

**REPORT ON PROCEEDINGS BEFORE**

**PUBLIC ACCOUNTABILITY COMMITTEE**

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

**CORRECTED**

**At Room 814-815, Parliament House, Sydney, on Friday 5 August 2022**

**The Committee met at 10:05.**

**PRESENT**

Ms Cate Faehrmann (Chair)

The Hon. Scott Farlow  
The Hon. Wes Fang  
The Hon. Daniel Mookhey  
The Hon. Peter Poulos  
The Hon. Penny Sharpe

**PRESENT VIA VIDEOCONFERENCE**

The Hon. Courtney Houssos

\* 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.



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**The CHAIR:** Welcome to the fifth 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 and present, and celebrate the diversity of Aboriginal peoples and their ongoing culture and connections to the lands and water of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today. Today we will be hearing from three witnesses: Mrs Siobhan Hamblin, former chief of staff to Mr John Barilaro; Ms Kylie Bell, managing director, Investment NSW; and Ms Kathrina Lo, the Public Service Commissioner. I thank everyone for making the time to give evidence to this important inquiry.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments you may make to the media or to others after you complete your evidence.

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

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**Mrs SIOBHAN HAMBLIN**, Chief of Staff to former Deputy Premier John Barilaro, sworn and examined

**The CHAIR:** Thank you, Mrs Hamblin. Do you have a short opening statement to make to the Committee?

**SIOBHAN HAMBLIN:** I do.

**The CHAIR:** Thank you.

**SIOBHAN HAMBLIN:** I am here today to assist the Committee in its inquiry and to answer its questions. I was chief of staff to the then Deputy Premier, John Barilaro, from February 2020 to October 2021 during the peak of the COVID-19 pandemic. I managed a team of advisers that were the primary contacts with the relevant departments on policy matters. My role as chief of staff was to manage the office, assist the staff in their duties and provide advice to Mr Barilaro in the development of policy and media matters. However, the policy direction of the portfolios held by the then Deputy Premier and final decisions relating to any policy were that of Mr Barilaro. In answering the Committee's questions, I would like to illustrate the environmental conditions at the time, as it is material context to many of my answers today. The significant priority of the Government during the time period relevant to the Committee's interest was managing the COVID-19 pandemic and my role was central to that throughout the time frame in question. This is important context which explains my response to many of the questions I expect to get today about the process to appoint trade commissioners.

I was involved in the peripheral. I was one of about only four staff that sat on the State's crisis Cabinet. In addition to my role as chief of staff, I was the sole member of staff within Mr Barilaro's office tasked with overseeing the Government's COVID-19 response, the road map out of lockdown and recovery, and the crisis Cabinet process. The enormity of this task cannot be understated. I felt the full the weight of the people of New South Wales on my shoulders throughout this entire time. I took my responsibility in supporting the Government's response to get it right with grave seriousness and necessary diligence, care and attention. The nature of the crisis meant that along with a small group of senior members of government, I worked seven days a week and sometimes up to 18 hours a day, which were extremely busy with crisis Cabinet meetings, rolling high-level stakeholder briefings, department briefings, media inquiries, inquiries from the general public and MPs as their electorates went in and out of various lockdowns.

It was unprecedented in the level of sheer traffic and volume of work—all dealing with matters of significant importance and critical decision-making, and all requiring close, careful attention. My role extended well beyond portfolio matters and developed into a cross-government role necessitated by the crisis. All of this in addition to my duties as chief of staff. Working from home created added complexities around managing how the office interacted, shared information and collaborated, as well as the fact that we had lost the ability to gain information, merely by proximity to others. I trust this provides helpful context in today's hearing.

In relation to the State Trade and Investment Commissioner positions, Mr Barilaro never raised with me any personal interest in these roles. Any request from Mr Barilaro for information or instruction I understood to be in the sole capacity as Minister responsible for Trade. Had I had reason to believe at any time that any steps or actions taken relating to the State Trade and Investment Commissioners would have benefited Mr Barilaro personally, I would have no issues escalating the matter and, if necessary, make representations to the appropriate independent bodies.

**The CHAIR:** We will go to questions from the Opposition.

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, thank you for coming. By any chance can you table your opening statement?

**SIOBHAN HAMBLIN:** Of course.

**The Hon. DANIEL MOOKHEY:** Forgive me in terms of checking a couple of the dates. Firstly, what is your current occupation?

**SIOBHAN HAMBLIN:** I am a director at a government relations company.

**The Hon. DANIEL MOOKHEY:** Is that the role you took upon leaving the Deputy Premier's office?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** You said in your opening statement when you were the chief of staff.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you tell me the dates again, please?

## CORRECTED

**SIOBHAN HAMBLIN:** I don't have the exact date, but it was from about February 2020.

**The Hon. DANIEL MOOKHEY:** Until the Deputy Premier's resignation?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Prior to that, what was your role?

**SIOBHAN HAMBLIN:** I was the deputy chief of staff in the office. I took up that position again from about May 2019 and previous to that I was with the Federal Government.

**The Hon. DANIEL MOOKHEY:** In effect, you joined the Deputy Premier's office upon, effectively, the Government's re-election in 2019 or thereabouts?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** You served as deputy chief of staff and upon a change in leadership in the office you became chief of staff?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** I appreciate, Mrs Hamblin, you took us through the duties of the chief of staff. You said, "My role as chief of staff was to manage the office, assist the staff in their duties and provide advice to Mr Barilaro in the development of policy and media matters." Do you have a formal job description by any chance?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. DANIEL MOOKHEY:** So that's the best description as to the actual role you ended up performing?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** How often would you talk to the former Deputy Premier?

**SIOBHAN HAMBLIN:** As I said, it was during the COVID-19 pandemic. Often it was quite frequently but the length of conversation depended on the issues we were discussing. At that time, there was plenty going on that often the conversations were short and quite focussed on media issues that were emerging in and around what may have been the emerging issues of the day insofar as it related to COVID, COVID response, various lockdowns and other various policy matters that may have arisen.

**The Hon. DANIEL MOOKHEY:** Did you speak to him daily?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Frequently, each day?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. PENNY SHARPE:** Obviously, we're very busy and we all appreciate and know about that at the time. Can you just take us through how you allocated tasks within the office, particularly around the trade issue and the role—obviously, we've heard from Mr Brayford—but whether there were other staff that were also working on some of this, as you were clearly very busy?

**SIOBHAN HAMBLIN:** To the best of my recollection, Mr Brayford was the senior adviser allocated to manage this portfolio. I am unaware—or I can't recall—if any other tasks were delegated to anybody else. But if they were, it would have been in a managing of workload. As I said, the senior adviser for trade was the primary—

**The Hon. PENNY SHARPE:** The deputy chief of staff at that time was Mr McCormack. Is that right?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. PENNY SHARPE:** What was his role?

**SIOBHAN HAMBLIN:** He worked on some various other policy matters that may have arisen. The nature of his role was a little bit more in relation to media and supporting the media team, and a bit of a roving brief, so to speak, to assist on—

**The Hon. PENNY SHARPE:** A fixer in the office?

**SIOBHAN HAMBLIN:** Probably a fair description.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** So he reported directly to you?

**SIOBHAN HAMBLIN:** Yes, but also noting his relationship—he had, as you would expect with the deputy chief of staff, to have had a relationship with Mr Barilaro as well.

**The Hon. DANIEL MOOKHEY:** What was that relationship?

**SIOBHAN HAMBLIN:** That's a matter for them to—for Mr McCormack and Mr Barilaro to—

**The Hon. DANIEL MOOKHEY:** Indeed it is, but he was your deputy chief of staff, so did he report exclusively to you, or did he report to you and the Deputy Premier?

**SIOBHAN HAMBLIN:** To me and the Deputy Premier.

**The Hon. DANIEL MOOKHEY:** So how did you manage that dual reporting line?

**SIOBHAN HAMBLIN:** When it came to policy and to media and the running of the office he reported to me, but anything that he may have reported to Mr Barilaro would be a matter for Mr Barilaro and for Mr McCormack. However, it was within the office, including to Mr McCormack, that I was the chief of staff. Matters were to be brought to my attention and I led the office. I understood it to be clear, not only for Mr McCormack but also for Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** Can I ask you, Mrs Hamblin, how many people worked in the office?

**SIOBHAN HAMBLIN:** I would say it was somewhere between the order of 15 to 20.

**The Hon. DANIEL MOOKHEY:** Okay. Is it the practice of the office—was there a weekly agenda or a staff meeting, or was it just—

**SIOBHAN HAMBLIN:** Outside of working from home, we would have a weekly Friday meeting. During COVID, our meetings were daily. But the purpose of those meetings, as being daily, was more of an opportunity for me to touch base with my team. I was gravely concerned for my team and their welfare. I wanted to check in each day to make sure that they were up and feeling well about the extended lockdown, and to provide support where possible. The contents of those meetings were often short, sometimes as little as five to seven minutes. But really, it just is a touch base point.

**The Hon. DANIEL MOOKHEY:** Indeed. You say in your opening statement that it was your role to assist staff in their duties and provide advice to Mr Barilaro on the development of policy and media matters. Presumably, that was a function that was discharged by you and others in the office, correct?

**SIOBHAN HAMBLIN:** Sorry, Mr Mookhey, could you just—

**The Hon. DANIEL MOOKHEY:** Sorry, I rarely struggle to make myself heard. Forgive me, Mrs Hamblin, if that has been the case. It is the case, is it not, that the 15 to 20 people who are in the office—it was their role also to assist Mr Barilaro in the development of policy as well as media matters and other parts of his ministerial duties. That's fair?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Presumably, therefore, requests that were made by Mr Barilaro would ordinarily, as in for additional advice, questions, inquiries—could surface with you or could surface with staff. That's correct?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Was it the practice that, if a request had surfaced with another staff member, they would perhaps disclose that you?

**SIOBHAN HAMBLIN:** It would depend on the nature of it. I think, as I explained in my opening statement, the proximity or the lack of proximity of being able to have some of those conversations were often informal, in the sense it may have been someone walking past my office or it may be something that I would have overheard. And, given the fact that we were working from home, there were some complexities around that. If I wasn't informed of some things, I may have taken it as just the nature of the day or the fact that it was difficult to connect with the office, given the challenges of us working from home.

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, what you're describing there is no different to what would typically happen in most offices in most workplaces—correct?

**SIOBHAN HAMBLIN:** Correct.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** But it is the case that there was no-one else from a staff level who was more senior than you?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** And it was the case that you were ultimately accountable for staff to the Deputy Premier and to others?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Thank you for teasing that out. Mrs Hamblin, can you explain to us what was the nature of the interactions with the respective departments that supported Minister Barilaro as trade Minister—that is, how often would you be meeting with the department?

**SIOBHAN HAMBLIN:** For me, quite infrequently. The primary relationship holder there was the senior adviser. I don't have any of that information in front of me—I don't have my diary—so I couldn't tell you the frequency, but it was infrequent.

**The Hon. DANIEL MOOKHEY:** Let's go through this step by step. Firstly, from back in time, the Secretary of the Department of Enterprise, Investment and Trade at the time—prior to that, it was Investment NSW. It's probably best to refer to her as the CEO of Investment NSW. She told us that she was having fortnightly meetings with the Deputy Premier's office. Is that in accordance with your recollection?

**SIOBHAN HAMBLIN:** That would be a matter for the senior adviser. I wasn't involved in those regular meetings. I understood those meetings to be regular what we would call "work meetings", "work in progress meetings" that all relevant advisers would have specific to the policy areas that they were managing.

**The Hon. DANIEL MOOKHEY:** Did you ever attend any of those meetings?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. DANIEL MOOKHEY:** Did Mr Brayford, the senior adviser, report to you on the work in progress?

**SIOBHAN HAMBLIN:** All of my advisers did.

**The Hon. DANIEL MOOKHEY:** So, presumably, he did in respect to the trade issues?

**SIOBHAN HAMBLIN:** Yes. I can't recall any specifics. As I said, I don't have my emails, so I don't know how he would have done that, but it would have been my expectation that my advisers would have reported in, even if it was just high level, to ensure that work was continuing in each of the policy areas.

**The Hon. DANIEL MOOKHEY:** But your recollection is that you never attended any of the fortnightly meetings with Investment NSW?

**SIOBHAN HAMBLIN:** To the best of my recollection, I don't recall, but that doesn't mean that I didn't throughout my tenure as chief of staff.

**The Hon. DANIEL MOOKHEY:** Can you describe what were your interactions with Investment NSW?

**SIOBHAN HAMBLIN:** Limited.

**The Hon. DANIEL MOOKHEY:** Please explain.

**SIOBHAN HAMBLIN:** As I said in my opening statement, my priorities between February 2020 and October 2021 was rolling crises, quite frankly, moving from bushfires into COVID-19 and the various challenges that related to that. Therefore, that was my priority, and I had a number of staff that were able to assist in managing those policy areas. It was the expectation that if there were issues that were arising in relevant portfolios that needed my assistance or my attention—either my attention or that of the Deputy Premier's—it would have been raised with me.

**The Hon. DANIEL MOOKHEY:** Do you recall any specific instances where you yourself had had occasion to call any person at Investment NSW on any matter whatsoever?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. DANIEL MOOKHEY:** Do you recall any particular instances in which perhaps the CEO or any other member of Investment NSW would have called you directly?

**SIOBHAN HAMBLIN:** Not to my recollection.

CORRECTED

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**The Hon. DANIEL MOOKHEY:** When you say that it was your job to assist the Deputy Premier and to manage the office in respect to policy advice and media matters, I presume that would encompass, for example, the preparation of briefs for the Deputy Premier.

**SIOBHAN HAMBLIN:** That was the responsibility of advisers.

**The Hon. DANIEL MOOKHEY:** Indeed. But did you provide any oversight of that role?

**SIOBHAN HAMBLIN:** Yes, the role in which I would review briefs was more of an oversight. Briefs and correspondence would come through me. But, again, it would be in the order of determining priorities in the sense of if a letter had been sitting in an in-tray for months on end that required the Deputy Premier to sign that, I would re-prioritise that letter or that brief, because it was a looming deadline, to the top of the priority list for Mr Barilaro's attention. I would ask questions in and around whether other conversations or whether there are briefs that require attention of other ministerial offices if those conversations had happened or whether that was aligned with any other conversations I may have been having with other chiefs of staff, other officers or the Deputy Premier himself.

**The Hon. DANIEL MOOKHEY:** Would you relate back Mr Barilaro's feedback on any briefs he got?

**SIOBHAN HAMBLIN:** I would expect that, in most instances, that feedback was given from Mr Barilaro directly to those advisers.

**The Hon. DANIEL MOOKHEY:** Thank you, Mrs Hamblin, but that wasn't the question. Were there instances in which you did relate back feedback from the Deputy Premier to staff members?

**SIOBHAN HAMBLIN:** Potentially, yes.

**The Hon. PENNY SHARPE:** Can I clarify that in some ministerial offices basically nothing gets to the Minister unless the chief of staff has gone through it. Is that what you are saying today, that every brief, every correspondence you saw before it got to the Deputy Premier?

**SIOBHAN HAMBLIN:** I couldn't say that it was every brief or every piece of correspondence. I would endeavour to be across everything that I could, but in some instances it may have been the case that those things went directly to the Deputy Premier. But it wasn't a fait accompli that nothing went to the Deputy Premier without it going through me.

**The Hon. PENNY SHARPE:** I know this is difficult, but given how busy you were at the time, I am assuming you didn't have time to be sitting and reading every letter that had come into the office. Can you give me an idea of the proportion of briefs that you think perhaps could have gone to the Deputy Premier without you having seen them?

**SIOBHAN HAMBLIN:** I couldn't say. I wouldn't want to mislead the Committee in any way, so I just wouldn't be able to say.

**The Hon. PENNY SHARPE:** That's okay; that's fine.

**The Hon. DANIEL MOOKHEY:** In addition to overlooking briefs, would you also, for example, assist the Deputy Premier when he wants Cabinet submissions prepared?

**SIOBHAN HAMBLIN:** Again, that would have been primarily done by the policy advisers.

**The Hon. DANIEL MOOKHEY:** I don't dispute the primary responsibility here, Mrs Hamblin, but I am asking you: Did you play any role in the assistance of the production and proposal for Cabinet submissions whatsoever?

**SIOBHAN HAMBLIN:** I would have provided an advisory role, or it would be more asking questions in the sense of, "Has this gone through the relevant offices that it insofar relates to?", "Have you had conversations with Mr Barilaro on this?", "Is there any feedback on it?", rather than holding the pen, so to speak, on the drafting of those Cabinet submissions.

**The Hon. DANIEL MOOKHEY:** I'm not suggesting, Mrs Hamblin, that you drafted them, but I'm asking you if Mr Barilaro wanted a Cabinet submission produced, would it be ordinary practice for him to talk to you about it?

**SIOBHAN HAMBLIN:** Yes. At some point there would have been a conversation.

**The Hon. DANIEL MOOKHEY:** Would it be his ordinary practice to ask you at first instance to take steps to cause one to be produced?

**SIOBHAN HAMBLIN:** Not necessarily.



## CORRECTED

**The Hon. DANIEL MOOKHEY:** Was it his practice to do that with Mr McCormack then?

**SIOBHAN HAMBLIN:** That's a question for—

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, I accept that it is of course a question that we are happy to put to him too, but you were apparently Mr McCormack's boss, were you not?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** So was it Mr Barilaro's practice to go to Mr McCormack directly for the production of Cabinet submissions without telling you?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** So if he went to Mr McCormack, would he tell you?

**SIOBHAN HAMBLIN:** In most instances, given that I wouldn't have seen an instance or I can't recall an instance in which Mr Barilaro would have gone directly to the deputy chief of staff for the production of a Cabinet minute. But in most instances our office was quite open, in the sense of we were aware of what was happening in and around those daily conversations. If that was the situation, I would envisage that Mr Barilaro would have alerted me at some point.

**The Hon. DANIEL MOOKHEY:** Would Mr McCormack have alerted you at some point?

**SIOBHAN HAMBLIN:** That would have been my expectation.

**The Hon. DANIEL MOOKHEY:** Was it the practice of Mr Barilaro to seek this verbally at meetings with you or in phone calls?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** And would he text you?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Has he ever texted you asking you to produce a Cabinet submission?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. DANIEL MOOKHEY:** To be very clear here, Mrs Hamblin—not to your recollection. Mr Barilaro never texted you and asked you to produce a Cabinet submission about any matter?

**SIOBHAN HAMBLIN:** I haven't got my devices, so given the fact that also—

**The Hon. DANIEL MOOKHEY:** To the best of your recollection.

**SIOBHAN HAMBLIN:** To the best of my recollection, no, but he was also the Minister responsible for Regional NSW, the Leader of The Nationals, that had him out on the road more often than not. Often the way in which some of those communications or instructions came through may have been ad hoc. It may have been through the adviser on the road; it may have been via a text message. But not to my recollection was I ever requested via text message to produce a Cabinet submission.

**The Hon. DANIEL MOOKHEY:** How frequently did Mr Barilaro request urgent Cabinet submissions?

**SIOBHAN HAMBLIN:** I couldn't give you any specifics on that. I will say that Mr Barilaro operated with a sense of urgency across all of his portfolios, with a level of enthusiasm to get things done. So if there was something urgent that was brought forward, in my understanding, it was usually in and around that nature of wanting to get things done.

**The Hon. DANIEL MOOKHEY:** Urgently?

**SIOBHAN HAMBLIN:** As soon as possible.

**The Hon. DANIEL MOOKHEY:** Because he is a self-described "action man", according to him. Is that fair?

**SIOBHAN HAMBLIN:** That is a question for him.

**The Hon. DANIEL MOOKHEY:** Sure. Can we just go to a point in time? Do you recall that you sat on the State crisis committee, did you not, as a staff member assisting that committee, correct?

**SIOBHAN HAMBLIN:** Yes, correct.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** That was a crisis committee which the Hon. Penny Sharpe and I had explored at some length at a budget estimates hearing with the former secretary of the Department of Premier and Cabinet. That was a committee that was formed in effectively April 2020, when the COVID pandemic arrived in New South Wales.

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** And you assisted it from that point onwards or from the point when you became the chief of staff?

**SIOBHAN HAMBLIN:** When it was established, it took a while for it to form the way that it operated. Mr McCormack, in the first instance, sat in on some of those meetings with Mr Barilaro in those early stages, but that very quickly transitioned to me, given the nature of the pandemic, the way in which it was evolving and the various issues in and around that for the people of New South Wales. I took carriage of that. If there was a reason that I couldn't attend or assist, as you would expect, the deputy chief of staff would have filled in for me. But, to the best of my recollection, between the period of particularly June last year to October, I was the sole person from the office responsible for sitting in on those meetings.

**The Hon. DANIEL MOOKHEY:** Is it your recollection that the State entered a lockdown circa 21 June 2021?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** At that point, presumably, the role of assisting the State crisis committee, I imagine, was perhaps a bit larger than it was in the months preceding it?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Thank you. And you made the point in your opening statement that you were extremely busy with crisis cabinet meetings, rolling high-level stakeholder briefings, department meetings, media inquiries, and inquiries from the general public and MPs as their electorates went in and out of various lockdowns. That also meant that you were responsible for—or the Deputy Premier certainly had responsibility for—for example, developing Cabinet positions as to crisis response. Is that fair?

**SIOBHAN HAMBLIN:** Sorry, Mr Mookhey. Could you just repeat that last bit?

**The Hon. DANIEL MOOKHEY:** Presumably in that crisis situation—and just to be very clear here, Mrs Hamblin, of course we respect the service that you and others provided in that period of time. But I can only presume that the Deputy Premier would have had to, for example, take forward policy proposals to assist regional New South Wales in that period of time.

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** And I presume equally he would have had to take a view as to what sort of stimulus or economic support would be required.

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** And I presume he would also have to take views in respect to what were the appropriate levels of health orders.

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** And I presume that that required him to produce various submissions and suggestions for Cabinet.

**SIOBHAN HAMBLIN:** For Cabinet or for the crisis cabinet?

**The Hon. DANIEL MOOKHEY:** You tell me.

**SIOBHAN HAMBLIN:** Those issues that related in and around the lockdowns, the response, the COVID-19 response, the health response—the forum by which the majority of that took place was the crisis cabinet. But, of course, anything insofar as it related to economic decisions of Government of course went through the Expenditure Review Committee.

**The Hon. DANIEL MOOKHEY:** So I can only presume that the economic advice to Cabinet was predominantly coming from the Treasury and Treasurer at the time, correct?

CORRECTED

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**SIOBHAN HAMBLIN:** Look, that would be my assumption. But, of course, given the collaborative nature at the time, there were a number of key Ministers involved in that discussion. But, of course, my understanding would be that of course Treasury would have been key to a lot of that.

**The Hon. DANIEL MOOKHEY:** And, I presume, so was Health in respect to the health orders.

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** And so, in that period of time, did Minister Barilaro urgently produce any form of Cabinet submission in respect to any particular need of regional New South Wales that was distinct from and separate to the production processes embarked upon by the Treasurer or Treasury; or the health Minister; or, for that matter, the Premier? Did he bring anything of his own volition?

**SIOBHAN HAMBLIN:** Through the crisis cabinet process it would have been almost daily, whether that be decisions in and around—

**The Hon. DANIEL MOOKHEY:** I'm talking about a formal Cabinet submission here.

**SIOBHAN HAMBLIN:** Not to my recollection. But, in saying that, in the office there was a number of people. There were policy advisers. There was also a Cabinet director that managed the flow of Cabinet. Not to my recollection, but that doesn't mean that that didn't happen.

**The Hon. DANIEL MOOKHEY:** Sorry. Not to your recollection. Just to be very clear, step by step, to your best of your recollection—during this crisis, the Deputy Premier himself may have had opinions or had to provide feedback on various proposals, which is to be expected. He's the second most senior leader of the Government. Of course he would have a view on all these matters. But he himself never actually brought a formal submission to the Cabinet process about any specific or distinct need of regional New South Wales, to the best of your recollection.

**SIOBHAN HAMBLIN:** To the crisis cabinet? Yes.

**The Hon. DANIEL MOOKHEY:** Thank you.

**SIOBHAN HAMBLIN:** Sorry. I'd just like to clarify. Mr Barilaro would have, through the crisis cabinet process, brought through urgent matters for discussion insofar as it relates to regional New South Wales and a range of matters.

**The Hon. DANIEL MOOKHEY:** Of course. There's no dispute about that. But I'm talking about a formal written submission here.

**SIOBHAN HAMBLIN:** To Cabinet, or crisis cabinet?

**The Hon. DANIEL MOOKHEY:** Both.

**SIOBHAN HAMBLIN:** Crisis cabinet—yes. I can't recall the exact specifics. It was such a moving feast at the time. As for any other urgent Cabinet submissions around that same time that relate to regional New South Wales, I can't recall. That doesn't mean it didn't happen. But, particularly prior to that, insofar as it related to bushfires, I suspect that there could have been urgent submissions that would have been produced at that time. But I can't—

**The Hon. DANIEL MOOKHEY:** Are you speculating, Mrs Hamblin, on that?

**SIOBHAN HAMBLIN:** I'm saying that there could have been but—

**The Hon. DANIEL MOOKHEY:** So you are speculating on that, Mrs Hamblin?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Thank you. I accept that the crisis had its own dynamics. But let's talk about the non-crisis parts of his portfolio. I presume the non-crisis parts of his portfolio were not brought to the crisis committee.

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Can you recall any specific Cabinet submission that Mr Barilaro brought to the Cabinet in the months of June through to October relating to any other part of his duties?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. DANIEL MOOKHEY:** Thank you for that. Can I please ask that we table the documents and provide to the witness?

## CORRECTED

**The CHAIR:** Yes.

**The Hon. DANIEL MOOKHEY:** It's one that, I think, is spelt appropriately, for what it's worth. They're all public documents. I think we've made copies available to the secretariat for the production of the Government. I think the very first page I'd like to take you to, Mrs Hamblin, is going to be page 35, the very last page before you get to a transcript.

**The CHAIR:** Order! Mr Mookhey, part of your bundle has "in-camera transcript" at the top.

**The Hon. DANIEL MOOKHEY:** Sorry. That's been published.

**The Hon. WES FANG:** I'd say this is Mr Brayford's transcript.

**The CHAIR:** Sorry. Proceed.

**SIOBHAN HAMBLIN:** Sorry. I just need a bit of guidance. Where am I looking?

**The Hon. DANIEL MOOKHEY:** There's a document bundle that at the top has your name spelt incorrectly, that says "S. Hamlin".

**SIOBHAN HAMBLIN:** Tab 2?

**The Hon. DANIEL MOOKHEY:** Yes. It's probably tab 2. If you can go to page 35 of that tender bundle.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Thank you. Mrs Hamblin, I'm certain you have not seen this before. So if you want to take 10 seconds to read it—

**The CHAIR:** Did you say page 35?

**The Hon. DANIEL MOOKHEY:** Of the tender bundle. This is correspondence from the then CEO of Investment NSW to the then—to Ms Jenny West. I can't recall her precise title at that point. But you can see there is a highlighted passage that says:

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

Are you aware of that? Can you see that?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, can you take us through your knowledge of this submission?

**SIOBHAN HAMBLIN:** In relation to this submission, I was broadly aware that there was a submission being developed. From memory, the senior adviser, Mr Brayford, alerted me to the fact that it was being developed. Insofar as seeing the final submission or what was uploaded, to the best of my recollection there were discussions between Mr Brayford and Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** Do you recall any specific or direct conversations with Mr Barilaro about this Cabinet submission?

**SIOBHAN HAMBLIN:** I don't.

**The Hon. DANIEL MOOKHEY:** Is that the case because you probably didn't have one or you just don't recall it?

**SIOBHAN HAMBLIN:** I suspect that I didn't have a conversation, particularly noting this date, which is 18 September. At that point we were a week or so away from releasing the road map out of lockdown. That would have absolutely been my firm focus at the time. But to the best of my recollection, I don't remember having a conversation around—

**The Hon. DANIEL MOOKHEY:** That is an important point, Mrs Hamblin. When was the road map released?

**SIOBHAN HAMBLIN:** On 27 September.

**The Hon. DANIEL MOOKHEY:** That was following the Cabinet meeting on 22 September. Is that correct?

## CORRECTED

**SIOBHAN HAMBLIN:** It was before. To the best of my recollection, the announcement was made at the 11.00 a.m. press conference and, to the best of my recollection, it was that day. And then obviously Cabinet was at some point in the afternoon.

**The Hon. DANIEL MOOKHEY:** So all your focus was on assisting the Government in producing the road map out of COVID and the lockdown, correct? Or the majority of your focus.

**SIOBHAN HAMBLIN:** Yes. I wouldn't want to take away from the fact that I took my responsibilities as chief of staff very seriously and that I didn't—

**The Hon. DANIEL MOOKHEY:** It is apparent, Mrs Hamblin, that you did.

**SIOBHAN HAMBLIN:** Yes. But a week out from when we needed to provide details and certainty to a State that clearly needed, for the lack of better words, light at the end of the tunnel of that extended lockdown, that was my focus.

**The Hon. DANIEL MOOKHEY:** Thank you, Mrs Hamblin. That's good to know. Equally, it's clear from what you said earlier that the only matter upon which the Deputy Premier, at this point in time, was taking to the Cabinet that wasn't related to COVID presumably was this.

**SIOBHAN HAMBLIN:** I couldn't say that. I would have to see the Cabinet agenda. But during that time period the Cabinet agenda, insofar as it related to our office, continued as normal.

**The Hon. DANIEL MOOKHEY:** But were you asked to prepare any other Cabinet submissions or were you aware of any other staff member in your office assisting the production in Cabinet on any other submission for that 27 September meeting?

**SIOBHAN HAMBLIN:** Not to my recollection, but that doesn't mean that it wasn't—as I said, I don't have the Cabinet agenda.

**The Hon. DANIEL MOOKHEY:** Of course you don't.

**SIOBHAN HAMBLIN:** But it could absolutely be likely that there were other matters that were before Cabinet on that day.

**The Hon. DANIEL MOOKHEY:** Indeed, of course. There are always other matters that are before Cabinet.

**SIOBHAN HAMBLIN:** From the Deputy Premier, sorry. I should have clarified.

**The Hon. DANIEL MOOKHEY:** What are the nature of the other matters that weren't related to COVID that potentially could have been on the agenda at that point in time?

**SIOBHAN HAMBLIN:** I don't have that in front of me, Mr Mookhey.

**The Hon. PENNY SHARPE:** Who in your office would have known?

**SIOBHAN HAMBLIN:** The relevant policy advisers. There was a Cabinet director, but the role of the Cabinet director really was just to—

**The Hon. PENNY SHARPE:** Handle the submissions.

**SIOBHAN HAMBLIN:** Yes. But the primary relationship holder and the carriage of those Cabinet submissions would have been the relevant policy advisers.

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, it wasn't ordinary practice in your office for staff members to be producing Cabinet submissions without your knowledge.

**SIOBHAN HAMBLIN:** It wouldn't be without my knowledge. If the Deputy Premier had requested Cabinet submissions, staff were expected to deliver on them. How and when I was made aware of them was somewhat of an iterative process. It could have been by the fact that I was also in that conversation when it was requested, it could have also been by the fact that it was a conversation that Mr Barilaro had with one of his staff members and then I was alerted to at some point, or whether it was that a staff member had come to me directly or Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** To the best of your knowledge, none of that took place, with the exception of Mr Brayford, for any other potential proposal to Cabinet around this time in September?

**SIOBHAN HAMBLIN:** I just want to clarify that. From my memory, Mr Brayford did alert me to this—

## CORRECTED

**The Hon. DANIEL MOOKHEY:** I said with the exception of Mr Brayford.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Did you have any conversations with any of your direct reports or indirect reports, any of the 15 to 20 staff that you were supervising, around the production of any other Cabinet submission unrelated to COVID in the month of September?

**SIOBHAN HAMBLIN:** I could have. But I can't recall.

**The Hon. DANIEL MOOKHEY:** But you do recall the interactions you had with Mr Brayford?

**SIOBHAN HAMBLIN:** Yes, because I have spent a lot of time, quite clearly, thinking about, over the last seven weeks, what took place in and around that time. I have racked my brain. I have tried the best to recall as much information as I could. This was one of them. I wasn't expecting to answer questions about other—given the size of the Deputy Premier's portfolio. I'm sure that if I went away and did the same thing—but you're asking specifically about a specific Cabinet submission. Perhaps if there was another specific Cabinet submission—

**The Hon. DANIEL MOOKHEY:** I'm not sure that there's anyone to ask you about, Mrs Hamblin. That's the issue here. We're not able to confirm that there was any other Cabinet submission other than this one. So I'm asking you again, Mrs Hamblin, do you recall having any discussions with any other staff member about any other Cabinet submission whatsoever in September that was not related to the COVID crisis?

**The Hon. WES FANG:** I am going to take a point of order at this point, Chair. This question has already been asked and I think the answer from Mrs Hamblin has been quite clear that she has come prepared to answer questions around the Cabinet submission that is the focus of this inquiry. However, she hasn't precluded herself from answering another one. I will just remind her that she might want to take the question on notice perhaps and then she would be given some more time to—

**The CHAIR:** I have heard enough to rule, thank you, Mr Fang. There is no point of order. The witness does know that she can take her question on notice but the questioning was in order. So proceed, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Thank you, Mrs Hamblin. I do appreciate the diligence of your preparation and I also appreciate the fact that you described hypothetically what could have happened. I'm asking you specifically, do you have any specific recall of having any discussion with any staff member about the production of any Cabinet submission other than the Brayford-Barilaro submission, about any matter whatsoever in this month of September?

**SIOBHAN HAMBLIN:** Not that I can recall.

**The Hon. DANIEL MOOKHEY:** Thank you, Mrs Hamblin. Let's now go through the specific interactions you had with Mr Brayford. When did you first learn that Mr Brayford had been asked to produce a Cabinet submission?

**SIOBHAN HAMBLIN:** I don't have exact dates, I'm afraid. But from my recollection, it was in and around August. As I said, I don't have exact dates and I apologise for that, but it was after he had the request to deliver the Cabinet submission or prepare the Cabinet submission.

**The Hon. DANIEL MOOKHEY:** Did he call you?

**SIOBHAN HAMBLIN:** I can't recall.

**The Hon. DANIEL MOOKHEY:** So it was either via a phone call or an in-person meeting or a Team's call? Because the State was in lockdown at this point.

**SIOBHAN HAMBLIN:** Yes, I suspect it was a phone call. As I think I reiterated and probably should've elaborated on, I took the welfare of my staff quite seriously, so in and amongst everything else I was doing it was quite common that I would have regular phone calls where I would, one, check in on their wellbeing but also discuss anything that may be going on in their remit.

**The Hon. DANIEL MOOKHEY:** Sure. And what did Mr Brayford tell you?

**SIOBHAN HAMBLIN:** I can't recall the specifics other than that on his now list of things to do within his portfolio is prepare a Cabinet submission. To the best of my recollection, Mr Brayford didn't raise any concerns about the fact that he was requested to do so.

**The Hon. DANIEL MOOKHEY:** Did he tell you how he was requested?

**SIOBHAN HAMBLIN:** I can't recall.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Did he tell you what the Cabinet submission was meant to do?

**SIOBHAN HAMBLIN:** I can't recall but I suspect he would have, and if he didn't, I suspect I would have inquired as to the nature of what the Cabinet submission was to look like.

**The Hon. DANIEL MOOKHEY:** How often was Mr Brayford speaking to Mr Barilaro in general?

**SIOBHAN HAMBLIN:** That would be a question for Mr Barilaro and Mr Brayford. As I described earlier, the nature in which the office interacted was unusual in the sense of we were in the midst of a lockdown. So the way in which we communicated was different to the way we usually would, which would be collaboratively in an office, either here at Parliament or at 52 Martin Place.

**The Hon. DANIEL MOOKHEY:** We did ask Mr Brayford. He said his interactions with Mr Barilaro were infrequent. That was both before the pandemic and the lockdowns, and afterwards. Does that accord with your recollection?

**SIOBHAN HAMBLIN:** What I will say is that when I was chief of staff to Mr Barilaro, the way in which I understood Mr Barilaro interacted with his staff was that there were numerous conversations amongst staff around policy. It was a collaborative office. The way in which Mr Brayford chooses to describe his relationship with Mr Barilaro is for him, but I was of the understanding that it was an office where the then Deputy Premier would speak to his team on a regular basis. But as to the nature and to the way in which Mr Brayford would describe his own relationship, that is a matter for him.

**The Hon. DANIEL MOOKHEY:** Well, he's described it as infrequent and rare direct contact. To be fair, I am paraphrasing in terms of the word "rare" but he said "infrequent". He said that he basically would channel it all through you. Do you agree?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** You're saying he had direct and frequent contact?

**SIOBHAN HAMBLIN:** What I'm saying is, I'm not in a position to describe someone else's relationship with the Deputy Premier, but that's not how I understood the relationship with Mr Barilaro and any of his staff.

**The Hon. DANIEL MOOKHEY:** I want to ask you again, so it's abundantly clear, because there is a clear discrepancy now between you and Mr Brayford. Mr Brayford said his ordinary practice would be for him to speak to you about the Deputy Premier's requests, but you're saying that may not be the complete picture?

**SIOBHAN HAMBLIN:** No. Sorry, let me clarify. Mr Brayford was a very diligent, hardworking senior adviser who of course understood the importance of discussing matters of policy—and any other matter—with his chief of staff, which he would do. That doesn't preclude the fact that I understood, in a broader nature in the office, that Mr Barilaro would have conversations with all of his staff and would work collaboratively with all of his staff. But I'm not suggesting in any way that Mr Brayford would go around me as the chief of staff directly to circumnavigate that to speak directly to the Deputy Premier.

**The Hon. PENNY SHARPE:** To be clear, it is very possible that Mr Barilaro was going straight to the adviser and you would not be aware of that?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, we were talking about how you were informed of the request for the production of this Cabinet submission. Did Mr Brayford tell you that he got a text message from the Deputy Premier?

**SIOBHAN HAMBLIN:** I can't recall.

**The Hon. DANIEL MOOKHEY:** Do you recall him saying, "You need to get Amy Brown to prepare a Cabinet minute to convert these positions as soon as possible."?

**SIOBHAN HAMBLIN:** I don't have any recollection of the extent of the conversation.

**The Hon. DANIEL MOOKHEY:** Do you recall Mr Brayford telling you that the request from the Deputy Premier said that this had to be produced ASAP?

**SIOBHAN HAMBLIN:** To the best of my recollection, Mr Brayford noted that it was considered urgent, but I don't have any recollection as to the nature of the urgency.

**The Hon. DANIEL MOOKHEY:** Did you ask Mr Brayford why the Deputy Premier was suggesting it was urgent?

## CORRECTED

**SIOBHAN HAMBLIN:** I don't recall. I suspect I would have, but I don't recall the nature of it. Given that I can't recall that, I suspect that whatever answer was given didn't raise with me any particular red flag, so to speak, as to the fact that this was out of the ordinary.

**The Hon. DANIEL MOOKHEY:** Did you ask Mr Brayford what he understood Mr Barilaro's motivation was in seeking this change?

**SIOBHAN HAMBLIN:** I can't recall to the extent I had any further conversations or to that nature. But in saying that, I would just like to reiterate that the time frame of which we're speaking, my absolute priority was the response to COVID-19. It was delivering on the road map that at that point was taking many, many iterative forms. I would have seen it as Mr Brayford alerting me to what he was requested to do, and at that point I would have noted that he was tasked by the Deputy Premier to do something and he was informing me of that.

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, that's precisely the point. You were focused on developing a road map out of COVID but, for whatever reason, at the same time, the Deputy Premier is focusing on producing this Cabinet submission ASAP. The ordinary public, they would expect you to have been doing your job. What you're saying you were focused on is 100 per cent appropriate. The obvious question is, given the Government was obsessed with getting the road map out—as it should be—why was Mr Barilaro asking for this Cabinet submission to be produced ASAP for the same day that New South Wales is meant to learn that we are getting out of COVID?

**SIOBHAN HAMBLIN:** Mr Mookhey, that's a question for Mr Barilaro. I don't have recollections of those conversations. That's a question for him.

**The Hon. DANIEL MOOKHEY:** I'll ask you again then. After you have the conversation with Mr Brayford in which he gives you the report about the Deputy Premier's urgent request, what further interaction did you have with Mr Brayford about this?

**SIOBHAN HAMBLIN:** I can't recall, I'm sorry. I don't have any recollection of any further interaction with him on that. As I said, that would've been my focus, and I suspect it was going through its usual iterative process that Cabinet submissions do go through.

**The Hon. PENNY SHARPE:** Mrs Hamblin, you said earlier that in the normal course of events you would have been oversighting the liaison between other ministerial offices in relation to Cabinet minutes that were going forward from Mr Barilaro. Given that this particular minute actually touched on a number of different Ministers—the Treasurer, the Premier and Minister Ayres, who at the time I think was the Minister for investment—did you have any interaction or were you aware of any interaction between ministerial offices liaising in relation to this minute?

**SIOBHAN HAMBLIN:** I probably just have to clarify. In the normal course of practice with a Cabinet submission, I wasn't the person that would have those interactions with the offices.

**The Hon. PENNY SHARPE:** No, I'm not asking you that. I understand that. But you're oversighting the staff and the office. Clearly, this required consultation with other Ministers because it impacted directly on their own appointment processes and the somewhat confused process to date in relation to the appointment of the STICs. Are you aware of what interaction there was office to office and consultation in relation to this minute?

**SIOBHAN HAMBLIN:** I'm not.

**The Hon. PENNY SHARPE:** Did you ever have a conversation with Mr Brayford about that?

**SIOBHAN HAMBLIN:** I can't recall, but I suspect that I would have, given the way that I conduct myself and how diligent I believe myself to be in some of these—in all of these matters. But I can't remember the nature of it.

**The Hon. PENNY SHARPE:** Mr Brayford basically gave evidence to this Committee that he was liaising with you, and I'm not asking you to recall things you can't recall. But he did also give evidence that he had spoken to Mr Barilaro about this and Mr Barilaro had said something to the words of, "Don't worry about it. I will fix it. I will talk to the Ministers." Are you aware of that?

**SIOBHAN HAMBLIN:** I'm not aware. Only insofar as I understood it was given in evidence in this Committee.

**The Hon. PENNY SHARPE:** Would it be, in a normal way, that issues such as this—normally there's a more formal process in terms of getting consultation. This was a very rushed minute. Would that be a normal course of events, that the Minister would just get the tick off by the Ministers rather than the offices?



CORRECTED

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**SIOBHAN HAMBLIN:** They're questions for Mr Barilaro, but what I would say is that Mr Barilaro was quite involved in the development of his own policies, so he would often have conversation with his colleagues about relevant policies, whether that be anything that was being taken to Cabinet or ERC. He would have those conversations. As I said, they're questions for him. As far as I understood, in my capacity as chief of staff, it wasn't unusual for Mr Barilaro to have conversation with his ministerial colleagues about anything coming before any of the Cabinet committees.

**The Hon. DANIEL MOOKHEY:** But, Mrs Hamblin, you maintain your view that your role as chief of staff was to manage the office, assist staff in their duties and provide advice to Mr Barilaro in the development of policy?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Did he seek your policy advice in respect to these Cabinet submissions?

**SIOBHAN HAMBLIN:** Not that I can recall.

**The Hon. DANIEL MOOKHEY:** Did he speak to you about it whatsoever?

**SIOBHAN HAMBLIN:** In relation to the Cabinet submission, not to my knowledge. In saying that, I'm not suggesting that he didn't. I just can't recall it.

**The Hon. DANIEL MOOKHEY:** You were his most senior adviser, were you not?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** This was a Cabinet submission that was being treated while the State was in COVID, correct?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** You were speaking to the Deputy Premier on a daily basis, were you not?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** On a more than daily basis throughout this crisis, correct?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Your focus was on the State's road map out?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** You would have had conversations with Mr Barilaro about that process, I presume?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** But at no point in any of those interactions Mr Barilaro sought your advice in respect to this matter, to the best of your recollection?

**SIOBHAN HAMBLIN:** I can't recall. He may have, but to the best of my recollection I can't remember having any of those conversations. I'm not suggesting that he did or he didn't; I don't recall.

**The Hon. DANIEL MOOKHEY:** Do you recall having any discussions with Mr McCormack about this submission?

**SIOBHAN HAMBLIN:** Not that I recall.

**The Hon. DANIEL MOOKHEY:** Are you aware of whether Mr Brayford was working with Mr McCormack? To be fair, he kind of left this impression that it was either you or him. Do you know whether or not Mr Brayford was speaking to Mr McCormack about this?

**SIOBHAN HAMBLIN:** Not that I'm aware, but that would be a question for Mr Brayford and Mr McCormack.

**The Hon. DANIEL MOOKHEY:** That wouldn't be unusual, though, if they were?

## CORRECTED

**SIOBHAN HAMBLIN:** I wouldn't have seen it as unusual, given that he was the deputy chief of staff and given that I was focused on so many other things. There could have been, but they are questions for those two individuals.

**The Hon. DANIEL MOOKHEY:** The Cabinet submission's effect was to alter these from public service positions to ministerial positions. Is that your understanding?

**SIOBHAN HAMBLIN:** To be fair, from this inquiry that's what I understand. But, up until this point, I had obviously left politics, I had left New South Wales Parliament and this Committee has refreshed my memory as to the nature of that Cabinet submission.

**The Hon. DANIEL MOOKHEY:** I'm glad we could have been of some service. So you agree that that was basically the main point of the Cabinet submission, correct?

**SIOBHAN HAMBLIN:** As I said, I can't remember what the Cabinet submission was. I couldn't comment on whether that was the substantive nature of it.

**The Hon. DANIEL MOOKHEY:** What are the policy merits of converting positions from public service appointments to ministerial appointments, as you understand them?

**SIOBHAN HAMBLIN:** My understanding—and I probably need to go back, and I'm sure you'll get to this question, given Mr Brayford's evidence around the initial request to look into this—was that there was a request for information to understand how these commissioner appointments could be made without going through Cabinet, given the vast array of appointments to boards and committees that did require going through Cabinet and how these ones weren't required to go through the Cabinet process.

**The Hon. DANIEL MOOKHEY:** Sorry, that's helpful context—

**SIOBHAN HAMBLIN:** Sorry, I probably haven't answered your question. So, apologies.

**The Hon. DANIEL MOOKHEY:** That's okay. The question was, what are the policy merits, as you understand them, of altering these from public service positions to ministerial appointments? What is the benefit for the people of New South Wales by making that change?

**SIOBHAN HAMBLIN:** Look, as I said before, Mr Mookhey, I have since left politics. It would be misleading for me to now make past judgement on policy decisions that were made now almost a year ago, given that I have long left politics, I have long left this building and I wouldn't want to mislead the inquiry. I haven't prepared a policy answer as I would as a former staffer as to the merits of those decisions. They are for Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** I appreciate that, Mrs Hamblin. To be clear, I'm not asking you to retrospectively comment. But you are, according to your own admission, the most senior adviser to Mr Barilaro who assisted him in the development of policy. Did you, at any point, have any conversation with Mr Barilaro in which Mr Barilaro explained to you the merits of converting these from public service positions to ministerial appointments?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. PENNY SHARPE:** Mrs Hamblin, were you familiar with the Pearce review into the Government Sector Employment Act and its implications for these types of appointments?

**SIOBHAN HAMBLIN:** No.

**The Hon. PENNY SHARPE:** Are you aware of the Government response to that, which was brought down on 24 August 2021?

**SIOBHAN HAMBLIN:** No.

**The Hon. PENNY SHARPE:** I'm assuming then that you were not aware that the recommendations in that were that these sorts of ministerial appointments were generally not considered to be best practice?

**SIOBHAN HAMBLIN:** No, I'm not aware.

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, we'll go back to the events of August and September. I think we've established that there was a conversation with you and Mr Brayford in which he informs you of this request. Did I hear you correctly when you said that he gave you a sense that it was to be treated urgently, according to the instructions of the Deputy Premier?

**SIOBHAN HAMBLIN:** As I said, I can't recall but I suspect that he would have.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Sure. The process of producing that Cabinet submission, I think the best we can tell, starts around 6 September I think it is, or thereabouts. Did you ask the department to prepare that submission?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** Do you know who would've?

**SIOBHAN HAMBLIN:** I suspect it was Mr Brayford as the senior policy adviser for trade.

**The Hon. DANIEL MOOKHEY:** Indeed. Mr Brayford gave evidence that he then spoke to Ms Brown, who was the CEO of Investment NSW at that time, and set about causing the production of that submission. Did you have any conversations with Ms Brown at all about this?

**SIOBHAN HAMBLIN:** No. I don't think I did.

**The Hon. DANIEL MOOKHEY:** Okay. His first draft is then produced by the department. Do you recall the department asking for any specific meeting with the Deputy Premier to discuss his proposal?

**SIOBHAN HAMBLIN:** I don't. That doesn't mean it didn't happen, but I don't recall.

**The Hon. DANIEL MOOKHEY:** But in the event that such a meeting would be taking place, you presumably would know about it because you would presumably have access to the Minister's diary and request for meetings.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Presumably, if the cluster—if the lead CEO of an agency wants to have a meeting with their Minister, that's something you would be aware about?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** But you don't recall any specific request at that time?

**SIOBHAN HAMBLIN:** Not that I recall.

**The Hon. DANIEL MOOKHEY:** Sure. Do you recall seeing the first version of the draft?

**SIOBHAN HAMBLIN:** I don't.

**The Hon. DANIEL MOOKHEY:** Do you recall seeing any other versions of the draft?

**SIOBHAN HAMBLIN:** I don't.

**The Hon. DANIEL MOOKHEY:** Do you recall specifically whether or not the first draft or any draft mentioned the fact that Ms Jenny West was a person selected from the first round?

**SIOBHAN HAMBLIN:** I don't.

**The Hon. DANIEL MOOKHEY:** Thank you. Was it ordinary practice for a Cabinet submission that is transmitted to Cabinet to only be transmitted after it has the approval of Mr Barilaro?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Did you have any conversations with him about the final draft?

**SIOBHAN HAMBLIN:** Not that I can recall.

**The Hon. DANIEL MOOKHEY:** Do you recall him authorising you to lodge the submission or to instruct the department to lodge the submission?

**SIOBHAN HAMBLIN:** Not that I recall but I wouldn't have been the person that would have lodged the submission.

**The Hon. DANIEL MOOKHEY:** Who would have?

**SIOBHAN HAMBLIN:** Apologies, Mr Mookhey. You're testing my knowledge about the ins and outs of this process but given that as the chief of staff it wasn't in my normal course of practice and having held senior positions for some time, the lodging of a Cabinet submission is now dating back a while for me. My understanding is that the way that eCabinet works would be that it would be approved from a ministerial and before the department would lodge it. But that's the best of my recollection as to what—if that process has changed since I last used it and the process that would have gone on for this Cabinet submission, I'm not sure; but my understanding is a Cabinet submission wouldn't be loaded without the approval of Mr Barilaro.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Okay. So he must have approved it at some point in time.

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** And, given that we now have established that it was lodged circa 16 September we can infer that he would have approved it around that period of time?

**SIOBHAN HAMBLIN:** I—yeah, I couldn't comment on that. I don't know when Mr Barilaro would have approved it.

**The Hon. DANIEL MOOKHEY:** Okay. Is it the ordinary practice that once Cabinet submissions are lodged that it's a matter for the Premier, I'm told, to decide when they come onto Cabinet's agenda?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** And that in order for a matter to come on urgently, there has to be some basis for urgency. That's fair?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** And it's the case now that we have established that the Cabinet did consider this on 27 September. Is that the best of your recollection, or you've got that from the evidence given here?

**SIOBHAN HAMBLIN:** I would have got it from the evidence of this Committee.

**The Hon. DANIEL MOOKHEY:** You haven't recalled attending that Cabinet meeting in any way?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** Don't worry; I can't ask you about that anyway.

**SIOBHAN HAMBLIN:** Sorry, but staff don't attend Cabinet meetings. Even through COVID with all of the challenges, staff members did not attend Cabinet meetings.

**The Hon. DANIEL MOOKHEY:** Thank you, Mrs Hamblin. It's important I ask.

**The Hon. WES FANG:** Ask away.

**The Hon. DANIEL MOOKHEY:** And it's important what you say. By 27 September, Cabinet has agreed to a proposal that was lodged on 16 September. That is the time line we've established. That's 11 days. Once you deduct weekends, it turns out to be five sort of working days. In your practice in any matter, in the middle of the State's lockdown, did the Deputy Premier have any matter that was treated with such urgency that wasn't related to the COVID pandemic?

**SIOBHAN HAMBLIN:** I can't recall the specifics in and around that time but what I will say is that, while it's common practice for Cabinet submissions, the process is about a month and it's an iterative process. Having been involved in politics and government for over eight years, while that being the usual practice, it is not uncommon that things are brought on urgently to Cabinet. To see a Cabinet submission come up in any form that is of some form of urgency, while not usual practice, it is not uncommon.

**The Hon. DANIEL MOOKHEY:** I accept your point; it is not uncommon but it is unusual. Is that a fair way of summarising?

**SIOBHAN HAMBLIN:** No, I wouldn't categorise it like that. It is not common practice but it's not unusual for it to happen.

**The Hon. DANIEL MOOKHEY:** For sure, it's not common practice but in order for there to be a deviation from common practice there is usually a basis, is there not?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Are you aware of any reasons why there was a basis for this one?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** But it is the case, is it not, that it's not usually the role of any staff—no disrespect to any staff member whatsoever—to talk to the Premier about what is an urgent matter and what is not, to be fair?

**SIOBHAN HAMBLIN:** No.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Ordinarily—

**SIOBHAN HAMBLIN:** Sorry, just to that point, Mr Mookhey. The conversations that may have happened between staff and the processes within the Premier's office as to how a matter gets onto the agenda, I'm not aware of and it would be questions for them so—

**The Hon. DANIEL MOOKHEY:** Did you have any discussions with any member of the Premier's office?

**SIOBHAN HAMBLIN:** No, not that I can recall and not that I am aware of.

**The Hon. DANIEL MOOKHEY:** Are you aware of whether any of your direct reports had any such conversations?

**SIOBHAN HAMBLIN:** Not that I am aware of.

**The Hon. DANIEL MOOKHEY:** We can infer therefore that the conversation probably took place at the level of Ministers.

**SIOBHAN HAMBLIN:** That would be a question for them.

**The Hon. DANIEL MOOKHEY:** Of course. If it wasn't for you, if it wasn't the staff members, are you suggesting that the only other person who could have done this was the agencies?

**SIOBHAN HAMBLIN:** No, I'm not suggesting that. I am just saying I don't have knowledge as to how that conversation or who that conversation took place with.

**The Hon. DANIEL MOOKHEY:** Mr Brayford told us that Mr Barilaro undertook to him that he'd have the conversations that are required for the matters to be treated urgently. Did Mr Brayford disclose that to you?

**SIOBHAN HAMBLIN:** Not that I'm aware of.

**The Hon. DANIEL MOOKHEY:** Did Mr Barilaro speak to you about any of that?

**SIOBHAN HAMBLIN:** Not that I am aware of.

**The Hon. DANIEL MOOKHEY:** The evidence in front of us from your senior adviser is that the Deputy Premier told him that he would take responsibility for that. Did you have any discussions with the Deputy Premier at all between 16 September and 27 September in which he was reporting to you on the progress of those discussions?

**SIOBHAN HAMBLIN:** Not that I can recall. And again I would just like to reiterate that in that time the conversations that I would be most noting was other Ministers' offices comments and feedback on the road map out of lockdown. That was my focus so any questions or any discussions that he may have been having with his colleagues, that was my focus to ensure that what I was asked to deliver with the relevant agencies was in line with what the Ministers were expecting. I can't recall whether or not that was also raised in any of those discussions.

**The Hon. DANIEL MOOKHEY:** So at this point you are phoning, zooming, Microsoft teaming with other members of the Government to progress the road map out, but at the same time, amongst his other duties, the Deputy Premier is also phoning, presumably, the Premier and others to talk about urgent consideration of turning a STIC appointment into a ministerial appointment. That's the chronology and the impression you're leaving, Mrs Hamblin.

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

**The Hon. DANIEL MOOKHEY:** I am asking the witness to respond. The witness is capable of—  
[audio malfunction]

**The CHAIR:** Mr Fang broke the microphone maybe.

**The Hon. WES FANG:** My apologies. I think we're still working. I was just going to say while I understand the nature of Mr Mookhey's questions, he asks a question and then he makes an assumption, given the answer—

**The CHAIR:** Order!

**The Hon. PENNY SHARPE:** What's the point of order?

**The Hon. WES FANG:** I just want to again remind people that there is a procedural fairness resolution.

## CORRECTED

**The CHAIR:** You haven't made a point of order. You are making commentary on a member's questions which are absolutely in line. Mr Mookhey can continue his questions. Mr Fang, if you have a point of order, get to a point of order but at the moment I haven't heard one.

**The Hon. WES FANG:** I think that via the procedural fairness resolution it's not fair to continually put propositions as to what the witness is—

**The CHAIR:** I have heard enough—

**The Hon. WES FANG:** No, no, no. I am making the point of order that it is continual practice during this hearing—and I have held off making the point—that the witness provides an answer and then Mr Mookhey draws an inference from that answer.

**The Hon. PENNY SHARPE:** To the point of order: Commentary on questioning—the only thing that is relevant is whether it is within the standing orders.

**The CHAIR:** Yes.

**The Hon. WES FANG:** I don't think the questioning is fair.

**The CHAIR:** I am going to rule. Mr Mookhey, your questions were perfectly in order. Please proceed.

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, the impression that you're leaving is that in the week prior, you were—rightly—working furiously to ensure that the Government was in a position to explain to the people of New South Wales its road map out of COVID. But, at the same time, amongst his other duties, the Deputy Premier is also speaking to other senior members of the Government about why there is a need for urgent consideration of a proposal to turn STIC positions into ministerial appointments. Is that an unfair characterisation of events?

**SIOBHAN HAMBLIN:** How I would categorise it—that I understood, during that time, for both myself, Mr Barilaro and the office, while the focus was absolutely the COVID response, the road map out, we were also dealing with all of our other regular responsibilities as part of our portfolio responsibilities. So I can't comment on that. That's a question for Mr Barilaro. But my understanding and my expectation of our office was that, irrespective of how busy we were relating to the COVID response and the support we were providing—and I was providing—to the crisis cabinet, the regular tasks of government were continuing as well. So as to whether or not—to your question, Mr Mookhey—that is a question for Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** When did you become aware that Mr Barilaro was intending to resign?

**SIOBHAN HAMBLIN:** I was broadly aware that Mr Barilaro was intending to resign at some point. The nature of that often took various forms in terms of sometimes it was quite flippant and then other times somewhat more serious.

**The Hon. DANIEL MOOKHEY:** And sometimes more public?

**SIOBHAN HAMBLIN:** Correct. What I will say is that, following the events of the resignation of the Premier, my advice to Mr Barilaro on that day was that any plans that you may have to leave politics should be shelved for the sake of stable government and for the people of New South Wales, as we're still in the grips of the lockdown, and the disruption that those changes would have. I became aware of Mr Barilaro's intention to resign—I think it was the Monday the fourth—was on the Sunday, when I was asked to gather key staff to prepare meeting materials.

**The Hon. DANIEL MOOKHEY:** Let's just unpack that, step by step. Working back in time, the Deputy Premier resigns on 4 October—which is my birthday—

**The Hon. PENNY SHARPE:** As you keep reminding us.

**The Hon. DANIEL MOOKHEY:** It was a very good Labour Day. The day before, you're asked to gather staff. Let's go back in time before that. You said that you gave him advice in which you suggested that he should stay for the sake of stable government, because he was, I guess, in your view, a person who provided stability to the Government?

**SIOBHAN HAMBLIN:** No. My point was that the State was in the grips of the lockdown. People were still locked at home. There was going to be a level of disruption to the normal order of governing and business—there would be a new Premier at some point. My advice to him was that, to ensure the continuity in and around the COVID response, and ensuring that there was some level of stability in terms of the Government's response to that, perhaps any immediate plans that the Deputy Premier might have should be revisited, for the sake of that.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** When did you give him that advice?

**SIOBHAN HAMBLIN:** On that Friday.

**The Hon. DANIEL MOOKHEY:** Friday 1 October?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** This presumably followed the announcement by Ms Berejikian that she was leaving the premiership?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** So it happened on the same day?

**SIOBHAN HAMBLIN:** Yes

**The Hon. DANIEL MOOKHEY:** In the month prior to that, in the month of September, was there any discussions about any potential scenario in which Mr Barilaro would resign?

**SIOBHAN HAMBLIN:** As I said, I was aware that Mr Barilaro had intentions to resign. As to the firm dates and times, and as to when that would happen, was somewhat iterative and, as I said, often flippant. So, as to the nature of when that would happen, I never understood it to be anything more than as you would expect a chief of staff and a Minister to have those conversations about Mr Barilaro's intention to leave politics.

**The Hon. DANIEL MOOKHEY:** No doubt, Mrs Hamblin. I am not suggesting—they may have been flippant, they may have been iterative. The actual question was: Were any of these flippant, iterative, perhaps serious/non-serious conversations taking place in the month of September of that year?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** When in September?

**SIOBHAN HAMBLIN:** I can't recall. To be fair, Mr Mookhey, I was aware for far longer than September that Mr Barilaro was contemplating leaving politics. To have those conversations in September, I would not have seen as out of the ordinary, given that those conversations—whether they be somewhat flippant, more serious and, to your point, more public—were not uncommon, and I didn't view them as uncommon in September.

**The Hon. DANIEL MOOKHEY:** Of course. To be clear, I think at some point—I can't recall precisely when—Mr Barilaro did publicly say he wasn't intending to stand at the next election. So there was no question that there was certainly a question over his long-term intentions to remain as a member of Parliament or a member of the Government. That's not disputed at all. But just in terms of the events of September, we can establish that you were having conversations with him about this. The other exceptional factor of September was that the State was in lockdown—correct?

**SIOBHAN HAMBLIN:** Correct.

**The Hon. DANIEL MOOKHEY:** Therefore, I think you were entitled to a health exemption, as were all people who were associated with the Government. Were you having daily meetings with him? Was it in-person meetings that you were having these conversations with him or were they on the phone?

**SIOBHAN HAMBLIN:** I can't recall. At that point in time, we were also conducting regional media conferences that would go for—

**The Hon. DANIEL MOOKHEY:** I recall watching them.

**SIOBHAN HAMBLIN:** They would go for some length in time. Given that we had those health exemptions, regular staff would attend—as would I—depending on the nature of the announcement of the day. Given my depth of knowledge across the public health orders, I could sometimes be in the office for those short periods of time to conduct those press conferences. But I can't recall the specifics of those conversations that may have also led to discussions around Mr Barilaro's intentions to leave politics.

**The Hon. DANIEL MOOKHEY:** We can establish that there were iterative conversations taking place throughout. Were there iterative conversations taking place in September?

**SIOBHAN HAMBLIN:** To the best of my recollection. But, as I said, this wasn't just in September. I had been having these conversations with Mr Barilaro for some time.

**The Hon. DANIEL MOOKHEY:** When did you become his chief of staff, again?

## CORRECTED

**SIOBHAN HAMBLIN:** February 2020.

**The Hon. DANIEL MOOKHEY:** So, what, from then onwards?

**SIOBHAN HAMBLIN:** I couldn't give you an exact date.

**The Hon. DANIEL MOOKHEY:** Well, when did they start?

**SIOBHAN HAMBLIN:** I can't recall the exact—

**The Hon. DANIEL MOOKHEY:** Then let's concentrate, perhaps, on September.

**The Hon. WES FANG:** Before you do that, can I ask a few clarifying questions, if that's okay?

**The Hon. DANIEL MOOKHEY:** Can you just give us one minute?

**The Hon. WES FANG:** Sure.

**The Hon. DANIEL MOOKHEY:** I will just ask one or two more fact-based questions. You're having conversations in September about a potential resignation. Is that a fair way of characterising things?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** And they were iterative?

**SIOBHAN HAMBLIN:** In some form. But, as I said, Mr Mookhey, sometimes they were flippant, and then other times they did take on a bit more of a—

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, if you don't mind, before I pass to my colleague, can you search your memory. Were any of these conversations about his resignation taking place from 1 September to 16 September?

**SIOBHAN HAMBLIN:** I couldn't recall exact dates.

**The Hon. DANIEL MOOKHEY:** There's a reasonable likelihood, given that's half of September—correct?

**SIOBHAN HAMBLIN:** It could be, but I don't want to mislead the Committee.

**The Hon. DANIEL MOOKHEY:** I'm not asking you to.

**SIOBHAN HAMBLIN:** So I couldn't give you specifics.

**The Hon. DANIEL MOOKHEY:** I'm not asking for specific dates, specific times or duration of conversations, none of that. But just to be clear here, conversations were happening in those first two weeks of September.

**SIOBHAN HAMBLIN:** That could be the case, but I can't recall.

**The Hon. WES FANG:** The Deputy Premier took around a month of leave—I think it was mid-September 2020—so about approximately 12 months before he actually resigned.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. WES FANG:** Would it be fair to say that after his return those conversations perhaps became more numerous?

**SIOBHAN HAMBLIN:** That would be a fair assessment.

**The Hon. WES FANG:** There would be a period of around 12 months that there were these conversations about perhaps leaving politics at some point.

**SIOBHAN HAMBLIN:** I think that's the point I was probably trying to make earlier, Mr Fang, was that the conversations around Mr Barilaro's intentions to resign didn't begin in September; they were iterative. During my time as chief of staff, they took on different forms, they took on different levels of discussion to that. But it would be fair to say that following Mr Barilaro's leave, those conversations would probably be a firmer marker as to when those discussions around the resignations were.

**The Hon. WES FANG:** So around that 12-month period. Just for clarity, and I have one more—

**The Hon. DANIEL MOOKHEY:** Chair, if you don't mind, I think it is only fair to the witness that the witness gets a five-minute break at 11.30 a.m.

**The CHAIR:** Yes, which is fine.



## CORRECTED

**The Hon. DANIEL MOOKHEY:** Can I resume questioning to finish this off and the Government can resume this in its 15 minutes? Is that okay, Chair?

**The CHAIR:** Yes.

**The Hon. DANIEL MOOKHEY:** Thank you. Mrs Hamblin, we established that there were conversations taking place in September about the Deputy Premier's potential resignation. There was certainly a chance that there were conversations taking place in the first two weeks of September. Is it the case that the reason why—

**SIOBHAN HAMBLIN:** Sorry, I would just like to point out that if those conversations were happening, my understanding in respect of those conversations that may have been taking place—the primary focus and what I understood was also Mr Barilaro's focus was the COVID-19 response, the road map and producing that for the people of New South Wales. Even if those conversations were happening—

**The Hon. DANIEL MOOKHEY:** Mrs Hamblin, you used the term "even if". I am sorry to interrupt you, Mrs Hamblin, but you've confirmed that the conversations were happening and you have said to us you can't recall the precise date and time, and we haven't pushed you on that. I take your point that in the context of all of these conversations, you were having many conversations about many matters, including the matters for which the people of New South Wales would have a real interest in. You have made that point very well. I am just concentrating on the particular conversations to do with his resignation, and the reason why I am is because I would like to ask you: Was it the case that the reason why Mr Barilaro wanted this Cabinet submission produced ASAP and considered urgently was because at that point in time he had already started contemplating a resignation?

**SIOBHAN HAMBLIN:** That's a question for him, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** At any point in time, did Mr Barilaro give you any basis upon public policy merit for converting this a from public service position to a ministerial position?

**SIOBHAN HAMBLIN:** Not to my recollection, but I think from the evidence I have provided I was somewhat on the periphery of these discussions. It wouldn't have been a matter that he may have raised with me, nor would I have necessarily asked those questions of him given that it was being discussed and managed by the relevant senior adviser.

**The Hon. DANIEL MOOKHEY:** It is the case, is it not, that to the best of your knowledge it was never explained why it was urgent for this Cabinet submission to go forward from proposal to passage in 10 days? Just so that we are very clear about that point, were you never told?

**SIOBHAN HAMBLIN:** I am not saying that I wasn't told; I am saying I can't recall if I was told.

**The Hon. DANIEL MOOKHEY:** I am going to put this to you: Was the actual reason why the Deputy Premier, in the middle of COVID, was urgently seeking a Cabinet decision to turn these into ministerial appointments because he knew he was intending to resign?

**SIOBHAN HAMBLIN:** That's a question for Mr Barilaro.

**The CHAIR:** On that point, we will take a quick five-minute break. We will be back at 11.35 a.m.

**(Short adjournment)**

**The CHAIR:** We will now kick off with questions from the Opposition.

**The Hon. DANIEL MOOKHEY:** Again, thank you, Mrs Hamblin. Do you mind just turning to your document pile? You will see at the front there is an unmarked—as in, not paginated—document, which is titled, "Briefing for the Deputy Premier: Appointment of Senior Trade and Investment Commissioner."

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you recall seeing this briefing note?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** Is it ordinarily the practice that you would see such briefing notes from the department?

**SIOBHAN HAMBLIN:** In the first instance, a briefing note like this wouldn't come to me. It would go to the relevant policy adviser, and anything that would then need the attention of the Deputy Premier would usually come via me and would then be passed on to the Deputy Premier. But I think, as I provided evidence earlier, the role that I would be playing in reviewing or looking at these briefs would be in the context of prioritisation for the

## CORRECTED

Deputy Premier, given the volume of briefs and correspondence that was required for him to sign. I would put that in front of him and would ask any questions that may mean that we needed to prioritise a brief being drawn to the DP's attention, or whether it could in fact wait for his signature or review when he was back in the office.

**The Hon. DANIEL MOOKHEY:** Do you recall applying that process to this brief?

**SIOBHAN HAMBLIN:** I can't recall the specifics in and around this brief.

**The Hon. DANIEL MOOKHEY:** Do you recall there being any urgency around the production of this brief?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** Okay. Mr Brayford tells us that it was his ordinary practice—look, step by step. Firstly, Mrs Hamblin, what you say about briefs going at first instance to policy advisers is supported by the documents that have been produced that show Mr Brayford received this brief on the sixth, just so you have the context available to you. Mr Brayford's evidence is that it was his ordinary practice to put these in your inbox for you to decide how urgent or otherwise they were.

**SIOBHAN HAMBLIN:** During COVID, when we were in the office, I would have what would be an in-tray system. People would put everything in there. From there, I would move that on to Mr Barilaro, noting what was at the top of the pile would be somewhat urgent or for his attention. When it came to COVID, we had to move everything online. The other point that I would also like to make is that our office, not only going into lockdown on or about June 2021—the vast majority of our office went into 14 days' isolation. So we had a very quick and steep learning curve of how to not only move our entire office functions to working from home but also working with no ability to leave for at least 14 days. Some of the systems that were set up were done quickly to ensure that the functioning of the office could sustain itself in those really early stages. What would happen would be that staff would put it all in a drive online, which then I would review and pass onto the Deputy Premier for his approval, noting that the advice from each of the advisers would be also provided to the DP in terms of whether to sign or to note, if there was any advice. But I don't recall anything in and around this brief.

**The Hon. DANIEL MOOKHEY:** Okay. So, like all of Australia, you were standing up systems to allow the office to function during lockdown?

**SIOBHAN HAMBLIN:** Except for the fact that our office was also in 14 days' isolation.

**The Hon. DANIEL MOOKHEY:** Yes, so that created difficulties?

**SIOBHAN HAMBLIN:** That would be an understatement.

**The Hon. DANIEL MOOKHEY:** Yes. Did that result in delays of correspondence and briefs?

**SIOBHAN HAMBLIN:** Despite the stress and anxiety of having to leave this place on a Wednesday and then being forced into isolation the next day, I took great pride in the fact that I understood our office was able to set up those systems quickly as well as being able to function normally, irrespective of the challenges that we faced.

**The Hon. DANIEL MOOKHEY:** You are entitled to take great pride, because the record shows that this brief was sent on the sixth—which I think was a Thursday, from memory—and it has the Deputy Premier's signature by the eleventh, so he has turned it around in five days. Incidentally, for what it's worth, he beat everybody else who got this brief.

**SIOBHAN HAMBLIN:** What I'd also like to point out to that point is that, as part of the Deputy Premier's normal function as the Minister responsible for regional New South Wales and Leader of The Nationals, the vast majority of his time was spent on the road, visiting various electorates, insofar as it relates to his portfolio areas. As a result of COVID, the Deputy Premier did not travel. Therefore, there was an ability for our office to function in a way that we might see other offices or other Ministers that don't require the extensive travel. I'm sure Mr Barilaro would remember the number of days on the road. But it far exceeded anything of, in my opinion, any other Minister.

**The Hon. DANIEL MOOKHEY:** Indeed. Mrs Hamblin, do you mind reading the first highlighted section in the box at the top?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** It says here that the Deputy Premier is now invited to endorse the preferred candidate prior to submission to Cabinet. You see that?

**SIOBHAN HAMBLIN:** Yes.

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CORRECTED

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**The Hon. DANIEL MOOKHEY:** Can you go down to the second dot point? You read that?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Says the preferred candidate for the Americas is Jenny West, deputy secretary, trade and international group, Investment NSW. Do you see that?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Turn over the page. Before we do, down the bottom, you see the recommendation, "Endorse the preferred candidate for the STIC Americas prior to final submission to Cabinet"?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Then you can see other words. Can you turn the page?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Is that the Deputy Premier's signature, to the best of your knowledge?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** You see that there's no comments.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** So we can infer that Mr Barilaro did indeed endorse Ms West as the preferred candidate. Is that a fair inference?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Thank you. He did that around 11 August.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you hold the view that there was no particular urgency around the production of this brief to the Deputy Premier's office?

**SIOBHAN HAMBLIN:** To the best of my recollection, there was no urgency around this.

**The Hon. DANIEL MOOKHEY:** We'll go to page 29, if you don't mind. Are you on page 29?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** You probably need to read 29 in conjunction with 28, because it's an email that goes over two pages. Mrs Hamblin, of course, I don't expect you to have ever seen these before. If you do need to take the time to read it, feel free.

**SIOBHAN HAMBLIN:** If I could.

**The Hon. DANIEL MOOKHEY:** Please. If you are going to do that, can I suggest you read from page 28 to 29.

**SIOBHAN HAMBLIN:** I've read it.

**The Hon. DANIEL MOOKHEY:** Thank you. You can see at the bottom here that this is correspondence between—I'm not necessarily going to name the people. But you can see that this is an email from the executive assistant to the CEO of Investment NSW, that she is sending to the executive assistant from the then Secretary of the Department of Planning, Industry and Environment, who also, incidentally, is the incoming secretary, at this point in time, to the Department of Premier and Cabinet. You can see there on page 29:

Any would like to arrange for the DPO to have a copy today if possible.

Go up, if you don't mind, onto page 28.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:**

We need to include this with our brief to the DPO and across ASAP.

Do you see that?

**SIOBHAN HAMBLIN:** Yes.

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**The Hon. DANIEL MOOKHEY:** Best that we perhaps go to page 26 and 27 for the next part of this email chain or some contextual email chains, to see the correspondence that takes place before that. Again, Mrs Hamblin, please take the time to read it.

**SIOBHAN HAMBLIN:** Sorry, Mr Mookhey. Am I reading page 26 and page twenty—

**The Hon. DANIEL MOOKHEY:** Page 26 and page 27, if you don't mind.

**SIOBHAN HAMBLIN:** I've read it.

**The Hon. DANIEL MOOKHEY:** The bottom of page 26 states:

The panel will need to now sign off. Im assuming this will occur post Dep Prem discussion?

Do you see that?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you know what they are referring to?

**SIOBHAN HAMBLIN:** No, I don't.

**The Hon. DANIEL MOOKHEY:** Do you have any idea why the director of people and culture in Investment NSW thinks that there is going to be a discussion with the Deputy Premier's office that has to take place before the selection panel finalises its report?

**SIOBHAN HAMBLIN:** I don't.

**The Hon. DANIEL MOOKHEY:** Did you have any discussions with Mr Brayford about that?

**SIOBHAN HAMBLIN:** Not that I recall, but I don't believe I did.

**The Hon. DANIEL MOOKHEY:** Perhaps it's necessary, if you don't mind, to go to page 32 of the tender bundle, which you will see is a transcript of *Hansard* that reports on the evidence given by Ms Brown at the Committee hearing on 29 June. There is a highlighted section in which I ask Ms Brown:

Who were you concerned would have veto rights over your appointment?

And Ms Brown replies:

I was concerned that the Deputy Premier's office would feel that they had veto rights.

Do you see that?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Did Ms Brown ever express concern to you that the Deputy Premier would have veto rights over this appointment?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** Do you have any idea why Ms Brown would harbour such a fear?

**SIOBHAN HAMBLIN:** No. That is a question for Ms Brown.

**The Hon. DANIEL MOOKHEY:** We asked her. You can see that I asked her:

You were concerned that the Deputy Premier's office would, and then Secretary Betts gave you the advice to make sure that every panel checked it. Is that correct?

As in, "You were concerned that the Deputy Premier would have veto rights?" Ms Brown said:

Yes, and particularly because the first-ranked candidate was a current bureaucrat.

She actually did answer the question as to why she was worried. Did the Deputy Premier ever express to you opposition to the idea of a bureaucrat filling this role?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. DANIEL MOOKHEY:** Would you mind turning to page 33? You will probably need to take the time to read the full page, Mrs Hamblin.

**SIOBHAN HAMBLIN:** I've read it.

**The Hon. DANIEL MOOKHEY:** Thank you. You see here that we are asking Ms Brown about why it was so urgent to provide the Deputy Premier's office with the brief. Around the middle of the page, I ask:

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Was he asking for this brief urgently?

And then Ms Brown says:

His office was.

Were you asking for the brief urgently?

**SIOBHAN HAMBLIN:** No, not that I'm aware of.

**The Hon. DANIEL MOOKHEY:** I asked:

His office was asking for an urgent brief outlining the selection report for the New York position?

Ms Brown says:

They wanted to know the outcome of the process.

Did you want to know the outcome of the process?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** Who, then, was urgently asking if it wasn't you? You were the chief of staff at that point in time—correct?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** So you were not asking for an urgent briefing, to the best of your recollection.

**SIOBHAN HAMBLIN:** To the best of my recollection, no. But if there was any sense of urgency from either anyone who had approached the agency or whether it had come through me, it would have been relating to a request from Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** Of course. That's not in dispute. Mr Brayford says it wasn't him. He can't recall either. We are in this scenario where it's clear that someone was asking for an urgent report from the department on who was chosen for the Americas job. The senior adviser for trade says he can't recall and now, with respect, Mrs Hamblin, the chief of staff says she can't recall. So was it Mr Barilaro directly? Is that one scenario?

**SIOBHAN HAMBLIN:** I don't imagine that Mr Barilaro would have had a direct conversation, but that would be a question for him. I am unaware of that.

**The Hon. DANIEL MOOKHEY:** To be fair, the other counterparty to this conversation says it was someone from the office, so we have to infer that it's not Mr Barilaro. If it wasn't you and it wasn't Mr Brayford, was it Mr McCormack?

**SIOBHAN HAMBLIN:** That's a question for Mr McCormack.

**The Hon. DANIEL MOOKHEY:** Were you aware that apparently your office was seeking an urgent briefing on the outcome of the Americas selection process?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. DANIEL MOOKHEY:** Is that something you would've been expected to be told if it was considered to be a matter of urgency?

**SIOBHAN HAMBLIN:** That's going back in time. It's a hypothetical in the sense of—

**The Hon. DANIEL MOOKHEY:** I am asking you: Would it have been ordinary practice? If someone is asking for an urgent brief from the head of an agency, is it ordinary practice for that person to come and speak to the chief of staff or at least disclose that? Were they people who were potentially acting without your knowledge?

**SIOBHAN HAMBLIN:** Not necessarily that they would come to me and say, "I'm seeking this brief urgently." I think, as I pointed out earlier, my team of advisers that worked in the office would manage those relationships. As to whether or not they requested it, where that came from or noted the urgency of it—might not necessarily be that it would come through to me.

**The Hon. DANIEL MOOKHEY:** Okay. At this time the State is in lockdown, correct?

**SIOBHAN HAMBLIN:** Yes.

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**The Hon. DANIEL MOOKHEY:** You're, as you have described at multiple instances, doing your job in terms of making sure that the Government is able to respond to that crisis?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** But at the same time, unbeknownst to you, someone is urgently seeking a report about who was chosen for the Americas job. Is that fair?

**SIOBHAN HAMBLIN:** I can't recall. I couldn't speculate as to that's the nature of it.

**The Hon. DANIEL MOOKHEY:** Okay. You don't recall at all seeing—sorry, I'll move on. Just in respect, though, to that brief, did you have any conversations with the Deputy Premier about it?

**SIOBHAN HAMBLIN:** Not that I can recall.

**The Hon. DANIEL MOOKHEY:** Did you have any conversations with Mr McCormack about it?

**SIOBHAN HAMBLIN:** Not that I recall.

**The Hon. DANIEL MOOKHEY:** You can't recall any conversations with Mr Brayford about it either?

**SIOBHAN HAMBLIN:** I suspect that, given, as I think I've pointed out, that Mr Brayford, as the primary relationship holder with the department would keep me abreast of issues—but I can't recall specifics of any conversation, but I may have.

**The Hon. DANIEL MOOKHEY:** But do you understand that it appears to be unusual that amidst a lockdown someone from the Deputy Premier's office is seeking an urgent brief about who was chosen but no-one seems to know who was seeking that briefing?

**SIOBHAN HAMBLIN:** What I will say is that, in the course of what was going on at the time, I see that as the fact that there were members of the office who were focused on matters relating to COVID and the COVID response and then others were continuing the usual practice of their portfolio responsibilities. So I couldn't comment on whether it was unusual that a request for an urgent brief—given that, despite everything that was going on in relation to COVID and the various policy responses to that, the normal functioning of the office was continuing. So I couldn't comment on whether or not it was unusual that someone was requesting an urgent brief insofar as it relates to the portfolios in which—

**The Hon. DANIEL MOOKHEY:** But you can confirm you have no recollection of it.

**SIOBHAN HAMBLIN:** That's correct.

**The Hon. DANIEL MOOKHEY:** Do you recall seeking legal advice at this time or any time in September about the legalities?

**SIOBHAN HAMBLIN:** I don't.

**The Hon. DANIEL MOOKHEY:** Can you quickly turn to page 30 of your tender bundle? Feel free not to read the whole page. I only need to ask you a question about the part that's highlighted. You can see here that this is an email that was sent by the general counsel of Investment NSW to the person we've now established is the general counsel or a senior lawyer at the Public Service Commission. And you can see here that he 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.

You can see at the top that this is an email that was sent on 21 September 2021, which is incidentally after the Cabinet submission has been lodged but before it's been considered. Do you recall asking for that legal advice?

**SIOBHAN HAMBLIN:** I don't recall.

**The Hon. DANIEL MOOKHEY:** Do you recall anyone from your office asking for that legal advice?

**SIOBHAN HAMBLIN:** No.

**The Hon. DANIEL MOOKHEY:** Do you recall any conversation at any time whatsoever in which the Deputy Premier made inquiries to you about what legislation would be required in order to convert these to ministerial positions?

**SIOBHAN HAMBLIN:** I remember a conversation—and it's a vague recollection—in June prior to the lockdowns. I'm not sure if I've covered this already. But where Mr Barilaro inquired with me in relation to—and it was general in nature—about how these appointments are made, what the process looks like and by what other means they could be appointed. I didn't seek that advice to the best of my recollection. That was managed by

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Mr Brayford. I suspect at some point, and I can't recall receiving that advice but, as I said, Mr Brayford would keep me abreast of some of these issues, where he would have—I suspect he would have informed me and I would have informed him to discuss that advice with the Deputy Premier. But to the specifics around legislative changes, and to the extent to which these comments around the specificity of some of those legislative changes, I have no recollection of making any representations like this.

**The Hon. DANIEL MOOKHEY:** Do you recall in July of that year the Deputy Premier talking to you about what steps would be required?

**SIOBHAN HAMBLIN:** I don't.

**The Hon. DANIEL MOOKHEY:** Do you recall having any conversations with Mr Brayford in July of that year about what steps would be required?

**SIOBHAN HAMBLIN:** As I said, I couldn't give you the exact dates. But as I said, I remember getting a request for information by which I asked Mr Brayford to provide that advice. I suspect that I was given that advice. But given the usual way that I operated, if it was a request from Mr Barilaro it was best for that information to be provided.

**The Hon. DANIEL MOOKHEY:** Just go a bit slowly on this, Mrs Hamblin, if you don't mind? Go through it step by step. Do you recall in July having conversations with the Deputy Premier in which he was seeking advice about converting these to ministerial positions?

**SIOBHAN HAMBLIN:** I believe that that conversation happened in June.

**The Hon. DANIEL MOOKHEY:** In June?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** When in June?

**SIOBHAN HAMBLIN:** Before the lockdown. From recollection it was in Parliament, so before the lockdown.

**The Hon. DANIEL MOOKHEY:** In Parliament?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** I recall that. It was budget week.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** It was in the budget week?

**SIOBHAN HAMBLIN:** I couldn't be—

**The Hon. DANIEL MOOKHEY:** The only other sitting week that month was probably, from memory, between 10 and 15 June, so it was in one of those two weeks.

**SIOBHAN HAMBLIN:** To the best of my recollection.

**The Hon. DANIEL MOOKHEY:** And he asked you at that point to do what, exactly?

**SIOBHAN HAMBLIN:** What would happen in my conversations with Mr Barilaro, particularly during a sitting week, is that when he would return to the office I would often go into his office to get a bit of a readout of anything that might need to be moved along: Had he had an MP ask for them to come and visit their electorate? Someone had followed up some correspondence. I would get somewhat of a readout of anything that I needed to then go and task the relevant advisers to do. To the best of my recollection, that's where that conversation came up with Mr Barilaro. I don't remember it being the sole reason by which he asked me of that information. I remember it being in and amongst a list of things that I was then tasked to go and delegate to the relevant advisers. But it was general in nature.

**The Hon. DANIEL MOOKHEY:** Did you have any discussions at this point in time, or earlier than that point in time, about the appointment of Mr Cartwright to the Agent-General's position in London?

**SIOBHAN HAMBLIN:** I don't recall having any conversations with Mr Barilaro about Mr Cartwright's appointment in London.

**The Hon. DANIEL MOOKHEY:** So it's unlikely that this request—to the best of your knowledge, there was no contextual factor in that conversation that would lead you to conclude that the reason why the Minister was making the inquiry was to do with Mr Cartwright?

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**SIOBHAN HAMBLIN:** Not to my knowledge.

**The Hon. DANIEL MOOKHEY:** Sure. But that conversation takes place in one of the sitting weeks in June?

**SIOBHAN HAMBLIN:** To the best of my recollection.

**The Hon. DANIEL MOOKHEY:** That's fine. I'm not going to push much further on that. And it was simply a request to go and—what was the request again?

**SIOBHAN HAMBLIN:** It was general in nature, in the sense of, "How are these appointments made? What's the process in and around them, and by what other means can these appointments be made?" It didn't relate to any specific appointment.

**The Hon. DANIEL MOOKHEY:** Did he give you any reason or any explanation as to why at that point in time he was especially interested?

**SIOBHAN HAMBLIN:** I suspect that he did but I can't recall. I can surmise from that that nothing raised any red flags as to why that question was being asked of me.

**The Hon. DANIEL MOOKHEY:** But he was at least making inquiries around that point in time?

**SIOBHAN HAMBLIN:** Yes, among other policy areas that he would have—in that same conversation it wouldn't have stood out in the long list of things I was then tasked to delegate.

**The Hon. DANIEL MOOKHEY:** Did you then delegate that?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Who did you delegate it to?

**SIOBHAN HAMBLIN:** Mr Brayford.

**The Hon. DANIEL MOOKHEY:** What did you tell him to do?

**SIOBHAN HAMBLIN:** I would have just referred the request from Mr Barilaro: "Could you please find out how these appointments are made, what the process is and what are the other mechanisms by which they could be appointed?"

**The Hon. DANIEL MOOKHEY:** To the best of your knowledge, Mr Brayford did that?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Did he come back to you and report on the outcomes of that discussion?

**SIOBHAN HAMBLIN:** As I said, I can't remember the advice that he came back with. But as I said, I suspect that he would have come back to me. But as would have been my usual course of practice, I would have said to also have that conversation or provide that advice to Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** So you basically said to him, "Thanks for telling me. You can also tell the Minister directly"?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Did you also have any direct conversations with the Minister about that advice?

**SIOBHAN HAMBLIN:** Not to my recollection.

**The Hon. DANIEL MOOKHEY:** Can you please turn to pages 16 and 17 of your tender bundle? If you don't mind, Mrs Hamblin, in the interest of time, I might just take you through it. It's best to start at the bottom. You can see that this is a correspondence from Ms Brown to Mr Brayford on 2 July 2021.

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you see that? It's approximately 10 days into the lockdown. Ms Brown says:

Hi Joseph

Further to your question on the above—



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and you can see that Ms Brown provides some quite detailed advice here about what would be required in order to reach this conversion. Again, the advice itself is actually immaterial, but you can see that the advice is contained. I presume that the answer you got from Mr Brayford was, broadly speaking, maybe aligned with this?

**SIOBHAN HAMBLIN:** I couldn't speculate, but I suspect so.

**The Hon. DANIEL MOOKHEY:** Okay. If you go up the page, you can see there's another highlighted section in which it says, "In case helpful"—this is correspondence that Ms Brown was sending to someone else on 19 August 2021. It's fair to say I forgot to ask her why she was pointing this out around that point in time, but maybe we'll ask her on Monday. But you can see here:

In case helpful - when the DP wanted clarification on whether the STICs were ministerial appointments or not.

To be fair to Mr Barilaro, Ms Brown provides an opinion here about the legitimacy of the question. She says:

It was a fair question, because Treasury initially set up an erroneous process where they had to go to Cabinet, which is completely inappropriate.

Is that the reason why you understood Mr Barilaro was perhaps seeking this advice at this point in time?

**SIOBHAN HAMBLIN:** I really can't recall. That'd be a question for Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** Okay. But is there any reason why it was particularly urgent, within the first 10 days of lockdown, for this advice to be sought and obtained that you're aware of?

**SIOBHAN HAMBLIN:** Not that I'm aware of.

**The Hon. PENNY SHARPE:** I just wanted to ask a question about particularly around August or so in 2021. How many media advisers did you have in the office at the time?

**SIOBHAN HAMBLIN:** Somewhere in the order of four or five, I believe.

**The Hon. PENNY SHARPE:** Did one of those advisers leave the office in August 2021?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. PENNY SHARPE:** Did that adviser end up going to work for Investment NSW?

**SIOBHAN HAMBLIN:** I believe so.

**The Hon. PENNY SHARPE:** Do you know what the circumstances were in relation to that appointment to Investment NSW?

**SIOBHAN HAMBLIN:** I'm not.

**The Hon. PENNY SHARPE:** You had a senior adviser; she'd obviously been there for quite a long time. You were in the middle of lockdown, as you've previously said. Were you disappointed that you were losing such a senior staff member out of the office?

**SIOBHAN HAMBLIN:** I'm just wondering, given that I'm going to speak to someone's employment, if I could give it in camera?

**The Hon. PENNY SHARPE:** We've only got 10 minutes, and I'm not going to ask you a lot of questions about it. I'm not asking you to give judgement on her performance; I am just asking about the circumstances with which she left the role in your office and became a senior adviser in Investment NSW.

**The Hon. WES FANG:** Point of order: Chair, if we're not going to go in camera, can the witness be reminded that she can take the question on notice?

**The CHAIR:** Yes.

**SIOBHAN HAMBLIN:** I can keep it high level. My understanding is that, for various reasons, one of the senior media advisers was looking for work outside of ministerial offices for some time. As to the way in which that appointment happened or how that came into place, they are matters for her—not for me. Of course, I took great pride in having a team that worked hard and they worked well. We had a really great team and, of course, I was disappointed to see a member of my staff leave.

**The Hon. PENNY SHARPE:** Did you have conversations with Mr Barilaro in relation to the loss of this staff member?

**SIOBHAN HAMBLIN:** I would've had conversations in relation to filling the role and how we would then go about managing the team and the way that it would then operate.

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**The Hon. PENNY SHARPE:** Did you ever speak to Investment NSW about finding a job for this staff member, given that you knew that she was looking to leave?

**SIOBHAN HAMBLIN:** No.

**The Hon. PENNY SHARPE:** Do you know whether Mr Barilaro did?

**SIOBHAN HAMBLIN:** That's a question for Mr Barilaro. I'm not—

**The Hon. PENNY SHARPE:** He never spoke to you about that?

**SIOBHAN HAMBLIN:** No.

**The Hon. PENNY SHARPE:** And you're not aware how your senior media adviser got the job with Investment NSW?

**SIOBHAN HAMBLIN:** I'm not.

**The Hon. DANIEL MOOKHEY:** Were you asked to provide a reference?

**SIOBHAN HAMBLIN:** I was.

**The Hon. DANIEL MOOKHEY:** Did the senior media officer nominate you as a reference?

**SIOBHAN HAMBLIN:** Yes.

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

**SIOBHAN HAMBLIN:** I can't recall the timing of it.

**The Hon. DANIEL MOOKHEY:** Were you interviewed as part of that reference?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** Was that by people inside Investment NSW?

**SIOBHAN HAMBLIN:** No, from memory, it was a recruiter.

**The Hon. DANIEL MOOKHEY:** But you vouched for her performance, I presume?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** And provided a recommendation that was favourable?

**SIOBHAN HAMBLIN:** Yes.

**The Hon. DANIEL MOOKHEY:** And, presumably, the reason you were nominated was because at that point in time you were her direct manager, correct?

**SIOBHAN HAMBLIN:** Yes. But I would like to point out that, as a chief of staff, during my tenure a number of staff left and, for the most part, I took great pride in being able to offer references because—

**The Hon. DANIEL MOOKHEY:** Nothing unusual.

**SIOBHAN HAMBLIN:** —I had a great team, and any suggestion that they weren't, I took—I welcomed the opportunity for my staff to move on to other things and provide, where appropriate, the right references for them to do so.

**The Hon. DANIEL MOOKHEY:** Okay.

**The Hon. PENNY SHARPE:** Do you know how many other staff while you were the chief of staff ended up with jobs within the portfolio that Mr Barilaro held?

**SIOBHAN HAMBLIN:** I couldn't—I don't have that off the top of my head.

**The Hon. PENNY SHARPE:** Could you take it on notice for us?

**SIOBHAN HAMBLIN:** I can, but, I mean, I'd have to—I don't—I wouldn't have access to that information.

**The Hon. SCOTT FARLOW:** Mrs Hamblin wouldn't have access, yes.

**The Hon. DANIEL MOOKHEY:** She has—

**SIOBHAN HAMBLIN:** I have no access to—

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**The Hon. DANIEL MOOKHEY:** To the best of your recollection?

**The Hon. PENNY SHARPE:** Yes, to the best of your recollection. You clearly recall this one. Do you recall any others?

**SIOBHAN HAMBLIN:** I would have to take it on notice.

**The Hon. DANIEL MOOKHEY:** Just to round this particular point out—I'm sorry if I didn't hear this properly, but at this point in time were any other members of your staff changing their employment?

**SIOBHAN HAMBLIN:** Sorry?

**The Hon. DANIEL MOOKHEY:** Were any other staff departing?

**SIOBHAN HAMBLIN:** There was a few, from memory.

**The Hon. DANIEL MOOKHEY:** And this was towards the end of the year?

**SIOBHAN HAMBLIN:** I wouldn't say, sort of, towards the end of the year. I can remember probably another two at that point in time.

**The Hon. DANIEL MOOKHEY:** And was this the only person who went from your office to Investment NSW directly?

**SIOBHAN HAMBLIN:** I'd have to take that on notice. The two that I am thinking of took jobs outside of government.

**The Hon. DANIEL MOOKHEY:** Thank you. Can you just give us a minute, just so we can determine whether we've got anything remaining for the witness, Chair?

**The CHAIR:** How much time? You've got until 12:15.

**The Hon. DANIEL MOOKHEY:** We just want to have—I know. If you can give us 30 seconds, we will just have a quick chat.

**The CHAIR:** Yes.

**The Hon. DANIEL MOOKHEY:** Thank you, Mrs Hamblin, we are pretty positive that to the best of our knowledge we have asked you the questions we had for you. We do appreciate, again, the diligence of your preparation and your willingness to assist us in our inquiries.

**The CHAIR:** Thank you very much. I will just see whether Government members have—

**The Hon. WES FANG:** There are just a few things that I wanted to touch on, if that's okay?

**The CHAIR:** Okay.

**The Hon. WES FANG:** Thank you, Mrs Hamblin for appearing and being, as Mr Mookhey indicated, so diligent. You have clearly recalled everything to the best of your knowledge and I think that the Committee is very thankful for that. In relation to the urgent advice that was—and I put emphasis on the word "urgent" because we discussed this in an earlier hearing with people from Investment NSW. Was it sometimes the case that when a ministerial office requested something of a department that they perhaps viewed it as urgent because it was from the Minister responsible and that they put the emphasis on the urgent as opposed to it being requested as urgent, purely because it was from the Minister involved and the Deputy Premier?

**SIOBHAN HAMBLIN:** I couldn't comment as to the way in which the various departments operate and the way in which they treat matters of correspondence. But I suspect that the way a department would treat a matter of urgency insofar as it relates to a Minister's office is a matter for them, unless it's been directed from the office as to the sense of urgency. But I couldn't comment on how a department treats matters of urgency as it relates to a Minister's office.

**The Hon. WES FANG:** More to the point, what I am asking is that sometimes what was a regular request from the Deputy Premier's office may have been viewed as having urgency attached to it just because it was from the Deputy Premier. Would that sometimes have occurred in your experience?

**SIOBHAN HAMBLIN:** It could be.

**The Hon. WES FANG:** I take you to the document that Mr Mookhey tabled. It seems to have the patch of black at the bottom of the front page. I ask you to turn it over. Mr Barilaro's signature looks to me slightly digitalised. Would that be an e-signature?

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**SIOBHAN HAMBLIN:** I suspect so, given that we were in the middle of lockdown. I suspect it was an e-signature.

**The Hon. WES FANG:** To that point, given that we were in lockdown and for the most part the Deputy Premier was working out of the office, as you said, doing media briefings and the like, would he have signed the documents personally as opposed to an e-sign?

**The Hon. DANIEL MOOKHEY:** What's the distinction?

**SIOBHAN HAMBLIN:** I can't recall, quite frankly, but given that we were trying to make our processes as seamless as possible, I would've attempted to avoid operating in a dual administrative process that had half the correspondence being signed in person and then half as an e-sig. However, if it so happened that there was something urgent and a staff member was with the Deputy Premier, it wouldn't be unreasonable to think that the brief would have been put in front of him while there was a brief opportunity or while someone was in the office with him attending to regular duties.

**The Hon. WES FANG:** I think that pretty much covers everything that I wanted to touch on.

**The CHAIR:** I thought you had a gotcha moment there. No?

**The Hon. WES FANG:** I am just really—

**The CHAIR:** I was just wondering where the brief was going. Is that the end of your questions? We have finished our morning session. Thank you very much, Mrs Hamblin, for appearing this morning. We really appreciate you agreeing to come today.

**(The witness withdrew.)**

**(Luncheon adjournment)**

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**Ms KYLIE BELL**, Managing Director, Investment NSW, affirmed and examined

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

**KYLIE BELL:** Yes, I do. Thank you for inviting me to appear as a witness in this inquiry. For the record, I am the acting managing director of trade and investment at Investment NSW. I have been acting in this new role since 22 February this year. One of my key responsibilities in this role is the delivery of the international network expansion for Investment NSW, which was approved by Government in November 2019. Investment NSW's senior trade and investment commissioners therefore report through to me within the organisation's structure. As outlined in her testimony, Secretary Brown was the panel chair for the recruitment of the STIC Americas role. I supported Ms Brown as a participant on the panel, given I was the eventual line manager for the role.

As Ms Brown has already stated, the process of the STIC recruitment has been imperfect, often due to machinery of government and staff changes. I can confirm, however, that at no point as a panel member for the STIC Americas role was I contacted by Minister Stuart Ayres or any member of his office, or indeed any political office, seeking the appointment of Mr Barilaro into the role. The guidance I was given in the recruitment of these international-based roles, based on New South Wales employment legislation, is:

Any decision to employ an overseas trade employee must be based on the person's appropriateness for the role concerned, having regard to the nature of the role and the person's qualifications, skills and experience.

As a panel member, I came to the decision to endorse Mr Barilaro for appointment based on his skills and experience for this very particular role. For your background, I can confirm there are matters I am not able to discuss as I was not privy to them at the time. I was Ms West's direct report from 16 October 2020, when she joined the New South Wales Government, through to her departure on 30 November last year. At the time I was therefore not privy to the issues that were underway between Ms West and Investment NSW and her subsequent departure. I was also not involved in the drafting or the production of the 27 September decision of Government to convert the STIC roles into ministerial appointments. I was only briefed on this after the decision of Government had been made, given it had the potential to impact the rollout of the international network that I was now responsible for.

I was not involved in the recruitment process for the Agent General to the UK, nor the STIC for North Asia. As Ms Brown has stated, the process was commenced by New South Wales Treasury, and I did indeed work there, but it was commenced by the then secretary and deputy secretary of trade. To conclude, I want to make this statement. I have been a dedicated public servant for more than 20 years and I am committed to helping Australian and New South Wales businesses succeed and grow. My entire career has been focused on this goal. Again, I look forward to discussing with the Committee today my involvement in the recruitment of the STIC Americas role.

**The Hon. DANIEL MOOKHEY:** Thank you, Ms Bell, for your appearance. It is good to see you again.

**KYLIE BELL:** It is.

**The Hon. DANIEL MOOKHEY:** Ms Bell, equally, I do appreciate you have been a member of the public services for 20 years.

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** Thank you for that. Can we go back in time to cover a few more details about your position. What does the managing director of trade and investment do?

**KYLIE BELL:** Good question. I have actually got an org chart, which I can table as well.

**The Hon. DANIEL MOOKHEY:** Please.

**KYLIE BELL:** My role was created earlier in the year. It was an amalgamation of two or three managing director roles. I am responsible for the Trade portfolio onshore, and that's a team that does everything from working with international students to exporters, skilled migration. I'm responsible for the international network offshore, so the five STICs and their teams now report to me. I'm responsible for the investment portfolio within Investment NSW, which is called "investment and partnerships", and it is that team that works with foreign and domestic businesses to invest in the State. I'm also responsible for the net zero economy strategy and that team. My next new role or new addition is the recruitment of the Modern Manufacturing Commissioner, who will also come into me. I feel like that might be my group in a nutshell. At the moment I have about 10 direct reports.

**The Hon. DANIEL MOOKHEY:** Do you have that organisational chart?

## CORRECTED

**KYLIE BELL:** Yes. To be clear, I have also—because I anticipate your next question is, "How is that different from Ms West's role?"

**The Hon. DANIEL MOOKHEY:** That is not my next question.

**KYLIE BELL:** Okay. Well, I have Ms West's structure as well, if that helps.

**The Hon. DANIEL MOOKHEY:** Thank you. Prior to you being the acting managing director of trade and investment, what was your role?

**KYLIE BELL:** I was the executive director for trade and international.

**The Hon. DANIEL MOOKHEY:** And you joined Investment NSW at its formation last April?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** Prior to that, where were you?

**KYLIE BELL:** NSW Treasury.

**The Hon. DANIEL MOOKHEY:** What were you doing there?

**KYLIE BELL:** I was the executive director for trade and international.

**The Hon. DANIEL MOOKHEY:** Indeed, and you were transferred as a result of—

**KYLIE BELL:** Of the machinery of government change, correct.

**The Hon. DANIEL MOOKHEY:** Yes, and you effectively were ported across, as were many other people.

**KYLIE BELL:** Yes. I think I just packed a box and went down the stairs.

**The Hon. DANIEL MOOKHEY:** You say that you are responsible, amongst your duties, for the management of the five offshore offices. There are six, are there not?

**KYLIE BELL:** There are six. I said the five STICs; they report to me.

**The Hon. DANIEL MOOKHEY:** But there are six offshore offices, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And one of them is in the Americas.

**KYLIE BELL:** That is correct.

**The Hon. DANIEL MOOKHEY:** Can you please tell us where we are up to in terms of finding our STIC Americas commissioner, as it currently stands?

**KYLIE BELL:** As it currently stands, due to the inquiry, the position is on hold.

**The Hon. DANIEL MOOKHEY:** For how long?

**KYLIE BELL:** However long the inquiry goes for.

**The Hon. DANIEL MOOKHEY:** Which inquiry?

**KYLIE BELL:** I don't know the name of this inquiry. This inquiry.

**The Hon. DANIEL MOOKHEY:** What about the Head review?

**KYLIE BELL:** I feel like it's more focused on this. I believe the Head review is coming to a conclusion.

**The Hon. DANIEL MOOKHEY:** Okay. Have you been asked to take steps to start the preparation process for the selection of a third panel?

**KYLIE BELL:** Not at all.

**The Hon. DANIEL MOOKHEY:** Okay. Have you provided any advice about the recruitment of a third person?

**KYLIE BELL:** Not at all.

**The Hon. DANIEL MOOKHEY:** Has anybody ever asked you for advice as to what the time line or process could be?

CORRECTED

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**KYLIE BELL:** Not at all, I don't think. I don't recall that anyone has, no.

**The Hon. DANIEL MOOKHEY:** Okay. Currently we have established—through the court of Delaware, I think—a holding company of some form in the United States, have we not?

**KYLIE BELL:** Yes. The New South Wales Government has a registered entity in the US.

**The Hon. DANIEL MOOKHEY:** And it employs four people, currently, or five people.

**KYLIE BELL:** Currently, four people.

**The Hon. DANIEL MOOKHEY:** And they earn, according to a filing in the Delaware court system, \$900,000 collectively.

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** What are these people doing?

**KYLIE BELL:** Two of our staff have been there for a very long time. Our Trade and Investment Commissioner in San Francisco and his colleague, the director for trade and investment in San Francisco, have been working for the last—Joe has been with us for at least five years. He has been working to assist New South Wales exporters to get into the US and working with US companies to invest in New South Wales. That has not changed, despite this review.

**The Hon. DANIEL MOOKHEY:** He's in San Francisco?

**KYLIE BELL:** Yes, and we have two staff in New York that have commenced in the last month, I would say, that are working to the direction of our Trade and Investment Commissioner in San Francisco, who is reporting in to me. They are meeting with companies in New York to get talking to them about New South Wales. They are working now with New South Wales exporters to start getting them up and hitting the ground running in the US.

**The Hon. DANIEL MOOKHEY:** San Francisco is on the west coast of the United States. Is that true?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And New York is on the east.

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** So the Trade and Investment Commissioner role in San Francisco is effectively one role down from a Senior Trade and Investment Commissioner, correct?

**KYLIE BELL:** That's correct, yes.

**The Hon. DANIEL MOOKHEY:** And that role has been there for five or six years.

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And that person was previously working from a WeWork office, weren't they?

**KYLIE BELL:** Yes, that's correct.

**The Hon. DANIEL MOOKHEY:** And we shut down that WeWork office.

**KYLIE BELL:** We closed the WeWork office during COVID. The WeWork office closed; therefore, our staff couldn't go there anymore.

**The Hon. DANIEL MOOKHEY:** We, at that point, were paying \$500,000-ish for that office, were we not?

**KYLIE BELL:** For the WeWork office?

**The Hon. DANIEL MOOKHEY:** For that period of time, maybe.

**KYLIE BELL:** I would have to take that on notice. I don't think it was particularly expensive arrangements.

**The Hon. DANIEL MOOKHEY:** To be fair, with WeWork's prices, one never knows.

**KYLIE BELL:** Yes. That's right. I could not tell you in all honesty. We closed that office down when COVID hit, some point in 2019. So I could not tell you before then what the cost was.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** The Trade and Investment commissioner in San Francisco is currently working from where?

**KYLIE BELL:** His house.

**The Hon. DANIEL MOOKHEY:** We have still got an office in Manhattan?

**KYLIE BELL:** We do indeed, yes.

**The Hon. DANIEL MOOKHEY:** We are paying rent for it?

**KYLIE BELL:** We are paying rent, and we have staff in it.

**The Hon. DANIEL MOOKHEY:** So the two staff that are based in New York are working from that office.

**KYLIE BELL:** That's correct. We have a third person that is working with us as a contractor, that is not yet registered in the FARA report that you're referencing, with our four staff. At the moment, there's three. I think, by next week, there'll be four.

**The Hon. DANIEL MOOKHEY:** So we're hiring an additional one.

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** We're expanding the actual size of the Americas office, despite not having a commissioner? Is that fair?

**KYLIE BELL:** That's correct. We've expanded all of our locations around the world, without having—

**The Hon. DANIEL MOOKHEY:** How many additional positions are we intending to recruit to the Americas office?

**KYLIE BELL:** Starting from the STIC position that was proposed, that will be the final recruitment for the New York office. We're working with the Australian trade commission to appoint someone in Washington. And then that will be our footprint in the US.

**The Hon. DANIEL MOOKHEY:** In total, how many employees are we going to have in the United States?

**KYLIE BELL:** Not including the senior Trade and Investment commissioner, we will have two staff in San Francisco. We will have four staff in New York. The person in Washington will not be directly employed by us. They will be employed by Austrade on our behalf and work for the State of New South Wales.

**The Hon. DANIEL MOOKHEY:** Were you involved in developing the strategy to establish the New York office at Treasury or Investment NSW?

**KYLIE BELL:** Yes, I think so. I think that's safe to say. The Global NSW strategy—there was a number of us that were involved. I wasn't the lead. But I was certainly involved in that process.

**The Hon. DANIEL MOOKHEY:** Why did we establish one in New York when we had one in San Francisco?

**KYLIE BELL:** New York was considered to be the US's financial capital. In all of the work that we're doing overseas, we have one hub office and a number of spoke offices that report into them. As we were looking at our Trade and Investment footprint, we were covered in San Francisco and working with technology companies. We needed a footprint on the other side of the US. The US role was considered to be the centre for finance and investment. It also meant we were close to Washington from a travel point of view and close to Boston, where the State also has opportunities, in sectors like med tech and health care and biotechnology.

**The Hon. DANIEL MOOKHEY:** When was the decision to establish the New York office made?

**KYLIE BELL:** The expansion footprint was a Government decision that was made and approved in November 2019.

**The Hon. DANIEL MOOKHEY:** What does it mean by "Government decision", please?

**KYLIE BELL:** I think you know. It's a decision of Cabinet.

**The Hon. DANIEL MOOKHEY:** So the Cabinet decided?

**KYLIE BELL:** I'm assuming I can say this. A proposal was presented to the Government, and the Government endorsed that decision in November 2019.



## CORRECTED

**The Hon. DANIEL MOOKHEY:** That, at the time, was when the Minister for trade was supported by the Treasury? Correct?

**KYLIE BELL:** That is correct.

**The Hon. DANIEL MOOKHEY:** Who was the Minister for trade at the time?

**KYLIE BELL:** I am going to say it was Minister Barilaro.

**The Hon. DANIEL MOOKHEY:** I presume that Cabinet submissions of this type would have had to be brought by Mr Barilaro.

**KYLIE BELL:** Actually, I believe it was—

**The Hon. DANIEL MOOKHEY:** There's only two, really, in that cluster.

**KYLIE BELL:** I believe there was a joint submission by a number of members of Government.

**The Hon. DANIEL MOOKHEY:** A joint submission would have been that Mr Barilaro, as Minister for trade, presumably, would have had to have—it's fair to infer? It's possible?

**KYLIE BELL:** Yes. I can't recall the document. But we sat in New South Wales Treasury. The cluster Minister was Minister Perrottet or Treasurer. The Minister for trade was Minister Barilaro. I think, at the time, the Minister for investment was Minister Ayres.

**The Hon. DANIEL MOOKHEY:** They were the three Ministers of that cluster? Correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** That submission was brought by that cluster?

**KYLIE BELL:** I can't confirm. As in the cluster led the commission, which Minister had his name on top? I can't recall.

**The Hon. DANIEL MOOKHEY:** But it's not unreasonable to infer that perhaps, when it comes to Global NSW, it would, presumably, have had to have included the Minister for trade. Correct?

**KYLIE BELL:** Yes. That's correct.

**The Hon. DANIEL MOOKHEY:** I might just slightly pause there for 10 seconds. Thank you for that, Ms Bell. In deciding to establish the New York office, why was it necessary to close the California office?

**KYLIE BELL:** The decisions were independent of each other. In 2019 when the decision to keep—we still had an office at that point in 2019. The decision to close the office was a COVID decision. The staff couldn't go to a WeWork office. At that time in 2020 our entire international network worked from home. In fact, I'm pretty sure I did as well.

**The Hon. DANIEL MOOKHEY:** I accept that, Ms Bell. I agree that obviously COVID would have affected the opportunity of that office to operate.

**KYLIE BELL:** Literally, we had to shut down for six months. At some point it didn't make sense to be paying for an office—a WeWork space—that we couldn't use.

**The Hon. DANIEL MOOKHEY:** Who made the decision to keep it closed at the end of COVID?

**KYLIE BELL:** I believe I did, in consultation with the two staff that worked there as to whether their preference was to return to a WeWork or to continue to work from home. The decision was that they preferred to continue to work from home. As business development managers, their role is to go out and meet with companies. A lot of the companies they were meeting with were in Silicon Valley and so the San Francisco office wasn't necessary on a day-to-day basis.

**The Hon. DANIEL MOOKHEY:** So it was basically an operational decision. Is that fair to say?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** That didn't require the consideration of government.

**KYLIE BELL:** No. To renew a WeWork contract—I feel like Ministers have more important things than the renewal of WeWork contracts.

**The Hon. DANIEL MOOKHEY:** What we have learned through those inquiries is that you just never know, Ms Bell, which is why you have to ask.

## CORRECTED

**KYLIE BELL:** It was an operational decision based on do we necessarily need—

**The Hon. DANIEL MOOKHEY:** What I'm trying to understand, then, Ms Bell, is that I accept the fact that the California office closed, but when exactly did the Americas position office open?

**KYLIE BELL:** When you say the Americas position—

**The Hon. DANIEL MOOKHEY:** The Americas office. When did we open it? When did we sign the lease?

**KYLIE BELL:** I would have to take that on notice. I suspect you've got the document.

**The Hon. DANIEL MOOKHEY:** I'm sure I do.

**KYLIE BELL:** I believe we signed the lease earlier this year or the end of last year.

**The Hon. DANIEL MOOKHEY:** But the Cabinet had decided in 2019 to establish the New York office, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** So three years pass before we establish the office. Is that because of COVID?

**KYLIE BELL:** The first two years, honestly, it was absolutely because of COVID. It was very difficult for us to be opening offices. I know we tried to open an office in London. We took a lease and we then could not get workers in to do the renovation because the building was shut down and the directive of the High Commission was to work from home. What ended up happening is we were paying for contractors that were not able to do the work. In the case of New York, the lease was signed later last year when the US became safe for us to do business in.

**The Hon. DANIEL MOOKHEY:** I want to refer to the period from the Cabinet decision to the actual signing of the lease and the actual establishment of the company as the interregnum period. To be very clear, the lease is a minor detail. But, basically, we formed a US company on 31 December 2021, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And that is then in a position to allow us to start employing staff. That's correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** But the key trigger point here is around the establishment of this offshore company. That's correct?

**KYLIE BELL:** That's correct. Within the US, as a starting point, we had an entity registered. In the US you can register State by State, just as you can in Australia.

**The Hon. DANIEL MOOKHEY:** Most people do in Delaware.

**KYLIE BELL:** Yes. We did have an entity registered in San Francisco and I believe we may still, which was how we employed our staff in San Francisco up until that point.

**The Hon. DANIEL MOOKHEY:** Indeed. But in the interregnum period between the decision of the Cabinet in November 2019 to establish the New York office and the actual formation of the company, you had predominately two trade Ministers. Is that correct? You had Minister Barilaro from November until 4 October.

**KYLIE BELL:** Yes, we had Minister Barilaro when I first commenced.

**The Hon. DANIEL MOOKHEY:** And then it was Minister Ayres from 5 October onwards, thereabouts, to earlier this week.

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** In that interim period, were you providing advice to the Deputy Premier's office as to the status of the New York office?

**KYLIE BELL:** I would say yes, probably, but I don't recall having conversations with the Deputy Premier's office as much. We were focused at that point in time more on the trade agenda.

**The Hon. DANIEL MOOKHEY:** Indeed. We have heard from Ms Brown that there were fortnightly meetings with the Deputy Premier's office, thereabouts.

CORRECTED

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**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** How many of them did you attend?

**KYLIE BELL:** I would say I was a regular attendee.

**The Hon. DANIEL MOOKHEY:** Having seen some of the paperwork from them, it was clear that updates were being provided around each of the locations. That's correct?

**KYLIE BELL:** Yes, but, as I said, the last few meetings that I attended—most of the meetings I attended—we were focused on progress around things like our industry development strategies, because he was also the Minister for industry. As well, as I mentioned, he was very focused on the trade statement and a number of other things. But we would have been giving updates, but pretty high level.

**The Hon. DANIEL MOOKHEY:** We'll get back to precisely what updates were being provided a bit later on, Ms Bell, but can I just establish right now: What are the monthly costs of that New York office? Both in—for the physical costs?

**KYLIE BELL:** I do have them here. Maybe I could take that just on notice, while I—

**The Hon. DANIEL MOOKHEY:** Feel free, Ms Bell. Take 10 seconds, it's fine. We've got time.

**KYLIE BELL:** I've got a lot of papers.

**The Hon. DANIEL MOOKHEY:** I know the feeling.

**KYLIE BELL:** I can tell you the fit-out cost, but I'm not sure if I can tell you the—what I might do is take it on notice and give it to you after the break.

**The Hon. DANIEL MOOKHEY:** I appreciate that. Can I ask you to take two further questions on notice, if you don't mind, for ideally an answer after the break? Can we just get a total annual cost of the entire Global NSW network?

**KYLIE BELL:** I can probably give you that.

**The Hon. DANIEL MOOKHEY:** And can we also just get the US operations side of that, if you don't mind? Thank you. I might just move on to another matter. The five STIC commissioners appointed report to you, correct?

**KYLIE BELL:** They do now, yes.

**The Hon. DANIEL MOOKHEY:** And, assuming that there is an Americas position appointed, that person would report to you too?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** I think we have established, from a legal perspective, ultimately, it's the secretary who has to enter into the employment agreement? That's correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** For actual day-to-day matters, it would be you? That's fair?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** Thank you. Can I ask you, did you call John Barilaro to tell him he had the job?

**KYLIE BELL:** Yes. I texted first because I didn't think he would know who I was and then I called him on the twenty-third.

**The Hon. DANIEL MOOKHEY:** Can we go through it step by step, please?

**KYLIE BELL:** Sure.

**The Hon. DANIEL MOOKHEY:** When did you text him?

**KYLIE BELL:** The twenty-third.

**The Hon. DANIEL MOOKHEY:** Okay. And then what? You called him?

## CORRECTED

**KYLIE BELL:** Yes. I sent him a text message saying, "Hi, it's Kylie Bell." Just because, as I said, I thought he might screen my call. "I'm ringing to say congratulations on being the successful candidate for the US"—or something. "Can we please set up a time to have a conversation about next steps, or the contract?"

**The Hon. DANIEL MOOKHEY:** Thank you for clarifying that as well. What did Mr Barilaro say back to you?

**KYLIE BELL:** He texted me. He just said, "Any time to chat." Then I sent a calendar request to him. And the next morning, I believe on the twenty-fourth, I had a call with him, my general counsel and our executive director for people and culture so we could start to talk him through the role, the contract, and potentially negotiate salary package and how things would work and discuss timing and next steps.

**The Hon. DANIEL MOOKHEY:** At this point in time there's no selection panel report that's been signed by anyone, correct?

**KYLIE BELL:** That's correct. There is a selection panel report, but it had not been signed by the committee—or the panel.

**The Hon. DANIEL MOOKHEY:** Okay. And you offered him the job before you had negotiated the contract?

**KYLIE BELL:** Well, we offered him the job as our preferred candidate so that we could negotiate the contract. You normally tell someone they've been successful, and then you start having a conversation—

**The Hon. PENNY SHARPE:** That's what happened with Ms West, for example, in the first round of—

**KYLIE BELL:** I was not involved in the process of Ms West—but I was very careful. I mean, essentially, someone is not the candidate or is not in the role until they have signed the agreement and the CEO has signed.

**The Hon. DANIEL MOOKHEY:** Sure. Well, many common law decisions have been made about precisely when is a contract firm—

**KYLIE BELL:** But, well—

**The Hon. DANIEL MOOKHEY:** Let's not go down that rabbit hole. We'd be here for a while.

**KYLIE BELL:** People withdraw if they don't like what they might get—

**The Hon. WES FANG:** We've gone down every other rabbit hole, why not?

**The Hon. DANIEL MOOKHEY:** There's a whole course.

**The Hon. PENNY SHARPE:** Many rabbit holes.

**The Hon. DANIEL MOOKHEY:** Can I just ask in respect to the selection panel, when were they told or when did they agree—in the absence of a written report, when did they agree that Mr Barilaro was the lucky candidate? How did they agree—given that, as best we can tell, they met once on the fifteenth. There is no evidence of any further meeting.

**KYLIE BELL:** That's correct. I do not believe that we met a second time. But Ms Brown, as the panel chair, I understand, was talking to each of the panel members, just as she was talking to me as one of the panel members. And jointly, through those consultations with each individual, we agreed that he was the final preferred candidate. And then I was instructed by her, I think on the twenty-second or the twenty-third, to move towards contract negotiations.

**The Hon. DANIEL MOOKHEY:** Therefore, if that's the case that this all happened bilaterally in conversations between Ms Brown and panel members, how was it possible that panel members were able to rate the candidates? We've got multiple ones in which they hold them to criteria. If the panel members never saw the report, how precisely did they provide their rankings?

**KYLIE BELL:** The panel is a record of the discussions; it doesn't direct the discussions. The panel report was prepared at the conclusion of all discussions that were undertaken. It's a summary of—

**The Hon. DANIEL MOOKHEY:** The last discussion was on 15 March.

**KYLIE BELL:** On 15 March, but conversations were absolutely held in between, including reference checks were provided.

**The Hon. DANIEL MOOKHEY:** Sure, but not collectively.

## CORRECTED

**KYLIE BELL:** Not collectively. When someone signs a panel report, it means they agree with it. So that is a collective decision.

**The Hon. DANIEL MOOKHEY:** Which was made on 15 June?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** Six days after Mr Barilaro signed—

**KYLIE BELL:** But Minister Barilaro had not signed his contract at that point.

**The CHAIR:** Can I keep going in relation to the selection panel and the report? In fact, you joined the selection panel, the second recruitment process, at a particular point in time. Is that correct—you weren't originally chosen to be on the selection panel?

**KYLIE BELL:** For the second process? I honestly don't know, as in the panel chair—at some point, I was on there, and the panel chair and her office would have determined who was on and whether—so I can't answer that.

**The CHAIR:** You were added at a particular point in time, after everybody else seemed to have been established on there. Is there a reason you were given for you joining the panel?

**KYLIE BELL:** No. At that point in time, Ms West had left last November, and so the STICs were reporting to me. As the STICs reported to me, I think the logical assumption was I'm the line manager and I should have a say in who was appointed into the role.

**The CHAIR:** Were you were involved in short-listing?

**KYLIE BELL:** Yes, I was.

**The CHAIR:** So the short-listing happened after 22 February?

**KYLIE BELL:** No. I think we received—maybe if I could just explain the sequence.

**The CHAIR:** Yes, please.

**KYLIE BELL:** We went to market on 17 December last year. As you all know from all of the testimony before me, NGS Global was engaged to assist us with the process. As I understand it, they led the short-listing and all candidates were directed through them. I received the first short list from NGS Global on 21 January, but I do know I was on leave on 21 January, so I might not have looked at it. Then a second short list was sent through to us on 28 January.

**The CHAIR:** That was a "short" short list or the "long" short list"? That was a "short" short list?

**KYLIE BELL:** Yes, there were eight candidates there, and then that went down to a further six on 2 February, in consultation with the group.

**The CHAIR:** Can I also ask do you know how the independent members of the selection panels are chosen? What's the general criteria for those independent members to be chosen?

**KYLIE BELL:** Usually, there has to be someone at level—at least as the chair—or obviously senior. The candidates typically—these are band 3 roles. Therefore, typically on the panel is at least one secretary, because they are, therefore, senior to the appointees.

**The CHAIR:** Yes. There has to be an independent person, though.

**KYLIE BELL:** That was my understanding, yes. We typically do have independent people on most of our panels where we can, particularly at a senior level. If I'm recruiting for a policy officer, no.

**The CHAIR:** Do you have a pool of independent people? Like, do you go into a database and there's your independent person that sits on the panel and you choose them?

**KYLIE BELL:** No, we tend to look for subject matter experts. That's my experience.

**The CHAIR:** Is that your understanding of Warwick Smith's addition to the panel?

**KYLIE BELL:** I understood Warwick Smith had been on all of the panels up to that point, so having him there was no different to—from the records I have seen, he was there all along.

**The CHAIR:** Is he remunerated for that? Is he paid to be—

**KYLIE BELL:** To participate? No, not to my knowledge.

## CORRECTED

**The CHAIR:** So he's "independent" even though he has been a Liberal senator? He is viewed by the department as being independent enough to sit on that panel to interview Mr Barilaro?

**KYLIE BELL:** That's correct. I believe if he was a Liberal senator it would be a very long time. I think he's been a businessman for 20 years and in that capacity he is—

**The Hon. SCOTT FARLOW:** I think 1998 perhaps.

**The Hon. WES FANG:** And I'm not sure that's exactly going to be—

**KYLIE BELL:** He's there because he knows a lot about trade and international matters.

**The CHAIR:** For this, were you responsible for working with the NGS recruitment about making sure that the position got to as many people as possible and went out to the world and ideally you got as many applicants as possible? Is that your role to work with NGS recruitment for that?

**KYLIE BELL:** That's correct. But can I say that we probably don't want millions of—lots of people will apply for a role in New York necessarily, but what we do want is the right people to apply, as opposed to thousands of people. NGS was very involved in proactively—one of the reasons why you employ a recruiter is they can go through their networks and identify candidates that are suitable for that particular role.

**The CHAIR:** What would be the bare basics of, for example, trying to find somebody for this position? What would be the essential requirements to make sure that gets out there and the right people see the job and apply?

**KYLIE BELL:** In this case we advertised in the AFR. NGS would have used their contacts through LinkedIn and other—sorry?

**The CHAIR:** Sorry, I'm just telling Mr Mookhey to—

**KYLIE BELL:** Sure. I believe it was advertised in the AFR. It was advertised on the New South Wales government employment website. But, more importantly, NGS have been involved in a number of global recruitment activities and so their role was to go out and help us find the right candidates to our brief.

**The CHAIR:** Is there a reason why you didn't advertise in places like the SMH and *The Australian*?

**KYLIE BELL:** Yes. I think that might have been my decision to not do that, largely due to cost. I think we might have got some pricing in and the costs were quite high. And when I looked at past records—I had not been responsible for the earlier recruitment, but for the other ones we had only ever advertised in the AFR as well.

**The CHAIR:** When did you advertise for? You were talking about the AFR then. When was that undertaken?

**KYLIE BELL:** I believe sometime around 17 December for this role. It was when it was readvertised. I believe maybe—I don't know if that's a Friday, but I think the AFR ads are usually on a Friday or a Saturday.

**The CHAIR:** So your decision to recruit the top talent from around the world was to put into *The Australian Financial Review* on 17 December, which is a Friday, before the two-week shutdown, when every single person really probably looking at something like that is definitely not working and they are at their holiday homes in wherever—

**The Hon. WES FANG:** Are they? Wow.

**The CHAIR:** So that's two weeks from 17 December to 31 December—to New Year's Eve. That was the extent of the advertising? Was it one week in the paper and two weeks online? Is that right?

**KYLIE BELL:** I would have to take that on notice because the advertising was obviously organised by NGS at my direction. How long—typically people apply for jobs at the end of the year is my experience, unless something is wrong. Often people sell their homes, go through new jobs over that Christmas-January period. And the role was open for nearly a month.

**The CHAIR:** So in your experience a really good time to advertise an executive position is the Friday two weeks before New Year's Eve and over the Christmas break when everybody is on holidays?

**KYLIE BELL:** No, that's not what I said. But the decision was made then because the role was vacant and we needed to move forward with it. I believe, actually, the Labor Party had issued a media statement the week before that we were delaying the international rollout and so there was—

**The Hon. DANIEL MOOKHEY:** Is that where you were?

## CORRECTED

**KYLIE BELL:** Yes. So I believe it was put potentially in response to a media statement and we were very keen to show that we were not delaying and keep moving forward.

**The CHAIR:** Did the Minister express any view about the way in which it was advertised? Did the Minister—Minister Ayres at the time—want to have any involvement in that?

**KYLIE BELL:** I believe the Minister's office—not the Minister himself but I believe the office. We were consulted on whether we should advertise. I believe there's an email that you have, which says I was directed to advertise in the AFR, *The Sydney Morning Herald* and any other newspaper we could get our hands on.

**The CHAIR:** *The Australian*.

**KYLIE BELL:** Probably. And we proceeded with the AFR, which is consistent with—

**The CHAIR:** And it says—it's an email from you which was sent on Tuesday 14 December. I don't have the big lawyer's tender bundle that Mr Mookhey likes to do, but I think you'd probably—

**KYLIE BELL:** I concur that that email exists.

**The CHAIR:** Yes. This is the one where you have said:

Minister Ayres has confirmed he would like the add in the SMH, AFR and the Australian.

Was it usual for a Minister to be so involved in the appointment of a particular official that they dictated to you or to the department where the ads would be placed?

**KYLIE BELL:** I don't know. This was the first one I had been involved in and I—

**The CHAIR:** It's the first instance that a Minister has suggested where an ad should be placed? Is that your evidence?

**KYLIE BELL:** No, it's the first time I had been involved in the STIC recruitment process from the start. I had inherited the other STICs, or the finalisation of their agreements, towards the end. The STIC Americas and the STIC China was the first role I led and took over. I have to say, I can't recall whether it was Minister Ayres or Minister Ayres' office directing me to advertise widely. I think sometimes we use the words "Minister Ayres" for his office, not just for him. I can't say if it's unusual or not. But I guess I made the—

**The CHAIR:** Usually you do try to—we have—

**The Hon. WES FANG:** The witness was trying to finish her answer. I think you might have cut her off there.

**KYLIE BELL:** All I would say is that I looked where we had advertised before. The cost of advertising, if we advertised everywhere, would be something like \$100,000, \$200,000, which I didn't think was a good use of taxpayer money. The previous roles, when I checked records, had only been advertised in the AFR and so I went forward on that basis.

**The Hon. DANIEL MOOKHEY:** They were in the *Financial Times* too, weren't they?

**KYLIE BELL:** In the UK?

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

**KYLIE BELL:** But not in Australia.

**The Hon. DANIEL MOOKHEY:** Yes, but we went to the *Financial Times*.

**KYLIE BELL:** Yes, but not all of the roles did we advertise overseas.

**The CHAIR:** I think there were a continuing few emails that were suggesting to advertise in the SMH and *The Australian*. I think there was one from you as well—

**KYLIE BELL:** You might have missed the—

**The CHAIR:** —confirming the Minister would like to do this in January, which was advertising in further publications. Just to be clear, you decided that you'd do a two-week—

**The Hon. WES FANG:** What's the conspiracy?

**The CHAIR:** Order!

**The Hon. PENNY SHARPE:** Stop interrupting.

**KYLIE BELL:** No, that's okay.

## CORRECTED

**The CHAIR:** This is as good as your brief and the electronic signature. Just to confirm, you made the decision to advertise—the only promotion for the STIC Americas was two weeks online and one week in print in the *Fin Review* leading up to Christmas?

**KYLIE BELL:** Yes.

**The CHAIR:** And then there was something from you confirming, "The Minister"—again, it is the Minister, not the Minister's office—"would like to do this in January", which is advertise in the *SMH* and *The Australian*. Then you come back confirming, "The *Fin Review* is sufficient for our requirements." Did you speak with Minister Ayres in that period to see whether he still wanted to advertise in the *SMH* and *The Australian*?

**KYLIE BELL:** No, but I must have spoken to someone in his office. We had a shutdown period, too. I think probably we shut down for two weeks. I can't tell you the day we would have come back to work but it would have been the first or second week in January. At that point I probably checked in with someone and it was deemed no longer necessary.

**The CHAIR:** And you didn't think to extend the advertising time frame to beyond New Year's Eve just to potentially get a few more people that may have been involved in that office shutdown that all government offices, for example, do?

**KYLIE BELL:** No.

**The CHAIR:** I will go back to the Opposition now for the remainder of this time.

**The Hon. PENNY SHARPE:** Ms Bell, when you spoke to Mr Barilaro in relation to the position and the kick-off of negotiations of his contract, was he aware that he had already got the position before you spoke to him?

**KYLIE BELL:** He should've been warmed up by NGS, so I assume he had been. In all the other cases, for example, when I rang Ms Sawczak, who was the successful candidate for China at the same time, she had been told at that point by the recruitment company that she was the preferred candidate.

**The Hon. PENNY SHARPE:** So it's possible that other people had told him but you don't know?

**KYLIE BELL:** No.

**The Hon. PENNY SHARPE:** Thank you.

**The Hon. DANIEL MOOKHEY:** Just to close off before we go to the next set of questions, what's the name of the trade and investment commissioner in San Francisco?

**KYLIE BELL:** Don't ask me to pronounce his surname, but Joe K, Joe Kaesshaefer.

**The Hon. DANIEL MOOKHEY:** Joe Kaesshaefer. And is Mr Kaesshaefer required to register as a foreign agent in the United States?

**KYLIE BELL:** No.

**The Hon. DANIEL MOOKHEY:** Are you sure?

**KYLIE BELL:** I don't think so. I would have to take that on notice. I don't know.

**The Hon. DANIEL MOOKHEY:** Well, I'm looking at his registration as a foreign agent.

**KYLIE BELL:** Okay. Then he's a representative of a foreign government, so then he is probably a foreign agent.

**The Hon. DANIEL MOOKHEY:** Indeed. He declares himself, though, as his primary business address as being in New York. You're telling me he's working from San Francisco.

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** Do you know why, by any chance, he has managed to tell the US Government that he's working from New York when, in fact, he's actually—

**KYLIE BELL:** No. That's his registered office, just like if you're an employee of an organisation here, your organisation's registered office—usually the head office—is the key point of contact.

**The Hon. DANIEL MOOKHEY:** That's fair.

**KYLIE BELL:** Yes. I don't—



## CORRECTED

**The Hon. DANIEL MOOKHEY:** Can I also just ask, you said that the person is being employed as a contractor next week?

**KYLIE BELL:** We do have a regional business manager that is like our office manager that has been involved in setting up the office from a logistics point of view.

**The Hon. DANIEL MOOKHEY:** Do you mind, on notice, perhaps—we might come back to this a bit later on. Can you just check whether they've had to declare or register as foreign agents?

**KYLIE BELL:** They're actually from a temping agency, so they don't have to declare yet. They are employed by Michael Page as a temporary worker, so they don't.

**The Hon. DANIEL MOOKHEY:** Fair enough. Can I just ask that we provide the tender documents to the witness, please? Ms Bell, did you ever attend meetings with Minister Ayres directly?

**KYLIE BELL:** As in one on one or with Minister Ayres in a group setting?

**The Hon. DANIEL MOOKHEY:** How about both? Give me both scenarios.

**KYLIE BELL:** Okay. We had a Monday meeting with Minister Ayres' office.

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

**KYLIE BELL:** He would, I would say, attend every second or third one. That would be with the CEO and various executives from across Investment NSW. I also attended meetings with Minister Ayres where I was the departmental rep, say, with a business or part of day to day. So, yes, I did—

**The Hon. DANIEL MOOKHEY:** And did you also attend meetings with Minister Ayres and Secretary Brown?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** Just the two of you, effectively, with the Minister or—

**KYLIE BELL:** Very rarely, but possibly.

**The Hon. DANIEL MOOKHEY:** And did you ever have any one-on-one meetings with the Minister?

**KYLIE BELL:** No.

**The Hon. DANIEL MOOKHEY:** I might just, if you don't mind, ask you to—you'll have it as your tab two or three, I think.

**KYLIE BELL:** I have two, yes.

**The Hon. DANIEL MOOKHEY:** The one with the document—it says "K Bell" at the top. Have you got that one?

**KYLIE BELL:** Yes, I've got that one.

**The Hon. DANIEL MOOKHEY:** Thank you very much. Do you mind turning to—let me ask, did you have any meetings with Minister Ayres in the week commencing 13 December 2021?

**KYLIE BELL:** Yes. I met with Minister Ayres on 13 December 2021, I think, or the fourteenth.

**The Hon. DANIEL MOOKHEY:** Who was at the meeting?

**KYLIE BELL:** I genuinely don't recall but according to my diary myself and Ms Brown—

**The Hon. DANIEL MOOKHEY:** What was the purpose of the meeting?

**KYLIE BELL:** To discuss Senior Trade and Investment Commissioner appointments.

**The Hon. DANIEL MOOKHEY:** Which particular appointment?

**KYLIE BELL:** The title of the meeting says "Americas and China".

**The Hon. DANIEL MOOKHEY:** So a specific meeting was held with Minister Ayres on 13 December to discuss the Americas and China positions?

**KYLIE BELL:** Yes. It would've been on a Monday morning meeting that I spoke of.

**The Hon. DANIEL MOOKHEY:** And this is because at this point in time the Government is getting ready to announce the Singapore and ASEAN positions, correct?

## CORRECTED

**KYLIE BELL:** Yes. The meeting heading was sent out by Ms Brown's office. I recall the meeting as being more wide-reaching because I do recall that we discussed the announcement of the STIC ASEAN and STIC India and Middle East roles at that meeting. While the heading of the meeting might be "China and Americas", I do feel like it was a broader discussion on where we were going and what—

**The Hon. DANIEL MOOKHEY:** But it was specifically called to discuss the Americas and China positions?

**KYLIE BELL:** I can only speak to what the meeting heading was because I recall—in fact, my actions from the meeting were more focused on the media release that was coming out that week rather than—

**The Hon. DANIEL MOOKHEY:** We can see.

**KYLIE BELL:** I feel like if you worked out the time line you would see where I went with it.

**The Hon. DANIEL MOOKHEY:** Yes, we can see. But this meeting takes place on a Monday, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** On the Friday is when we have the advertisement in the AFR putting up the job position, correct?

**KYLIE BELL:** That's correct. I believe in that meeting we discussed where we would go next. So on the Friday of that week as well we went forward with the recruitment for both STIC Americas and China, and we announced that week before Christmas the two other STICs as well.

**The Hon. DANIEL MOOKHEY:** Yes. Ms Bell, was there a formal agenda for that meeting?

**KYLIE BELL:** No, not that I recall.

**The Hon. DANIEL MOOKHEY:** Who called it? Was it a department-initiated meeting or ministerial-initiated meeting?

**KYLIE BELL:** I can't tell you, because all I have in my diary is that it came from Ms Brown's office.

**The Hon. DANIEL MOOKHEY:** Okay. How much notice were you given about that meeting?

**KYLIE BELL:** I would suggest not long. But, again, I don't recall. I know this sounds terrible, but I'm frequently in meetings and meetings often appear while I'm in meetings to go to more meetings, so I could not tell you.

**The Hon. DANIEL MOOKHEY:** Do you know what time the meeting was?

**KYLIE BELL:** In the morning. Typically, the meetings with the Minister were in the morning.

**The Hon. DANIEL MOOKHEY:** Did you get called that day to that meeting?

**KYLIE BELL:** I can't—I genuinely can't tell you. But I—

**The Hon. DANIEL MOOKHEY:** Ms Bell, you just said that you often get called to a meeting in a meeting?

**KYLIE BELL:** Yes, but what I'm also saying is that the typical meeting with the Minister's office was Monday morning, so it may have been that it was always in my diary.

**The Hon. DANIEL MOOKHEY:** But this wasn't the typical Monday meeting, was it?

**KYLIE BELL:** But I notice that in my diary I didn't have the typical Monday meeting then either, so it may have been—

**The Hon. DANIEL MOOKHEY:** This was an atypical meeting with the Minister?

**KYLIE BELL:** No, it just may have been repurposed. It may have meant that others were being disinvented that were normally there, so we could talk about a particular issue.

**The Hon. DANIEL MOOKHEY:** Do you know why?

**KYLIE BELL:** No.

**The Hon. DANIEL MOOKHEY:** Okay. What happened at the meeting?

**KYLIE BELL:** It's a very good question. I've tried to recall that this morning. I think the conversation was around three or four key points. The first was finalisation of the appointments of our STIC—as I mentioned,

## CORRECTED

STIC India, Middle East and ASEAN—so that we could move to an announcement before Christmas. They had been—that process had been going a very long time and I think we were keen to conclude it. And then, obviously, the other part was around, because of the name of the meeting, was around the recruitment of the STIC China and Americas roles and, I would suggest, giving us the go-ahead to now move forward with the recruitment.

**The Hon. DANIEL MOOKHEY:** Did the Minister have any staff with him?

**KYLIE BELL:** I honestly don't recall who was there, and I say that—I actually don't recall. What I don't recall is the meeting being unusual, so that's the extent to which I can recall the meeting.

**The Hon. DANIEL MOOKHEY:** You say you don't recall the meeting as being unusual?

**KYLIE BELL:** No, that's why my recollections of this meeting are really quite vague.

**The Hon. DANIEL MOOKHEY:** Did this follow your regular Monday morning meeting with the Minister? Were there two meetings that day?

**KYLIE BELL:** I'd have to check my notes. I don't think so.

**The Hon. DANIEL MOOKHEY:** So we can establish that there was at least one thing unusual about this meeting was that it wasn't your regular Monday morning meeting?

**KYLIE BELL:** No, but it would—to say that we only met with the Minister on our Monday meeting is also not correct.

**The Hon. DANIEL MOOKHEY:** I'm not asking about the other ones, Ms Bell. You're the one who said there's nothing unusual about this meeting?

**The Hon. WES FANG:** I take a point of order.

**KYLIE BELL:** To me it wasn't an unusual meeting, so I don't recall anything that came out of it that was contentious or, you know—until this morning, until I saw *The Sydney Morning Herald*, I'd forgotten the meeting.

**The Hon. DANIEL MOOKHEY:** So, can I ask you, did you discuss at that meeting Ms West?

**KYLIE BELL:** No. But I had seen the meeting in my diary and I had asked our—well, I don't know if I asked or the human resources team forwarded me the STIC Americas recruitment process for round one, the report. I had not been involved in it, so I actually don't know what had happened until that point or who the candidates were. I can't recall opening the email or reading the report before I went in. I think it all happened pretty quickly. But I believe the reason why it was sent to me was so that I could actually familiarise myself as a new person in the role with the candidates from round one so that, if required, we could go back to them. But because I had only really taken over that responsibility very—you know, at about that time, I believe it was sent to me for that purpose.

**The Hon. DANIEL MOOKHEY:** Were you sent anything else to assist you in that meeting?

**KYLIE BELL:** I don't think so, because we hadn't gone to market previously for the STIC China role. I don't think so.

**The Hon. DANIEL MOOKHEY:** Is the correspondence you're referring to at pages 8 to 12 of this tender bundle?

**KYLIE BELL:** Page 8? Yes, that—so, page 8, yes.

**The Hon. DANIEL MOOKHEY:** Can you read me the email, please?

**KYLIE BELL:** "For your discussion with the Minister".

**The Hon. DANIEL MOOKHEY:** And what's the attachment?

**KYLIE BELL:** "Selection panel report STIC Americas".

**The Hon. DANIEL MOOKHEY:** Is that the report that's overleaf?

**KYLIE BELL:** Yes. If I open—

**The Hon. DANIEL MOOKHEY:** At the top of page 8 it says here, "Red Category". I just don't actually know what that means. What does that mean?

**KYLIE BELL:** Where are you reading a "Red Category"?

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Right at the top. It says "Categories" under "Attachments"—"Red Category".

**The Hon. WES FANG:** On page 8.

**The Hon. DANIEL MOOKHEY:** On page 8. Sorry, Ms Bell.

**KYLIE BELL:** Sorry. I don't know what that means.

**The Hon. PENNY SHARPE:** Does it mean it's more urgent?

**KYLIE BELL:** I don't know. I've never noticed.

**The Hon. DANIEL MOOKHEY:** So you were sent this email at 10.52 a.m., so that Monday. Correct?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** The person who sent you this is the chief people officer.

**KYLIE BELL:** Correct.

**The Hon. DANIEL MOOKHEY:** Did you have any discussions with her prior to this meeting?

**KYLIE BELL:** No.

**The Hon. DANIEL MOOKHEY:** How did she know you were meeting with the Minister?

**KYLIE BELL:** I don't recall but here it is.

**The Hon. DANIEL MOOKHEY:** So at least it was known in your organisation that there was to be a meeting that morning with the Minister. Correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And the chief people officer, of her own volition apparently, sends you the STIC Americas report that recommends Ms West for the job.

**KYLIE BELL:** I simply think she was sending it to me as a new person in the role so that I could go in prepared for a meeting with the Minister about a topic that I might not know the history on.

**The Hon. DANIEL MOOKHEY:** So was it in anticipation of your needs?

**KYLIE BELL:** I think so, yeah.

**The Hon. DANIEL MOOKHEY:** You still can't tell us when precisely you were invited to the meeting.

**KYLIE BELL:** No, I can't. I don't know if there's a way from technology to tell you. I know the meeting was at 11.15 and that's all I can tell you. I don't know when it was extended to me or when I accepted it, or whether it was on the day, or it was longstanding.

**The Hon. DANIEL MOOKHEY:** So you were sent this email, which includes the report, 30 minutes before the meeting itself.

**KYLIE BELL:** I'd go so far as to say even 20, yep.

**The Hon. DANIEL MOOKHEY:** I was being generous.

**KYLIE BELL:** Yeah. Yes, I—

**The Hon. WES FANG:** That's not like you.

**KYLIE BELL:** The honest answer is I don't even know if I received it before I walked down for the meeting.

**The Hon. DANIEL MOOKHEY:** Is it possible that perhaps Ms Brown anticipated that this might be required?

**KYLIE BELL:** I can't say. That would be a question for Ms Brown.

**The Hon. DANIEL MOOKHEY:** But do you understand how curious this looks?

**KYLIE BELL:** Yes. I—

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Do you understand that it looks like four days before we're reopening the Americas position, a meeting is called that is attended, we can only confirm, by Minister Ayres, yourself and Secretary Brown, in which you are sent, 30 minutes prior, a report on Jenny West.

**KYLIE BELL:** Well, actually it wasn't a report on Jenny West. It was a report on the recruitment process for round one.

**The Hon. DANIEL MOOKHEY:** Which recommended Jenny West?

**KYLIE BELL:** Yes, I would—well, I don't know.

**The Hon. DANIEL MOOKHEY:** And you can't recall an instance—

**KYLIE BELL:** My version is redacted so I actually don't know what it recommends. There's a lot of black on mine.

**The Hon. DANIEL MOOKHEY:** Are you suggesting—are you wishing to challenge that this report recommended Ms West?

**KYLIE BELL:** No, no. Like, I'm looking at it for now and what I'm saying is the report is blacked out.

**The Hon. DANIEL MOOKHEY:** Sure. But you don't then recall the actual discussion?

**KYLIE BELL:** On the meeting on Monday 13 December? Yeah, I do recall the discussion. I feel like the discussion became that we would move forward with advertising that week and we would quickly work to announce through a media release two STIC appointments that had been ongoing for a while.

**The Hon. DANIEL MOOKHEY:** Even at that level of operational detail, you've confirmed that you wouldn't expect the Minister or Ministers to be across matters of leases. Why was it important for there to be a meeting with the Minister directly simply to say to him, "We're intending to go ahead with advertising."? Why did it require a direct face-to-face meeting with the Minister? Was the meeting face to face, firstly?

**KYLIE BELL:** I can't even tell you that, but my feeling is yes.

**The Hon. WES FANG:** What date?

**The Hon. DANIEL MOOKHEY:** So you're telling me, Ms Bell, that you had to have a meeting—

**KYLIE BELL:** We might have been in lockdown again. I'm not sure.

**The Hon. DANIEL MOOKHEY:** I don't think we were in lockdown.

**KYLIE BELL:** Yeah. I feel like I walked down and went to a meeting.

**The Hon. WES FANG:** That was your press release?

**The Hon. DANIEL MOOKHEY:** I actually don't recall. This wasn't mine.

**KYLIE BELL:** Yeah. I don't recall either.

**The Hon. DANIEL MOOKHEY:** It wasn't my press release. It wasn't mine; rest assured.

**The Hon. WES FANG:** Okay. I suspect it was probably before then.

**The Hon. DANIEL MOOKHEY:** Ms Bell, are you seriously suggesting that you had to have a meeting with the Minister to just talk about a decision you'd already made to reopen advertising on the seventeenth and to discuss a media release for which, as we can see from the documents, there are multiple exchanges happening with his staff? Are you seriously telling me that that's what required Minister Ayres' attention?

**KYLIE BELL:** I feel like he wanted to have an update and be briefed on where we were up to. He was probably concerned that a media release had been put out saying we had not moved forward. He might have called us in to make us hurry. He might have given us a kick.

**The Hon. DANIEL MOOKHEY:** You are speculating, Ms Bell, but you were at that meeting.

**KYLIE BELL:** I am because I don't recall the meeting as being particularly—but there was no colluding. Yes, I don't feel it was being—

**The Hon. WES FANG:** To be fair, Mr Mookhey, most of what you've put forward is speculating.

**KYLIE BELL:** Yes.

**The CHAIR:** Order!

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Actually it is inquiring.

**The Hon. PENNY SHARPE:** We know it is the afternoon. You were very good this morning.

**The Hon. DANIEL MOOKHEY:** I am actually talking to a person who was at the meeting. It was reasonably good; it wasn't great.

**The CHAIR:** Order!

**The Hon. PENNY SHARPE:** I think you were reasonable.

**The Hon. DANIEL MOOKHEY:** I know. That is what I am saying. I was reasonably good. I wasn't great.

**The Hon. PENNY SHARPE:** Do better.

**The Hon. WES FANG:** I struggle.

**The Hon. DANIEL MOOKHEY:** Do you have anything further you wish to add, Ms Bell?

**KYLIE BELL:** All I can say is, as I mentioned, it wasn't a meeting that I remember as being instrumental in this process.

**The Hon. DANIEL MOOKHEY:** Ms Brown told us two days ago that she certainly put to Minister Ayres a suggestion or made inquiries about his attitude towards progressing Ms West. I think to be clear it wasn't at this meeting. According to Ms Brown it was at an earlier meeting.

**KYLIE BELL:** No, I believe Ms West had left on 30 November so that was not the subject of—

**The Hon. DANIEL MOOKHEY:** Hence it was quite curious.

**KYLIE BELL:** Literally I feel like this was a colleague giving me a heads up to help me prepare for my first meeting with the Minister on this matter. I don't feel it was a conversation—you know, there was, yeah.

**The Hon. WES FANG:** Am I able to tap in?

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

**The Hon. WES FANG:** Ms Bell, thank you for appearing today. I appreciate there was some difficulty in the recall. I note that my colleague Mr Mookhey has put some scenarios and he has drawn some parallels and conclusions from the evidence. Can I perhaps take you to the fact that the week before this meeting occurred there was a press release from the Labor Party which was talking about the slow rollout of the positions.

**KYLIE BELL:** Yes.

**The Hon. WES FANG:** Is it at all possible that perhaps the Minister and his office sought an update, given that he was new to the role and given that you were new to the role—

**KYLIE BELL:** Yes.

**The Hon. WES FANG:** —that in anticipation that you may get questions about the previous recruitment process, your colleague sent you the report. As you have noted, it was about 20 minutes before you walked into the meeting. Given the length of this report there is no way you could actually have read it and—

**KYLIE BELL:** I don't recall reading it or receiving it before the meeting.

**The Hon. WES FANG:** —absorbed it in detail enough to explain it to a Minister before the meeting but that you had it there if you needed to perhaps address questions around it from the Minister who might have asked what had happened.

**KYLIE BELL:** Yes.

**The Hon. WES FANG:** That is an extremely likely or possible scenario, is it not?

**KYLIE BELL:** That's correct. My recollection is that the meeting was scheduled in response to the media release just to make sure we were progressing on that government priority.

**The Hon. WES FANG:** Normally a Minister would not be engaged so much about what newspaper adverts are going in about a job role, except for perhaps where an Opposition might have drawn attention to, say, a perceived slow rollout of the role and then it may have attracted their attention just to ensure that they were able to indicate that, no, the Government was in fact progressing the rollout and the recruitment process quickly and therefore might have had a bit more of an interest in where it was being advertised.

## CORRECTED

**KYLIE BELL:** Yes, I think that's correct.

**The CHAIR:** At this point we will take 15-minute break. We will resume at 14:45.

**(Short adjournment)**

**The CHAIR:** We will kick off.

**The Hon. DANIEL MOOKHEY:** Thank you, Ms Bell. Just quickly, do you know what the merits are of converting STIC positions to ministerial appointments from a public policy perspective?

**KYLIE BELL:** No.

**The Hon. DANIEL MOOKHEY:** I will repeat the question: Do you know what the merits are of converting STIC positions to ministerial appointments?

**KYLIE BELL:** No. My supposition is other State governments have ministerial appointments and I believe senior trade and investment commissioners at the Commonwealth level may also be ministerial appointments. I am not sure.

**The Hon. DANIEL MOOKHEY:** Again, to confirm, for the purposes of bringing a submission to Cabinet, were you as the person who was actually responsible for managing the STIC roles ever asked what the merits were of this conversion?

**KYLIE BELL:** At that point I was not responsible for the STICs; Ms West was.

**The Hon. DANIEL MOOKHEY:** Fair enough.

**KYLIE BELL:** I might have been asked a passing thought, but I don't recall being involved in that conversation at all.

**The Hon. DANIEL MOOKHEY:** Ms Brown has effectively told us that that decision, for want of a better term, to convert them remains but is effectively in abeyance. Is that your understanding as well?

**KYLIE BELL:** Technically, as far as I can see, a decision of Government was made and it hasn't been technically overturned.

**The Hon. DANIEL MOOKHEY:** Ms Bell, I am going to go through some matters that arose from Ms Brown's evidence, in which Ms Brown suggested we speak to you.

**KYLIE BELL:** That was kind of her.

**The Hon. PENNY SHARPE:** We thought so.

**KYLIE BELL:** No, that is fine.

**The Hon. DANIEL MOOKHEY:** As people of our word, we said we would, so here we are. Do you mind turning to page 11. Did you by any chance see Ms Brown's evidence?

**KYLIE BELL:** I haven't had the chance to go through it all and I did not watch all day.

**The Hon. DANIEL MOOKHEY:** Fair enough. We were asking Ms Brown about certain emails in which there was reference made to informal referees of the candidates. You can see that on page 11 in the highlighted section. I ask:

**The Hon. DANIEL MOOKHEY:** The obvious question is who were the informal referees?

She says:

**AMY BROWN:** I was certainly referring to Minister Ayres.

But then she goes on to say:

Kylie Bell, who is more connected into this space because she was a trade and investment commissioner herself, had been having—she did a bit of a ring around people who have worked—

Did you do a ring around about any candidates any time from 15 March onwards?

**KYLIE BELL:** I made one call to a colleague not regarding Mr Barilaro; it was regarding our second candidate. She had been working in Asia and I made one inquiry just as to whether she was known and what someone thought about her. It came back glowing.

**The Hon. DANIEL MOOKHEY:** So the informal reference check—

**KYLIE BELL:** Was not on Mr Barilaro. Remember, we were assessing two candidates.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** We have established who the second candidate is through other documents.

**KYLIE BELL:** That is correct.

**The Hon. DANIEL MOOKHEY:** So we will refer to her as Ms Cole.

**KYLIE BELL:** I would rather not because I feel like she is someone who is out there and has a job and probably doesn't want people knowing all of this stuff, but yes, okay.

**The Hon. DANIEL MOOKHEY:** We will have to because there are four candidates in this process, Ms Bell.

**The Hon. SCOTT FARLOW:** Well, I think—

**KYLIE BELL:** That is okay.

**The Hon. DANIEL MOOKHEY:** Now that we have done it, we will move on and refer to this person as the second candidate. But to be clear, the person you were referring to when you made the call, whose informal reference you checked, was Ms Cole?

**KYLIE BELL:** That is correct.

**The Hon. DANIEL MOOKHEY:** And the reply that came back was glowing?

**KYLIE BELL:** Yes, she was very good. But her career had been in Asia and this was a US role. I believe you will find in the correspondence that I did ask the recruitment company if she would consider a role in China.

**The Hon. DANIEL MOOKHEY:** I saw that.

**KYLIE BELL:** So the assessment wasn't whether she was capable of doing the job, but the question became whether she had any experience that was relevant to the US.

**The Hon. DANIEL MOOKHEY:** Incidentally, between the draft that we have established was produced by NGS on 25 March—

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** —which Ms Brown told us was a draft she didn't ask for, it is fair to say that draft was also pretty glowing about this second preferred candidate. Correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** After that you check her informal references and they were glowing. Correct?

**KYLIE BELL:** That's correct. She was recognised as being a strong businesswoman in Hong Kong, in Asia.

**The Hon. DANIEL MOOKHEY:** Sorry, can you say that again?

**KYLIE BELL:** She was recognised as being a strong businesswoman in Hong Kong, in Asia.

**The Hon. DANIEL MOOKHEY:** And yet, when we go forward in time to the selection report that was produced on 28 May, her ratings are downgraded from the draft. Do you know why?

**KYLIE BELL:** I think NGS sent that, again, and I can't comment on why they kept sending these reports in.

**The Hon. DANIEL MOOKHEY:** But then the same downgraded rating of the second preferred candidate, who seems like she was a very strong businesswoman in Asia—

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** The final report that you signed, equally signed by the other panel members well and truly after the decision was made to employ Mr Barilaro, also contains a similar downgrade.

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** Okay. So we have checked her references formally and informally. They come back glowing, yet we downgrade her rating. Can you explain how that happened?



## CORRECTED

**KYLIE BELL:** I think we downgraded her rating in the context of a US commissioner role.

**The Hon. DANIEL MOOKHEY:** We upgraded Mr Barilaro's. But, best we could tell, the only informal referee who was checked for Mr Barilaro was Minister Ayres?

**KYLIE BELL:** I would assume that is a question for Amy, because I did not check his informal reference.

**The Hon. DANIEL MOOKHEY:** We did ask her, and she said the only person she mentioned was Minister Ayres. He was the only informal reference she was making. She said it:

I was certainly referring to Minister Ayres.

That's on page 11, and she says you were. So it is clear you weren't doing any informal referee checks on Mr Barilaro.

**KYLIE BELL:** No. I was looking into Ms Cole and how suitable she would be for a role in the US.

**The Hon. DANIEL MOOKHEY:** Okay. So far the only informal reference who was checked for Mr Barilaro was Minister Ayres. He has his rating upgraded. The informal reference check you undertake on Ms Cole is glowing. Yet she has hers downgraded. Can we explain how that happened?

**KYLIE BELL:** Yes. I think it's important to understand the context of the role. Because someone is a fantastic business person in Hong Kong or China does not mean they are going to succeed in New York.

**The Hon. DANIEL MOOKHEY:** Does that mean Mr Barilaro—has he ever had experience in Hong Kong?

**KYLIE BELL:** No, and he didn't apply for the STIC role in China, so—

**The Hon. DANIEL MOOKHEY:** Has he had any experience internationally whatsoever?

**KYLIE BELL:** He was a Minister for trade.

**The Hon. DANIEL MOOKHEY:** Sure, but has he worked offshore?

**KYLIE BELL:** Yes. Well, no. He has not worked offshore. Before he joined government, according to his interview and according to his CV, he led a company—a small business—that he took overseas. And so that was an exporting business. He was able to articulate how he himself, as a business person, cracked the China market as an SME, which was going to be what his job is doing. So it was quite a credible—

**The Hon. DANIEL MOOKHEY:** And that was known to you on 15 March, correct?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** When you interviewed him.

**KYLIE BELL:** No. I don't believe I knew anything about him before I interviewed him, aside from his CV. It was in there, but it was—

**The Hon. DANIEL MOOKHEY:** It was known to you by 25 March, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And so that was factored in, in terms of the draft report by NGS at least, correct?

**KYLIE BELL:** The draft report—I think it must have been in there, yes. It should have been in there, but there were a lot of things that should have been in there that weren't in there, and things that shouldn't have been—

**The Hon. DANIEL MOOKHEY:** What I am trying to understand, Ms Bell—I am not going to ask you much more about this.

**KYLIE BELL:** By all means—

**The Hon. DANIEL MOOKHEY:** I've got other things to ask you.

**The Hon. WES FANG:** Other rabbit holes to go down.

**The Hon. DANIEL MOOKHEY:** Your evidence is that Ms Cole, who was at this point, and still is, a respected businesswoman in Hong Kong who has had years—decades, from what I can tell—of international experience in multiple markets like Asia, Europe, elsewhere—

CORRECTED

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**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** —has glowing references, formally and informally. But you are saying to me that your concern with her was that because she didn't have any specific experience in America that was a factor, which is fair and reasonable. But the issue is that the person you ended up choosing lacks similar experience as well. It does look like one standard was applied to one candidate and another standard was applied to another. If we are to accept the basis that having experience in country was an essential requirement, or at least a factor that didn't help Ms Cole in her candidacy, how is it possible that Mr Barilaro then was the conclusion that he would have the same experience?

**KYLIE BELL:** So there's two sides to the coin. I guess that's the best way I could articulate this to you. We are either looking for a candidate that knows the State, knows the businesses that are here, knows our industry strengths and can sell those to the market that they're in—for example, Mr Barilaro was the Minister for trade, industry and regional. He met that criteria. In an ideal world, we'll get someone that can do both and that has deep US experience.

In this case, Ms Cole unfortunately did not have US experience and she didn't have New South Wales experience. So she kind of had neither. She's from Victoria. She's lived overseas for her career. She worked in Sydney 15 or 20 years ago for three years. So it was an assessment based on, "Neither meet the criteria 300 per cent. Do we go with someone that doesn't know the State and doesn't know the US? Or do we go with someone that could stand up in New York and articulately explain why someone should do business with New South Wales?" And that was why Mr Barilaro was selected.

**The Hon. WES FANG:** It seems highly reasonable to me.

**The Hon. PENNY SHARPE:** When we asked Ms Brown this week about what happened with the selection panel and the change from the original selection panel—which was, to be frank, not very flattering for Mr Barilaro—and then we got to the final, which has obviously been elevated significantly since then, she said that you spoke to NGS on a number of occasions to sharpen up the report in terms of its accuracy. Do you want to tell us what you actually did?

**KYLIE BELL:** Yes. To come back with a report that wasn't actually at all complimentary to Minister Barilaro—or Mr Barilaro or whatever we want to call him now—was incorrect. We had agreed at that meeting that we were completely torn between the two candidates. That's why we went to get reference checks on both of them. I can say that I've sat on 10 panels in the last 12 months and we only reference-check the final candidate. The fact that we got two reference checks—we are still debating this. I am unclear why they sent the report which was so scathing of him, other than, quite frankly, at that point in time we had not interviewed for STIC China. We had four male senior trade commissioners.

**The Hon. PENNY SHARPE:** Do you think it's unusual that a very experienced—

**The Hon. WES FANG:** I think Ms Bell was trying to complete her answer.

**KYLIE BELL:** I feel like there was a bit of unconscious bias there from NGS, if I'm honest. My conversation—

**The Hon. PENNY SHARPE:** What do you mean by that? They didn't like him?

**KYLIE BELL:** Potentially. We agreed in that meeting very clearly that we had two candidates and they were instructed to reference check those two candidates. Yet when they sent the report back it very clearly stated that Ms Cole was the preferred candidate and that Mr Barilaro was not—I don't know the words. But obviously he was downgraded, and that's completely not factual. You only go to reference checks when you can't work out how to proceed.

**The Hon. PENNY SHARPE:** I appreciate that. But it is very unusual for a highly regarded global search company, who had done all of these other selection panels—even if you disagree with what came in, are you just dismissing out of hand their view in relation to the assessment of Mr Barilaro?

**KYLIE BELL:** I am dismissing the conclusion that they drew in the first report, yes, which is why Ms Brown went back. At the end of the interview we were undecided. It's no secret that there were a number of us on the panel that were very interested in ensuring that we had diversity in the candidates.

**The Hon. PENNY SHARPE:** You were trying to get women candidates, yes. That's very clear from the paperwork.

**KYLIE BELL:** Absolutely. You can see from the paperwork that is very clear. On merit, Ms Cole was a successful businesswoman and had done fantastic work. The two criteria that we were looking for were someone

## CORRECTED

that knew the State or someone that knew the market. She did not necessarily meet both of those criteria and so we went to reference checks to see if we could work through that further.

**The Hon. PENNY SHARPE:** Just to be clear, Ms Brown's evidence was that she was an equal candidate and, really, she lost the job when she had a 12-minute Teams meeting with Minister Ayres.

**KYLIE BELL:** That was one of the factors, I understand. I was not present at that meeting. I don't know how she performed so I can't comment on it. But, certainly, we were obviously all keen for Ms Cole. As I said, there would be an email somewhere in your pack which is me asking the recruitment company if she would consider the China role.

**The Hon. PENNY SHARPE:** I have one more question on this: Subsequently to this whole process—obviously there has been a lot of attention about it—have any of the other panel members raised with you concerns about changing the wording of the panel process or the selection process at all?

**KYLIE BELL:** No. I don't believe I have seen or spoken to Ms Lo.

**The Hon. PENNY SHARPE:** Or Mr Smith?

**KYLIE BELL:** Or Mr Smith. I have had one interaction with—

**The Hon. PENNY SHARPE:** Or Ms Broadbent?

**KYLIE BELL:** No. With Mr Smith, at an event; and with Ms Broadbent, no. The answer is no.

**The Hon. DANIEL MOOKHEY:** Can you please turn to page 40 of that transcript I gave you?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** This is about the composition of the actual selection panel. You can see there is an email from you in which you say that the involvement of MCT is critical—MCT. Who were you referring to?

**KYLIE BELL:** Michael Coutts-Trotter.

**The Hon. DANIEL MOOKHEY:** You can see I ask why it was critical to have Mr Coutts-Trotter in the process. And I think Ms Brown says, right down the bottom, that that was basically your view. In fact, she says that on top of page 41.

**KYLIE BELL:** Yes, that's correct.

**The Hon. DANIEL MOOKHEY:** Why did you think it was crucial to have him involved?

**KYLIE BELL:** Well, I'd looked at the other recruitment that had been—so, again, remember I'm kind of new to this, and the Secretary of DPC and the Secretary of Treasury had sat in on all of the panels previously. And then, from the documents that I could find, at the time—so Ms Brown only became a secretary—I don't know the exact date but we were part of the Deputy and Premier—the DPC Cabinet. So I was just assuming, probably incorrectly now, that we should have the secretary of the department. As it was, Ms Brown became her own secretary and we were covered. But as I was planning, based on the seniority of those that had been involved in earlier—maybe my mistake, but I just thought it was something—

**The Hon. PENNY SHARPE:** Mr Reardon and Mr Pratt?

**KYLIE BELL:** Yes, that's correct. And I just thought we should follow the same process.

**The Hon. DANIEL MOOKHEY:** I won't push you much further, Ms Bell. I just want to give you a chance to reply, that's all.

**KYLIE BELL:** Yes, that's fine.

**The Hon. DANIEL MOOKHEY:** Can we just go forward now to page 49. You were at Treasury, correct, before you were at Investment NSW?

**KYLIE BELL:** Yes. And, before that, Department of Industry.

**The Hon. DANIEL MOOKHEY:** And the Treasury developed the Global NSW strategy, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And the Treasury also led the process around the selection of the Tokyo position, correct?

CORRECTED

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**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** They also led the process around the United Kingdom position, did they not?

**KYLIE BELL:** That's correct; they were the first two.

**The Hon. DANIEL MOOKHEY:** And that was the position that resulted in the appointment of Mr Stephen Cartwright. That's fair?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And at that point the process for the selection of the Agent General commenced under Treasury but was transferred to Investment NSW?

**KYLIE BELL:** Through the machinery of government change, correct.

**The Hon. DANIEL MOOKHEY:** And then you got involved in the contract negotiation stages?

**KYLIE BELL:** Not with the Agent General, no.

**The Hon. DANIEL MOOKHEY:** Are you sure?

**The Hon. PENNY SHARPE:** Are you sure?

**KYLIE BELL:** Not his initial contract. As the documents will show, he has renegotiated one element of his contract this year.

**The Hon. DANIEL MOOKHEY:** Which part of that has he renegotiated this year?

**KYLIE BELL:** His accommodation.

**The Hon. DANIEL MOOKHEY:** Okay. From what, to what?

**KYLIE BELL:** Sorry?

**The Hon. DANIEL MOOKHEY:** You said he renegotiated it. What was the base position prior to that renegotiation?

**The Hon. SCOTT FARLOW:** Point of order: The terms of reference of the inquiry are clearly on Mr Barilaro's appointment to the US Senior Trade and Investment Commissioner role. While we have entertained some questions in terms of the Agent General position, I don't think this would necessarily be relevant at all in any other related matters to the appointment of Mr Barilaro—

**The Hon. DANIEL MOOKHEY:** It's about establishing a baseline to compare to other positions, including the New York position.

**The CHAIR:** Yes. There is no point of order. Continue your questions.

**The Hon. DANIEL MOOKHEY:** Ms Bell, there was a renegotiation this year, was there?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** And that resulted in a change to the arrangements as they applied to accommodation?

**KYLIE BELL:** Yes. I guess what I'm trying to work out is—and I might have to take it on notice—it's part of his package, and I just don't know what—

**The Hon. DANIEL MOOKHEY:** Rest assured, you are covered by parliamentary privilege.

**KYLIE BELL:** —parts of people's remuneration—

**The Hon. PENNY SHARPE:** It is actually in the public domain.

**The Hon. DANIEL MOOKHEY:** It's a lawful—

**KYLIE BELL:** Yes, I feel like it's been in the media quite—

**The Hon. DANIEL MOOKHEY:** I appreciate the caution but, nevertheless—

**KYLIE BELL:** Unless someone is telling me not to, I'll keep going.

**The Hon. PENNY SHARPE:** Yes, please do.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Sorry, who is telling you not to?

**The Hon. WES FANG:** She said, "Unless somebody tells me not to." The witness actually can—

**The Hon. PENNY SHARPE:** Point of order—

**The Hon. WES FANG:** I just want to remind the witness, if she is unsure, she can take the question on notice.

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** The witness does know there was a renegotiation this year, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And that was about accommodation?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** Was it a case that that resulted in the provision of additional income—well, what was the outcome of that negotiation?

**KYLIE BELL:** It was simply a matter that, in the case of the Agent General, he is paid a salary and an allowance—a cost-of-living allowance. We simply converted the cost-of-living allowance to paying accommodation rather than paying cash.

**The Hon. DANIEL MOOKHEY:** Okay. What's the cost of that?

**KYLIE BELL:** It's cost neutral.

**The Hon. PENNY SHARPE:** Is the reason to do that because it gets different tax treatment?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** Does that result in him paying less tax to the United Kingdom?

**KYLIE BELL:** It resulted—the money was intended to support him with the difference in cost of living. If someone is paid that as part of their salary, then it's not an allowance that helps with cost of living. It was converted following an analysis of what the Commonwealth and other State governments do.

**The Hon. DANIEL MOOKHEY:** Ms Bell, the question was: Did that result in Mr Cartwright having to pay less tax to the United Kingdom government?

**KYLIE BELL:** Well, it would result in Mr Cartwright not having to pay as much tax on that proportion because it was a cost-of-living allowance and at the—

**The Hon. DANIEL MOOKHEY:** Why did we agree to that change?

**KYLIE BELL:** We did some analysis of how both the Commonwealth treat packaging, and we did some analysis around how the other State governments, I guess, remunerate and look after their—I can't say that word, sorry, but look after their agent-generals in the UK. It made sense, rather than paying 50 per cent tax on allowance that was supposed to support changes in cost of living, that we paid the accommodation directly.

**The Hon. PENNY SHARPE:** Did Mr Cartwright approach you for that change or did you initiate it?

**KYLIE BELL:** I believe Mr Cartwright approached us for that change.

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

**KYLIE BELL:** I would have to take a fixed date on notice, but I know it was this year because I wasn't involved—

**The Hon. DANIEL MOOKHEY:** Is there a fringe benefits tax regime in place in the United Kingdom?

**KYLIE BELL:** Yes, I assume some sort of—I don't know what it's called but it's not called "fringe benefits tax".

**The Hon. DANIEL MOOKHEY:** The last question is: As a result of that change, isn't it the case that rather than Mr Cartwright having to pay that tax, the people of New South Wales now need to pay that tax as a fringe benefit, or its UK equivalent, because we are his employer? That's correct, isn't it, Ms Bell?

**KYLIE BELL:** I believe that is so.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** So he have given him a tax cut, and we have picked up his tax bill. That's the actual, in human terms, what we've agreed to here, isn't it, Ms Bell?

**KYLIE BELL:** No, we have not picked up his tax bill.

**The Hon. DANIEL MOOKHEY:** Well, we now have a bigger tax bill.

**KYLIE BELL:** We have used the allowance for cost of living to go towards a cost of living in the UK, which is his rent.

**The Hon. SCOTT FARLOW:** And, Ms Bell, you said that's cost neutral.

**The CHAIR:** Let's just continue with STIC Americas, if we can. I wanted to go back to the situation with the changed selection reports in the second round. Were you sent the selection panel reports—you and Amy Brown—from NGS Recruitment, or was Amy sent them directly and she then sent them on to you?

**KYLIE BELL:** There was a few. The first one I was copied in on, or it was sent to me, and I believe the date of that—you probably have the date better than I do, but I think it was—you will have the date better than I do, but I think it was around about 28 March or something.

**The CHAIR:** Yes. I think it was—

**KYLIE BELL:** Or 26 March or something.

**The CHAIR:** I've got Friday the twenty-fifth.

**KYLIE BELL:** Actually, the draft selection report was sent to me—it was on 25 March.

**The CHAIR:** Can I just check with that one, just a question with that one? When they're saying "draft selection panel report", you get every single applicant—a selection panel report for each of those applicants. So you got one for everyone that was interviewed? "Candidate" I should say, not "applicant".

**KYLIE BELL:** No, it's one document, which was prepared in this case by NGS. I'm not sure if we asked for it, but it was basically a document ranking those that we had interviewed and an assessment of those.

**The CHAIR:** Just to be clear—

**KYLIE BELL:** Before that, I think you might be talking about the short-listing report, maybe.

**The CHAIR:** No, the one on the twenty-fifth.

**KYLIE BELL:** It's a record—

**The CHAIR:** The original one that referred to Mr Barilaro, where they summarise for you says—and it's extremely tiny writing when you print it out—"The panel came to the view that John did have some of the relevant capabilities"—that's that last sentence—"and experience for the role. However, he had not worked internationally in a role aligned to the experience expected for high-level STIC candidates. He would need to hold a team without the business or departmental infrastructure he had previously. His lack of business development networks would mean that he would have a considerable learning curve in the role." This was the first one. Just to be clear, that one when it had the other person as the recommended candidate, did it have in the summary—explain for Ms Cole why she would be suitable for the role? Did it outline it that much?

**KYLIE BELL:** I don't have a copy of the report here with me. It would have outlined some sort of why she was the preferred candidate for the role, if that was what the report was getting to. As I mentioned, the outcome of the interview was that we were going to do a deep dive into the two candidates. I don't recall what it actually said, whether she was equally critical or not. But—

**The CHAIR:** When you were liaising with NGS Recruitment—what was it—to work on accuracies or to—

**The Hon. WES FANG:** Sharpen.

**The CHAIR:** —sharpen, that was to both Mr Barilaro's selection panel as well as Ms Cole's. So as well as changing what we've seen here—we had the documents revealed that show the difference between what was in the original selection panel report for John Barilaro and what ultimately came back after being changed—that was upgraded. Was the original recommended candidate downgraded as well in the text?

**KYLIE BELL:** In the text, I think, it was more amended as to—remember this was a first draft provided to us by NGS that we had not seen before. As the report iterations were prepared, her strengths and weaknesses were elaborated on and so were his. I know there's across the top the "meets" and "exceeds". I don't even know if

## CORRECTED

that's required for these roles. But they had done them nevertheless. In terms of the word "downgraded", do you mean in the text—

**The CHAIR:** Yes. We have seen that she was clearly downgraded—

**KYLIE BELL:** In the rankings.

**The CHAIR:** Clearly in the rankings. With regard to altering the words—

**KYLIE BELL:** Words were also altered.

**The CHAIR:** Words were altered. So words were altered for John Barilaro to essentially say that actually he can do it and, despite what the global recruitment firm says, that he would have a considerable learning curve in the role. Suddenly that's not the case at all and he would have a deep understanding and would operate well in a dynamic. So those were the changes. Were there changes to that extent, do you think, with Ms Cole's? You were responsible for crafting those words in the end, were you, Ms Bell?

**KYLIE BELL:** Yes. Certainly I remember articulating finally the strengths and weaknesses of both. I don't want to talk about what Ms Cole's words were.

**The CHAIR:** I'm not after that.

**KYLIE BELL:** I think the word "downgrading"—I think all we did was include in the text why eventually she had not been selected on comparison to Mr Barilaro. Please be clear. The reason she was not selected was not because she would not do a great role or be great in one of these roles. The question became whether she was going to be great for this particular role, given most of her expertise was in Asia. So the report was updated to reflect simply that she would be a very strong candidate in the future but she was not right for this particular role.

**The CHAIR:** In one of these NGS Global reports—these are the ones—you actually rank them against all the capability frameworks. It's basically what NGS Global comes up with.

**KYLIE BELL:** I don't know if I've seen that.

**The CHAIR:** Every candidate receives one and basically underneath we have "track record". This is assessed against this capability framework. We have "track record", "decisioning", "delivery", "leadership of self", "leadership of others". This is the one that has been referred to in the past—Jenny West, for example, "highly competent" in nine of these fields. Mr Barilaro, in his assessment, didn't get highly competent in any of those fields. Similarly for Ms Cole. She may have also received—

**The Hon. DANIEL MOOKHEY:** She exceeded the diagnostic baseline. Hers was better.

**The CHAIR:** She got a similar—through the roof, if you like—

**KYLIE BELL:** Was that from the panel report? Or was that one of the psychometric diagnostics? I can't see—

**The CHAIR:** This is a diagnostic baseline.

**The Hon. WES FANG:** Can I suggest that you provide the document to Ms Bell so that she can actually have a look?

**KYLIE BELL:** Is it in one of these packs?

**The Hon. DANIEL MOOKHEY:** I'll get it for you, Ms Bell.

**The CHAIR:** It's quite remarkable to consider downgrading Ms Cole, for example, and upgrading Mr Barilaro if, in terms of the capabilities on that selection report where it has "exceeds" and "exceeds" and "exceeds" and "meets"—we've got these assessments that are clearly against assessing capabilities, where he didn't rate highly competent on any of them. So the question is how do you simply just—it's like you're just popping—cut and paste.

**KYLIE BELL:** I believe they might be supplementary.

**The Hon. DANIEL MOOKHEY:** No, they're not. I assure you they're not.

**KYLIE BELL:** Yes, okay, hold on.

**The Hon. DANIEL MOOKHEY:** While that's being found by Mr Mookhey, there also is that same email that you said on 25 March—that's when you were emailed the draft selection panel report.

**KYLIE BELL:** That's correct.

## CORRECTED

**The CHAIR:** The managing partner of NGS Global has sent these to you and she said in the email to Ms Brown and yourself—firstly she says:

Amy and Kylie – we weren't sure if you wanted Kathrina and Warwick included at this stage, but happy to forward on if appropriate.

So, firstly, to you two, "Do we include the other two selection panel members?" Then she says:

Attached is the draft Selection Panel Report for the Americas role – was not sure how you want to do this, but have done what we thought was in line at the time.

The managing director of NGS recruitment says to you and Ms Brown that what's contained in the draft selection panel report is "what we thought was in line at the time". That is a clear recommendation for not Mr Barilaro but the preferred, recommended female candidate. How did she get that so wrong?

**KYLIE BELL:** I simply think—as I said, we definitely meant to reference-check two candidates. I simply think she was following our desire to put the female candidate first. And I'm sorry that it doesn't go with your—

**The CHAIR:** But if your desire at the beginning was to put the female candidate first, you're saying that then after that—so she's come in recommended. It was just simply because she was a woman that she exceeded all those capabilities, was it?

**KYLIE BELL:** No. To be clear—and I'm not saying anything that you don't know through the documentation—there had been a preference to try and find a successful female candidate. I think she was trying to help us follow that brief. But someone should not be employed because they're a female if they are not the best person for the job.

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

**KYLIE BELL:** I think Ms Broadbent was sending that report because she knew we wanted a female candidate.

**The Hon. WES FANG:** Chair, there's a bigger question here.

**The CHAIR:** When the managing partner—why wouldn't she have said, "Maybe had Mr Barilaro—

**KYLIE BELL:** I can't talk to what she was thinking.

**The CHAIR:** But, for example, if it was just the female candidate was recommended at the time, why would Mr Barilaro's selection report be so—"He definitely would not be able to cope with this. He'd have a steep learning curve. He only meets this quality. He meets this quality. Potentially they'd be equal but we know that you're after a female candidate, so we'll put her forward." Why would that not have been—

**KYLIE BELL:** I'm unclear. We will have to ask them.

**The CHAIR:** It's trying to work out how the selection and the recruitment panel—

**KYLIE BELL:** To be very clear, we would not have gone to bothering into reference checks—there was clear and robust discussion in that meeting that she was an excellent candidate, no doubt. But she did not meet either of the two criteria that we were looking for: someone that knew the US intimately or someone that knew New South Wales intimately. I suspect Ms Broadbent was trying to help us fulfil our mandate of looking for someone from a diverse background, but we absolutely—I can't comment to why she wrote that but I can absolutely say that there was robust discussion and the comments that she has written there in that report about Mr Barilaro were not concluded from the first interview.

**The CHAIR:** Because I did just want to—we'll just go back to the—has been found in terms of how many—

**The Hon. DANIEL MOOKHEY:** Do you want me to—

**The CHAIR:** Yes, I think so. Thank you. Mr Mookhey will pass you the documents that—

**The Hon. WES FANG:** I'm a little bit lost down the rabbit hole at the moment.

**The CHAIR:** Order!

**The Hon. PENNY SHARPE:** Point of order: Mr Fang has been pretty good most of the day, but he is—

**The Hon. WES FANG:** Yes, and I've been asking—



## CORRECTED

**The Hon. PENNY SHARPE:** He is now regularly interjecting and making commentary over the top of the questioning, which is wholly inappropriate and out of order.

**The CHAIR:** Yes.

**The Hon. WES FANG:** Well, I want the opportunity to address some points and I keep getting—

**The CHAIR:** Mr Fang, as Chair, I have allowed you to ask particular questions at my indulgence because the Government members have 15 minutes at the end.

**The Hon. WES FANG:** But Chair, what was the other part of the agreement? That when I ask to be given the opportunity to ask one or two clarifying questions during the hearing, that that be granted. That hasn't happened in the last 20 minutes when I've been seeking to actually clarify a few matters.

**The CHAIR:** Mr Fang, you're not asking clarifying questions.

**The Hon. WES FANG:** I actually am.

**The CHAIR:** You're mumbling and speaking over every question that I ask—

**The Hon. WES FANG:** I know, because you're not allowing me to ask the questions.

**The Hon. DANIEL MOOKHEY:** Point of order—

**The CHAIR:** Order!

**The Hon. DANIEL MOOKHEY:** My point of order is that the Chair should not be spoken over.

**The CHAIR:** Yes. Let's continue.

**The Hon. WES FANG:** Whenever I get the rest of my—

**The CHAIR:** Ms Bell has in front of her what I understand is the NGS Global diagnostic baseline for who was the preferred or recommended candidate in the original draft selection report and the diagnostic baseline for Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** Can I just introduce some context, Chair, with your indulgence?

**The CHAIR:** Sure, if you've got it.

**The Hon. DANIEL MOOKHEY:** Ms Bell, you were a part of the selection panel, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** As a part of the selection panel you were sent certain documents, correct?

**KYLIE BELL:** Correct.

**The Hon. DANIEL MOOKHEY:** Included in those documents were candidate reports produced by NGS Global, correct?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** That was provided to all panel members?

**KYLIE BELL:** I can't say. I was not the panel chair. I only know what I received.

**The Hon. DANIEL MOOKHEY:** Okay.

**KYLIE BELL:** I assume.

**The Hon. DANIEL MOOKHEY:** The documents show that they were provided to all people.

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** That contained NGS's independent view of the merits of the candidates going into the interview process; is that correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And that is the document that is displayed in that report and referred to as "diagnostic baseline"; is that correct?

**KYLIE BELL:** Yes. The diagnostic baseline, I assume, is done based on some sort of diagnostic—

## CORRECTED

**The Hon. DANIEL MOOKHEY:** Yes, because we were paying NGS Global circa \$100,000 to tap their global expertise.

**KYLIE BELL:** Yes. I'm assuming they fill in a questionnaire or something, like a psychometric test.

**The Hon. DANIEL MOOKHEY:** No, we'll get to the psychometric testing. It never happens at this stage. What happens is that NGS does a preliminary interview with all candidates, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** They did that interview between, effectively, the twentieth—

**KYLIE BELL:** Sometime in January, let's say.

**The Hon. DANIEL MOOKHEY:** From 20 January to 2 February, correct?

**KYLIE BELL:** Correct.

**The Hon. DANIEL MOOKHEY:** After that they produced a diagnostic baseline according to the interviews that they had with each of the candidates; is that correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** That reflects the interviews that we paid NGS Global to do with all the candidates and that is the information which the Chair is taking you through.

**KYLIE BELL:** That's correct. Thank you.

**The CHAIR:** Thank you. With the diagnostic baseline in front of you—

**The Hon. DANIEL MOOKHEY:** Point of order: I'm advised that there are issues to do with the broadcast.

**KYLIE BELL:** That's a good thing.

**The Hon. DANIEL MOOKHEY:** Depends on your idea of a hold-up.

**The CHAIR:** Can I just check with the Committee staff that everything is okay with the broadcast? What are the issues?

**The Hon. DANIEL MOOKHEY:** I am told that the live stream is glitching and/or down.

**The CHAIR:** We will just keep going. Everything is A-OK, but if we could have a look at that. Ms Bell, the diagnostic baseline I have here with Mr Barilaro has one "highly competent". "Leadership of self—representational, communication skills". The person who was the recommended candidate of the draft selection panel in the second round, how many did she have?

**KYLIE BELL:** To be clear, this is NGS's report to us. This is not part of the selection panel report. This is the report that we were presented with to evaluate candidates before we went to interview. The panel report is how we assess them after the interview. This is not the panel report. This is NGS's analysis of the short list. If I read this—

**The Hon. DANIEL MOOKHEY:** It's not the analysis of the short list; it's advice around the production of the short list.

**KYLIE BELL:** Yes. It was done before the interviews, not as a result of the interviews.

**The Hon. DANIEL MOOKHEY:** It was to support the short list.

**The CHAIR:** Yes. So how many—

**KYLIE BELL:** Let me count, sorry. There are six broad criteria. Mr Barilaro was competent on all but one, which was tertiary qualifications. Instead, he was ranked highly competent on New South Wales trade and investment policies and programs. That was the ranking based on NGS's view. He was also ranked highly competent on representation and communication skills. That was their ranking. Everything else, he was rated competent on. Ms Cole was ranked highly competent on eight activities—things like decision-making, leadership and so on. She was not ranked highly competent on New South Wales trade and investment policy programs; she was ranked competent. She was ranked competent also on leadership of others.

**The CHAIR:** Just to—

## CORRECTED

**KYLIE BELL:** So she has more purples, but sometimes the purples are not in the places that they count. If you're selling New South Wales and you don't know New South Wales—

**The CHAIR:** Just to be clear then, in the selection—

**The Hon. WES FANG:** Point of order: Ms Bell was trying to provide an answer and you just—

**The CHAIR:** I'll let her finish.

**The Hon. PETER POULOS:** She could expand on it.

**KYLIE BELL:** The simple answer was that we weren't just looking for someone that was a good leader or had done good in business. We were actually looking for someone that could sell New South Wales to the US and could walk into a room with a business leader and talk about what is happening in this State. We were looking for someone that knows what New South Wales businesses' challenges and opportunities are and could use that in developing a strategy. That, for me, was critical, and she didn't have it. We can talk about these reports. She had fantastic self-management, but I would expect everyone at this level has self-management. What I would expect is that, when we appoint someone for these roles, they can either sell the State or they have lived and worked in the country for 15 years and have networks there.

**The Hon. PENNY SHARPE:** I just want to clarify your role in relation to the negotiation of the contract with Mr Cartwright, which I believe that you were involved—I understand that you weren't involved in his recruitment, but you were involved in the contract negotiation around his final remuneration package when you were working with Ms West.

**The Hon. WES FANG:** Point of order: No, I don't believe that's what Ms Bell said.

**The Hon. DANIEL MOOKHEY:** We are asking her to clarify.

**The Hon. PENNY SHARPE:** I'm asking. I'm not actually asking you.

**The Hon. WES FANG:** She's already answered this.

**The CHAIR:** Let's allow the witness to answer the question.

**KYLIE BELL:** I don't believe I was involved. I don't recall being at all involved. I believe Ms West and Ms Brown were involved and, no doubt, our people and culture team and our general counsel.

**The Hon. PENNY SHARPE:** Just wait one moment. I've got an email that has your name—

**KYLIE BELL:** I feel like there's a lot of—

**The Hon. PENNY SHARPE:** —all over it, Ms Bell, which is why I am asking you this. I'm not trying to be difficult.

**KYLIE BELL:** No, I don't recall that I was. I don't know.

**The Hon. PENNY SHARPE:** Just to be clear, I've got an email here from you on 1 April. I'm happy to hand it up.

**KYLIE BELL:** Thank you.

**The Hon. PENNY SHARPE:** It's from 1 April 2021, giving an update in relation to—it talks about Tokyo, but it is also talking about London.

**KYLIE BELL:** Is it in the pack? Because I don't think Mr Cartwright—on 1 April, I don't even know if Mr Cartwright was the preferred candidate or—

**The Hon. PENNY SHARPE:** Yes, that's what I was—that's great. That's fine. We'll go to that point. And you are, in a number of emails in the information that we've provided—you're providing updates.

**KYLIE BELL:** Yes.

**The Hon. PENNY SHARPE:** As I said I'm not suggesting that you're involved in the recruitment, but you are providing updates on the status and what's going on there. There was a round of applications for the Agent-General role in February 2021. Is that correct?

**KYLIE BELL:** I'm not clear. As in, I wasn't leading it, so—

**The Hon. PENNY SHARPE:** But you were aware—you were working—

CORRECTED

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**KYLIE BELL:** I was aware—we had gone to market for this in 2019. We had gone to market for the role. I believe that, again, at the end of 2020, we might have gone back to market. When I say "we", NSW Treasury.

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

**KYLIE BELL:** So there should be—typically, after three months, there's at least a short list.

**The Hon. PENNY SHARPE:** Yes. And there had been interviews undertaken?

**KYLIE BELL:** That's correct.

**The Hon. PENNY SHARPE:** And there was a preferred candidate at that point around February 2021?

**KYLIE BELL:** I couldn't say with certainty, as I wasn't leading the process.

**The Hon. PENNY SHARPE:** Sure.

**KYLIE BELL:** I did ask Ms West for updates so that I could brief the team. We didn't want—we've got this issue where you have an office with no staff. So my updates were more seeking guidance on, "Do I need to establish a bank account soon or do I need to get in place payroll."

**The Hon. PENNY SHARPE:** Yes, sure. But you were aware that there was a preferred candidate and then, at some later period of time, Mr Cartwright became the preferred candidate, is that correct?

**KYLIE BELL:** I'm aware that Mr Cartwright certainly became the preferred candidate.

**The Hon. PENNY SHARPE:** But there had been a previous preferred candidate?

**KYLIE BELL:** I think there had been multiple, and I say—we did have a few withdrawals as well, I understand. So I'm going to say yes.

**The Hon. DANIEL MOOKHEY:** Okay. When was Mr Cartwright appointed Agent General? Was it around 1 October 2021 or thereabouts?

**KYLIE BELL:** I would have to take it on notice.

**The Hon. PENNY SHARPE:** He was announced.

**KYLIE BELL:** He was announced, so, yes, that's a very different date to the date of appointment. His date of appointment, I haven't come prepared with that—

**The Hon. DANIEL MOOKHEY:** He was announced in October, correct?

**KYLIE BELL:** He was announced on 1 October.

**The Hon. DANIEL MOOKHEY:** And the negotiations effectively initiated under the auspices of Treasury were concluded under the auspices of Investment NSW?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And your involvement arose at the point where it was taken over by Investment NSW or, at least, that's when you become a bit more?

**KYLIE BELL:** No, Ms West transferred with me from NSW Treasury and she was still the Deputy Secretary for Trade and still led that under Ms Brown. So she led it under the former Secretary of Treasury and then she led it when she moved across.

**The Hon. DANIEL MOOKHEY:** Okay, thank you. Can you please turn to page 50 of the transcript I gave you—the Brown transcript?

**KYLIE BELL:** I've moved things now.

**The Hon. DANIEL MOOKHEY:** I know, so have I. It took me a good amount of time to find where I had put it too.

**KYLIE BELL:** Page 50?

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

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you see on page 50, Ms Brown tells us that she thinks Mr Cartwright "felt that he had some sort of an elevated status"? Do you see that?

CORRECTED

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**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** Okay. Just go forward to the next page and then you see that Ms Brown tells her awareness was that "they conducted a round of interviews, someone was first ranked candidate and then Mr Cartwright got considered later". Do you see that?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** Is that your understanding also of what happened?

**KYLIE BELL:** I understood that in 2019 we had—or we, as in NSW Treasury, in 2020 we had found a candidate but then did not proceed. We did not proceed with any of the expansion at that point because of COVID. I understood that they might have gone back to some of those candidates from the first round and most of those had well and truly—

**The Hon. DANIEL MOOKHEY:** Gone?

**KYLIE BELL:** Yes, moved on with roles.

**The Hon. DANIEL MOOKHEY:** But there wasn't any reopening of the process? There was no further—

**KYLIE BELL:** No, there was a reopening. Look, I'm going to have to take some of the dates on notice because—

**The Hon. DANIEL MOOKHEY:** Please take it on notice. That's fine. But was there public advertisements for the role?

**KYLIE BELL:** There was definitely a public advertisement in 2019. I feel like there was a public advertisement in 2020 again.

**The Hon. DANIEL MOOKHEY:** But this is not those two years?

**KYLIE BELL:** No, because they were always done. I think we just must have had this terrible end-of-year cycle, because the first Agent General was also advertised in 2019 in December and I think the second time we advertised the Agent General in 2020 it was also in December. I think I must have just—

**The Hon. DANIEL MOOKHEY:** That's all happening under the auspices of Treasury, correct?

**KYLIE BELL:** That's correct.

**The Hon. DANIEL MOOKHEY:** And out of those two processes, a bunch of candidates are found, interviewed, some preferred but none appointed?

**KYLIE BELL:** Yes. I don't believe Ms Brown was on the panel for the interview for the Agent General role or for Mr Cartwright. I believe—

**The Hon. DANIEL MOOKHEY:** No, I accept that. But before we get to that point in the story, is it your recall that from December 2020 to any time in, let's say, May 2021 was there a public call or advertisement for the Agent General?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you, on notice, give us the dates?

**KYLIE BELL:** Yes, sure.

**The Hon. DANIEL MOOKHEY:** Can you also, on notice, give us the publications?

**The Hon. WES FANG:** I'm just going to raise again the same point of order that Mr Farlow raised earlier, which is that we're now delving into areas around the recruitment of the Agent General, which is well outside the terms of reference of this inquiry and I do not believe it is encompassed in "any other matter". I think I know where you might want to take this line of questioning and this issue, but it's certainly not at all involved in this and it's just—

**The CHAIR:** Thank you, Wes. To the point of order?

**The Hon. PENNY SHARPE:** To the point of order: This is going from evidence that Ms Brown gave to the Committee this week, where this was discussed and we did indicate that we were going to be following that up, and there was no objection taken by the Government at that point in time.

## CORRECTED

**The Hon. DANIEL MOOKHEY:** It's also relevant in order to establish how usual or unusual the US process was.

**The CHAIR:** I did say earlier to Mr Farlow's identical point of order that there was no point of order and we do have a reasonably broad remit in relation to the STICs and the AG. Continue, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Thank you. Ms Bell, I think you kindly had agreed to take that on notice.

**KYLIE BELL:** Yes. I am taking on notice the date that it was advertised—

**The Hon. DANIEL MOOKHEY:** And the publications?

**KYLIE BELL:** Yes, and the publications. I can assure you I feel like this is the one where you and I know it was the Times and the AFR, but I'm not 100 per cent sure so I want to take it on notice.

**The Hon. DANIEL MOOKHEY:** My recollection of that one is we were talking about the Americas position at that time.

**KYLIE BELL:** No, no. The *Financial Times* is the London publication so I feel—

**The Hon. DANIEL MOOKHEY:** No. We definitely did advertise a lot of the positions in the FT. I would be interested to know whether it was—

**KYLIE BELL:** Okay. So I just want to check because I'm not 100 per cent sure.

**The Hon. DANIEL MOOKHEY:** Of course. Ms Bell, I am glad that you are. Thank you. But can you go now to page 51? You can see here that Ms Brown tells us that the contract negotiations were protracted. Do you agree that they were protracted?

**KYLIE BELL:** So, again, I think Ms Brown—and I say this nicely, but she may have confused me for Ms West.

**The Hon. DANIEL MOOKHEY:** Okay.

**KYLIE BELL:** Because I was not involved in the first round of contract negotiations. It was Ms Brown, Ms West and our general counsel and I think it might have been, like we've all done—

**The Hon. PENNY SHARPE:** She had had a long day.

**KYLIE BELL:** Yeah. But it might have been she dropped my name instead of Ms West's name.

**The Hon. DANIEL MOOKHEY:** That's okay. That's why we're asking you, Ms Bell.

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** Can we just go to page 52, though, because there is a specific point at which I am invited by Ms Brown to test something with you and I feel like I should.

**KYLIE BELL:** Okay.

**The Hon. DANIEL MOOKHEY:** Ms Brown describes a Teams call that she confirms Mr Carr was on. To be fair to her, she wasn't sure whether you were on it or not.

**KYLIE BELL:** It was Ms West. We've confirmed.

**The Hon. DANIEL MOOKHEY:** It was Ms West?

**KYLIE BELL:** Yes. That's why I think she might have—

**The Hon. WES FANG:** Which is probably how you know about it as well.

**The Hon. PENNY SHARPE:** What are you talking about?

**KYLIE BELL:** No, no. We had—I think—I can go back and confirm that we have checked records.

**The Hon. DANIEL MOOKHEY:** You did check?

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** To the best of your knowledge, you were not on that call?

**KYLIE BELL:** I was definitely not on that call and it was Ms West and Mr Carr.

**The Hon. DANIEL MOOKHEY:** Given that you checked, can you identify the date of that call?

## CORRECTED

**KYLIE BELL:** I didn't, but I can take that on notice.

**The Hon. DANIEL MOOKHEY:** Can you take it on notice?

**KYLIE BELL:** I can take that on notice, yes. There were a number of calls, I believe, just as I had a number of calls between human resources and, you know, the candidate for China or—

**The Hon. DANIEL MOOKHEY:** Just to be clear, though, Ms West ceases service circa—she certainly ceases formal service in November but she ceases—

**KYLIE BELL:** On 1 October.

**The Hon. DANIEL MOOKHEY:** Yes. And from there on, when precisely were the negotiations with the Agent General concluded?

**KYLIE BELL:** He was announced. He started work with us on 26 July, so well and truly while Ms West was here.

**The Hon. DANIEL MOOKHEY:** Before then?

**KYLIE BELL:** Yes. So I feel like, just to clarify the dates, Mr Cartwright commenced work for Investment NSW in Sydney.

**The Hon. PENNY SHARPE:** Can I just clarify, though, that his remuneration package was an ongoing negotiation after that start date?

**The Hon. DANIEL MOOKHEY:** Or he sought variations to his remuneration after he commenced?

**KYLIE BELL:** I am not—yes, I wasn't on the call but I believe that there was some—

**The Hon. DANIEL MOOKHEY:** Clearly, there was at least one variation with the package.

**KYLIE BELL:** Yes. I can only talk to what I know. I was not on the call. I can talk to what I know.

**The Hon. DANIEL MOOKHEY:** And in the month since?

**The Hon. WES FANG:** We know that.

**The Hon. DANIEL MOOKHEY:** Can I just establish—

**The CHAIR:** Order!

**KYLIE BELL:** He had a signed contract when he obviously commenced.

**The Hon. DANIEL MOOKHEY:** How many times has he sought to vary his contract since he signed it?

**KYLIE BELL:** I'm not privy—as in, I can only talk about the one that I've been involved with.

**The Hon. DANIEL MOOKHEY:** But you're his report. You manage him.

**KYLIE BELL:** Yes. I manage 250 people and I have no idea what contract negotiations they've had.

**The Hon. DANIEL MOOKHEY:** Are you telling me that you don't know? It's possible for the Agent General to negotiate his contract with someone other than you?

**KYLIE BELL:** Prior to 1 October?

**The Hon. DANIEL MOOKHEY:** No, I'm not asking prior to 1 October, Ms Bell.

**KYLIE BELL:** Absolutely.

**The Hon. DANIEL MOOKHEY:** I'm not asking—

**KYLIE BELL:** In my time as being his manager I have had one conversation about remuneration.

**The Hon. DANIEL MOOKHEY:** I'm asking you—

**The Hon. WES FANG:** Point of order: Ms Bell has been trying—

**The CHAIR:** Order!

**The Hon. PETER POULOS:** I think it's discourteous.

**The CHAIR:** I think I do know what the point of order is and I just remind the member that the witness is able to answer the question in any way she sees fit.

## CORRECTED

**KYLIE BELL:** Yes.

**The Hon. DANIEL MOOKHEY:** We have resolved it.

**The CHAIR:** Okay, good. You can keep going for another 1½ minutes. I just want five minutes at the end.

**The Hon. DANIEL MOOKHEY:** Sure. Ms Bell, you've been directly managing the Agent General since 1 October. Correct?

**KYLIE BELL:** Technically, Ms West went on medical leave and I acted for that period while—I acted from 1 October or about 4 October, or some start there, through to 30 November in her role as well.

**The Hon. DANIEL MOOKHEY:** But since then you have had that responsibility?

**KYLIE BELL:** But then I went back to being the executive director and then since 22 February I've been responsible for the STICs.

**The Hon. DANIEL MOOKHEY:** How often do you talk to the Agent General?

**KYLIE BELL:** Frequently.

**The Hon. DANIEL MOOKHEY:** Is it weekly, I'll call it, check-ins, or how does it work?

**KYLIE BELL:** Weekly. Often because the teams are overseas we'll often check in more frequently than that but it won't be a formal meeting. It might be, you know, "I've got this issue with this business. Who should I talk to?"

**The Hon. DANIEL MOOKHEY:** Precisely what business investment has the Agent General delivered to New South Wales in the year he has been there?

**KYLIE BELL:** He hasn't been there a year—that's a bit unfair.

**The Hon. DANIEL MOOKHEY:** How long has he been there?

**KYLIE BELL:** He only arrived on 1 February.

**The Hon. DANIEL MOOKHEY:** To be fair, that's not really my fault.

**KYLIE BELL:** No, it is what it is. So he has only been in the role for four months and his team recruited—

**The Hon. DANIEL MOOKHEY:** No, when did we start paying him?

**KYLIE BELL:** I'm going to date back to the date of his contract.

**The Hon. DANIEL MOOKHEY:** July last year, around there?

**KYLIE BELL:** I would say around about July.

**The Hon. DANIEL MOOKHEY:** Another question of you, you have been paying him for more than a year, regardless or whether or not your choice has been to have him and the COVID scenario has allowed him to go there—

**KYLIE BELL:** Yeah.

**The Hon. DANIEL MOOKHEY:** If he hasn't yet been able to deliver in goods investment, how close—

**KYLIE BELL:** I am sorry, this has been very much on working with exporters. The UK, we have delivered like a number of programs to help exporters into the UK.

**The Hon. DANIEL MOOKHEY:** Sure. Then can you tell me please—

**The CHAIR:** Order! Mr Mookhey, I am sorry. I just want to go back to the advertising for the position. I have an email that outlines the advertising for all the positions as well as the advertising for the first round, the initial recruitment round. The initial recruitment round had AFR, *Financial Times UK*, *The Economist* and LinkedIn—

**KYLIE BELL:** For the US?

**The CHAIR:** Yes, the Americas. Was there a reason why you then chose to do just AFR over the Christmas break for two weeks?

**KYLIE BELL:** Literally—



## CORRECTED

**The Hon. WES FANG:** It was a conspiracy.

**KYLIE BELL:** No, no, it literally was I thought we'd only advertised in the AFR and so I just was being consistent with what we had done in the past—

**The CHAIR:** But that wasn't consistent—

**KYLIE BELL:** —and LinkedIn and using NGS which was consistent.

**The CHAIR:** *The Economist* and the *Financial Times* not for this one?

**KYLIE BELL:** No, we didn't.

**The CHAIR:** On 17 December there was an email from you to—I won't say who it was—but the STIC ad for AFR and trade statement copy and tracker. I think it was when you were sending the STIC ad to the AFR. You have, "As promised, please find attached the AFR for the STIC New York. Sorry for the delay." Then you have said, "We are also working for ads in the *The Australian* and SMH for next week as well."

**KYLIE BELL:** I truly believe that I think because it was Christmas we may have missed the deadline. Again, I don't really recall heavily why we didn't do it, but it may be that we had reached the end of the year and we just didn't do it because we couldn't get, like, in before Christmas. And then I am unclear why we might not have done it in January. But I know we just made the deadline for the AFR.

**The CHAIR:** This is when you say you're "working on the ads for *The Australian* and SMH for next week", and then there's something that comes in later on 23 December. So this is two days before Christmas—

**KYLIE BELL:** It didn't seem worth it.

**The CHAIR:** That's when you say "Confirming the Minister would like to do this in January"?

**KYLIE BELL:** Yes, I think we just could not get it done properly before Christmas, and then I honestly can't tell you why—

**The CHAIR:** Instead of saying in that email, "It's just too close to Christmas and we're not going to get the ads for *The Australian* and the SMH done", you wrote, "Confirming the Minister would like to do this in January."

**KYLIE BELL:** I think, no doubt, I would have contacted the office and said, "We're not going to make it before Christmas. Is that okay?" The direction was it's fine to go ahead and do it in January. I think it was more around if we couldn't follow the direction and get it done before Christmas, I would've probably at least given them a heads up that they weren't going to see ads over the Christmas period in those publications.

**The CHAIR:** That's when you came back and said—then there was three weeks later, 17 January, when you said "NGS have"—"Confirming AFR is sufficient for our requirements."

**KYLIE BELL:** I think when we came back and we got quotes for the new year, it probably didn't seem required and at that point we did have—

**The CHAIR:** You had who you wanted?

**KYLIE BELL:** No, we didn't have who we wanted. We had a fantastic short list of good candidates and we were reasonably comfortable at that point we could go forward without having to continue our advertising.

**The CHAIR:** All right. Do you want to jump in, Mr Mookhey?

**The Hon. WES FANG:** I have seconds. Can I go?

**The CHAIR:** Yes, you can go. You get an extra one minute.

**The Hon. DANIEL MOOKHEY:** I was going to say we are fine for the Government to go.

**The Hon. WES FANG:** Thank you, much appreciated. I do appreciate the opportunity. I first wanted to start where I think Mr Mookhey started, on the office in New York. Who decided to select New York? Can you provide some context around that?

**KYLIE BELL:** Analysis was run. We engaged consultants like Boston Consulting Group.

**The Hon. DANIEL MOOKHEY:** When you say "we", do you mean Treasury?

**KYLIE BELL:** Treasury, yes. There was a project team that was established by New South Wales Treasury to develop this strategy. BCG was one of our advisers. We looked into where—analysis was done on global trade trends, global investment trends and where the top 10 investment markets into Australia were coming

## CORRECTED

from, and for the US it was New York. That is where capital comes to the State. So it was based on that analysis that we determined that in the US our head office should be in New York because that was where—it is the financial capital of the country.

**The Hon. WES FANG:** So the trade Minister at the time, that you are aware, didn't go to anybody in Treasury and say, "I want to go to New York", for example, "I want the office there"?

**KYLIE BELL:** No, not to my knowledge.

**The Hon. WES FANG:** And it was all based on analysis?

**KYLIE BELL:** It was based on analysis.

**The Hon. WES FANG:** Yes, from—

**KYLIE BELL:** Trade and investment data.

**The Hon. WES FANG:** We will now turn to the decision for the other offices. Was there any time where the trade Minister at the time went to Treasury and said, "I want this office in location X" for the STICs in India or China?

**KYLIE BELL:** No. To my knowledge, the analysis of all of our 21 locations was done on trade and investment data.

**The Hon. WES FANG:** So it was more a case of the trade and investment data that was compiled by Treasury and presented to the trade Minister as, "This is where the analysis says we should put these offices"?

**KYLIE BELL:** That's correct. I don't think it was—the Global NSW strategy had one component, which was where we should locate, but it also had things like, What industries should we focus on? What are our State's strengths? What places should we focus on? There was a lot of talk at the time, which there still is, around our precincts and the work that's being undertaken by the Greater Cities Commission. It was a broad document that gave a matrix of, "These are the markets, these are the industries, and this is how we should play in them."

**The Hon. WES FANG:** We've got an unsworn statement that was tabled to the Committee.

**KYLIE BELL:** Yes, I don't know that person.

**The Hon. WES FANG:** It said that the trade Minister at the time had said that he wanted to go to New York and that he was going to put the office there. That doesn't fit with the analysis and the recommendation that went up?

**KYLIE BELL:** Of course, I wasn't in the room with any of these people, but there was never any direction to me as an individual that John Barilaro wanted to go to New York.

**The Hon. WES FANG:** So completely independent of—

**The Hon. DANIEL MOOKHEY:** Can you allow the witness to finish?

**The CHAIR:** Yes.

**The Hon. WES FANG:** So completely independent of what the trade Minister wanted at the time, the recommendation was to go to New York?

**KYLIE BELL:** That's correct.

**The Hon. PETER POULOS:** So there was no ministerial push to shift from San Francisco to New York at any stage?

**KYLIE BELL:** No.

**The Hon. WES FANG:** That's really good to know. I want to move now to—I guess we have addressed the NGS Global situation. You spoke of unconscious bias.

**KYLIE BELL:** I might have gone too far there.

**The Hon. WES FANG:** No, I think it does explain quite a lot, and there have been quite a lot of documents passed around, but it does explain pretty much everything that has been tabled to this point. Can I ask, in relation to the reports that you were shown by Ms Sharpe that related to the compiling of the short list—not the short list or the final panel reports themselves, but the actual compiling of the short list—that helped you to compile the short list for the STIC America role. You said that while there were a number of broad categories there, not all of them carried equal weight, did they?

## CORRECTED

**KYLIE BELL:** No.

**The Hon. WES FANG:** Because things like knowledge of New South Wales would rank more highly than perhaps some of the other categories. Would that be fair?

**KYLIE BELL:** That was the heart and the nub of the discussion at the interview, yes—which are the most important things to the State in these roles.

**The Hon. WES FANG:** So it's wrong to assume that each of those categories had equal weighting?

**KYLIE BELL:** That's correct.

**The Hon. WES FANG:** Okay. So you can have a number of categories that are outlined. In that instance where perhaps somebody has a higher rating in a category and that is a more important category, and other people have higher ratings in other categories that are perhaps less important, the whole reason of having a panel interview is to be able to—

**KYLIE BELL:** Correct.

**The Hon. WES FANG:** —equate those things and actually test—

**The Hon. PENNY SHARPE:** Is there a question?

**The Hon. DANIEL MOOKHEY:** Yes, is there a question?

**The CHAIR:** That's a good question. Is there a question?

**The Hon. SCOTT FARLOW:** There have been some long run-ups, as well, for other questions.

**The Hon. WES FANG:** Yes. I mean, I've sat here for—

**The Hon. SCOTT FARLOW:** Just go back to the question, Wes.

**The CHAIR:** I was going to let that go, Scott.

**The Hon. WES FANG:** I think they're getting a bit testy because they know where I'm going with all this.

**The Hon. DANIEL MOOKHEY:** We're getting testy?

**The Hon. WES FANG:** Yes, you are. The whole point of having a selection panel is to be able to test these things and actually come to a conclusion around the candidate that is best suited. Is that right?

**KYLIE BELL:** For the role—that's exactly right. Let me be clear: I think NGS shorted something like up to 10 people for us to interview. We selected five or six. Two people dropped out before we selected them for interview. Two actually dropped out before we got to interview because they were able to secure other roles, so we were then down to only three interviews. The report prepared by NGS that you have copies of is NGS's assessments of the candidates. The panel then interviews them, conducts reference checks on those that are highly ranked and proceeds. So this is NGS's view of the world, not the panel's view of the world. We support a lot of what has been said here, absolutely, but the analysis and the discussion on the day came down to—not, "Was Ms Cole suitable for the role?" That was not questioned. It was whether she was suitable for this role.

**The Hon. WES FANG:** Okay. So in relation to the panel report itself, before you get to that draft panel report that was emailed to Ms Brown on the twenty-fifth, is it fair to say that leading up to the interviews and to that point before the report was sent to Ms Brown, there had been a conversation with perhaps yourself, Ms Brown, NGS Global and Ms Broadbent around the fact that the other STIC positions had been male and that it would be desirable for diversity to ensure that we had more female people moving forward into those six positions? Is that fair?

**KYLIE BELL:** That's correct.

**The Hon. WES FANG:** So when we talk about unconscious bias, would it be fair then to say that the director from NGS Global, who compiled the report, may have felt that it was desirable to have a female appear of a higher ranking, even though there had been agreement by the panel at the time that both sets of referees would be checked because they could not be separated?

**KYLIE BELL:** That's correct.

**The Hon. WES FANG:** And so, in the instance where neither of the candidates could be separated and referee checks were required for both, there was no preferred candidate. Is that correct?

## CORRECTED

**KYLIE BELL:** There was no preferred candidate, at that point in time, until the reference checks had been—we had two candidates that we wanted to take a closer look at. It is all out there now, who those two candidates are.

**The Hon. WES FANG:** Correct.

**KYLIE BELL:** The final decision was only made after further consultation between the chair of the panel and the panel members on receipt of the reference checks.

**The Hon. SCOTT FARLOW:** Can I just ask a question on this? When the second report was published, had there been a determination or a short list produced in terms of the China appointment, which was a female appointment?

**KYLIE BELL:** They were done concurrently, which is one of the reasons why there was some time lag. The STIC China recruitment was also underway and, of course, our preferred candidate there has been publicly announced as a woman—our successful, who has also commenced with us. So it alleviated the concern around reaching a conclusion that we had six men. I'm sorry about the men in the room that might not get a job because you're a man, but whatever.

**The Hon. WES FANG:** Can I just take you back, then, to when the report was received on the twenty-fifth and it clearly appeared to favour one candidate over another? It was accepted by both yourself and Ms Brown that that didn't reflect what the—

**KYLIE BELL:** That's correct. The report on 25 March did not reflect the panel interview that day or the panel interview that was held earlier that month or whenever it was.

**The Hon. WES FANG:** And so there was a request that went back to NGS Global to say, "This isn't what we discussed. We haven't had the opportunity to reference check the other candidates et cetera and we couldn't separate them." Hence the reason that there needed to be some sharpening—to use the previous term—around the report.

**KYLIE BELL:** That's correct.

**The Hon. WES FANG:** I want to ask you very clearly and specifically, did anybody ask you, instruct you or request of you to preference Mr Barilaro for this role?

**KYLIE BELL:** No.

**The Hon. WES FANG:** Are you aware that anybody asked or requested Mr Barilaro be preferred for the role of the other members of the panel?

**KYLIE BELL:** I can't speak to the other members of the panel. I didn't consult with them, but I'm not aware that that's the case. Ms Lo is up next and you can ask her as well.

**The Hon. WES FANG:** And we certainly will be. The other part that I wanted to get to was: Knowing now as we do from the testimony of Ms Brown that the other panel members did not see the initial report on the twenty-fifth and they have only seen the revised report, did they raise any questions about the panel report and did they give any feedback to say, "This isn't what we agreed to when we left the room"?

**KYLIE BELL:** I believe Ms Brown is best to attest to that only because she was the panel chair. But in finalising all of the documentation, one of the things that we put together—I worked with the people and culture team to get each of us to confirm in writing that we agreed with the panel report. When I approved the brief to go to the CEO with his contract and everything finalised, there was an email from each of the panel members confirming the panel report was there and an email from each of them confirming that they endorsed the panel report, which was why I then set up the final contract and agreement for Ms Brown's sign off.

**The Hon. WES FANG:** So all the panel members agreed that—

**KYLIE BELL:** This was the outcome of the process.

**The Hon. WES FANG:** In that instance, the referee checks where one candidate had strong business ties in South-East Asia or the Asia area, but not particularly in the Americas, and one candidate had a strong knowledge of what was within New South Wales, and that was actually the overriding factor for the selection of the other person. So, in effect, that person who was stood down from that job has probably been a huge loss to New South Wales because they are not going into that role. I don't expect you to answer that; I'm just making that view.

**The Hon. DANIEL MOOKHEY:** The witness should be entitled to respond.

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**KYLIE BELL:** I'm not sure I even—

**The Hon. DANIEL MOOKHEY:** It's a fair point. It's a very good question, Wes. Have we lost a huge talent?

**The Hon. WES FANG:** Have we lost somebody who has potentially going to have been a very good STIC commissioner for the Americas by Mr Barilaro stepping down?

**KYLIE BELL:** Do you mean by Mr Barilaro or Ms Cole?

**The Hon. WES FANG:** Mr Barilaro.

**The Hon. DANIEL MOOKHEY:** You described it as a huge loss for New South Wales.

**The Hon. WES FANG:** Yes.

**The Hon. DANIEL MOOKHEY:** Has it been a huge loss for New South Wales for Mr Barilaro not to perform the job?

**The Hon. SCOTT FARLOW:** This is Government question time.

**KYLIE BELL:** Do you want me to answer?

**The CHAIR:** Yes, please.

**KYLIE BELL:** Honestly, as I said, I participated in the panel as one of four of us. He clearly demonstrated in the interview that he knows the State probably like very few people. He knows the businesses and he knows the industry groups. If he was in New York for us he would be able to pick up the phone and talk to business leaders and get things happening. We came to the conclusion that he was the best person for the job from the candidates that were interviewed through the process.

**The Hon. WES FANG:** I have one last question to ask. NGS Global were involved in round one of the recruiting process. Is that correct?

**KYLIE BELL:** That's correct.

**The Hon. WES FANG:** In similar circumstances where, I guess, the information that was sent for the short-listing was sent to yourself for the second round of roles—

**KYLIE BELL:** The same process, I assume, would be followed for the first. But I was not involved in it.

**The Hon. WES FANG:** But that person would have been Ms West. Is that correct?

**KYLIE BELL:** Yes, that person would have been Ms West and she would have received this documentation. That is correct.

**The Hon. WES FANG:** Ms West was given all the documentation around the candidates, the short-listing, and the strengths and weaknesses, and she hadn't applied for the role. Yet she decided to apply for the role after being given all the information around who was running for the role, who was short-listed, their strengths and weaknesses and all their CV information—basically, everything that had to do with the role.

**KYLIE BELL:** Again, I wasn't involved with the process, but that appears to be the case.

**The CHAIR:** Thank you very much, Ms Bell, for attending today. For any questions that you took on notice, you will have 21 days after receipt of the transcript. The secretariat will get in touch with you about all of those.

**KYLIE BELL:** Okay. I've got some.

**The CHAIR:** You don't just need to rely on your sticky notes.

**The Hon. DANIEL MOOKHEY:** If we've got answers to the questions—

**KYLIE BELL:** It's just the New York—I think one of them was the lease. So the lease was signed on 4 August for a 1 September start.

**The Hon. DANIEL MOOKHEY:** This year?

**KYLIE BELL:** For 2021. There was a lengthy fit-out, which concluded—and we've been occupied in the office since May. But I think it was around costs? The lease cost is \$82,200. Now, the problem is I don't know if this is AUD or US. I feel like I might have done a QI on—

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**The Hon. PENNY SHARPE:** Yes, I'm sure you have.

**KYLIE BELL:** But I think it's about \$82,000 and I think the currency is AUD.

**The Hon. SCOTT FARLOW:** And is that for the New York office or the San Fran office?

**KYLIE BELL:** No, that's for the New York as, again, we don't have—

**The CHAIR:** Was there anything else, Ms Bell? Did you have another one there?

**The Hon. DANIEL MOOKHEY:** If we've got it, it would be good to get it.

**KYLIE BELL:** No.

**The CHAIR:** Wonderful. Thank you very much.

**(Short adjournment.)**

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**Ms KATHRINA LO**, Public Service Commissioner, Public Service Commission, affirmed and examined

**The CHAIR:** Ms Lo, do you have a short opening statement to make for the Committee?

**KATHRINA LO:** Thank you for inviting me to give evidence today. I am a long-serving public servant who has worked with both Coalition and Labor governments. I have always remained apolitical and acted without fear or favour. As Public Service Commissioner, I am an independent statutory officer and I take that independence very seriously. While I report to the Premier, I'm not subject to the control and direction of the Premier—or, indeed, any other Minister. It's common for me to be involved in recruitment for senior roles in the sector. From time to time, former politicians, including former Ministers, apply for roles in the sector. There's nothing to preclude them from doing so under the Ministerial Code of Conduct and, if they do so, they must abide by the process and be treated impartially.

Turning to the subject of the Committee's inquiry, I was one of two independent members on the second selection panel. The panel's role was to undertake a merit assessment of candidates. I can state unequivocally that I approached the task of merit assessment with impartiality and objectivity. No pressure was placed on me personally to achieve a particular outcome. If it had been, I certainly would have resisted it. In undertaking a merit assessment, it's not appropriate for a panel to take into account whether the appointment of a particular candidate could potentially be controversial or unpopular. These are not relevant considerations for a merit assessment. Instead, a panel must focus on whether the qualifications, skills and experience of a candidate means they have the capabilities for the job.

I have recently become aware, including through evidence given at hearings of this inquiry and through media reports, of various matters relating to this recruitment process. This includes the degree of ministerial involvement, including input into shortlisting and provision of an informal reference. I was not aware that informal references were sought for any candidate, nor was I aware that the Minister met with Ms Kimberley Cole.

I have also recently become aware that the treatment of the third-ranked candidate in the report did not accord with what I believed would occur. Had I known on 15 June what I know now, I would not have endorsed the report. The other independent panel member, the Hon. Warwick Smith, AO, who has not to date been called as a witness before this Committee, would like me to put on the record that had he known then what he knows now he also would not have endorsed the report. In particular, he did not know the Minister met with Ms Cole, and he is concerned about the treatment of the third-ranked candidate.

I want to be clear that I was on the panel as an independent member, not as a probity adviser. It would be a conflict for a person to be both a panel member and the panel's probity adviser. Every panel member must have regard to probity and fulfil their responsibilities. The chair and hiring agency also have responsibilities in managing the process. As Public Service Commissioner, I should not be viewed as cover for a recruitment process or as a way for other panel members or the hiring agency to avoid accountability. Thank you.

**The CHAIR:** Thank you very much, Ms Lo. Questions from—

**The Hon. DANIEL MOOKHEY:** Sorry, I have to take a point of order.

**The CHAIR:** Yes?

**The Hon. DANIEL MOOKHEY:** I am advised that there were audio issues as Ms Lo was providing her opening statement. Given the nature of the opening statement that we just heard, can I invite—through you, Chair, is it appropriate perhaps if Ms Lo could pull her microphone forward, and then perhaps we might need to repeat the opening statement?

**The CHAIR:** That's the issue with—right. It sounds very loud and fine in this room—

**The Hon. DANIEL MOOKHEY:** But there are issues.

**The CHAIR:** —but it's not okay when we've got the microphone away. Sorry about that, Ms Lo.

**The Hon. DANIEL MOOKHEY:** Can I also perhaps ask that if Ms Lo happens to have a copy of it—

**The CHAIR:** I was about to get there.

**KATHRINA LO:** Yes, one of my staff members has a copy of my opening statement.

**The CHAIR:** Thank you, Ms Lo. Very sorry about that.

**The Hon. DANIEL MOOKHEY:** Sorry, Ms Lo, to ask you.

**The CHAIR:** Maybe put it even closer just to be sure.

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**KATHRINA LO:** Shall I test the volume now? Is that okay?

**The CHAIR:** I think that's fine.

**The Hon. DANIEL MOOKHEY:** I don't think we can do any better. I understand the nature of it—I'm sorry to ask you to do it, Ms Lo.

**The CHAIR:** Mr Mookhey, thank you. Just to explain for people listening or watching the broadcast, Ms Lo is going to repeat her opening statement because we understand that there were concerns with the first one, the way in which it was received.

**KATHRINA LO:** Are you ready for me to proceed?

**The CHAIR:** Yes, please. Yes, we are.

**KATHRINA LO:** Thank you. Thank you for inviting me to give evidence today. I'm a long-serving public servant, who has worked with both Coalition and Labor governments. I have always remained apolitical and acted without fear or favour. As Public Service Commissioner, I'm an independent statutory officer, and I take that independence very seriously. While I report to the Premier, I am not subject to the control and direction of the Premier or, indeed, any other Minister. It's common for me to be involved in recruitment for senior roles in the sector. From time to time, former politicians—including former Ministers—apply for roles in the sector. There's nothing to preclude them from doing so under the Ministerial Code of Conduct, and if they do so they must abide by the process and be treated impartially.

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**The CHAIR:** Thank you very much, Ms Lo.

**The Hon. DANIEL MOOKHEY:** Thank you, Ms Lo, and thank you for your appearance today. I'll formally tender the tender bundle, if that's possible, and provide it to the Public Service Commissioner. Commissioner, when you say that if you knew then what you know now you wouldn't have signed the report, can you identify the specific pieces of information which has led you to reach that conclusion? What have you learnt?

**KATHRINA LO:** I was not aware of the number and nature of interactions between the Minister and the secretary. I also was not aware of what, I believe, is relevant information that should have been disclosed to the independent panel members. That includes the fact that Ms Kimberley Cole met with the Minister. I do not know what the outcome of that meeting was, other than what I heard in evidence given at these hearings. I do not know whether that outcome was factored into the selection panel report which was presented to me to review and sign. I did not know that informal references were sought. I do not know who those references were sought from. I do not know the content of those references. And I do not know whether those references were factored into the selection panel report which was presented to me for review and signature. There is another matter that's



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problematic, which is the third ranked candidate on the selection report and how he was treated. I need to give you some background in relation to that. I won't identify the candidate by name—

**The Hon. DANIEL MOOKHEY:** We have identified him in these proceedings. We are aware of his name. It's Mr Fitzpatrick we're talking about?

**KATHRINA LO:** Yes. That's correct. Mr Fitzpatrick. He was an applicant and was interviewed in the first round. At the suggestion of the Chair, the panel agreed not to re-interview Mr Fitzpatrick. My expectation and belief was that we would rely on the first panel's assessment and that would simply be carried over and reflected in the second panel's report.

**The Hon. PENNY SHARPE:** I'm sorry, just to be clear, in the first round he was considered suitable for the role?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** We might do this with the documents, Ms Lo, because we happen to have these documents with us.

**KATHRINA LO:** Sure.

**The Hon. DANIEL MOOKHEY:** Can you go to page 4 of your tender bundle? You can see page 4. You are reading from the one that has at the top "PANEL REPORTS", correct?

**KATHRINA LO:** Yes. There's a lot redacted.

**The Hon. DANIEL MOOKHEY:** Yes, of course there is. I'm sorry, that's not really our fault. But you can see here that this is a report of the first selection panel, which says that Jenny West exceeds three criteria and meets—

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** And you can see that below that is a candidate, who we've now established is Mr Fitzpatrick, who exceeds three criteria and meets as well. Do you see that?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** If you turn to page 30 of your tender bundle, do you see that? This is the final report that is sent to you as an attachment.

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** And you can see that on page 29, if you will, that is the final report that you're asked to endorse, is it not?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** And you can see here that there's a substantial downgrading of the ratings.

**KATHRINA LO:** Correct, and that is what I only recently learnt. I also learnt that the commentary in relation to the candidate was edited to make it more negative. I had trusted that the first assessment would be carried over, and, with the benefit of hindsight, I should've asked to see the first panel's report, and I deeply regret not doing so and I've learnt a hard lesson there.

**The Hon. DANIEL MOOKHEY:** Ms Lo, let's just be clear here about the difficulty of the position you're in. Can we stay at, please, page 29, I think it is? Let's start at the bottom. You're contacted on 15 June by the executive officer of NGS Global, are you not?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** You're sent an email at 2.57 p.m.

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** The email says:

I have just been sent this file from Investment NSW today asking for panel confirmation of agreement for the final version by all panel members.

You see that?

**KATHRINA LO:** Yes.

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**The Hon. DANIEL MOOKHEY:** We can establish from that that NGS Global were only sent this file from Investment NSW. So we can infer from that that Investment NSW produced the final report; that's fair? Given it was sent to NGS, they didn't have it.

**KATHRINA LO:** I can't answer that. It is quite possible that NGS Global did a first draft and then Investment NSW reviewed that.

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

**KATHRINA LO:** I just can't answer that.

**The Hon. DANIEL MOOKHEY:** Fair enough. But then you can see that you reply at 4.14.

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** That's approximately 75 minutes later. And you just say, "Agreed".

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** Were there any phone conversations that took place in between?

**KATHRINA LO:** Not between the sending of the first email and my reply.

**The Hon. DANIEL MOOKHEY:** With anyone?

**KATHRINA LO:** No, not at that point.

**The Hon. DANIEL MOOKHEY:** So you were relying predominantly on the written report that was sent to you?

**KATHRINA LO:** I was relying on the written report and I did have a conversation with the secretary before I was sent the report.

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

**KATHRINA LO:** I can't recall the date. I didn't make a note of the date, but she did talk to me about the referee reports.

**The Hon. DANIEL MOOKHEY:** But at this point in time, the announcement of Mr Barilaro takes place the either next day or probably the day after actually. It was Friday, 17 June, correct? Well, certainly that's what we understand from the press release. But, equally, formally I think the contract is signed on 16 June. So you were in a difficult position, weren't you? Because effectively the decision had already been made, negotiations wrapped up, and you're sent a report literally two days before.

**KATHRINA LO:** So I wasn't aware that an offer had been made when I received this and I wasn't aware that Mr Barilaro had had a contract. I wasn't aware of any of those conversations between the department and Mr Barilaro. But, having said that, an independent panel member would not be involved in offers and contracts and things like that.

**The Hon. PENNY SHARPE:** No, but it would be your expectation that the things that had changed along the way you would be informed of when you're asking to do the final sign-off?

**KATHRINA LO:** Just to be clear, I only saw one version of a panel report—

**The Hon. PENNY SHARPE:** Yes, so you didn't know that there had been—

**KATHRINA LO:** I wasn't comparing it to anything else. I was relying on referee reports and the conversation I had with the secretary.

**The Hon. DANIEL MOOKHEY:** Ms Lo, when were you told that Mr Barilaro was the preferred candidate?

**KATHRINA LO:** That was in a conversation with the secretary, the date of which I don't have a note of. She spoke to me about the referee checks.

**The Hon. DANIEL MOOKHEY:** Was that prior to 23 May?

**KATHRINA LO:** No, it wouldn't have been because I was overseas on leave during May.

**The Hon. DANIEL MOOKHEY:** The issue is that at this point Mr Barilaro is selected for the job without the concurrence of the panel, because we're told by Ms Brown that she authorised, effectively, the decision

## CORRECTED

following a discussion at StratCo of Cabinet around 12 May. She issued an instruction to Ms Bell to offer the job or at least commence negotiations with Mr Barilaro on 23 May. Were you aware that that had happened?

**KATHRINA LO:** No.

**The Hon. DANIEL MOOKHEY:** At the time that Ms Brown settled upon the decision to appoint Mr Barilaro to the role the panel was unaware she had made that decision?

**KATHRINA LO:** I hadn't seen a report at that point.

**The Hon. DANIEL MOOKHEY:** You get back from leave around June?

**KATHRINA LO:** Yes. My last day of leave was 3 June.

**The Hon. DANIEL MOOKHEY:** Sometime in that period, from your returning in June to the fifteenth, you have some conversations?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** Does Ms Brown tell you that she's chosen Mr Barilaro for the role?

**KATHRINA LO:** No. It was a conversation to let me know what the referee reports—

**The Hon. DANIEL MOOKHEY:** When did you find out that Mr Barilaro had the job?

**KATHRINA LO:** Well, we had a conversation. I was comfortable, based on what I was told and seeing the referee reports, that he would be the preferred candidate.

**The Hon. DANIEL MOOKHEY:** Okay. But basically the actual confirmation of the decision comes forward when you're asked to agree to the final report?

**KATHRINA LO:** That's the formal, I guess, decision—

**The Hon. DANIEL MOOKHEY:** Formal confirmation.

**KATHRINA LO:** Formal decision point, if you would like to put it that way.

**The Hon. DANIEL MOOKHEY:** The formal decision point takes place two days before it's announced publicly, we can infer, if that's what you establish it is?

**KATHRINA LO:** I don't have the date of the press release.

**The Hon. DANIEL MOOKHEY:** We can affirm it's 17 June. Okay. So it is the case that Mr Barilaro was offered the job without the panel agreeing that he was the best candidate until two days before it was announced?

**KATHRINA LO:** I don't have those dates and I wasn't involved in the offering. I'm sorry, I can't answer that.

**The Hon. DANIEL MOOKHEY:** Commissioner, I want to take you now to page 12 of your tender bundle. You'll need to forgive me for having the documents slightly out of order, but on page 12—we will start on this communication of Friday 25 March 2022. Do you see that in the middle?

**KATHRINA LO:** Yes, at 2.26 p.m.

**The Hon. DANIEL MOOKHEY:** This is correspondence from the managing partner of NGS Global to Ms Brown and Ms Bell. I'm going to assume that you have never seen this email before.

**KATHRINA LO:** I have never seen it before.

**The Hon. DANIEL MOOKHEY:** We can see here that the managing director is sending to Ms Brown the draft selection panel reports. You can see that in the subject matter?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** You can see here that the person says:

Amy and Kylie – we weren't sure if you wanted Kathrina and Warwick included at this stage, but happy to forward on if appropriate. Was this ever forwarded to you?

**KATHRINA LO:** No, not that version—and I've never seen that version.

**The Hon. DANIEL MOOKHEY:** You can see that it says down below, in the highlighted section:

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Attached is the draft Selection Panel Report for the Americas role – was not sure how you want to do this, but we have done what we thought was in line at the time. Plus also attached are reference reports.

Do you see that?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** You can see that certainly a conversation was had at that time as to whether it was appropriate to forward it to you. But your evidence is it was never forwarded to you?

**KATHRINA LO:** That's correct.

**The Hon. DANIEL MOOKHEY:** Can you go forward, please, to pages 9 and 10?

**KATHRINA LO:** Backwards?

**The Hon. DANIEL MOOKHEY:** Sorry, yes. This is the draft report?

**KATHRINA LO:** I'm assuming that is the report that was attached to the email.

**The Hon. DANIEL MOOKHEY:** It is. It was out of order. I put it before the email. My mistake. You've never seen this, have you?

**KATHRINA LO:** I've never seen it before. This is the first time I've seen it.

**The Hon. DANIEL MOOKHEY:** You can see here this is a report that scores Ms Cole as being above Mr Barilaro in all criteria?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** You can also see—well, we have gone through the downgrading. But right down the bottom you can see a sentence that states:

The Panel came to the view that John did have some of the relevant capabilities and experience for the role. However, he had not worked internationally in a role aligned to the experience expected for high level STIC candidates. He would need to build a team without the business or departmental infrastructure he had previously. His lack of business development networks would mean that he would have a considerable learning curve in the role.

Do you see that, right down the bottom? It's in very fine print.

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** Does that accord with discussions that were had by the panel on that day?

**KATHRINA LO:** No.

**The Hon. DANIEL MOOKHEY:** Okay. That's good to clarify. A version of that does make it to the final report, where it was identified that he'd have a learning curve. That was at least accepted, correct?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** Can we go forward, please, through your tendered documents to page 18? You can see at the top it says "Selection Report — 28 May 2022".

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** To be very fair, Ms Commissioner, that's my addendum, just so you are able to identify what the document is without reading the index of the production. I just want to be very clear to you that I have added that at the top, where it says "Selection Report — 28 May".

**KATHRINA LO:** Okay.

**The Hon. DANIEL MOOKHEY:** Otherwise, I'd have to produce for you a 400-page index and take you to it, so I thought it was more convenient to put it there.

**KATHRINA LO:** Thank you.

**The Hon. DANIEL MOOKHEY:** You can see here that there's a change in the rating. Mr Barilaro's is upgraded, and the second candidate, which we understand now to be Ms Cole, is downgraded in two respects. That's just by comparing it to the version of the earlier draft. I presume you've never seen this either.

**KATHRINA LO:** I've never seen this document before.

**The Hon. DANIEL MOOKHEY:** The interesting thing is this. It says:

## CORRECTED

The panel came to the view that, following a review of references, that John had relevant capabilities and experience for the role.

That's in the highlighted section down the bottom. Again, it's very fine print, but that's what it says. By this point in time, had you reviewed the references of Mr Barilaro?

**KATHRINA LO:** On 28 May, no. I was still on leave.

**The Hon. DANIEL MOOKHEY:** This report is saying that the panel had reviewed the references of Mr Barilaro, but you were on leave and you had never seen the references.

**KATHRINA LO:** I didn't review the references until June.

**The Hon. DANIEL MOOKHEY:** Okay. Do you know why this draft was being produced as saying you came to review the references or the panel had reviewed the references?

**KATHRINA LO:** I can't answer that.

**The Hon. DANIEL MOOKHEY:** Let's just be very clear here, on the interview date of 15 March 2022, of course, there was a reference report available to you?

**KATHRINA LO:** There weren't reference reports available at the interview date. There was the NGS Global information pack we had. At the conclusion of discussion and deliberations after the interviews were held, the panel had agreed to ask NGS Global to obtain references for the two top candidates.

**The Hon. DANIEL MOOKHEY:** Just to be very clear here, the panel did not come to the view, after reviewing references, that John had the relevant capabilities for the role, because the panel never reviewed the references at this point in time?

**KATHRINA LO:** What date are you talking about?

**The Hon. DANIEL MOOKHEY:** This is 28 May 2022.

**KATHRINA LO:** I hadn't. I don't know if other panel members had at that point.

**The Hon. DANIEL MOOKHEY:** It doesn't say "panel members"; it says "the panel".

**KATHRINA LO:** Yes, I hadn't. As a member of the panel, I hadn't.

**The Hon. DANIEL MOOKHEY:** Thank you. Can I just establish here, if you go up, a reference is made to one of the referees as being the—look, it's very fine print, so I'm going to ask for some indulgence that you trust me on this, but a reference is made to the Australian Ambassador to the United States. At this point in time, were you aware that the Australian Ambassador to the United States, Mr Sinodinos, had given a reference to Mr Barilaro?

**KATHRINA LO:** Not on 28 May.

**The Hon. DANIEL MOOKHEY:** Were you aware that Mr Gary Barnes, the secretary, had given a reference?

**KATHRINA LO:** Not on 28 May.

**The Hon. DANIEL MOOKHEY:** Do you know who the third referee was?

**KATHRINA LO:** Yes, I do.

**The Hon. DANIEL MOOKHEY:** Okay. I presume you're not going to tell me, are you?

**KATHRINA LO:** That's correct.

**The Hon. DANIEL MOOKHEY:** You can't blame a person for trying. The relevant section I've now found is the immediate sentence above the highlighted section. It says:

... though he had not lived in the Americas he did have good contacts there in relation to the Australian Ambassador and the Consul-General.

I can only assume that in the interview Mr Barilaro positively mentioned his relationship with Arthur Sinodinos and Nick Greiner?

**KATHRINA LO:** I can't specifically recall that. It was a while ago.

**The Hon. DANIEL MOOKHEY:** Fair enough. Can we go forward to the actual report that you were sent, which I think we showed you is on page 29?

## CORRECTED

Actually, before you do that, can I just ask you to clarify one matter from your opening statement, now that it has been shown to me? When you said that "I should not be used as cover", or words to that effect, what do you mean by that?

**KATHRINA LO:** I am a participant on the panel. I don't have elevated status compared to any other panel member because of my job title. I mean, my view does not carry more weight than, for example, Mr Smith's view. Just because I am Public Service Commissioner people shouldn't feel that it gives their process—

**The Hon. PENNY SHARPE:** So you're not a green light.

**KATHRINA LO:** I am not a green light. Everybody needs to fulfil their individual and respective responsibilities, yes.

**The Hon. DANIEL MOOKHEY:** Commissioner, do you feel like you have been used as cover?

**KATHRINA LO:** Possibly.

**The Hon. DANIEL MOOKHEY:** Who do you think has used you as cover for a recruitment process?

**KATHRINA LO:** Possibly the hiring agency.

**The Hon. DANIEL MOOKHEY:** How did you find yourself on this panel?

**KATHRINA LO:** I received a telephone call from the secretary and she said that the Secretary for the Department of Premier and Cabinet had suggested that I be on the panel.

**The Hon. DANIEL MOOKHEY:** Okay. Did she explain to you any particular explanation she was given from the secretary of DPC as to why you were an appropriate person?

**KATHRINA LO:** No.

**The Hon. DANIEL MOOKHEY:** Did you make any inquiries with the secretary of DPC as to why he thought you were an appropriate person?

**KATHRINA LO:** No, I took it on face value that he had suggested that.

**The Hon. DANIEL MOOKHEY:** So why then do you think you may have been used as cover by the recruitment agency when, presumably, they were told that you were the person to go on the panel?

**KATHRINA LO:** When I said it was possible that I was used as cover, that is based on evidence I've heard given to this inquiry.

**The Hon. DANIEL MOOKHEY:** So what evidence have you heard in this inquiry that's led you to feel that?

**KATHRINA LO:** References to the Public Service Commissioner being on the panel.

**The Hon. DANIEL MOOKHEY:** That was being made by the secretary?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** So you think perhaps it is the case that the secretary has been using you as cover?

**KATHRINA LO:** I don't know.

**The Hon. DANIEL MOOKHEY:** But is that a conclusion that is possible, or is that what led you to that feeling?

**KATHRINA LO:** I was concerned.

**The CHAIR:** Ms Lo, in your extensive career, I assume you have been on quite a few selection panels for senior public service roles?

**KATHRINA LO:** Yes, both for public service roles and Ministers also ask me to manage statutory officer recruitment for them.

**The CHAIR:** Is it usual, then, when a selection panel report is pulled together and sent to selection panel members, for the first selection panel report—a selection panel report is prepared and it goes to every panel member?

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**KATHRINA LO:** My experience as a convenor would be if an external recruiter is preparing the report they may very well send it to the chair first to have a quick look and to make sure it was okay from the chair's point of view before it's sent out to the rest of the panel.

**The CHAIR:** So in terms of ensuring that all applicants are treated fairly, that there's full impartiality—all of that—it is expected that once it is sent to the chair that all panel members would then receive the correspondence from the recruitment agency?

**KATHRINA LO:** Yes, so panel members would normally get a draft and then would have the opportunity to comment or just endorse it.

**The CHAIR:** We were told by Ms Brown and Ms Bell that there were certain inaccuracies in the first draft—the selection panel report that they had received—and that Ms Bell, I believe, was liaising with NGS recruitment to make alterations. Has that happened before on any panel that you've sat on without the agreement of the members of the panel?

**KATHRINA LO:** Yes, it can happen where the chair gets a first draft and if it's not accurate those inaccuracies are corrected. Now that I have had the opportunity to have a very brief look at that first draft, it was not accurate in terms of ratings and rankings.

**The CHAIR:** So you're saying that the chair goes back to NGS recruitment without consulting other panel members—

**KATHRINA LO:** Yes, that can happen.

**The CHAIR:** —or is there just an agreement?

**KATHRINA LO:** Yes, that can happen.

**The CHAIR:** Okay. Can I just turn to your opening statement as well where you say that it was a merit assessment and that you approached the task of merit assessment with impartiality and objectivity. How does that merit assessment work with clause 10A of the Government Sector Employment Regulation, which provides, we've been told this whole time, an exemption, if you like, from any merit assessment? How do you balance that? I'm assuming there has to be some kind of merit assessment.

**KATHRINA LO:** Yes. So if I could just explain, clause 10A is still merit assessment because it's looking at qualifications, skills and experience of a candidate in relation to the role. So the exemption is from the GSE rules, which require certain things to be done for GSE rules when we're recruiting. There's an exemption, for example, from doing things like three forms of assessment, for example. I think that's probably a good example to use. So there's no need to do three forms of assessment.

**The CHAIR:** So when you interviewed the three candidates in the end, did you have a piece of paper that you were ranking in terms of your candidate questionnaire? Were you ranking the candidates as you went, or were you making just general comments?

**KATHRINA LO:** General comments. If I could explain what happens during interviews for senior people?

**The CHAIR:** Sure.

**KATHRINA LO:** It is not a paint-by-numbers approach where people write down scores and at the end it's all tallied up. Sometimes there is discussion immediately after an individual's interview, if there is time to do that, but there's always discussion at deliberation at the end, and that is where every panel member has an opportunity to express their views on what they've heard in the interview. There are often discussions about relative strengths and weaknesses between candidates at that point. It's fair to say that we did have a robust discussion at that point and the two top candidates had very different experience and very different strengths. That often happens in interview processes where you're having to work out which strengths are higher priority for the role.

**The CHAIR:** Is it fair to say that all four—or five, in the end. Were there four panel members? Is that correct?

**KATHRINA LO:** So there were four panel members and a representative of NGS Global was in the room performing the role of scribe.

**The CHAIR:** Is it fair to say that the four panel members were all torn—equally torn—between Ms Cole and Mr Barilaro, or was there a split between some of you who thought Ms Cole should have the role and some of you who thought Mr Barilaro should have the role?

## CORRECTED

**KATHRINA LO:** I think at the conclusion of our deliberations, we thought that we're not going to try to rate them at that point in time—that we will just ask NGS Global to get references for the top two candidates.

**The Hon. PENNY SHARPE:** Just quickly, where was the third preferred candidate within that discussion?

**The Hon. DANIEL MOOKHEY:** Given he wasn't interviewed in the first place.

**The Hon. PENNY SHARPE:** Yes, given he wasn't interviewed again, was he ever really considered?

**KATHRINA LO:** Yes. So, I think that is the issue. From my perspective, because I wasn't on the first panel—so Mr Smith and I are in slightly different situations. Because I hadn't eyeballed that third-ranked candidate, the only choice for me was to rely on an assessment of the first panel. Mr Smith was on both panels and he had an expectation that there would be further discussion about that third-ranked panel member.

**The Hon. DANIEL MOOKHEY:** Was there?

**KATHRINA LO:** I don't think he thinks that there was sufficient discussion there.

**The CHAIR:** When the four of you were talking, weighing up between Ms Cole and Mr Barilaro, was Mr Fitzpatrick, the third candidate, brought into that discussion in terms of weighing up?

**KATHRINA LO:** Only in the sense of we'll get the referee reports first on the top two candidates because, you know, nothing else needed to be done in relation to the third ranked candidate at that point in time. We needed the referee report.

**The CHAIR:** Were you under the assumption that there would definitely be more discussions with the selection panel, potentially, to come back and agree on who ultimately out of Ms Cole and Mr Barilaro you would recommend for the position based on the referee reports? Was that the assumption?

**KATHRINA LO:** I think what I would say to that is in relation to the third ranked candidate, Mr Smith expected there to be a further discussion about that candidate. That would have been a discussion that would have been difficult for me to contribute to because I hadn't interviewed him and I would very much have been relying on the ranking and views of the first panel.

**The CHAIR:** You and Mr Smith, the panel members, were given, I think we heard before, 90 minutes or 1½ hours between when you got the final selection panel report—you sent an email back 1½ hours later saying "agreed". Why did you agree to that without questioning where is the discussion, why you didn't have the discussion around who to ultimately recommend?

**KATHRINA LO:** I had assumed—incorrectly, now that it turns out—that the second report reflected Mr Fitzpatrick's assessment in the first round. And, yes, I should have asked and verified that. I can't speak on behalf of Mr Smith other than what he's told me since the process has concluded that he wanted a further discussion there about the third ranked candidate.

**The Hon. PENNY SHARPE:** Just quickly on that, all of this was really a moot point given that Mr Barilaro had already signed the contract. When you were signing off on that, did you realise that he had signed the contract?

**KATHRINA LO:** Of course not, no.

**The Hon. DANIEL MOOKHEY:** Commissioner, there are some aspects of your opening statement which I wouldn't mind mentioning. If you return to the issue of informal referees, you were never aware that such a process was being embarked upon?

**KATHRINA LO:** No.

**The Hon. DANIEL MOOKHEY:** Is it appropriate for people to be seeking informal referees?

**KATHRINA LO:** Sometimes the hiring agency will do some due diligence and that's appropriate. It becomes an issue if the feedback through the informal referees was factored into the report that was presented to the rest of the panel members and those panel members weren't told about it.

**The Hon. DANIEL MOOKHEY:** Presumably you were not aware that one of the informal referees was the Minister? You said that.

**KATHRINA LO:** No.

**The Hon. DANIEL MOOKHEY:** Clearly, though, there is reference made in the final report that you agree to that references were important.



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**KATHRINA LO:** From my perspective that referred to the formal references.

**The Hon. DANIEL MOOKHEY:** But you had no basis to know at that point of time that there were informal referees.

**KATHRINA LO:** That's correct.

**The Hon. DANIEL MOOKHEY:** Could you go to page 11 of your tender bundle? This is a reply of Ms Brown to the draft report. I should just note for the record that there is no reference in this reply that there were any errors in the draft report, just to be clear. It doesn't say that Ms Brown replied immediately to the recruitment agency and said that there is a problem here. It does say, though, "I've sourced a couple of informal referees for the candidates." I am going to presume that by 26 March, when this email was sent, that Ms Brown had—I presume she never discussed that with you around that March date.

**KATHRINA LO:** No.

**The Hon. DANIEL MOOKHEY:** Okay. We established this morning from the evidence of Ms Bell that Ms Bell did seek informally to text with some people who are unknown in Hong Kong about Ms Cole and there were references that came back informally that were "glowing", was the word Ms Bell used. I can also presume you were unaware of that?

**KATHRINA LO:** That's correct. I was not aware of that.

**The Hon. DANIEL MOOKHEY:** Would you have expected to become aware of that, to be told that?

**KATHRINA LO:** Yes, if it was factored into the final report that I was asked to review and sign.

**The Hon. PENNY SHARPE:** In effect, you don't know what you don't know.

**KATHRINA LO:** That's right.

**The Hon. PENNY SHARPE:** You were presented with this report, didn't realise that there had been several different versions and you didn't know that there were informal referees at this point?

**KATHRINA LO:** Yes, I think that there was an issue around disclosure here.

**The Hon. DANIEL MOOKHEY:** Commissioner, do you feel like you've been misled?

**KATHRINA LO:** I think I don't know the answers to some things, so I don't know the answer to whether the informal referee checks were factored into the report.

**The Hon. PENNY SHARPE:** Do you think it's appropriate, though, that an informal reference from the Minister who is in charge of the portfolio—that that is a reasonable process, given this is supposed to be an arm's-length public service process?

**KATHRINA LO:** Look, sometimes applicants for public sector roles do put Ministers down as referees.

**The Hon. PENNY SHARPE:** Yes, as formal ones, but informally—it's not good practice, is it?

**KATHRINA LO:** I think that if a Minister's reference is being sought, it would be good for the panel to know. It's not that the reference was sought—

**The Hon. DANIEL MOOKHEY:** Commissioner, I want to take you to another letter before we finish because it involves the Public Service Commission. I have provided you with an email there as well from an earlier tender bundle that was presented to another witness. You can see here this is correspondence between the general counsel of Investment NSW and the person that we have now established as the general counsel of your organisation.

**KATHRINA LO:** Correct.

**The Hon. DANIEL MOOKHEY:** The general counsel of Investment NSW turned to the Public Service Commission for advice as to the legality and desirability of altering these appointments as STIC positions from public service positions to ministerial appointments. Do you recall that discussion?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** Did your general counsel consult you before she provided a reply?

**KATHRINA LO:** Yes, she did.

**The Hon. DANIEL MOOKHEY:** Did she ask you what your view was as to whether or not converting these to ministerial positions was in—

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**KATHRINA LO:** We had a discussion.

**The Hon. DANIEL MOOKHEY:** What did she ask you?

**KATHRINA LO:** My understanding is that I might not be able to answer that because there is legal privilege in place that has been upheld by the independent legal arbiter.

**The Hon. DANIEL MOOKHEY:** Sure, but your counsel did provide a reply? We can establish that from the index.

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** And a discussion was had with you?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** Can you please explain to me, in your view, what are the merits of converting the STIC positions to ministerial appointments?

**KATHRINA LO:** That's a policy matter and I'm not going to comment on it.

**The Hon. DANIEL MOOKHEY:** Fair enough. Can we also go back—your counsel did provide a reply to this correspondence. We can confirm that?

**KATHRINA LO:** Yes.

**The Hon. DANIEL MOOKHEY:** Thank you. Can I also establish—part of the complexity here is because it involves constitutional issues when it comes to foreign appointments, or people who are working for the New South Wales Government overseas is probably a better way of putting it. That is correct?

**KATHRINA LO:** Look, I only know of that through what has emerged at this hearing.

**The Hon. PENNY SHARPE:** I don't know the process issue here. I am not asking you to talk about what went into it.

**KATHRINA LO:** Sure.

**The Hon. PENNY SHARPE:** We know that a Cabinet minute went to Cabinet on 27 September that sought to convert the positions from public service positions to ministerial positions. We know that there was some interaction between your agency and INSW in relation to that. Do you provide other input into Cabinet submissions in relation to these types of matters as a matter of course?

**KATHRINA LO:** I was not aware that a Cabinet submission had been presented to Cabinet on that date. I learned of that through this hearing.

**The Hon. DANIEL MOOKHEY:** Presumably, therefore, the commission was not asked to provide a view as to the—

**KATHRINA LO:** Not in the formal Cabinet consultation process. It could very well be that my general counsel's advice back to Mr Chris Carr was factored into that, but I have no way of telling.

**The Hon. DANIEL MOOKHEY:** Commissioner, the issue with that is that we have established that the submission was lodged on 16 September and the correspondence from the general counsel of Investment NSW to your general counsel takes place five days later. The advice you gave back to the general counsel came back, from the index, a day afterwards or thereabouts. We can only presume that it was almost impossible for that to be factored in, given that the submission was already lodged by that point in time. Is that fair?

**KATHRINA LO:** That's fair.

**The Hon. DANIEL MOOKHEY:** So we can infer, therefore, that the Public Service Commission's view on converting these from public service positions to ministerial appointments was never sought?

**KATHRINA LO:** We weren't formally consulted through the eCabinet process.

**The Hon. DANIEL MOOKHEY:** You are the public sector commissioner, aren't you?

**KATHRINA LO:** The Public Service Commissioner.

**The Hon. DANIEL MOOKHEY:** You are an expert in public service-related matters?

**KATHRINA LO:** I have a great team behind me.

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**The Hon. DANIEL MOOKHEY:** You are an expert in the particular requirements around the GSSE Act, correct?

**KATHRINA LO:** The GSE Act.

**The CHAIR:** Mr Mookhey, one last question, because it is 5.00 p.m. We have to go to the Government.

**The Hon. DANIEL MOOKHEY:** So I can only presume that perhaps you would have had the expectation to be consulted on a question of converting a public service position of this seniority to a ministerial appointment?

**KATHRINA LO:** Look, it's very hard for me to comment on something I didn't know at the time.

**The CHAIR:** Thank you. We will now go to the Government for the last 15 minutes, if they want.

**The Hon. WES FANG:** Thank you for coming and appearing before us today, Ms Lo. The first question I want to go to is obviously Mr Smith was a member of both of the panels and there are a number of other members of the panel who had been on both panels. In the instance that the third candidate obviously wasn't interviewed for the second round in person, did any of the members from the first panel insist that the third-ranked candidate in the second round, i.e. Mr Fitzpatrick, should be considered in the top two positions, like Mr Barilaro and Ms Cole?

**KATHRINA LO:** Not during the deliberations that happened at the conclusion of the interviews.

**The Hon. WES FANG:** So at the conclusion of the interviews, the people that had seen Mr Fitzpatrick in the interview in the first round didn't insist that he be considered in the first tier of the final selection?

**KATHRINA LO:** That's correct. We were awaiting referee reports.

**The Hon. WES FANG:** Thank you very much. In relation to the reports that we've got, the first thing I will say is you are obviously aware that 10A isn't applicable to these roles and that there is an exemption. We talk a lot about these upgrades and downgrades, and it has happened a lot through this inquiry, but the reality is they aren't the ultimate decision-making point around these roles. Is that correct, that it is actually a lot wider and broader because of the dynamic nature of these roles?

**KATHRINA LO:** So 10A allows a lot of flexibility in terms of recruitment, but the hiring agency chose to go down a path of using the capability framework and focus capabilities.

**The Hon. WES FANG:** Understood. I will just take you now to—if you've got that tender bundle that Mr Mookhey has given you—page 4, this is the report from the first round where Jenny West, you will see, is highlighted with her capabilities.

**KATHRINA LO:** Yes.

**The Hon. WES FANG:** And the second-ranked candidate, which has "exceeds", "exceeds", "exceeds", "meets", is Mr Fitzpatrick. I think we have established that. Is that correct? Are we all in agreement there?

**KATHRINA LO:** Yes.

**The Hon. WES FANG:** I'm going to take you to page 9 of the tendered bundle. I've become Mr Mookhey! This is the initial draft report that was sent to Ms Brown, where it has Mr Barilaro ranked second, as you can see, it has Ms Cole ranked in the top position, and you can see that the third-ranked candidate has "meets", "meets", "exceeds", "exceeds". That's Mr Fitzpatrick, I think we are—

**The Hon. PENNY SHARPE:** No, we don't know that.

**The Hon. DANIEL MOOKHEY:** We haven't established that.

**The Hon. WES FANG:** Oh, okay. Well, in any case—

**The Hon. PENNY SHARPE:** No, he's not. The only people, as I understand, that are in those four were the people that were interviewed. And Mr Fitzpatrick was not interviewed.

**The Hon. DANIEL MOOKHEY:** No, Mr Fitzpatrick's name is definitely there. He's definitely one of the four.

**The Hon. WES FANG:** He's definitely one of the four. That's what I'm saying.

**The Hon. PENNY SHARPE:** Sorry.

**The Hon. WES FANG:** If the third-ranked candidate is Mr Fitzpatrick with "meets", "meets", "exceeds", "exceeds", which is different to the first one, and if it's the fourth-ranked one, well, then, it's drastically

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different. So I'm going to assume that it's the third person on that form. Given that page 9 was the draft that was sent through from NGS Global to Ms Brown—the initial one—is it obviously not the fact, then, that NGS Global has actually made the error here or not transcribed it across? In the final report for the first round on page 4, where the second-ranked candidate is exceeds, exceeds, exceeds, meets, NGS Global, without asking, sent to Ms Brown the report on page 9, which then has the third-ranked candidate with different rankings before anybody had even seen it. So it's actually NGS Global—

**The Hon. DANIEL MOOKHEY:** No.

**The Hon. WES FANG:** —would that be fair?

**The Hon. SCOTT FARLOW:** The question is for the witness.

**KATHRINA LO:** I can't answer that. I don't know.

**The Hon. DANIEL MOOKHEY:** You might want to take the witness to the email that she was sent when she was sent the report. If you're going to do an impersonation of me, do a proper one, please.

**The Hon. WES FANG:** I'm going to just go to another—

**The Hon. DANIEL MOOKHEY:** Go to page 29 because you will see that that report was sent by Investment NSW—"I have just been sent this file from Investment NSW." We established that Investment NSW produced that report. To be fair to the witness, you are not showing the witness all the information.

**The Hon. SCOTT FARLOW:** Point of order: Let's just let Mr Fang ask the questions.

**The Hon. WES FANG:** It has been in evidence that that came from NGS Global [disorder].

**The CHAIR:** Mr Fang, if you feel like you are wanting to continue your line of questioning, please do.

**The Hon. WES FANG:** I would like to. I think you said that you felt as if the secretary perhaps had used your position as cover. Is it possible also that perhaps the secretary highlighted the fact that you were on the panel as the Public Service Commissioner because, as you have rightly said, you are well respected on both sides—Opposition and Government—and you have worked with governments of both persuasions in your long career in the public service?

**KATHRINA LO:** It's possible.

**The Hon. WES FANG:** It's possible. Thank you. I know you said you have only seen the draft report now. The draft report that was sent through that had Mr Barilaro ranked as second and Mr Mookhey took you to the description of Mr Barilaro, do you agree that that does not accord with the discussion that was had with the panel members at the time and that it was inaccurate?

**KATHRINA LO:** Based on my very brief look at it today, I would say it didn't reflect the deliberation at the conclusion of the day we interviewed.

**The Hon. WES FANG:** You have spoken previously about unconscious bias. Do you believe that, potentially, if there was a view from NGS Global that there was perhaps a desire to have a female candidate over a male candidate, given that a number of other STIC positions were male, that that unconscious bias—or even, in fact, conscious bias—may have actually found its way into the report to ensure that the female candidate was ranked, and that might explain why the first draft report was as critical towards Mr Barilaro as it was, given that that did not represent the conversation of the panel members?

**KATHRINA LO:** I can't answer that because the hiring agent is the client of NGS Global and I am not quite sure what discussions they had around mandate.

**The Hon. WES FANG:** I will get down to the tin tacks now of what we are discussing. When you were presented with the report for signature and you read it before signing, did you agree that it was an accurate representation of the discussions that were had by the panel members at the time and that it was an accurate report?

**KATHRINA LO:** At that point in time, yes.

**The Hon. WES FANG:** I know you touched on this in your opening statement, but I want to be very clear about this. Did anybody approach you, ask you, encourage you—subconsciously or in any which way—to preference Mr John Barilaro for the role before you signed that report?

**KATHRINA LO:** No, and I will put on the record that I have never had a conversation with the Premier, the then Minister for Enterprise Investment and Trade, or staff in their offices about this recruitment.

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**The Hon. WES FANG:** The last question I want to ask you, given your involvement in the interview panel and your understanding of the roles, do you believe that Mr John Barilaro earned that role on merit?

**KATHRINA LO:** That is very hard for me to comment on now, because I now am aware of things I wasn't aware of at the time. I think if I was aware of those things at the time there may have been different conversation amongst the panel members. That's just the position I'm in now.

**The Hon. WES FANG:** I understand that. Perhaps I will rephrase it. Do you believe Mr Barilaro, if he was to have taken up the role—do you believe he would have been a successful person to conduct himself in that role?

**KATHRINA LO:** Based on what I had seen to date, by the time I was asked to sign the report, I would say yes. I guess my concern is more around the process.

**The Hon. WES FANG:** Okay. So it's not that you don't believe Mr Barilaro was capable of the role. You have concerns around what has, I guess, come out of what has been an imperfect recruitment process.

**KATHRINA LO:** That's right.

**The CHAIR:** Thank you so much, Ms Lo, for appearing before this inquiry today. I don't believe you took any questions on notice. Thanks again, we really appreciate it.

**(The witness withdrew.)**

**The Committee adjourned at 17:11.**