public service positions.

CHRIS CARR: Because those relate to discussions that I wasn't part of, I think it's probably better asked to others.

The Hon. PENNY SHARPE: You were involved in the contract negotiations of the India, Middle East and ASEAN STICs. Can I confirm that they were appointed from the original round and weren't reopened?

CHRIS CARR: I'm typically involved in the contract negotiations after the selection panel has done its work. Up until that point I have essentially no visibility on how that plays out, so I can't speak to that.

The Hon. DANIEL MOOKHEY: Mr Carr, can you turn to page 25 of the tender bundle, please? I am going to pick up from the line of questioning that my colleague was asking you about how we go from having a Cabinet decision taken on the twenty-seventh to convert them to ministerial appointments and then a reversal sometime, 10 days after that or thereabouts. These are the questions that we were asking Ms Brown. If you see the first highlighted part of that section, you see that I ask:

"... We've now confirmed instructions to commence the preparation of legislation." Who gave you those instructions?

Then we go on to talk about the meetings that Ms Brown had with the Deputy Premier's office between 27 September and 1 October. I presume that you were not at any of those meetings

CHRIS CARR: I was not at any of those meetings.

The Hon. DANIEL MOOKHEY: Did you have any discussion with Ms Brown about those meetings?

CHRIS CARR: I may have. I have no specific recollections of meetings that she had with the Deputy Premier's office. I was busily preparing and trying to get my head very quickly across a very complex set of facts in order so that when I was asked, "What would legislation look like? How would we put this in place? What would be the cost? What would be the diversion of resources involved?"—I had to get my head around that very, very quickly. In the window you're talking about, Mr Mookhey, my focus would've been on those matters.

The Hon. DANIEL MOOKHEY: Sure. And, Mr Carr, to be fair to you, you're not contradicting the secretary by any means at this point in time. Just down below you can see that I asked Ms Brown:

So you had a discussion about the practicalities of preparing this legislation. When were you meant to have the legislation prepared by?

Ms Brown said:

We were not given a time line.

I asked:

What information were you given about the practicalities that you were meant to meet?

Ms Brown replied:

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

So that's basically the process you were doing, correct?

CHRIS CARR: I had started that work.

The Hon. DANIEL MOOKHEY: Go forward to the next page. You see here that I ask Ms Brown whether or not the Government has reverted its position. She says that the Government did not revert its position. Then I ask, "Are we still converting these to statutory officers?" Ms Brown says, "I had a conversation with the incoming portfolio Minister." I ask who that was and Ms Brown says it was Minister Stuart Ayres. She then provides a bit of context there about the nature of that conversation. I presume you were not at the meeting with Ms Brown and Minister Ayres or in that conversation?

CHRIS CARR: I was not part of that conversation.

The Hon. DANIEL MOOKHEY: Do you talk to Minister Ayres' office currently?

CHRIS CARR: On occasion. I would say by contrast—sorry, I will take a step back. The department of enterprise and trade has four Ministers that we're accountable to—

The Hon. DANIEL MOOKHEY: But who's the senior cluster?

CHRIS CARR: —but Minister Ayres is the leader. I would say that, on balance, I have engagement with all of the ministerial offices on questions that require analysis from time to time, but I wouldn't characterise it as active or busy; it would be specific questions.

The Hon. DANIEL MOOKHEY: How often have you had requests come from Minister Ayres' office in respect to the STIC appointments of any type since he became the portfolio Minister?

CHRIS CARR: In relation to appointments, it's not something I would do.

The Hon. DANIEL MOOKHEY: How about in general about any matter to do with the STIC—

CHRIS CARR: To do with the STIC appointments? Not much—

The Hon. DANIEL MOOKHEY: What does that mean, Mr Carr?

CHRIS CARR: —if at all. I'd need to go back and check.

The Hon. DANIEL MOOKHEY: Do you attend any weekly or fortnightly meetings with Minister Ayres' office?

CHRIS CARR: No, I don't.

The Hon. DANIEL MOOKHEY: But those meetings take place, correct?

CHRIS CARR: They could. I don't know; I don't attend them. I don't get minutes of them or anything like that. I don't get any readout unless a specific issue comes from them.

The Hon. DANIEL MOOKHEY: Do you get requests from Minister Ayres or his office to provide legal advice directly to them or does it go through the department?

CHRIS CARR: I think Minister Ayres' office, on occasion if a question can be expedited and raised with me, the office would reach out and ask a question.

The Hon. DANIEL MOOKHEY: Is that a policy adviser; is it a chief of staff?

CHRIS CARR: Normally it's a policy adviser.

The Hon. DANIEL MOOKHEY: How many requests have you had from Mr Ayres' office for quick legal advices that could be reached?

CHRIS CARR: With respect, I came here prepared to talk about the appointment of John Barilaro.

The Hon. DANIEL MOOKHEY: We are; that's what we're talking about.

CHRIS CARR: Sorry, you just asked how many—

The Hon. DANIEL MOOKHEY: Yes, and I'm asking you how often—

CHRIS CARR: About Mr Barilaro's appointment?

The Hon. DANIEL MOOKHEY: You provided us with a very clear sense of the nature of your interactions with Mr Barilaro's office.

CHRIS CARR: Yes.

The Hon. DANIEL MOOKHEY: Now I am wanting to understand what is the nature of your interactions with Minister Ayres' office.

CHRIS CARR: I have had no interaction with Minister Ayres' office that go to how he was selected, how he was appointed, how he was recruited or any of that sort of thing.

The Hon. PENNY SHARPE: Or to any of the other trade commissioners?

CHRIS CARR: Have I had any interactions with them about that?

The Hon. PENNY SHARPE: Yes.

CHRIS CARR: No, I don't think so. I don't believe so.

The Hon. DANIEL MOOKHEY: Ms Brown tells us that in some form of a conversation with Minister Ayres, which I think you can see—I pushed Ms Brown to give us a time frame; I think the best we got to was sometime in the first week of him taking over the portfolio—he apparently makes the decision that the conversion isn't a priority; or, at least, in some form of a conversation with Ms Brown that is the conclusion that they reach. Were you advised at that time that it was no longer a priority?

CHRIS CARR: As to the exact time when I was advised of the outcome of that, I would need to take that on notice to confirm because I don't have that detail at my fingertips.

The Hon. DANIEL MOOKHEY: Do you recall, was it sometime in October that you were told to—

CHRIS CARR: I would expect so.

The Hon. DANIEL MOOKHEY: Who told you to cease or delay work on the conversion of the ministerial appointments?

CHRIS CARR: In fairness, having just said that I need to confirm when I was told, I would also need to confirm who told me.

The Hon. WES FANG: Mr Carr, I'm having a look at some of the documents that have been tendered in the previous hearings and also at part of the tender bundle that Mr Mookhey has given you now. In relation to the contemporaneous notes that were tabled last week from Ms West and the detail of the conversation that you had with her, I take it from the first paragraph that she is likely to have called you and you weren't aware at all of the conversation that she and the CEO were having that morning.

CHRIS CARR: I don't think it's correct to say that I wasn't aware that they were going to have a conversation. I think the evidence that's been put forward shows that Ms West was calling around, or messaging around, in relation to her contract.

The Hon. WES FANG: That's where I'm going with the line of questioning. I assume that she contacted you and there are contemporaneous notes. Do you know of any other people she might have spoken with in the organisation on that day?

CHRIS CARR: She would have spoken to the Investment NSW CEO's chief of staff on that day. My recollections of the conversation are not captured in her notes, but I think she was looking for something to be signed. So she would have been calling around to people. Other than that, I know that she would've tried to call the chief of staff because I had indicated that some of the matters that she'd raised I didn't know for sure, and so therefore I would be checking, as is my right.

The Hon. WES FANG: Is it fair to say that you weren't aware that she would be keeping contemporaneous notes of the conversation?

CHRIS CARR: I think my previous answer on this is clear. This is the first time—I've dealt with a lot of people in a lot of different places, and I've helped people through some oftentimes very difficult circumstances, and this is the first time in giving someone consolation that they have taken contemporaneous notes of my conversation.

The Hon. WES FANG: I note in part of the tender bundle that she gave us last week that at 7.00 a.m. she had taken contemporaneous notes of the walk that she had taken with the CEO of Investment NSW. It would be my contention that that note was probably taken before the conversation that you had. So she didn't indicate at all to you in your conversation that she would be making this note as well?

CHRIS CARR: No.

The Hon. WES FANG: I believe she would have already made the contemporaneous note about the previous conversation and she didn't indicate to you that she was taking the contemporaneous note about your conversation.

CHRIS CARR: She gave me no indication that she was taking notes of our conversation.

The Hon. WES FANG: You've already answered the question but I want to be clear about it. In the experience you've had when you've given pastoral care or friendship to a colleague who has had a difficult decision made against them, or a decision go against them, you've never experienced somebody making contemporaneous notes of this nature about that conversation?

CHRIS CARR: That has never been my experience in life, that that's happened.

The Hon. WES FANG: Do you believe that it was made clear that the conversation was one of friendship, or was it one of advice from you in your role as the head of legal?

CHRIS CARR: The nature of that call was not advisory; it wasn't.

The Hon. WES FANG: In your opinion, would it be unfair to then rely on the notes, and the comments that were made in this contemporaneous note, in relation to the events?

CHRIS CARR: That is for others to comment on, I think.

The Hon. WES FANG: Let me be more clear. Do you believe that this is 100 per cent accurate of the conversation that you had at the time, or do you believe that there are potentially inaccuracies?

CHRIS CARR: No. I've spoken to some inaccuracies in parts where it's clearly in shorthand. Also, as I said, the outset of this note is clearly her assessment of the call, not in relation to my comments. She's made reference to some comments. I think Mr Mookhey, in fairness, gave me a good opportunity to talk to aspects that were missing. There are aspects that are missing. It is for other people to determine whether it's fair or otherwise.

The Hon. WES FANG: In your experience, when people do make contemporaneous notes of conversations, do they typically keep note of all parts of the conversation or do they perhaps put a selective lens over the bits that they retain, obviously omitting parts that perhaps aren't beneficial to the cause that they are seeking to progress?

CHRIS CARR: I think my experience with people's note-taking—and probably my experience with my own note-taking, frankly—is that there are people who take very comprehensive notes and there are people who don't. There are people who will take notes for selected purposes and there are people who don't. As to Ms West's intentions in taking these notes, that's a question for her.

The Hon. WES FANG: I'll move on to what may have been part of that intention. You note in your opening statement that you received correspondence from her lawyers. I'm confirming that the date was, I think, 19 October 2021. Is that correct?

CHRIS CARR: Yes.

The Hon. WES FANG: Was that correspondence from her lawyers seeking information or elucidations about the role or was it seeking more a compensatory position that Investment NSW somehow compensate Ms West for what had occurred?

CHRIS CARR: The letters that we received, I want to be very careful to because they go to correspondence that we received in an environment where I believe the correspondence was captured by without-prejudice privilege—so litigation privilege. So, therefore, I don't want to speak to the matters that were covered in that correspondence, in fairness.

The Hon. WES FANG: Okay, that's fair enough. I won't push that point. Are you able at all to indicate, however, whether there was a conclusion to those matters—i.e., was there a finality to that action brought by Ms West against Investment NSW?

The Hon. DANIEL MOOKHEY: Did she actually bring an action? That's the other question. That's the first question: Did she bring an action?

The Hon. WES FANG: It's my question.

The Hon. PENNY SHARPE: You can ask it how you like.

The Hon. WES FANG: Did she bring an action? Was it resolved?

CHRIS CARR: Bringing an action is something that would appear on the public record, and people can check that. I don't believe she brought an action.

The Hon. WES FANG: Are you able to detail to us if she received any compensation at all from Investment NSW?

CHRIS CARR: I have nothing to contest her evidence on this, which is that she was paid her entitlements. The only addition I would make is that she was entitled to the balance of her leave as well, which she didn't cover. But I don't know what the details of that are; that would be confidential to her and People and Culture.

The Hon. WES FANG: But all the payments that she detailed in her evidence were only related to her role being—

The Hon. DANIEL MOOKHEY: Made redundant.

The Hon. WES FANG: Made redundant, yes. So there were no payments to that?

CHRIS CARR: Yes, that's my understanding.

The Hon. WES FANG: I know I've only got a very little bit of time left. The conversation that we've had in this inquiry so far has been around the conversion of what were effectively public sector appointments to ministerial appointments. The process that Mr Barilaro underwent in order to be offered the role of the trade commissioner for the Americas was not a ministerial appointment; it was a public service appointment process. Was it as rigorous as the process previously? Are you able to provide some insight into it?

The Hon. DANIEL MOOKHEY: What's rigorous?

CHRIS CARR: When you come in after a panel process simply to help a candidate understand the terms of a contract, it really is not the purview of the general counsel of a department or an agency. Typically public service appointments' contracts don't even come through legal; they're handled as a fairly standard form matter, even at that level of seniority. This is unusual because there is the need to explain to candidates, even to those who are within the public sector or coming from the private sector, in response to their questions around why things are done that way. As to the rigours of the recruitment process up to that point, I was only aware in relation to Mr Barilaro as and when I was asked to have that conversation with him. I hadn't had any oversight of the rest of it; it's not within my purview.

The Hon. WES FANG: I will rephrase that question perhaps without seeking an opinion but more on a factual basis. It wasn't a ministerial appointment; it was a recruitment process that required the candidates to undergo a number of recruitment steps. Is that correct?

CHRIS CARR: My understanding in relation to the process for Mr Barilaro is that, yes, there would've been those steps. There would be a plethora of checks that get done. But I think those have been detailed by others, and I think they're best—

The Hon. PENNY SHARPE: Can I clarify one thing directly on this? Your understanding of the Government position in relation to the STIC appointments is that they are to be ministerial appointments. That is still the position that stands? It hasn't been actioned but that is the Government position in relation to these positions?

CHRIS CARR: I think that's a matter for Government to confirm.

The Hon. PENNY SHARPE: Don't you need to know, as the legal counsel?

CHRIS CARR: I can only comment on contracts that comply with the existing law at the time.

The Hon. PENNY SHARPE: No, that's not true. You've just done—

The Hon. WES FANG: Point of order: The witness has answered that question and it is my time.

The Hon. PENNY SHARPE: Not adequately.

The Hon. WES FANG: You've had an hour and a half, effectively, to question the witness. Now I'm seeking some elucidations from the evidence before we run out of time.

The Hon. COURTNEY HOUSSOS: Perhaps you can take that on notice, Mr Carr?

The Hon. WES FANG: No. You've had plenty of time to have asked him that in the time that you had. You can put it on notice to him later on.

The ACTING CHAIR: The more you argue this, Mr Fang, the less time you've got.

The Hon. PENNY SHARPE: He's happy just to take up the time.

The Hon. WES FANG: Yes, but I seem to have to continue to argue a lot of the time. Mr Carr, in relation to the positions not being ministerial appointments, any contention that anybody in the Government was, effectively, aiming to gift the role is not possible, given that there were a number of people, including the Public Service Commissioner and independent members, as part of that interview panel. Would that be a fair thing to say, that there were so many independent components to that recruitment process, which wasn't a ministerial appointment, that it would've made it extremely hard for it to be gifted to anybody?

CHRIS CARR: I can only speak to the parts of the process that I actually saw in relation to Mr John Barilaro. For me, that was that a selection process was undertaken and a contract was to be prepared and finalised with him. I was to make myself available, as I had done with other STIC appointments, in order to explain any questions that he may have had of a contractual nature. I wasn't there—and it's not typical, I think, for a general counsel—to be overseeing what is essentially a people and culture process or, essentially, a process that's handled by the panels. I note your comment about who was on that panel. That's a matter of record. I don't have any observations. It's not appropriate for me to give observations on those individuals. I think they were eminently qualified. But that's just a personal view; it's not my view as to the appropriateness or whatnot.

The Hon. WES FANG: Mr Carr, my time has expired. Thank you very much for making yourself available today.

Ms SUE HIGGINSON: I have got one question. Mr Carr, can I take you back to 6 September or 9 September, when you were first contacted to provide advice? You were new; you hadn't been in the role of general counsel very long. You were requested to provide some legal advice. Who asked you for the legal advice?

CHRIS CARR: I think my earlier evidence went to that it was either the Investment NSW CEO or her chief of staff who made the request.

Ms SUE HIGGINSON: That's right. All I'm asking is when you are asked as general counsel, is it not one of the most important first questions of any lawyer to document who is requesting the advice and who that request has come from? Can you try a little bit harder to remember who it might have been?

CHRIS CARR: To be clear, when I get instructions from the chief of staff, I take them to be from the Investment NSW CEO. It's the office of the CEO anyway. As to the specifics of who called who and when, as I said, I really do wish that our phones would keep better memories of these things.

Ms SUE HIGGINSON: And you don't think you file-noted "so-and-so requested this advice"?

CHRIS CARR: The advice was to turn it around in short order. The advice would have noted, I suspect, who would have made—as you'd appreciate, lawyers love to use words like "you" and "we" and whatnot.

Ms SUE HIGGINSON: I'm a lawyer, and every time I'm requested advice I write who has requested it. It's the first point of all business.

CHRIS CARR: In responding to that advice—which would've gone back, as I said, to the Investment NSW CEO and possibly copying in her chief of staff, which, I think, was my earlier evidence—it would've said something along the lines of "you have requested" or "as per your request". It would've gone back on that basis. That's pretty much standard practice for lawyers to respond in that nature.

The ACTING CHAIR: Thank you, Mr Carr. Your time for questioning has ended. I note that you've taken a number of questions on notice—in fact, a large number of them. The secretariat will be in contact with you within 21 days of receipt of the transcript. We would appreciate it if you would promptly respond. Thank you very much for coming.

(The witness withdrew.)

The Committee adjourned at 12:03.

IN-CAMERA REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

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

CORRECTED

At Jubilee Room, Sydney, on Monday 22 November 2021

The Committee met at 13:00.

PRESENT

The Hon. Robert Borsak (Acting Chair)
The Hon. Wes Fang
The Hon. Scott Farlow
Ms Sue Higginson (substituting for Ms Faehrmann)
The Hon. Courtney Houssos
The Hon. Taylor Martin (substituting for Mr Farlow)
The Hon. Daniel Mookhey (participating)
The Hon. Peter Poulos
The Hon. Penny Sharpe (substituting for Mr Graham)

* Please note:

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

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

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

The ACTING CHAIR: Welcome to this in-camera session of the Public Accountability Committee 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, 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 the 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 Mr Joseph Brayford, who has agreed to give evidence in private today. Before we commence, I would like to make some brief comments about procedures for today's hearing. Please note that this is an in-camera hearing and evidence is confidential. This means that this session is not being broadcast and a 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. As you would 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 to take some 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 microphones.

Evidence in camera by **Mr JOSEPH BRAYFORD**, Former Senior Policy Adviser, Office of the Deputy Premier, affirmed

The ACTING CHAIR: Welcome, Mr Brayford. Would you like to start by making a short opening statement?

JOSEPH BRAYFORD: Yes.

The ACTING CHAIR: Please keep it to a couple of minutes.

JOSEPH BRAYFORD: Thank you, Committee members. My name is Joseph Brayford. I was employed as the senior policy adviser for industry and trade in the office of the Deputy Premier from March 2019 to October 2021. I am here today to help this inquiry.

The Hon. DANIEL MOOKHEY: Mr Brayford, thank you for your appearance today. It is very much appreciated. When did you commence as an adviser to Mr Barilaro?

JOSEPH BRAYFORD: In the senior policy adviser role? I was previously before that—

The Hon. DANIEL MOOKHEY: Yes, the senior policy adviser role.

JOSEPH BRAYFORD: March 2019.

The Hon. DANIEL MOOKHEY: So upon the Government's re-election?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: When did you leave?

JOSEPH BRAYFORD: October 2021.

The Hon. DANIEL MOOKHEY: Can I formally table those documents, Chair, and can I provide a copy to Ms Higginson and also to Government members? What were your responsibilities, Mr Brayford?

JOSEPH BRAYFORD: As senior policy adviser for industry and trade, it was quite broad. My responsibilities were—day to day, I would be drafting correspondence, editing correspondence, drafting speeches, I would be reviewing briefing notes, I would be researching. For example, if the Deputy Premier was meeting someone, I would research who he was meeting and any historical interactions they might have had or this person might have had with the Government. I essentially acted as the conduit between the government agency, which was Treasury at the beginning and then later Investment NSW, and the Deputy Premier.

The Hon. DANIEL MOOKHEY: You were the senior adviser; is that right?

JOSEPH BRAYFORD: That was my title, yes.

The Hon. DANIEL MOOKHEY: Was there a junior adviser?

JOSEPH BRAYFORD: No, there wasn't. It was just a bit of an unusual title and one that I inherited. There was no senior/junior; it was just one senior.

The Hon. DANIEL MOOKHEY: Who did you report to?

JOSEPH BRAYFORD: The chief of staff.

The Hon. DANIEL MOOKHEY: Who was that?

JOSEPH BRAYFORD: I can't remember the date they would have changed over, but at the beginning it was Mark Connell, and then at some point during that term it changed to Siobhan McCarthy, who was also Siobhan Hamblin—she got married.

The Hon. DANIEL MOOKHEY: Did that transition take place circa 2020?

JOSEPH BRAYFORD: I actually can't recall.

The Hon. DANIEL MOOKHEY: How often did you speak to the Deputy Premier?

JOSEPH BRAYFORD: Infrequently. I would struggle to be able to give a—there were no regular meetings scheduled between him and I; it was just ad hoc.

The Hon. DANIEL MOOKHEY: So in terms of the duties that you have just described, how would you provide that information to the Deputy Premier?

JOSEPH BRAYFORD: We had an internal office protocol set up. Say if it was a piece of correspondence, I would provide that draft correspondence to the chief of staff and then my understanding is that she would approve or review or whatever and then provide it to the Deputy Premier.

The Hon. DANIEL MOOKHEY: Did the Deputy Premier ever give you verbal instructions?

JOSEPH BRAYFORD: Occasionally.

The Hon. DANIEL MOOKHEY: Did he ever give you verbal instructions in respect of any of the senior trade and investment commissioner roles?

JOSEPH BRAYFORD: A verbal—

The Hon. DANIEL MOOKHEY: Did you have any discussion with the Deputy Premier whatsoever at any point in time about any of the senior trade and investment commissioner roles?

JOSEPH BRAYFORD: Yes, I would have.

The Hon. DANIEL MOOKHEY: Do you recall when the first conversation was?

JOSEPH BRAYFORD: I can't say if it was the first one, but I do recall, for example, I think London and Tokyo were the first two which they recruited and there was, I think, a meeting request for the candidates to meet the Deputy Premier. I think I might have provided that to his diary manager and then I may have spoken to him to say, "They're here to meet you."

The Hon. DANIEL MOOKHEY: Okay. I'm going to now refer to the senior trade and investment commissioners using the term the STIC, just to be clear—the STIC commissioners.

JOSEPH BRAYFORD: Okay, yes.

The Hon. DANIEL MOOKHEY: Did you at any point have any discussion with the Deputy Premier about the STIC Americas position?

JOSEPH BRAYFORD: I can't recall a specific conversation with him at any point about that one.

The Hon. DANIEL MOOKHEY: Did you have any discussion with the chief of staff about the STIC Americas position of any type?

JOSEPH BRAYFORD: I can't recall a conversation, no.

The Hon. DANIEL MOOKHEY: Any conversation whatsoever? Search your memory, Mr Brayford.

JOSEPH BRAYFORD: I can't recall it.

The Hon. DANIEL MOOKHEY: Do you recall any conversations with the CEO of Investment NSW about the STIC Americas position?

JOSEPH BRAYFORD: No.

The Hon. DANIEL MOOKHEY: None?

JOSEPH BRAYFORD: Not—

The Hon. PENNY SHARPE: Can I just ask on that, how often did you meet with the Investment NSW CEO?

JOSEPH BRAYFORD: Fortnightly, I think.

The Hon. PENNY SHARPE: So, quite frequently, and so you were the main conduit between the office and the work that Investment NSW was doing in relation to the trade—in particular, the recruitment process for the global program for the STICs.

JOSEPH BRAYFORD: That was my understanding of my role, yes.

The Hon. DANIEL MOOKHEY: Was it fortnightly, or was it weekly?

JOSEPH BRAYFORD: I can't recall.

The Hon. DANIEL MOOKHEY: Ms Brown has told us that she had weekly meetings with the Deputy Premier's office. Could it have been weekly?

JOSEPH BRAYFORD: Maybe. It could have.

The Hon. DANIEL MOOKHEY: Who attended those weekly or fortnightly meetings?

JOSEPH BRAYFORD: It would be myself; whoever from Investment NSW, I suppose, would be required—so sometimes they might have been talking about maybe some manufacturing issues, because the industry side is so broad, it covered so much and there were people who looked after particular areas of it; Kylie Bell, who was the executive director at the time; Jenny West usually attended those meetings, but there were a few that she was absent for, I can recall; and then I can't say that Amy Brown was always there, but I think she was—

The Hon. DANIEL MOOKHEY: A regular attendee?

The Hon. PENNY SHARPE: Yes. She'd be the most regular attendee, wouldn't she?

JOSEPH BRAYFORD: I can't say she was the most regular attendee. I don't know if she was the most regular.

The Hon. DANIEL MOOKHEY: But she was a regular attendee.

JOSEPH BRAYFORD: She was an attendee.

The Hon. DANIEL MOOKHEY: Yes, okay. But, just to be clear here, you're telling me that you never had any conversations with Ms Brown about the STIC Americas position? Did I hear you correctly?

JOSEPH BRAYFORD: Sorry. I can't recall an explicit conversation with her about that, sorry.

The Hon. DANIEL MOOKHEY: And you can't recall a specific conversation about the STICs Americas position with the chief of staff? Or did you say that you've never had a conversation with the chief of staff?

JOSEPH BRAYFORD: I can't recall one explicitly about the Americas.

The Hon. DANIEL MOOKHEY: And you can't recall a specific conversation about the Americas conversation with Mr Barilaro either?

JOSEPH BRAYFORD: No. I can't recall a particular one about that.

The Hon. DANIEL MOOKHEY: Okay. Do you recall any conversation with Minister Barilaro about converting the STICs positions into ministerial appointments?

JOSEPH BRAYFORD: Not with Barilaro, no.

The Hon. DANIEL MOOKHEY: With anyone?

JOSEPH BRAYFORD: I recall a conversation with my chief of staff about that.

The Hon. DANIEL MOOKHEY: Let's start with that. When was the first conversation that took place?

JOSEPH BRAYFORD: I believe it was August 2021.

The Hon. DANIEL MOOKHEY: And what did the chief of staff ask? What was the nature of the conversation? Did you initiate it, or did the chief of staff initiate it?

JOSEPH BRAYFORD: My chief of staff initiated it.

The Hon. DANIEL MOOKHEY: Take us through it.

JOSEPH BRAYFORD: What I recall was she called me into her office and asked me to contact Amy Brown and to inquire as to the various methods and arrangements for commissioners overseas.

The Hon. DANIEL MOOKHEY: And this was in the ministerial office, was it?

JOSEPH BRAYFORD: It could have been here at Parliament.

The Hon. DANIEL MOOKHEY: Okay. And, sorry, she asked you for—can you just repeat that again?

JOSEPH BRAYFORD: So, she asked me to ask Amy Brown for information and advice around various alternative appointment processes for commissioners overseas.

The Hon. DANIEL MOOKHEY: And in terms of asking you to ask Amy Brown, did she ask you specifically whether or not there was an option to convert them into ministerial appointments?

JOSEPH BRAYFORD: I think—I don't think she asked that. I think it was a broader question.

The Hon. DANIEL MOOKHEY: At the first conversation?

JOSEPH BRAYFORD: At the first conversation, yes. I actually recall two conversations on this.

The Hon. DANIEL MOOKHEY: Take us to the second conversation.

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: Actually, before we do, do you have any specific recall as to when in August this conversation—

JOSEPH BRAYFORD: No. No, I don't recall. August is the closest I think I can get confidently.

The Hon. DANIEL MOOKHEY: Okay. Just before we move on—

The Hon. COURTNEY HOUSSOS: Did you get any file notes?

JOSEPH BRAYFORD: I can't recall if I took any. I can't recall that.

The Hon. DANIEL MOOKHEY: Did you have this conversation with—is it Ms Hamblin at this time?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: After you received a briefing note about the STIC Americas position?

JOSEPH BRAYFORD: I can't recall receiving a briefing note.

The Hon. DANIEL MOOKHEY: Do you recall receiving a briefing note on the appointment of the STICs positions around 11 August 2021?

JOSEPH BRAYFORD: I can't recall. I can't recall.

The Hon. DANIEL MOOKHEY: Did Ms Hamblin make any reference to a briefing note?

JOSEPH BRAYFORD: I can't recall if she did.

The Hon. DANIEL MOOKHEY: This conversation takes place sometime in August. Was it early August, late August or you just don't recall?

JOSEPH BRAYFORD: I—

The Hon. DANIEL MOOKHEY: That's okay. I won't push you on that. But, Mr Brayford, just moving forward, you get asked to make a request to inquire with Ms Brown about alternative appointments. Did you make those inquiries?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: How did you make those inquiries?

JOSEPH BRAYFORD: I think email.

The Hon. DANIEL MOOKHEY: To Ms Brown?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: And did Ms Brown reply?

JOSEPH BRAYFORD: I don't know if Ms Brown replied or it could have—she could have maybe had a delegate. I'm not sure, but I do recall getting a response to it.

The Hon. DANIEL MOOKHEY: And did you get the response approximate to when you made the request? Was it within a couple of days? Was it a week? Was it two weeks?

JOSEPH BRAYFORD: I can't put a time frame on it, but it wasn't two weeks or anything like that. I think it was within maybe 24 to 48 hours.

The Hon. DANIEL MOOKHEY: So it was quick. It was turned around relatively quickly.

JOSEPH BRAYFORD: They were a good agency. They turned things around pretty regular.

The Hon. DANIEL MOOKHEY: And did you then provide that advice back to Ms Hamblin?

JOSEPH BRAYFORD: Yes, I did.

The Hon. DANIEL MOOKHEY: In email or verbally?

JOSEPH BRAYFORD: I think she used an in-tray system at the time, so what we would do is we would put her requests, also those correspondence things I had sent before—we'd put them in her in-tray.

The Hon. DANIEL MOOKHEY: So you wrote a written note or—

JOSEPH BRAYFORD: No, I didn't write one. I would have provided the email.

The Hon. DANIEL MOOKHEY: Oh, so you would have printed Ms Brown's email and popped it in.

JOSEPH BRAYFORD: I recall printing the email, I think, and I—see, I can't say 100 per cent. I think I printed the email and put it in her in-tray.

The Hon. DANIEL MOOKHEY: Okay. And what advice did Ms Brown give you in respect to the alternative—

JOSEPH BRAYFORD: I can't recall the content of the email.

The Hon. DANIEL MOOKHEY: Okay. And there's a second conversation that takes place with Ms Hamblin—unless we've got any more questions on the first? No? When does the second conversation take place?

JOSEPH BRAYFORD: It was—again, I can't recall the exact date but it was following the first conversation.

The Hon. DANIEL MOOKHEY: Proximate to.

The Hon. PENNY SHARPE: Can we just get it approximately? It's clear that dates aren't your favourite thing, Mr Brayford, which is fine, and we are asking a couple of years in.

The Hon. DANIEL MOOKHEY: One year.

The Hon. PENNY SHARPE: But we just trying to get a bit of a sense of—look, let's be honest here. An approval process had gone through where Jenny West had been approved as the preferred candidate. There had been discussion and then there was obviously preparations happening in your office to actually take to Cabinet changes in the way that these positions were appointed. We're trying to get a sense of the time line and discussions within the office about who was acting in relation to those actions. We're pretty across all that so—

JOSEPH BRAYFORD: I understand.

The Hon. PENNY SHARPE: You don't need to give us the exact date.

JOSEPH BRAYFORD: I understand. Unless I'm confident, I don't want to mislead anything.

The Hon. DANIEL MOOKHEY: If you don't mind, perhaps we can move forward here because we will be asking you a lot on the specifics. Can you provide us whatever information you have and perhaps take on notice whether you can provide specific detail on further dates, if that's possible?

JOSEPH BRAYFORD: I can try, yes. I am happy to take that on notice.

The Hon. DANIEL MOOKHEY: Close to the first conversation, you had a second conversation with Ms Hamblin. What was the nature of that conversation?

JOSEPH BRAYFORD: So, she asked me to again seek advice from Amy Brown if ministerial appointments required legislation.

The Hon. DANIEL MOOKHEY: That is in order to convert the appointment process for the STICs to ministerial appointments—whether that required a legal change?

JOSEPH BRAYFORD: Well, that's what she asked me; why she asked me that, I won't—

The Hon. DANIEL MOOKHEY: Did you make any inquiries as to why she was asking that?

JOSEPH BRAYFORD: No, I didn't ask that.

The Hon. DANIEL MOOKHEY: Did you then act on that request?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: How? Did you email Ms Brown?

JOSEPH BRAYFORD: I think it was similar to the first time.

The Hon. DANIEL MOOKHEY: And then you provided that advice back to Ms Hamblin?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: In the same way you did before, which is you put it into an inbox?

JOSEPH BRAYFORD: I believe so.

The Hon. DANIEL MOOKHEY: Do you have any idea as to when that took place?

JOSEPH BRAYFORD: I'd struggle to put any more detail than just August.

The Hon. DANIEL MOOKHEY: Early August, did you say?

JOSEPH BRAYFORD: No, I can't—no, just August.

The Hon. DANIEL MOOKHEY: August?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: At this point in time were you aware that Ms West had been selected by the first selection panel for the Americas position.

JOSEPH BRAYFORD: I wasn't aware of that. The extent that I was made aware was—I can't remember who in Investment NSW told me but they had mentioned that Ms West had applied for the New York role and she, therefore, would be distancing herself from any process around that.

The Hon. DANIEL MOOKHEY: At this point in August, Ms West had already been selected for the role. Were you aware of that?

JOSEPH BRAYFORD: I wasn't aware of that.

The Hon. DANIEL MOOKHEY: Did Ms Hamblin ever mention it to you?

JOSEPH BRAYFORD: I can't recall a conversation where she mentioned that to me.

The Hon. DANIEL MOOKHEY: And you don't recall yourself getting any ministerial briefing?

JOSEPH BRAYFORD: I can't recall one.

The Hon. DANIEL MOOKHEY: Can you turn to page 14 of the tender bundle?

JOSEPH BRAYFORD: Which one is that? The big one or—

The Hon. DANIEL MOOKHEY: The one that says "tender bundle", the big one.

JOSEPH BRAYFORD: Yes. Fourteen, did you say?

The Hon. DANIEL MOOKHEY: Yes. Start on page 13, actually.

JOSEPH BRAYFORD: Sorry, 13, did you say?

The Hon. DANIEL MOOKHEY: Yes, start on 13. My error, Mr Brayford. You can see here that this is an excerpt from the Objective system. This is a briefing note that is "DP Endorsement of the Agent-General to the UK and STIC for Europe and Israel Pending Ministerial Approval". Do you see that?

JOSEPH BRAYFORD: In this grey box? It says "DP Endorsement"—

The Hon. DANIEL MOOKHEY: Yes. Can you turn to page 14?

JOSEPH BRAYFORD: Uh-huh.

The Hon. DANIEL MOOKHEY: You can see the soft copy is emailed to you? Do you see "To Joe Brayford" at the top?

JOSEPH BRAYFORD: That's what it says, yes.

The Hon. DANIEL MOOKHEY: Do you recall receiving this?

JOSEPH BRAYFORD: No, I don't recall.

The Hon. DANIEL MOOKHEY: We have a similar one in respect to the Treasurer, to be fair—to be very clear, not to the Deputy Premier—but it does look like it was pretty routine, at least for the STIC positions, for you to be emailed the briefing and it eventually goes to the Minister. I accept, Mr Brayford, that you may not recall it, but is it possible that you were sent a briefing note about the STIC Americas position around 11 August?

JOSEPH BRAYFORD: Maybe. I can't recall.

The Hon. DANIEL MOOKHEY: Given that we have seen the note that went to the Premier's office—that would have notified the Deputy Premier's office that Ms West was appointed. Do you have any specific recalls of a discussion with the chief of staff of the Deputy Premier about that briefing note whatsoever?

JOSEPH BRAYFORD: Sorry, who notified who?

The Hon. DANIEL MOOKHEY: We have seen the version of this briefing note that was sent to Premier Berejiklian and that was returned by Premier Berejiklian.

JOSEPH BRAYFORD: Uh-huh.

The Hon. DANIEL MOOKHEY: We will get into the circumstances a bit later about the Deputy Premier's office's conduct in respect to that briefing note, but I just want to be very clear here: You don't recall seeing it around 11 August—about any briefing note to do with the STIC Americas position?

JOSEPH BRAYFORD: I don't recall.

The Hon. DANIEL MOOKHEY: Okay.

The Hon. PENNY SHARPE: Just to be clear, did you ever receive briefing notes giving the sign-off of Tokyo and the others? What you've said is that you were the senior trade adviser; you were the conduit between the department and the Deputy Premier. Clearly there were other appointments before we get to the Americas STIC position. Are you saying to us that you don't recall any briefing notes other than what you have said before, which is that you helped organise a meeting with two of the successful candidates?

JOSEPH BRAYFORD: Well, my remit was a lot broader than trade. My title was senior policy adviser, industry and trade.

The Hon. PENNY SHARPE: Yes, I know they are busy jobs.

JOSEPH BRAYFORD: And I cannot recall—there are a lot of industries in New South Wales.

The Hon. PENNY SHARPE: Yes. Is it possible that those briefing notes were going straight to the chief of staff rather than coming via you?

JOSEPH BRAYFORD: I can't recall. Possible—maybe yes, maybe no. I cannot recall.

The Hon. DANIEL MOOKHEY: Just to go back, Mr Brayford, you're adamant that the first time you were asked to make inquiries of Ms Brown about conversion to ministerial positions was in August. Did I hear that correctly?

JOSEPH BRAYFORD: That's the best of my recollection.

The Hon. DANIEL MOOKHEY: And not before?

JOSEPH BRAYFORD: I can't recall before.

The Hon. DANIEL MOOKHEY: Do you recall any conversations in June or July with Ms Brown, Ms Hamblin or Minister Barilaro?

JOSEPH BRAYFORD: No, I can't recall.

The Hon. DANIEL MOOKHEY: Again, just to search your memory, is it possible that Ms Hamblin was making a request of you to seek this advice in July or in June last year?

JOSEPH BRAYFORD: I can't say—I have searched my brain and I tried to get as accurate as I could with the dates. It could have been earlier than August. I am trying from the best of my recollection and that's what I—

The Hon. DANIEL MOOKHEY: I appreciate that. Can you turn to pages 16 and 17 of your tender bundle?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: Can you go straight down to the bottom there? This is an email that Ms Brown sent to you on 2 July 2021 at 10.24 a.m. Do you see where I'm up to on the page?

JOSEPH BRAYFORD: Just down at the bottom?

The Hon. DANIEL MOOKHEY: Yes.

The ACTING CHAIR: What page was it?

The Hon. DANIEL MOOKHEY: Page 16 of the tender bundle. Mr Brayford, you see here Ms Brown asks you:

Hi Joseph

Further to your question on the above:

The subject is:

Subject: Investment NSW and statutory officers

JOSEPH BRAYFORD: Uh-huh.

The Hon. DANIEL MOOKHEY: If you go over the page, you see seven dot points that are all to do with converting these to statutory officers, which are ministerial appointments. I can give you 30 seconds if you want to re-read it now, just to be across the detail on it. But, to be fair, I am not really going to ask you about the details contained in the email. What is clear here, though, is that Ms Brown was responding to a request for advice on conversion to investment to statutory officers as early as 2 July 2021. She is clear here that it's your question here. Were you asking Ms Brown for advice on conversion to ministerial positions in early July?

JOSEPH BRAYFORD: To the best of my recollection I thought it was August. I could be incorrect.

The Hon. DANIEL MOOKHEY: To be fair, Mr Brayford, it seems that there were multiple conversations and I do not dispute that there were probably two in August. What I am asking is whether there were also conversations in late June or early July.

JOSEPH BRAYFORD: I really can't recall the exact dates.

The Hon. COURTNEY HOUSSOS: Mr Brayford, it was a year ago. This was a couple of days after the State going into lockdown, so perhaps if you could try to think about the fact that you were probably working from home. We had all immediately been starting to work from home. Was it straightaway that this happened or was it some time into that period?

JOSEPH BRAYFORD: I really can't recall.

The Hon. DANIEL MOOKHEY: Did you of your own volition decide to ask Ms Brown? Is that something you would do?

JOSEPH BRAYFORD: No, that's not something I would do.

The Hon. DANIEL MOOKHEY: So it's reasonable to infer that you were asked to seek this advice sometime around that time?

JOSEPH BRAYFORD: I'm not sure whether or not my recollection in August is this. All I could recall what I thought was August and I think—and that I was asked to seek that advice from Amy Brown for my chief of staff at the time.

The Hon. DANIEL MOOKHEY: Mr Brayford, I am not disagreeing with you that that was in August. To be very clear here, your description of the events in August certainly do align with the chronology that has been provided to us by other witnesses. So I am not disputing the events of August whatsoever. I agree with you and your evidence is very credible that you had two conversations in August. But I am suggesting to you that you also had a conversation in either late June or early July that caused you to make a request to Ms Brown for advice on conversion and then you received that reply as well. If you have no further recall of it, I understand, but I am just going to give you this as an opportunity to shed any further light on this.

JOSEPH BRAYFORD: Thank you. I can see her email and it looks like to me, but I cannot recall this.

The Hon. DANIEL MOOKHEY: Do you recall having conversations of any type with anybody in the Minister's office, including the Minister, about conversion in June or July?

JOSEPH BRAYFORD: Not in June and July, no. I can't recall that.

The Hon. PENNY SHARPE: Can I ask you about the involvement of your office—whether it was you directly or others in your office—in relation to the view that the Deputy Premier had taken that these positions should be ministerial positions?

JOSEPH BRAYFORD: I am not sure about my office.

The Hon. PENNY SHARPE: Sorry, Mr Brayford, just to be clear, the Deputy Premier took to Cabinet in September a Cabinet minute that sought to change these positions from public service positions to ministerial positions. Are you saying that you had nothing to do with that?

JOSEPH BRAYFORD: I can recall that. I can recall getting a text message from the Deputy Premier asking me to contact Amy Brown about preparing that Cabinet submission.

The Hon. PENNY SHARPE: That was from the Deputy Premier?

JOSEPH BRAYFORD: That was from the Deputy Premier.

The Hon. DANIEL MOOKHEY: Sorry, step by step—I will take you to the other document because it is only fair to show this to you right now. It is the one that is not marked, the small one. This is correspondence—so we can get the right chronology, if you don't mind.

The Hon. PENNY SHARPE: Yes, that's fine.

The Hon. DANIEL MOOKHEY: You can see here that this is an email from Ms Brown to Ms West, which I presume you haven't seen, Mr Brayford?

JOSEPH BRAYFORD: I've never seen it.

The Hon. DANIEL MOOKHEY: I would not expect you to have seen it. I am showing it to you because it clearly states from Ms Brown, "The Deputy Premier has now formally lodged a submission to Cabinet which would, if approved, affect the delegations." She sends this email on 18 September—you can see above—and I think, from the evidence that we have gleaned elsewhere, it is possible that that submission was lodged on 17 September. So let's go back to the start. When did you receive that text message from the Deputy Premier? Do you have a copy of the text message with you?

JOSEPH BRAYFORD: I don't, no. I handed all my devices back to DPC. It was in September.

The Hon. DANIEL MOOKHEY: Was it after 6 September?

JOSEPH BRAYFORD: I can't recall.

The Hon. DANIEL MOOKHEY: But you recall getting a text message?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: So it is possible it was between 6 and 17 September?

JOSEPH BRAYFORD: It may or may not be; I can't be certain.

The Hon. DANIEL MOOKHEY: What did the Deputy Premier ask you?

JOSEPH BRAYFORD: He asked me to contact Amy Brown and request a Cabinet submission converting the commissioner roles to ministerial appointments.

The Hon. DANIEL MOOKHEY: Prior to him sending you that text message, had you had any discussions with Mr Barilaro about that proposal?

JOSEPH BRAYFORD: No.

The Hon. DANIEL MOOKHEY: Did you have any discussions with the chief of staff about the proposal?

JOSEPH BRAYFORD: Not that proposal, no.

The Hon. PENNY SHARPE: What other proposals?

JOSEPH BRAYFORD: I did provide her that advice previously.

The Hon. DANIEL MOOKHEY: Previous to this matter, was it routine that you would get text messages like that from the Deputy Premier?

JOSEPH BRAYFORD: No, my interaction with him was pretty infrequent.

The Hon. DANIEL MOOKHEY: Was it a surprise to get the text message?

JOSEPH BRAYFORD: Nothing really surprised me with John.

The Hon. DANIEL MOOKHEY: What do you mean by that, Mr Brayford?

JOSEPH BRAYFORD: You know, he is an interesting character.

The Hon. DANIEL MOOKHEY: What do you mean by that, Mr Brayford?

JOSEPH BRAYFORD: I don't really mean anything. I don't think I'd ever worked with someone so keen and so ambitious.

The Hon. DANIEL MOOKHEY: Ambitious in what respect?

JOSEPH BRAYFORD: If you look at what he has done regionally, it is pretty amazing.

The Hon. DANIEL MOOKHEY: So your reaction to that text message was that it was amazing?

JOSEPH BRAYFORD: No, I didn't say that.

The Hon. PENNY SHARPE: Did that text message give you a deadline to have this done by?

JOSEPH BRAYFORD: No. I believe it said "ASAP".

The Hon. PENNY SHARPE: So it is rare that you get something from the Deputy Premier directly. He texts you sometime in September. He says to you, "You need to get Amy Brown to prepare a Cabinet minute to convert these positions as soon as possible." Is that fair?

JOSEPH BRAYFORD: That's my recollection.

The Hon. DANIEL MOOKHEY: Did you call the chief of staff and go, "Hey, I've got this request from the Deputy Premier"?

JOSEPH BRAYFORD: I may have. I can't recall an explicit conversation with her. It would be the usual process that we would go through in the office, if we were preparing a Cabinet submission. It was a bit of an iterative process.

The Hon. DANIEL MOOKHEY: Did the Deputy Premier ever explain to you why it was urgent that you do it ASAP?

JOSEPH BRAYFORD: No.

The Hon. DANIEL MOOKHEY: Did you make any inquiries?

JOSEPH BRAYFORD: No. That wasn't my job.

The Hon. DANIEL MOOKHEY: Did you reply to the text?

JOSEPH BRAYFORD: I think I would have, saying yes.

The Hon. DANIEL MOOKHEY: What did you do then? Did you call Ms Brown?

JOSEPH BRAYFORD: I don't know if I called or I might have put an email together, but I contacted Ms Brown and relayed the request on to her.

The Hon. DANIEL MOOKHEY: Then what happened?

JOSEPH BRAYFORD: I can't recall the exact detail with this one. I remember that it was a bit of an iterative process. My understanding is, if you needed to make a statutory appointment, you would need a statute. So if that was the case, my understanding is that a Cabinet submission would not just say, "Turn these appointments," but it would have to introduce legislation and appointments could be made under that legislation. I can't recall exactly what happened in this instance, but my usual practice would be a bit of a process where the department puts a draft together, I check it with the Deputy Premier, if they have raised any questions at the time I would relay them on to him and then kind of a back and forth until eventually it meets his request.

The Hon. DANIEL MOOKHEY: You forwarded the request to Ms Brown and then I presume she or her agency prepared a draft, and then that was sent to you, was it?

JOSEPH BRAYFORD: I can't recall. I think it would be if I was requesting.

The Hon. DANIEL MOOKHEY: Mr Brayford, just to be clear here, you get a text message from the Deputy Premier, which you say is infrequent, to urgently prepare a Cabinet submission. You transmit the request to Ms Brown but you are telling me you can't recall whether Ms Brown sent you a draft of the submission?

JOSEPH BRAYFORD: I can't recall the exact series of events with this.

The Hon. DANIEL MOOKHEY: I am not asking for it in order; I am just asking.

JOSEPH BRAYFORD: I can't recall confidently exactly who did what.

The Hon. DANIEL MOOKHEY: I am not asking for exact, Mr Brayford. I am just asking: At some point did Ms Brown send you a draft?

JOSEPH BRAYFORD: I can't recall if it was her. Maybe one of her—

The Hon. DANIEL MOOKHEY: But someone did?

JOSEPH BRAYFORD: Someone.

The Hon. PENNY SHARPE: Did you receive a draft of the Cabinet minute? If it wasn't you, who in the office received it? Who would have received it if it wasn't you?

JOSEPH BRAYFORD: I think I did, yes.

The Hon. DANIEL MOOKHEY: You said just then that the ordinary process would be that you would provide that draft to the Deputy Premier and then after a series of conversations you would seek to finalise it in a manner which was consistent with the Deputy Premier's wishes. Was that the ordinary procedure?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: Did you do so in respect of this particular issue?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: Did you have a discussion with Minister Barilaro about that Cabinet submission?

JOSEPH BRAYFORD: I can't recall an explicit discussion.

The Hon. PENNY SHARPE: When you say "explicit discussion", was there any discussion?

JOSEPH BRAYFORD: I am struggling to recall. That was the usual process that I would go through when preparing a Cabinet submission at his request. I cannot recall in this instance.

The Hon. DANIEL MOOKHEY: You worked with him for three years, didn't you? At this point in time you had worked for him for 2½ years. Is that correct? You say from March 2019, and this is all taking place in September 2021, so you were working with him for two-plus years. Is that correct?

JOSEPH BRAYFORD: Yes, if that is what the timing—

The Hon. DANIEL MOOKHEY: In that 2½ years, had you ever received a text message from Minister Barilaro asking you for the preparation of an urgent Cabinet submission?

JOSEPH BRAYFORD: I think this was the only instance where he did it via a text message.

The Hon. DANIEL MOOKHEY: Did I hear you right when you said he wanted it prepared ASAP?

JOSEPH BRAYFORD: That is my recollection, yes.

The Hon. DANIEL MOOKHEY: So you would have treated it as a matter of urgency, would you not?

JOSEPH BRAYFORD: I treated any request directly from him or my chief of staff as a matter of urgency.

The Hon. DANIEL MOOKHEY: Then you therefore caused the Cabinet submission to be provided in draft form and then you brought it to the attention of the Deputy Premier, I presume?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: And did you do that by writing? Did you put it in his in-box? Did you call him? Did you text him?

JOSEPH BRAYFORD: I think, because we were all working remotely at that time, it would have been an email.

The Hon. DANIEL MOOKHEY: To Minister Barilaro?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: Okay. And then did he reply?

JOSEPH BRAYFORD: I can't recall a reply.

The Hon. DANIEL MOOKHEY: Well, what further engagement did you have?

JOSEPH BRAYFORD: I can't recall exactly what engagement I had.

The Hon. DANIEL MOOKHEY: Well, did you lodge the submission in the Cabinet system?

JOSEPH BRAYFORD: I think departments lodge submissions.

The Hon. DANIEL MOOKHEY: It depends, Mr Brayford.

JOSEPH BRAYFORD: I think I only ever had departments lodge submissions.

The Hon. DANIEL MOOKHEY: Well then, did you instruct the department to lodge a submission?

The Hon. PENNY SHARPE: The submission would not have gone in, Mr Brayford, without sign-off from the Deputy Premier—

JOSEPH BRAYFORD: Yeah.

The Hon. PENNY SHARPE: —and either yourself or the chief of staff—

JOSEPH BRAYFORD: Yes.

The Hon. PENNY SHARPE: —I would have thought.

JOSEPH BRAYFORD: Yes. So he must have, like, okayed the submission because I can't recall whether that was face to face or over the phone or—

The Hon. DANIEL MOOKHEY: Okay. At any point from the draft to the lodgement, did the Deputy Premier or his office, or you, seek amendments from the department?

JOSEPH BRAYFORD: From the department? I think during the drafting there was a question raised, "Oh, well, at what point would these ministerial appointments begin?" because my understanding was there was London and Tokyo, which were already done. I think I had a conversation—like, face to face—or maybe over the phone with the Deputy Premier about that at which time he said that he would like it for the London and Tokyo ones to be converted into—

The Hon. DANIEL MOOKHEY: Retrospectively?

JOSEPH BRAYFORD: —ministerial appointments.

The Hon. DANIEL MOOKHEY: Yep.

JOSEPH BRAYFORD: And then for, I suppose, this separate process—whatever it would be—to take effect after—

The Hon. DANIEL MOOKHEY: Immediately.

JOSEPH BRAYFORD: From now on.

The Hon. DANIEL MOOKHEY: So, to be clear here, you had a phone conversation with the Deputy Premier.

JOSEPH BRAYFORD: I think it was verbal, so it was either phone or face to face. I can't quite recall.

The Hon. DANIEL MOOKHEY: Okay. But it was a direct conversation.

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: And he said that his view—well, his instruction because it was his submission—was that the change to ministerial appointments should apply from the moment the Government agreed to the Cabinet submission?

JOSEPH BRAYFORD: I don't know. I don't think there was an explicit point in time saying that it would—

The Hon. DANIEL MOOKHEY: Okay, but immediately, or for the future, for upcoming appointments. Is that the way to say it?

JOSEPH BRAYFORD: My best recollection was that it was—London and Tokyo were to be—

The Hon. PENNY SHARPE: So you had India and the Middle East and you had the EU and Israel—

JOSEPH BRAYFORD: Yeah.

The Hon. PENNY SHARPE: —and then the Americas and China. They were the four that were outstanding.

JOSEPH BRAYFORD: Okay. All right.

The Hon. DANIEL MOOKHEY: Yes. Okay.

JOSEPH BRAYFORD: Okay, that sounds about right.

The Hon. DANIEL MOOKHEY: And then did you then relay that to the department and make sure that that change was effected?

JOSEPH BRAYFORD: I can't remember relaying it to the department. I recall the submission went to Cabinet and that, I believe, Cabinet approved it.

The Hon. PENNY SHARPE: That was late September.

JOSEPH BRAYFORD: That was late September, yes, and I believe Cabinet approved it. And then it's possible I may have relayed that or it's possible that the department maybe went in the system and saw—sorry, I can't recall the specific saying—

The Hon. DANIEL MOOKHEY: Okay, sure. But to be clear here, was there any other conversation you had with the Deputy Premier about the content of the Cabinet submission?

JOSEPH BRAYFORD: There would have been conversations as part of the drafting process just to ensure that it met his requirements, but I can't recall specific conversations on specific matters.

The Hon. DANIEL MOOKHEY: And in respect to other submissions that the Deputy Premier brought to Cabinet, did you have similar discussions with him about this, or was this basically the—

JOSEPH BRAYFORD: Yeah, yeah. Yes, but yes.

The Hon. DANIEL MOOKHEY: And so it was consistent practice that he would talk to his staff about what he wanted his submission to say?

JOSEPH BRAYFORD: From my experience, it was consistent that I would—that the drafting process would be a bit of—you get a first cut. If there are questions or things that still are outstanding, we'd seek that from him to ensure that the end result met his request. There could be things which he hadn't, I suppose, considered, as part of the—

The Hon. DANIEL MOOKHEY: Okay. Can I ask you: At that point, were you aware that Ms West was chosen for the job?

JOSEPH BRAYFORD: I wasn't aware that she was in any way—I think the term had been—preferred candidate. I was aware that she'd applied for the job but I wasn't aware that there was anything other than an application.

The Hon. DANIEL MOOKHEY: Did the Deputy Premier ask you or the department to include advice about where the process was at that point up to when it comes to selecting the Americas or the China position?

JOSEPH BRAYFORD: I can't recall a conversation, no.

The Hon. DANIEL MOOKHEY: So, there's been speculation publicly that it wasn't disclosed that that's where the process was up to and that, in fact, that information was withheld.

JOSEPH BRAYFORD: Sorry? Would you—

The Hon. DANIEL MOOKHEY: There has been public speculation, which I'm going to ask you to respond to if you have any insight you can give us. There has been some public commentary that Mr Barilaro withheld from Cabinet information about where the selection process was up to for the Americas position, and that is he failed to tell Cabinet that Ms West was the preferred candidate at that point in time.

The Hon. WES FANG: It might be helpful just to indicate where that information—

The Hon. DANIEL MOOKHEY: Government members who've leaked to the *Daily Telegraph*. So, do you wish to comment, or do you have any information—

JOSEPH BRAYFORD: No.

The Hon. DANIEL MOOKHEY: —about whether it was disclosed?

JOSEPH BRAYFORD: I don't know. I don't know what was disclosed. I—

The Hon. PENNY SHARPE: Can I just ask something more directly? I mean, you've just said that you interacted with the Deputy Premier in relation to the preparation of the Cabinet minute that went to Cabinet. Was it the case that it was made clear in the Cabinet minute that—because at this time it was clear—there had been a recruitment round; that that had closed; and that there was a short-listed preferred candidate? Do you recall any of that?

JOSEPH BRAYFORD: I recall receiving instruction from the Deputy Premier that the ministerial appointments were to take place for the, I think it was, America—

The Hon. PENNY SHARPE: China.

JOSEPH BRAYFORD: —China, India and—

The Hon. PENNY SHARPE: EU.

JOSEPH BRAYFORD: EU. EU?

The Hon. PENNY SHARPE: Yep—EU, Israel.

JOSEPH BRAYFORD: EU's London.

The Hon. PENNY SHARPE: No.

The Hon. WES FANG: It was Dubai, wasn't it—the Emirates?

The Hon. PENNY SHARPE: No.

The Hon. DANIEL MOOKHEY: They split it.

The Hon. COURTNEY HOUSSOS: Wasn't it London and Tokyo?

The Hon. PENNY SHARPE: Yes, it is. Sorry, yes—Middle East. Sorry.

The Hon. DANIEL MOOKHEY: The Middle East, yeah.

The Hon. PENNY SHARPE: Anyway, we digress. Yes?

JOSEPH BRAYFORD: I recall having a conversation with him at what point these ministerial appointments would, for want of a better term, kick in.

The Hon. PENNY SHARPE: And this was in September. The reason I am asking you this is that this is really important because the former Premier, Gladys Berejiklian, signed off on Jennifer West as the preferred candidate for the Americas position in August, so it was aware within Government. Similarly, we understand that the then Treasurer, Dom Perrottet, was briefed on this and we believe that your Minister would have been briefed on this.

The Hon. DANIEL MOOKHEY: We know he was, to be fair.

The Hon. PENNY SHARPE: Yes. He was briefed on it, whether you recall that or not. But the important part here is that in providing information on the update of what was going on and converting these positions, was information provided that said there had already been a selection round and that a preferred candidate had been identified?

JOSEPH BRAYFORD: I can't recall an explicit—

The Hon. PENNY SHARPE: Or even a non-explicit?

JOSEPH BRAYFORD: I can't recall any.

The Hon. PENNY SHARPE: A text, or an email, or a group chat or a staff meeting?

JOSEPH BRAYFORD: I can't recall.

The Hon. DANIEL MOOKHEY: Or did Ms Brown ever tell you in any of the fortnightly conversations that there was a preferred candidate in place?

JOSEPH BRAYFORD: I can't recall about a preferred candidate now, only that she'd put in an application and that's why she would be distancing herself from—for example, when the London and Tokyo candidates came up to meet the Deputy Premier, I think they were joined by Jenny West and she facilitated that introduction, but that would be happening for these because she had put in an application for one.

The Hon. COURTNEY HOUSSOS: Mr Brayford, you characterised in the beginning of your opening statement as being the conduit between the agency and the Minister's office. At the time that you were in the Minister's office, were you aware of the chief of staff having direct contact with the department?

JOSEPH BRAYFORD: I don't know. She may have, she may not have. I don't know.

The Hon. COURTNEY HOUSSOS: I am asking whether, in your experience when you were working in the office, were these issues generally coming through you?

JOSEPH BRAYFORD: I am not aware of any of the conversations that might have happened between the agency and a member of the office. You would have to ask them.

The Hon. COURTNEY HOUSSOS: In your weekly or fortnightly catch-ups with Investment NSW, was there anyone else from your office in those meetings?

JOSEPH BRAYFORD: Sometimes we would bring the media adviser who, I suppose, had responsibility for the trade and investment parts. She would come along, but not usually in those standing meetings, no.

The Hon. PENNY SHARPE: Can I just take you back to after Cabinet decided that these would be converted to ministerial positions. There have been two different ways that the department sought to action that. One was, obviously, within the decision-making visibility of the Cabinet system there was the decision that was made. Did you speak to Amy Brown specifically about unwinding the position, given that Jenny West was in active contract negotiations at that point in time?

JOSEPH BRAYFORD: I can't recall a conversation with Amy about that.

The Hon. PENNY SHARPE: Ms Brown did say to us that she did have a conversation with you in relation to this. You are saying you do not recall that?

JOSEPH BRAYFORD: I don't recall one, no.

The Hon. PENNY SHARPE: I know it is chaotic. I mean, the Deputy Premier resigned about three days afterwards. But you are saying that you had no conversations with Amy—you don't recall—

JOSEPH BRAYFORD: I can't recall.

The Hon. PENNY SHARPE: You don't recall any conversations, texts, emails with Amy Brown?

JOSEPH BRAYFORD: I can't recall a conversation of that.

The Hon. DANIEL MOOKHEY: I am not sure that I have provided this in your tender bundle, but it relates to this so I will read the relevant section. This is from the transcript of Ms Brown's evidence. By the way, did you see that?

JOSEPH BRAYFORD: No.

The Hon. DANIEL MOOKHEY: The Cabinet agrees to adopt Minister Barilaro's submission on 27 September. My colleague Mr Graham asked Ms Brown:

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

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

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

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

We asked Ms Brown, "Who did you meet with?" and she said you. She said that she had a meeting with you from 27 September to 3 October to discuss the practicalities of implementing the decision of government. Do you recall that meeting?

JOSEPH BRAYFORD: I recall, yes. I do recall a meeting on 1 October. I believe I had a meeting—it wasn't about relaying the Cabinet decision; it was just kind of to understand what happens next now that they would have made that decision.

The Hon. DANIEL MOOKHEY: She described it as a high-level conversation.

JOSEPH BRAYFORD: Yes, that would characterise it.

The Hon. DANIEL MOOKHEY: Did you give Ms Brown a time line as to when you expected Investment NSW to have legislation prepared?

JOSEPH BRAYFORD: No, I can't recall the time line.

The Hon. DANIEL MOOKHEY: Was anything else discussed at that meeting?

JOSEPH BRAYFORD: I can't recall anything else.

The Hon. PENNY SHARPE: So, you remember the meeting on 1 October. What did you talk about? Don't think about it in terms of specific events; just tell us what happened at the meeting.

JOSEPH BRAYFORD: I think at the meeting—gosh, I would be really speculating as to what might have been discussed.

The Hon. PENNY SHARPE: What do you recall?

The Hon. WES FANG: For context, the 1 October was the day—

JOSEPH BRAYFORD: Yes, it was the day that Berejiklian resigned.

The Hon. DANIEL MOOKHEY: We remember.

The Hon. PENNY SHARPE: Yes, we know.

JOSEPH BRAYFORD: Yes, that's the only thing I can remember from that day. I had this meeting and then Premier Berejiklian resigned in the early afternoon, I think, and that kind of blew everything else out of the water in my memory, at least.

The Hon. DANIEL MOOKHEY: Can I just turn now to the events of early August of that year? Were you asked by either the chief of staff or the Deputy Premier's office around 2 August to seek an urgent briefing on the status of the Americas position?

JOSEPH BRAYFORD: I don't recall such a request. I may have but I don't recall a request.

The Hon. DANIEL MOOKHEY: Do you recall talking to Ms Brown about getting a briefing prepared quickly?

JOSEPH BRAYFORD: I don't recall that at all.

The Hon. DANIEL MOOKHEY: Do search your memory. Would anyone else have asked or would it have been you?

JOSEPH BRAYFORD: I don't know about anyone else, but I can't recall doing such.

The Hon. DANIEL MOOKHEY: Not at all about seeking an urgent briefing note?

JOSEPH BRAYFORD: It's possible but I just can't recall yes or no.

The Hon. DANIEL MOOKHEY: Can you turn to page 21 of your tender bundle, please? You can see here, just down the bottom in the highlighted section, that the executive assistant to Ms Brown is emailing others and says:

Amy has advised she would like to send the Americas report to the DPO today—

Deputy Premier's office—

could we please prioritise this report so I can have the panellists approve today.

Do you see that?

JOSEPH BRAYFORD: Yes.

The Hon. DANIEL MOOKHEY: Does that shed any further light as to whether or not you received an urgent request or you made an urgent request?

JOSEPH BRAYFORD: No, I can't recall this.

The Hon. DANIEL MOOKHEY: Alright. Can you turn to page 26 in the bundle? You see here on the same day, we're told that the panel needs to sign off and that there's a discussion with the Deputy Premier's—do you see that? It says:

Im assuming this will occur post Dep Prem discussion?

Do you know what discussion that was referring to?

JOSEPH BRAYFORD: I have no idea.

The Hon. DANIEL MOOKHEY: Are you sure?

JOSEPH BRAYFORD: To the best of my recollection I can't recall—I don't know what they were talking about.

The Hon. DANIEL MOOKHEY: Alright. The first email I took you to, on page 21, was an email that the executive assistant sent at 10.55 a.m. The second email I just took you to, which you do not recall, was sent at 12.13 p.m. Can you turn to page 28, please? Actually, we will start on 29 because it is the bottom of the email chain.

JOSEPH BRAYFORD: Sorry, 29?

The Hon. DANIEL MOOKHEY: Well, it's 28-29. There's no other way of putting it; it's at the bottom. You see here again, down the bottom, this is now a 12.43 email again from the EA to the CEO Ms Brown to a

person at the DPIE who is the executive assistant to the secretary of the DPIE at the time, Mr Betts. That is who that person is. If you turn the page you can see:

Hope you are well and had a nice weekend.

Attached is the STIC Americas Selection Panel Report which required approval/signing — could you please arrange for Jim to approve/sign.

Any would like to arrange for the DPO to have a copy today if possible

Do you see that?

JOSEPH BRAYFORD: Uh-huh.

The Hon. DANIEL MOOKHEY: Were you asking Ms Brown at the time for a copy that day?

JOSEPH BRAYFORD: I don't recall asking for one, no.

The Hon. DANIEL MOOKHEY: Okay. Go back to page 28, and up the email chain to the 2.25 email.

JOSEPH BRAYFORD: Uh-huh.

The Hon. DANIEL MOOKHEY: You can see here that the EA to the CEO of Investment NSW is emailing the CEO of DPIE, Mr Betts, who was on the selection panel, to get him to sign the document. You can see that she sends a follow-up email less than two hours later:

Hi Leanne,

Just wanted to confirm when we might receive an approved/signed copy of the panel selection report.

We need to include this with our brief to the DPO and across ASAP.

Do you have any recall of receiving that or putting any pressure on them to get you a brief ASAP?

JOSEPH BRAYFORD: I can't recall.

The Hon. DANIEL MOOKHEY: You can see that seven minutes later, right at the top, the signed version of the selection panel's report, signed by Mr Betts, is returned to the Investment NSW CEO office. Were you sent the signed selection panel report that day?

JOSEPH BRAYFORD: I can't recall receiving one.

The Hon. DANIEL MOOKHEY: Okay. When we put these questions to Ms Brown about why it was so urgent to get Minister Barilaro a briefing on 2 August—I will read to you about the process here. Ms Brown says that she had a conversation with Secretary Betts about signing the selection reports and that Mr Betts warned her that there was, to be clear, a chance of Ministers meddling with due process. That was the concern that Mr Betts raised with Ms Brown. Secretary Betts then recommends that Ms Brown insists that every selection panel member sign the report, which is why that chain of correspondence was taking place with that secretary. We asked Ms Brown:

Did he warn you that there was a chance that Ministers would mess with due process?

Ms Brown said:

We had a conversation about the fact that because the other two appointments went to Cabinet, there was a lot of confusion, and I was concerned that certain Ministers or their offices may feel that they have to veto rights over my appointment.

I asked:

Who were you concerned would have veto rights over your appointment?

Ms Brown said:

I was concerned that the Deputy Premier's office would feel that they had veto rights.

Did Ms Brown ever express concerns to you about whether the Deputy Premier's office would have veto rights over the appointment?

JOSEPH BRAYFORD: I can't remember a conversation like that.

The Hon. DANIEL MOOKHEY: Does that mean it could have happened and you can't recall it, or it definitely did not happen?

JOSEPH BRAYFORD: Maybe. I cannot recall.

The Hon. DANIEL MOOKHEY: So there is a possibility that she did have a conversation with you.

JOSEPH BRAYFORD: And possibly not.

The Hon. DANIEL MOOKHEY: Yes, but there is a possibility that she did, in which she expressed a concern that the Deputy Premier or his office would feel like they had veto rights.

JOSEPH BRAYFORD: I cannot recall such a conversation.

The Hon. DANIEL MOOKHEY: Going forward, I asked her:

Why was it so urgent to send it to the Deputy Premier's office?

AMY BROWN: I wanted to provide briefs for noting briefs to the four Ministers who I referred to before, and I wanted the selection reports to be signed before I did that.

She then went on to say:

AMY BROWN: I had already verbally offered—well, no, at this point I hadn't verbally offered the candidate, but I wanted to get going on the appointment. So "ASAP" was—

I then interrupted her quite rudely—

The Hon. DANIEL MOOKHEY: But you don't mention the other offices in this email: "We need to include this with our brief to the DPO and across". It's not "DPO and Treasury", "DPO and Premier", "DPO and Ayres". It's DPO.

AMY BROWN: He was the portfolio Minister, so—

The Hon. DANIEL MOOKHEY: But was he asking for this brief urgently?

AMY BROWN: His office was.

Ms Brown is telling us that the office was asking urgently for the briefing. Was that request coming from you?

JOSEPH BRAYFORD: I can't recall such a request.

The Hon. DANIEL MOOKHEY: How many other people worked in the DPO?

JOSEPH BRAYFORD: Possibly 20, I would say.

The Hon. DANIEL MOOKHEY: Was there anybody else who was engaged in the trade adviser role?

JOSEPH BRAYFORD: You would have to ask them. I don't know what they did.

The Hon. DANIEL MOOKHEY: What do you mean by you "don't know what they did"?

JOSEPH BRAYFORD: I only know the conversations I've had.

The Hon. DANIEL MOOKHEY: Did anybody else have any responsibility for the Trade portfolio aspects of the Deputy Premier's responsibilities other than you?

JOSEPH BRAYFORD: I suppose you could consider that the chief of staff had that and maybe you could say the deputy chief of staff.

The Hon. DANIEL MOOKHEY: Who was the deputy chief of staff?

JOSEPH BRAYFORD: Jeff McCormack, but I would only be speculating to say that they might have had conversations. You would have to check with them.

The Hon. DANIEL MOOKHEY: Mr Brayford, it was either you, the chief of staff or the deputy chief of staff who apparently was asking Ms Brown urgently. That is the impression you are leaving with us.

JOSEPH BRAYFORD: I am not saying that. I shouldn't be speculating on this, but I'm only aware of the conversations I have had. I was suggesting possible others, but I don't know the full extent of them.

The Hon. PENNY SHARPE: We have been having a conversation for a while now about who in the office was involved in signing off on briefs and the work that you did. We haven't really talked about the deputy chief of staff. Is it possible that he also had a direct line to Investment NSW or was seeing some of these briefs that you don't recall seeing?

JOSEPH BRAYFORD: I have no idea if he did or if he didn't. It wasn't part of our usual process but, again, I wasn't aware of his responsibilities.

The Hon. PENNY SHARPE: Did you have regular staff meetings where you were discussing the work plan that was happening in relation to the Minister's office?

JOSEPH BRAYFORD: Which work plan?

The Hon. PENNY SHARPE: Within the Minister's office, as you said, there is Investment, Trade, Regional NSW—Ministers are busy people. It's quite usual for there to be regular staff meetings where people report in in relation to those matters and people take an interest in terms of doing that. We have a long time frame about the toing and froing of these positions. Were these positions discussed in that forum or in a regular forum in that way?

JOSEPH BRAYFORD: There possibly could have been a conversation. I think we used to have a standing Friday morning meeting.

The Hon. PENNY SHARPE: Yes, and during COVID I am assuming you had regular Teams meetings?

JOSEPH BRAYFORD: Yes.

The Hon. PENNY SHARPE: Did the deputy chief of staff take any interest or any carriage in relation to these matters that you are aware of?

JOSEPH BRAYFORD: I can't recall so. No, I can't recall any specific moment where that happened.

The Hon. DANIEL MOOKHEY: Mr Brayford, we have no documents or any evidence from any other witness in front of us that could cause us to conclude that it was anyone else other than you who was having these conversations. Not one document mentions the chief of staff or the deputy chief of staff. Not one document mentions them in respect of the events that took place in August, the events that took place in July or the events that took place in September. Now, to be very fair to you, I want to put it to you very clearly that it was you who was having these conversations.

JOSEPH BRAYFORD: Which conversations?

The Hon. DANIEL MOOKHEY: The conversations about obtaining the briefing note urgently. That was a conversation you had.

JOSEPH BRAYFORD: I can't recall that.

The Hon. DANIEL MOOKHEY: I want to put it to you clearly, and give you the chance to deny it or not, that you were also the person who was having conversations with Ms Brown that relayed the Deputy Premier's instructions about the Cabinet submission.

JOSEPH BRAYFORD: I recall the Cabinet submission, yes.

The Hon. DANIEL MOOKHEY: I also want to be clear here and I want to put it to you that you got the briefing note that advised on 11 August that Ms West was selected for the role.

JOSEPH BRAYFORD: I can't recall seeing that briefing note.

The Hon. DANIEL MOOKHEY: Fair enough. In respect of the Cabinet submission, did you have any discussions with any other Ministers' offices about that Cabinet submission?

JOSEPH BRAYFORD: I can't recall a conversation with any other Minister's office about that.

The Hon. DANIEL MOOKHEY: Any interaction whatsoever?

JOSEPH BRAYFORD: It is possible, but I can't recall a conversation with any other Minister's office about that.

The Hon. PENNY SHARPE: For someone who had carriage of the Cabinet minute that was going forward, is it not the usual case that Cabinet minutes are circulated to relevant Ministers? In this case it would have been the Premier, the Deputy Premier, the Treasurer and the investment Minister, which is Minister Ayres, and there is usually feedback sought from those, but you didn't see any toing and froing around the Cabinet minute and input in relation to that?

JOSEPH BRAYFORD: I recall having a conversation with the Deputy Premier and he said to me that he would talk to the other Ministers.

The Hon. PENNY SHARPE: Which other Ministers did he mean?

JOSEPH BRAYFORD: He didn't explicitly state them.

The Hon. PENNY SHARPE: Who did you think he meant?

JOSEPH BRAYFORD: I would only be speculating as to who.

The Hon. PENNY SHARPE: Would it be likely to have been the other Ministers who were the sign-off—the noting Ministers in relation to these positions? So, again, the Premier, the Treasurer and the investment Minister.

JOSEPH BRAYFORD: It possibly could be, but you would have to ask him about who he had that conversation with.

The Hon. DANIEL MOOKHEY: Did he ever report to you the outcome of those conversations?

JOSEPH BRAYFORD: I don't recall ever receiving any sort of feedback from him on that bit, no.

The Hon. DANIEL MOOKHEY: Did any member of the Government at all contact you with concerns about the Cabinet submission?

JOSEPH BRAYFORD: I can't recall anyone coming and raising any concerns.

The Hon. DANIEL MOOKHEY: Mr Brayford, you keep using the term "I can't recall". You are leaving open the possibility for us to conclude that it did happen and you just don't have a memory of it. I am going to push you again to be very clear here: Do you have any recollection of anyone having a conversation with you about this from the Government?

JOSEPH BRAYFORD: The Cabinet?

The Hon. DANIEL MOOKHEY: Raising concerns with the Cabinet submission prior to the Cabinet meeting.

JOSEPH BRAYFORD: No, I recall interactions with the Deputy Premier and I think Amy Brown during the drafting process. As far as I can recall, those are the only two people I spoke to.

The Hon. DANIEL MOOKHEY: Did the Premier's office, which is responsible for preparing the Cabinet agenda—did anybody from the Premier's office at that time suggest to you that they had any concerns with it?

JOSEPH BRAYFORD: I can't recall them, no.

The Hon. DANIEL MOOKHEY: Did Minister Barilaro insist that the matter be treated as a matter of urgency by Cabinet?

JOSEPH BRAYFORD: I have no idea.

The Hon. DANIEL MOOKHEY: The ordinary practice of Cabinet is that even if you do lodge a submission, it is not that you get it immediately on the agenda. Somehow the submission is lodged around 17 September or thereabouts and then it was debated 10 days later, which is pretty fast.

JOSEPH BRAYFORD: Yes. The usual practice was a few weeks of—

The Hon. DANIEL MOOKHEY: Coordinating.

JOSEPH BRAYFORD: —circulating or something, yes.

The Hon. DANIEL MOOKHEY: So that process didn't take place?

JOSEPH BRAYFORD: No, I think he indicated to me a specific Cabinet meeting that it was going to go to and then I just would have prepared according to that.

The Hon. DANIEL MOOKHEY: Part of the reason why you received an ASAP request was because he intended to bring it to the 27/7 Cabinet meeting—correct?

JOSEPH BRAYFORD: I don't know. I just received the request. I don't know why he—

The Hon. DANIEL MOOKHEY: And then how did you go about, or how did the Deputy Premier's office go about, suspending the ordinary process that would have allowed for other Ministers to provide feedback prior to the Cabinet decision?

JOSEPH BRAYFORD: I don't know. When I spoke to the—well, I don't know if this is—

The Hon. WES FANG: Chair, can I just raise a procedural point at this time? I indicated that the Government would forgo its rotation of questions in order to provide Mr Brayford with an earlier finish time. I note that we originally requested him for 90 minutes and, allowing for the introductory statements et cetera, it would be around, I would say, five minutes or so ago that the Government would have had its time originally.

The Hon. DANIEL MOOKHEY: Point of order: Firstly, we started six minutes late. We started at 1.06 p.m. and I'm not sure that that's what we resolved.

The Hon. WES FANG: I made it clear—

The Hon. PENNY SHARPE: Also, I thought the agreement that we had made was not that we would shorten time but that you would get 15 minutes at the end.

The Hon. WES FANG: I did indicate in earlier correspondence that was circulated among all members that the Government would cede some of its time.

The Hon. DANIEL MOOKHEY: Well, we haven't resolved that.

The Hon. PENNY SHARPE: Well, I've been under a misunderstanding, if that's the case, because—

The Hon. DANIEL MOOKHEY: But we haven't resolved that.

The Hon. PENNY SHARPE: —I thought that what we resolved this morning—

The Hon. WES FANG: For good will—

The Hon. DANIEL MOOKHEY: If we need to suspend the hearing and go into a deliberative to sort this out, let's just do that.

The Hon. WES FANG: No. In the case of understanding and good will, I think another couple of minutes?

The ACTING CHAIR: We passed a motion this morning, or I did ask the question of you and I didn't get an answer.

The Hon. WES FANG: I did indicate that I'd seek to reduce the time.

The Hon. DANIEL MOOKHEY: To the point of order: The Committee has resolved to do 90 minutes of questioning and leave 15 minutes for the Government at the end, which we should stick to. In my view, then, on that basis we've got until 1.36 p.m. If the Government wishes to waive its 15 minutes at the end, that's a matter for the Government.

The ACTING CHAIR: Well, I am happy with that, unless you want to take it to a deliberative.

The Hon. WES FANG: Look, I think—what time are you seeking to question until?

The Hon. PENNY SHARPE: Until 2.36 p.m.

The Hon. DANIEL MOOKHEY: Then we're done; otherwise, we'll just seek to call our witness back, just to be very clear.

Ms SUE HIGGINSON: How are you going, Mr Brayford?

JOSEPH BRAYFORD: It's been hard. I think it's hard because I didn't receive an invitation to this.

The Hon. WES FANG: I think that, you know, in fairness, I indicated when I circulated earlier—

The Hon. PENNY SHARPE: There's no motion that has been passed.

The ACTING CHAIR: We had a resolution to that effect and this affected the start.

The Hon. DANIEL MOOKHEY: Look, I'm going to suggest we go into a deliberative because we're taking up the time.

The Hon. WES FANG: I am happy—

The Hon. DANIEL MOOKHEY: So if the Deputy President wishes to push the matter—

The Hon. WES FANG: Look, I was just asking to come to the conclusion, given that—

The Hon. DANIEL MOOKHEY: Look, we intend to hopefully be done by 1.36 p.m.

The Hon. PENNY SHARPE: No, 2.36 p.m.

The Hon. DANIEL MOOKHEY: Sorry, 2.36 p.m. and, if we can get it done before that, we will.

The Hon. PENNY SHARPE: It's not long.

The Hon. WES FANG: See, the Government had 15 minutes at the end before that, so 90 minutes minus 15.

The Hon. PENNY SHARPE: No. We're saying 90 minutes plus 15.

The Hon. TAYLOR MARTIN: Oh, come on!

The Hon. WES FANG: That was never the time that was called. It was never for that.

The Hon. DANIEL MOOKHEY: I don't think we have too much more, to be clear. There is a very good chance we'll be done in accordance with the time you're suggesting, Mr Fang. In terms of where we're up to, Mr Brayford, you were explaining to us how it is possible that the Deputy Premier managed to have this matter listed as a matter of urgency. Did you have any conversation with the Premier's office about that?

JOSEPH BRAYFORD: I don't recall a conversation. All I recall was the Deputy Premier saying that he will deal with getting it on the agenda.

The Hon. DANIEL MOOKHEY: So the Deputy Premier told you he'd take responsibility for that?

JOSEPH BRAYFORD: That's my recollection, yes.

The Hon. DANIEL MOOKHEY: And that happened in one of the conversations you would have had with him at this point in time.

JOSEPH BRAYFORD: Yes. Yes, it would have happened in one of them.

The Hon. DANIEL MOOKHEY: Okay. And then that's actually what did in fact happen. Correct? It then got listed very fast after submissions.

JOSEPH BRAYFORD: I think so, yes. Yes.

The Hon. DANIEL MOOKHEY: Okay. And at any point did the Deputy Premier indicate to you a reason as to why he thought this should have urgency by Cabinet?

JOSEPH BRAYFORD: No, he didn't.

The Hon. DANIEL MOOKHEY: At this point, did the Deputy Premier ever flag with you that he was resigning, or contemplating resignation?

JOSEPH BRAYFORD: No. No, he never did.

The Hon. DANIEL MOOKHEY: I presume that's because that's not necessarily a conversation any Minister would have with staff members.

JOSEPH BRAYFORD: You'd have to ask them. I don't know what—

The Hon. DANIEL MOOKHEY: It wasn't the nature of your relationship where he would have sought your advice as to whether—

JOSEPH BRAYFORD: No. We had just a professional relationship, so I wasn't given any forewarning of his resignation.

The Hon. DANIEL MOOKHEY: Okay. Because it turns out that the twenty-seventh was his last Cabinet meeting.

JOSEPH BRAYFORD: Okay.

The Hon. DANIEL MOOKHEY: And at any point did he make any reference to the fact that this was his last Cabinet meeting and that might be the reason why he thinks it should be considered as a matter of urgency?

JOSEPH BRAYFORD: He never suggested of any sort that his resignation would be happening.

The Hon. DANIEL MOOKHEY: To you.

JOSEPH BRAYFORD: I believe on the fourth, I think.

The Hon. DANIEL MOOKHEY: Yes. So he never suggested to you—

JOSEPH BRAYFORD: He never—never.

The Hon. DANIEL MOOKHEY: Okay. Thank you. And just to be clear here, did you speak to Minister Ayres' office at all in any discussion whatsoever of any type about the Cabinet submission?

JOSEPH BRAYFORD: I can't recall speaking to their office about that submission. I can't recall a conversation on that.

The Hon. DANIEL MOOKHEY: What about with the Treasurer?

JOSEPH BRAYFORD: I can't recall a conversation with their office, either.

The Hon. DANIEL MOOKHEY: And what about with the Premier?

JOSEPH BRAYFORD: I can't recall.

The Hon. DANIEL MOOKHEY: At this point, this was taking place in the aftermath of some controversy around the koala SEPP that led to a public dispute between the Premier and the Deputy Premier. Correct?

JOSEPH BRAYFORD: I suppose. I can't recall the date but it would have happened because then he resigned so soon after. So, yes, that happened. I can't remember what dates it was around; I feel maybe like six months earlier or something, that it was the koala SEPP.

The Hon. DANIEL MOOKHEY: I think it was during the lockdown but a bit earlier than that.

JOSEPH BRAYFORD: Maybe.

The Hon. DANIEL MOOKHEY: But at that point was it the case that there was an apprehensive relationship or an acrimonious relationship between the Premier and the Deputy Premier's office?

JOSEPH BRAYFORD: I have no idea about their relationship.

The Hon. DANIEL MOOKHEY: I'm not asking you about their relationship.

JOSEPH BRAYFORD: Oh, sorry.

The Hon. DANIEL MOOKHEY: I am asking you about the relationship between the offices.

JOSEPH BRAYFORD: No. Our relationship between the Deputy Premier's office—well, I suppose I can't talk for the whole office—but my relationship was extremely professional with every ministerial office.

The Hon. DANIEL MOOKHEY: Okay. So in your view that had no effect on the fact of the Premier's office's absence of contact with you. That had nothing to do with it. It sounds plausible to me.

JOSEPH BRAYFORD: I have never considered that.

The Hon. DANIEL MOOKHEY: Okay. Chair, can you just give me one minute. I just want to double-check that there is nothing else we need.

The ACTING CHAIR: Yes, okay.

The Hon. DANIEL MOOKHEY: Thank you. There's only one other matter that I think I need to ask you about, just to be fair to you, Mr Brayford, and to also be fair to the other witnesses. Did you have any contact with the general counsel of Investment NSW?

JOSEPH BRAYFORD: I remember one meeting with him. I believe it was the meeting on 27 September. I don't recall ever speaking to him or meeting him prior to that. I think it was the first time I'd ever met him.

The Hon. DANIEL MOOKHEY: Okay.

JOSEPH BRAYFORD: And I think that's the only time I ever met him or spoke to him.

The Hon. DANIEL MOOKHEY: Okay. Can you go to page 30 of your tender bundle? This is an email which the general counsel ends up sending, or a very close version of this, to the general counsel of the Public Service Commission in which very specific advice is sought about the conversion of the positions to ministerial appointments. You can see just from the top there the email is sent sometime or thereabouts close to 21 September 2021. Do you see that?

JOSEPH BRAYFORD: Yes. I can see 21 September.

The Hon. DANIEL MOOKHEY: Do you see the first highlighted section?

JOSEPH BRAYFORD: The one starting with "We are"?

The Hon. DANIEL MOOKHEY: Yes. Do you see:

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

JOSEPH BRAYFORD: Uh-huh.

The Hon. DANIEL MOOKHEY: Did you make that request to Ms Brown?

JOSEPH BRAYFORD: I'm not sure what request they're referring to but I suppose if you look at the timing there was a request that I received to seek information from Ms Brown, which could be what's being suggested here.

The Hon. DANIEL MOOKHEY: Yes. We've established that there was certainly some form of a conversation that preceded some form of a question that you were asked in late June or July. We established that there were two conversations—

JOSEPH BRAYFORD: Sorry, June?

The Hon. DANIEL MOOKHEY: Sorry, late June or July, which was the email—

JOSEPH BRAYFORD: I thought it was August.

The Hon. DANIEL MOOKHEY: Sorry. We went through that before, Mr Brayford, earlier about the email that I think is on page 10 of your tender bundle.

JOSEPH BRAYFORD: Ten—sorry.

The Hon. DANIEL MOOKHEY: But we also then established that there were two conversations in August. We know from the chronology that there was a Cabinet submission made on the seventeenth. This is an email that takes place seemingly after the submission was lodged, but before Cabinet had debated it, and now this email shows us that someone was asking Investment NSW "to consider whether there are alternative methods that STICs could be employed. Specifically, we have been asked whether there is an option for ministerial appointments". Do you recall around that period of time making such a request?

JOSEPH BRAYFORD: I only recall what I believe are the two times in August where I was asked to request similar advice: the one which was the methods of alternative appointments, and the second time regarding legislation requirements, I think.

The Hon. DANIEL MOOKHEY: Okay. Can you turn to page 33? Sorry, I've given you the wrong reference of your tender bundle. We did ask Ms Brown—

The Hon. WES FANG: Is this the last question?

The Hon. DANIEL MOOKHEY: It is the last line of questioning.

The Hon. WES FANG: The reason I ask that is because it was agreed that we would have 90 minutes with the witness all up. Allowing for six minutes after time—

The Hon. TAYLOR MARTIN: That's 21.

The Hon. WES FANG: Yes. That's now. The 15 minutes reserved for the Government is now.

The Hon. DANIEL MOOKHEY: Chair, it's a matter for you. Look, it's not much. I will be done in roughly two minutes, I suspect, if that avoids the fight that we would otherwise have.

The Hon. WES FANG: I want to be fair to the witness as well.

The Hon. DANIEL MOOKHEY: Yes, so do I. To be fair to the witness, he is doing well.

The Hon. WES FANG: I agree.

The ACTING CHAIR: It would be fairer to the witness to get it over and done with now rather than bringing him back.

The Hon. WES FANG: I agree, but I—

The ACTING CHAIR: We could very well end up bringing him back.

The Hon. WES FANG: I had put in writing that I think that would be fairly—

The ACTING CHAIR: Mr Mookhey, proceed with the line of questioning as quickly as you can. Otherwise, if we finish up then we may have to bring him back.

The Hon. DANIEL MOOKHEY: I will. To be clear, we have had direct evidence from Ms Brown about this. To be fair to Mr Brayford, I want to give him a chance to respond because it is very specific. In respect to that particular email, we asked Ms Brown whether or not she made the request of the general counsel. She said:

I believe the request was made from a particular Minister's office.

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

AMY BROWN: The Deputy Premier's office.

She goes on to say Deputy Premier Barilaro got in touch with your general counsel directly, or his office got in touch with him directly.

JOSEPH BRAYFORD: Sorry, I can't see where you are reading from.

The Hon. DANIEL MOOKHEY: Sorry, I am not reading. I am just reading to you from a transcript. Apologies; I just cannot find the reference in your tender bundle. I am happy to read it to you again and then I can provide you with a written copy of it.

The Hon. WES FANG: I can confirm that I am happy with what he is saying.

The Hon. DANIEL MOOKHEY: I asked:

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

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

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

To skip to the core point, I asked:

Do you recall the name of the person who asked you from the Deputy Premier's office?

Ms Brown goes on to say:

I feel nervous about naming them, given the introduction.

Ms Sharpe said:

You just said you're taking direction from that person. We would like to know.

The CHAIR: Yes.

AMY BROWN: I just wanted to check.

So she clarified that. She said that Mr Joseph Brayford asked her directly. I will provide you with the full page of the transcript.

JOSEPH BRAYFORD: Yes, I would appreciate that.

The Hon. DANIEL MOOKHEY: I am happy. It was just an incidental omission. It is probably in the bundle but I cannot see the page reference. Please feel free to read that part. I will give you the page before. It is the page with the sticker on it.

JOSEPH BRAYFORD: Okay, the line with the sticker?

The Hon. DANIEL MOOKHEY: Yes. If you want to read that page you will probably find the full context for yourself.

JOSEPH BRAYFORD: Okay, here you are saying, "Did you"—okay.

The Hon. DANIEL MOOKHEY: Ms Brown has said that it was you who contacted the general counsel and sought this advice. Do you have any recall?

JOSEPH BRAYFORD: No, my recollection was the only time I ever met or spoke to this or emailed this general counsel was in the meeting I referred to earlier, which I think is 1 October. That's the only time.

The Hon. DANIEL MOOKHEY: The answer is no?

JOSEPH BRAYFORD: I can't recall. I thought the only I had met or spoke to the general counsel—

The Hon. DANIEL MOOKHEY: To be fair, Mr Brayford, the general counsel agrees it wasn't you, to be clear here.

JOSEPH BRAYFORD: Right.

The Hon. DANIEL MOOKHEY: Just so you are aware of that, he told us this morning that it wasn't you. But I have to put it to you as well to get your account of it.

JOSEPH BRAYFORD: Right, okay. Yes, I cannot recall. The only recollection of my interaction with that general counsel was in the meeting on 1 October, which sticks in my mind because it was when the Premier resigned, and I believe that was the only time I ever met him or spoke to him. It was like a virtual call thing. I don't recall ever interacting with him prior to that.

The Hon. DANIEL MOOKHEY: The only other question or, I guess, just a final point I would like to get your response on is the general counsel tells us that he gets a meeting request circa 15, 16 September with a member of Minister Barilaro's staff to join a Teams call. Was that you?

JOSEPH BRAYFORD: I can't recall that. I thought the only time that I've ever met or spoke to him was that meeting on 1 October.

The Hon. WES FANG: To be clear, it says "she".

The Hon. TAYLOR MARTIN: That's right, it is "she".

The Hon. DANIEL MOOKHEY: To be fair again to Mr Brayford, the general counsel also told us it wasn't you. Do you know who it was?

JOSEPH BRAYFORD: I have no idea.

The Hon. DANIEL MOOKHEY: Were you aware at the time that a separate meeting was taking place with the general counsel?

JOSEPH BRAYFORD: I have no knowledge.

The Hon. DANIEL MOOKHEY: Did you cause that meeting to be created and delegated to someone else?

JOSEPH BRAYFORD: I don't think so—not that I am aware.

The Hon. DANIEL MOOKHEY: Did you provide to the general counsel questions prior to that meeting that you wanted him to address?

JOSEPH BRAYFORD: I can't recall doing such.

The Hon. DANIEL MOOKHEY: Were you aware that your office had?

JOSEPH BRAYFORD: I wasn't aware.

The Hon. WES FANG: I have really only got one question. In relation to the line of questioning Mr Mookhey took you to about the requirement to provide the office with a briefing and the CEO of Investment seeking signatures et cetera on the panel sheet, it would seem to me as though the Opposition feels that there was a sense of urgency from that request. Would it be fair to say that in providing requests of Investment NSW to Amy Brown et cetera, that perhaps those requests were mistaken sometimes for urgent requests or that there was a willingness to appear on Investment NSW's part to be on top of it so that might have actually provided clarity as to why she was seeking to do things quickly?

JOSEPH BRAYFORD: Yes. I cannot speak for her, but having been on both ends of this and in a previous role receiving such requests, if you received any request from any Minister it was your number one priority to deal with that immediately.

The Hon. WES FANG: What was, in fact, just a vanilla, everyday regular request to Investment NSW may well have been actioned quickly, not because there was urgency but because it was from a Minister?

JOSEPH BRAYFORD: Yes.

The Hon. WES FANG: You spoke a little bit earlier about what it was like to work for the Deputy Premier. You used the word—help me out here.

Ms SUE HIGGINSON: Ambitious?

The Hon. WES FANG: Ambitious. Thank you, Ms Higginson.

Ms SUE HIGGINSON: "Keen" and "ambitious" and "look at what he was doing in the regions".

The Hon. WES FANG: Yes.

JOSEPH BRAYFORD: I was impressed by it.

The Hon. WES FANG: Look, Ms Higginson could probably give chapter and verse as to all of the achievements of the Deputy Premier in his time in that role, but that is not what we are here to discuss.

The ACTING CHAIR: Probably not—"I don't recall".

Ms SUE HIGGINSON: Koala springs to mind.

The Hon. WES FANG: I guess what I am asking you about that is that he was a big personality. Was he a jovial bloke? In the office was he fun to work with? Did he crack a lot of jokes?

The Hon. DANIEL MOOKHEY: Point of order—

The Hon. WES FANG: It actually is very relevant.

The ACTING CHAIR: From a person who was protesting not long ago about wanting to finish questioning entirely, now he is basting the witness.

The Hon. DANIEL MOOKHEY: I have no doubt the Deputy President has a point that he is trying to make. If the Deputy President could be kind enough to frame the question in a way that is at least relevant to the terms of reference, it might be helpful to us all.

The Hon. WES FANG: I'll just pull out "any other matter". It is relevant.

The ACTING CHAIR: I think that covers it: "Any other matter".

The Hon. WES FANG: Yes, it does.

The ACTING CHAIR: That is the sort of questioning you get from the Government.

The Hon. DANIEL MOOKHEY: "Was he a nice guy?"

Ms SUE HIGGINSON: "Did you love him?"

The Hon. WES FANG: No, seriously.

JOSEPH BRAYFORD: I had a very professional relationship with him. I certainly wouldn't put myself in—I was never in some sort of inner circle that he had. I think that's quite evident by the fact that I found out about his resignation on the day that he resigned.

The Hon. WES FANG: I found about the resignation on the day he resigned.

JOSEPH BRAYFORD: We are in that together. I certainly don't mean to misrepresent when I say "ambitious" that that in any way alludes to his own personal ambition for himself. What I mean is in his responsibilities as Minister from when he was the skills Minister, the Minister for Regional NSW, the industry Minister and I think he might have been some other Minister.

The Hon. WES FANG: But you would have heard him joke about things like, you know, he wanted to be the ambassador to the Holy See.

JOSEPH BRAYFORD: He could have joked about, "I want to be the ambassador to the moon."

The Hon. WES FANG: He was renowned for talking about those sorts of things and things that might have happened afterwards.

JOSEPH BRAYFORD: Yes.

The ACTING CHAIR: We might draw questioning to an end, Mr Fang.

The Hon. WES FANG: It is relevant, I think.

The Hon. TAYLOR MARTIN: It is quite relevant to the discussion from this morning.

The ACTING CHAIR: This doesn't even fit within "any other matter".

The Hon. WES FANG: Well, it actually is, and you know exactly what it is relevant to.

The ACTING CHAIR: No, I don't. Would someone like to call a point of order so we can put an end to this torture?

The Hon. TAYLOR MARTIN: Robert, in all seriousness, it is entirely relevant and you know why it is relevant.

The Hon. DANIEL MOOKHEY: Point of order: I have no doubt that the Deputy President is intending to get to a question, and I understand that this is probably a prelude to those questions, but asking the witness about whether or not the Deputy Premier reflected upon being ambassador to the moon might stretch—

The Hon. WES FANG: I actually said to the Holy See.

The Hon. DANIEL MOOKHEY: Or to the Holy See. That might stretch the bounds. Perhaps the Deputy President might be able to frame the question in a manner which would allow the witness to provide a direct response.

Ms SUE HIGGINSON: You've got one minute.

The Hon. WES FANG: The former Deputy Premier was renowned—

The ACTING CHAIR: Not very much.

The Hon. WES FANG: —for talking about things which perhaps were not of a likely manner or happened to be—

The Hon. PENNY SHARPE: How much he hated koalas.

Ms SUE HIGGINSON: Koalas, yes.

The ACTING CHAIR: More interested in eating them, actually.

JOSEPH BRAYFORD: I'm just finding it difficult to follow now.

The Hon. WES FANG: Yes, as am I, given the amount of interjections. Perhaps instead of me asking the question, you might elucidate on some of those insights that he might have provided to the office.

The Hon. DANIEL MOOKHEY: Point of order: What exactly is the witness meant to be elucidating?

The ACTING CHAIR: I uphold the point of order. Thank you very much for coming today, Mr Brayford.

The Hon. WES FANG: You want to shut down this line of questioning. It's amazing. You are shutting it down.

The ACTING CHAIR: This is an entirely useless elucidation of nothing.

The Hon. WES FANG: I was doing the long lead but okay, fine, shut it down.

The ACTING CHAIR: We have gone well past the time that we agreed we would go to with you.

The Hon. DANIEL MOOKHEY: We appreciate your evidence, Mr Brayford.

JOSEPH BRAYFORD: I thank the Committee as well for understanding why I asked for this to be in camera. I really appreciate that.

The ACTING CHAIR: I note that you took a number of questions on notice. The Committee secretariat will be in contact with you within 21 days to get those answers in writing.

(The witness withdrew.)

(Evidence in camera concluded.)