

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

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

CORRECTED

At Jubilee Room, Parliament House, Sydney on Monday, 8 August 2022

The Committee met at 10:00 am

PRESENT

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

The CHAIR: Welcome to the sixth hearing of the Public Accountability Committee 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, probity and integrity measures that were undertaken. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today.

Today we will be hearing from two witnesses; Mr John Barilaro, former Deputy Premier of New South Wales and Ms Amy Brown, Secretary, Department of Enterprise, Investment and Trade and the CEO of Investment NSW. I thank everyone for making the time to give evidence to this important inquiry. Before we commence I 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 others after they 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. In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into the microphone. For those with hearing difficulties who are present in the room today, please note that the room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

Mr JOHN BARILARO, Former Deputy Premier of New South Wales, sworn and examined

The CHAIR: Thank you very much, Mr Barilaro. Would you like to begin by making a short opening statement?

JOHN BARILARO: Yes, I would. Thank you very much. Thank you for the opportunity to attend today's inquiry to give evidence in what has shaped up to be an inquiry to clear my name. In a society where the presumption of innocence until proven otherwise and beyond any reasonable doubt is still sacrosanct, being a politician or former politician does not revoke that fundamental right. From the outset, I refute any suggestion of wrongdoing. I refute the suggestion that I created a STIC America role for myself through a Cabinet submission to make these appointments statutory appointments, including the unsworn statement by my former chief of staff that I would create a role in New York. I refute any suggestion that I sought out any special treatment during the public service job process, where an independent panel, on merit, put me forward as the preferred candidate.

When I look back at my 10-plus years of parliamentary service, I am proud of what I achieved as a local member, a Minister and as the Deputy Premier. In the role of Deputy Premier and several ministerial responsibilities, I oversaw some of the toughest times for our State, predominantly in regional New South Wales. I sat in kitchens with farmers and regional families as they endured the heartbreaking worst drought in recorded history. I carried the despair and trauma from the most horrific bushfire event in our State's history, overseeing the large logistical recovery program to assist those broken communities. The same again during floods and then as a member of the COVID crisis committee, especially the responsibility to lead the reopening road map, engaging with community, industry and businesses, I was giving hope where there was no hope and I was giving light at the end of what was called the COVID lockdown tunnel. I took these responsibilities seriously and at times at the expense of my own personal wellbeing, carrying such burdens.

I have never shied away from saying what had to be said, fought the fights that had to be fought and taking every part of my job seriously. In doing this, I may not have been everyone's cup of tea but my only focus was results and I am proud of those results. Since my announcement as the trade commissioner to the Americas and the unbearable past six to seven weeks, what I have come to learn is that my decade of fighting for others did resonate with many. I want to thank the many people that have reached out and supported me over these weeks. They were strangers, family, friends, colleagues from all sides of politics and many business leaders.

Throughout the hearings, we've heard from apolitical, long-term, professional senior public servants that I was a credible and capable candidate that brought many attributes to fill this important role for the people of our great State. For that, I had my credentials and application publicly derided in what is nothing less than an abuse of my privacy.

Let me make this clear: I applied for public service job as a private citizen. Nothing excluded me in doing so. I followed the exact same process that was afforded to others. I went through several interviews, psychometric testing and a police check. I was offered a job. I accepted the job. I then withdrew from this job. From that moment, I've endured what can only be described as a personal hell—unfair and unjust. I look forward today to stating my case to this Committee and again thank you for affording me this opportunity.

The CHAIR: Thank you, Mr Barilaro. We'll go straight to questions from the Opposition, starting with Mr Mookhey.

The Hon. DANIEL MOOKHEY: Thank you, Chair, and thank you, Mr Barilaro, for making yourself available to us today.

JOHN BARILARO: My pleasure.

The Hon. DANIEL MOOKHEY: I do appreciate it. Mr Barilaro, when did you first develop an interest in becoming the Senior Trade and Investment Commissioner to the Americas?

JOHN BARILARO: Late last year after I resigned and left as Deputy Premier and trade Minister. I was thinking about my future and one of those options, and an idea, was would I be interested in something like a trade role overseas, especially as it was a portfolio that I had actually been part of and something that I believed was beneficial to this State. So late last year I probably would have had my first inkling that this was something I'd like and would be interested in.

The Hon. DANIEL MOOKHEY: When you say late last year, after your resignation, you're referring to your resignation as Deputy Premier and as the Minister for trade, correct?

JOHN BARILARO: That is correct.

The Hon. DANIEL MOOKHEY: But prior to your resignation as the member for Monaro. Is that correct?

JOHN BARILARO: Yes, absolutely. I was still an MP of the Parliament, yes.

The Hon. DANIEL MOOKHEY: Mr Barilaro, are you able to provide us with a bit more of a concrete time frame as to—when you say late last year, are we talking November? You resigned in October. Are we talking October, November, December?

JOHN BARILARO: I would say November. Somewhere in November.

The Hon. DANIEL MOOKHEY: And you formed that idea yourself or you were encouraged?

JOHN BARILARO: No, I formed that idea myself. There's been lots of speculation that I was offered an opportunity outside if I was to leave, but that's not correct. I was looking at options. You know that I resigned quite suddenly because of the opportunity that arose when the Premier resigned and, when your feet don't hit the ground, you sort of get swept up in that whirlwind, and I came to an idea that that was an option that I would pursue.

The Hon. DANIEL MOOKHEY: In about November.

JOHN BARILARO: Yes, I'd say November.

The Hon. DANIEL MOOKHEY: When you formed this idea, did you speak about it with anyone?

JOHN BARILARO: Yes, I did.

The Hon. DANIEL MOOKHEY: Who did you speak about it with?

JOHN BARILARO: It's been already publicly noted that I reached out to Minister Ayres in early December in relation to what the process would be, and he sent me a copy the STIC Americas advertisement on 17 December, on the very same day that it was advertised in the AFR, which I saw it in the AFR, but he sent me that on that day, and I had a conversation previously in late November, when I thought about this role, in a passing comment with the Premier of New South Wales.

The Hon. DANIEL MOOKHEY: So in late November, you had a passing comment with the Premier of New South Wales—

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: —who was at that time?

JOHN BARILARO: Sorry?

The Hon. DANIEL MOOKHEY: Who was at that time?

JOHN BARILARO: It was Premier Perrottet.

The Hon. DANIEL MOOKHEY: Where did this conversation take place?

JOHN BARILARO: Look, I just can't recall but it might have been a phone call. There were many phone calls after I left with Mr Perrottet. He was always checking in on me. He was checking in on me, and on one of those occasions I flagged, as I said, that I'd be interested. He had nothing more to say than, "Go for it."

The Hon. DANIEL MOOKHEY: Let's go step by step if you don't mind, Mr Barilaro.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: When you say that, firstly, you were having many conversations with the Premier, presumably I imagine part of the reason why is because you were the former Deputy Premier, correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: And this was taking place while you were the member for Monaro?

JOHN BARILARO: Yes, absolutely.

The Hon. DANIEL MOOKHEY: Would you initiate these conversations? Would he initiate the conversations?

JOHN BARILARO: No, I probably initiated all of them. All of them.

The Hon. DANIEL MOOKHEY: How many of them were there?

JOHN BARILARO: Look, I couldn't tell you but three or four—maybe five.

The Hon. DANIEL MOOKHEY: Over what period of time?

JOHN BARILARO: A couple of months.

The Hon. DANIEL MOOKHEY: So from November through to when?

JOHN BARILARO: No, from when I left in October.

The Hon. DANIEL MOOKHEY: From the ministry, yes?

JOHN BARILARO: Yes, from the ministry. And right through to November, December, I would've spoken to Mr Perrottet on four or five, six occasions—I can't see it's more than that, and that's just a guess—about all things: questions around the road map that I had prepared for the State, by-elections for the seat of Monaro, by-elections in general, and just general catch-up, wellbeing. I asked about him, how he was going and how I was going. There's no surprise here that I did create a friendship with the former Treasurer. I was the Deputy Premier for five years while he was Treasurer—or close to five years.

The Hon. DANIEL MOOKHEY: So these were conversations effectively along the lines of a respected colleague and a friend?

JOHN BARILARO: Yes, absolutely.

The Hon. DANIEL MOOKHEY: Fair enough.

JOHN BARILARO: Absolutely.

The Hon. DANIEL MOOKHEY: Mr Barilaro, in one of those conversations you said you raised an interest.

JOHN BARILARO: Yes, I just mentioned that, you know, I was thinking about the trade role to the Americas.

The Hon. DANIEL MOOKHEY: Do you recall precisely what you said or is that the best recollection?

JOHN BARILARO: I think that'd be the closest I could recall.

The Hon. DANIEL MOOKHEY: What did he say?

JOHN BARILARO: All I remember was like, "Great," or—I think it was just like, "Great." And that was it. That was it.

The Hon. DANIEL MOOKHEY: Can I just ask you a question at this point in time? This took place prior to your conversations with Minister Ayres, correct?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: And at this point in November you've expressed an interest in the Americas position, correct?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Can I ask you, Mr Barilaro, how did you know in November the position was vacant?

JOHN BARILARO: I didn't. That's the whole point. I didn't know it was vacant. I was asking and when I asked Minister Ayres it was more in, "What's happening with the role? What is actually happening with the role?" And that's why he sent me the ad. That's all it was. I didn't know what the process was until, again, I received the ad.

The Hon. DANIEL MOOKHEY: We just do need to get the timescale correct here, Mr Barilaro.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Just in respect, though, to the conversation you had with the Premier in which you raised this as an idea, at that point in time the evidence in front of us suggests the Government itself hadn't decided what was going on with the role. So when you're having a conversation with the Premier in November in which you're asking him—or you're flagging with him a potential interest, is that fair?

JOHN BARILARO: Yes, that's right.

The Hon. DANIEL MOOKHEY: How is it that you would know—and how would he know—that the role would be open?

JOHN BARILARO: No-one knew. No-one knew that it was open. It doesn't mean that you don't flag it. That role could've opened in three months, six months, 12 months, two years. No-one knew. I just flagged the option and the idea of a trade role.

The Hon. DANIEL MOOKHEY: But do you not see that perhaps if you had flagged it with the Premier and the Minister—and we'll go through them in sequence in time. But, just in this little interlude, if you had flagged it with them then, do you see that perhaps their subsequent decision-making could've been affected by your potential interest?

JOHN BARILARO: Not at all. No, I don't agree with that statement. I also was looking at other options outside of politics at the time. I was looking at other options for employment so, no. It was a query in relation to that role and left it at that. It was that simple.

The Hon. DANIEL MOOKHEY: I might at this point just ask that we provide the witness with tender bundle 001. Let's just turn now—is that the only conversation you had with the Premier in November?

JOHN BARILARO: That's what I recall, yes.

The Hon. DANIEL MOOKHEY: Okay. Just going forward, did he at any point suggest to you at that time that other than—I heard you correctly when he said words to the effect of, "Great. Good luck." Is that basically what—

JOHN BARILARO: I think just, "Great." I think it was, "Great."

The Hon. DANIEL MOOKHEY: So he didn't suggest to you that perhaps that could create some controversy for you or the Government?

JOHN BARILARO: At no point did anyone say it'd create controversy. I think if someone had flagged that early on—and maybe I should've used my own political nous and my own gut feel. And even when accepting the job I even had hesitation. It took me a little while to make that decision. But at no point did anyone say that this could've been a problem.

The Hon. DANIEL MOOKHEY: I think what I should ask you is: In December, did you have one conversation, two conversations—or how many conversations did you have with Minister Ayres?

JOHN BARILARO: One.

The Hon. DANIEL MOOKHEY: Are you sure?

JOHN BARILARO: I'm confident it was—as I recall, I sought out what the process would be in relation to the STIC role.

The Hon. DANIEL MOOKHEY: How did you do that?

JOHN BARILARO: It'd either be by phone call or by text.

The Hon. DANIEL MOOKHEY: Do you recall when you did that?

JOHN BARILARO: Early December.

The Hon. DANIEL MOOKHEY: Okay. So early December there's a conversation or a text message with Minister Ayres—

JOHN BARILARO: Minister Ayres.

The Hon. DANIEL MOOKHEY: —in which you made inquiries about the process?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: What did you ask?

JOHN BARILARO: What the process would be.

The Hon. DANIEL MOOKHEY: And what did the Minister say?

JOHN BARILARO: Nothing. And then I think a week or two weeks later he sent me the ad.

The Hon. DANIEL MOOKHEY: So there are two contacts in December. There's the time when you raise an inquiry.

JOHN BARILARO: Okay, yes.

The Hon. DANIEL MOOKHEY: And then there's the time he sends you a text message thereafter. Incidentally, do you have the text message exchanges with you?

JOHN BARILARO: No, I don't because I don't have—I've got a different phone today than what I had then.

The Hon. DANIEL MOOKHEY: Okay. At that point he didn't raise any concerns with you?

JOHN BARILARO: No. At no point did anyone ever raise a concern about me applying for this role.

The Hon. DANIEL MOOKHEY: What was the reason you called Minister Ayres?

JOHN BARILARO: Well he was the Minister for trade and a former colleague. I reached out to see, as a member of Parliament—I was an MP—I just reached out to see what the process would be.

The Hon. DANIEL MOOKHEY: At this point you're still not aware whether or not there actually is a vacancy; is that correct?

JOHN BARILARO: Yes, I'm actually not aware.

The Hon. DANIEL MOOKHEY: Mr Barilaro, do you see that perhaps it would be impossible for a general member of the public to call up the Minister for trade and ask for a preview about an application process for a job that may or may not be vacant?

JOHN BARILARO: I don't think it was a preview.

The Hon. DANIEL MOOKHEY: But do you understand that, for example, any other person who may be interested in filling this role might not have had the opportunity to pick up the phone to the Minister for trade and say, "Hey, can you give me an update as to what's going on with this job?"

JOHN BARILARO: That's a fair statement.

The Hon. DANIEL MOOKHEY: Do you think that perhaps Minister Ayres should have declined to provide that information to you?

JOHN BARILARO: Well, he could have. That's a question for Minister Ayres.

The Hon. DANIEL MOOKHEY: Did you have any conversations with anyone else in the Government around this time?

JOHN BARILARO: I flagged it also to Treasurer Kean, or Minister Kean, at the time.

The Hon. DANIEL MOOKHEY: Take us through that.

JOHN BARILARO: I just flagged with him that I was considering having a look at this role, but that would have been after the ad—with Minister Kean, as I recall. Again, it was just touching with colleagues. To the point that you made earlier, it was just to see any feedback of political sensitivity, remembering I was a member of the National Party, not the Liberal Party.

The Hon. DANIEL MOOKHEY: Not at this point in time, you weren't a member of the Liberal Party.

JOHN BARILARO: Sorry?

The Hon. DANIEL MOOKHEY: You weren't a member of the Liberal Party at this point in time.

JOHN BARILARO: Goodness gracious, I haven't been a member of the Liberal Party since I was 17.

The Hon. SCOTT FARLOW: I don't think he is now, either.

The Hon. DANIEL MOOKHEY: Yes, well we all eventually see the light.

JOHN BARILARO: For nine months. Maybe I should have joined you guys.

The Hon. DANIEL MOOKHEY: If you need a union, let us know.

JOHN BARILARO: I mentioned with Minister Kean that I was considering applying for the role.

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

JOHN BARILARO: Again, it would have been somewhere in December.

The Hon. DANIEL MOOKHEY: And how did you do that?

JOHN BARILARO: That was a text as well.

The Hon. DANIEL MOOKHEY: So you texted Minister Kean?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Just to be clear here, what did you say?

JOHN BARILARO: That I was considering applying for the trade role.

The Hon. DANIEL MOOKHEY: What did he say back?

JOHN BARILARO: I think he just said—he was supportive. I actually don't know—look, I can't recall the exact words. He was supportive. Again, there was no feedback in relation to political sensitivities.

The Hon. DANIEL MOOKHEY: And your predominant purpose in testing the proposition with Minister Kean was in order to identify whether or not the Government would fear a political controversy?

JOHN BARILARO: Not necessarily. There's no question that over the years I've forged friendships with former colleagues. Like most people would do, they would reach out to some of those colleagues to get some level of counsel, but—

The Hon. PENNY SHARPE: Were you testing whether Mr Kean would push back on your appointment?

JOHN BARILARO: Not necessarily. I know people think that Minister Kean and I might have been foes, not friends, but if you go back to my final speech I did actually talk about our friendship. It's because of the old line that "iron sharpens iron". We might have been competitive, but I respected Minister Kean and respected his counsel. Again, people would be surprised that when I made a decision to retire on the Saturday I actually spoke with Minister Stokes. People in this room will probably not understand that because, again, I built friendships and trust with people in this Government that I relied on for counsel.

The Hon. DANIEL MOOKHEY: So you turned to Minister Kean, I guess, as a respected colleague and a friend?

JOHN BARILARO: Yes, and he would have told me bluntly if he thought it was going to be an issue, for sure.

The Hon. DANIEL MOOKHEY: And he never did?

JOHN BARILARO: No. No-one ever raised with me anything that this would be politically sensitive.

The Hon. DANIEL MOOKHEY: At this point in the conversation with Minister Kean—I'm sorry to press you on this, Mr Barilaro, but a bit does turn on it—do you recall when this happened, in December?

JOHN BARILARO: It would have been just before Christmas, I sense.

The Hon. DANIEL MOOKHEY: This is in that interregnum period between the job being publicly advertised and you deciding whether or not you wish to apply?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: We've established that you were having conversations with Premier Perrottet throughout from November. We've established two conversations with Minister Ayres in December and a text message exchange with Treasurer Kean. Did you raise it with anyone else in the Government?

JOHN BARILARO: Not that I recall—not pre my application.

The Hon. PENNY SHARPE: What about your National Party colleagues?

JOHN BARILARO: No, not pre my application. I did speak to a couple of my colleagues post applying.

The Hon. PENNY SHARPE: Did you ever raise with your National Party colleagues prior just an interest in the role more generally?

JOHN BARILARO: No, not at all.

The Hon. DANIEL MOOKHEY: In respect to the period leading up to your application—so let's talk about the events of January—did you have any contact with people between—sorry, let's put this into proper context for people who are following along at home. You resign on 31 December, do you not?

JOHN BARILARO: Yes, along with a few others.

The Hon. DANIEL MOOKHEY: When you resigned were you, at that point, mindful of making an application?

JOHN BARILARO: No, I didn't actually contact the recruitment agency or the NGS Global, until 14 January, seeking a candidate pack at that point.

The Hon. DANIEL MOOKHEY: That's a good point, Mr Barilaro. There comes a point where you switch from being interested to forming an intent. When did that take place?

JOHN BARILARO: Fourteenth of January is when I emailed NGS Global in relation to a candidate's pack.

The Hon. DANIEL MOOKHEY: And you got that pack?

JOHN BARILARO: Yes, I think, a couple of days later.

The Hon. DANIEL MOOKHEY: And you decided to make an application?

JOHN BARILARO: Yes, I lodged an application.

The Hon. DANIEL MOOKHEY: On 19 January, correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: Let's go from 14 January onwards. From 14 January to, let's say, the end of January, did you have conversations with members of the Government in that period of time?

JOHN BARILARO: My recollection, no.

The Hon. DANIEL MOOKHEY: Do you recall attending any form of a social function with the Premier at that period of time or thereafter?

JOHN BARILARO: I can't recall.

The Hon. DANIEL MOOKHEY: Do you recall attending any social function at any point in time with the Premier at which you discussed this?

JOHN BARILARO: So you're going to the point about when I notified the Premier in relation to that I had applied?

The Hon. DANIEL MOOKHEY: No, I'm just asking you, Mr Barilaro, whether you have any recollection of having any conversation with the Premier at a social function in which you discussed the Americas position?

JOHN BARILARO: I ran into Premier Perrottet in Martin Place in late January or early February.

The Hon. DANIEL MOOKHEY: Okay. What happened then?

JOHN BARILARO: That's when I told him I applied.

The Hon. DANIEL MOOKHEY: Have we provided the witness with tender bundle 1? I think we have.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: If you don't mind going to page 2 of that. You can see that this is an article from the ABC by State political reporter Ashleigh Raper, and Kathleen Calderwood.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: The lead sentence is:

NSW Premier Dominic Perrottet has revealed he knew that John Barilaro wanted the plum role as the state's trade commissioner to the US as the pair had discussed it at a social function.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Do you know what the Premier was referring to when he said that at a press conference?

JOHN BARILARO: I think he must be referring to our encounter in Martin Place.

The Hon. DANIEL MOOKHEY: Okay, and so—

JOHN BARILARO: Maybe the word social "function" isn't the right word.

The Hon. DANIEL MOOKHEY: To be fair, it's the Premier's words.

JOHN BARILARO: Yes, but—it may not be the correct one, but it was in Martin Place.

The Hon. DANIEL MOOKHEY: Were you coming or going from a social function?

JOHN BARILARO: No, I was, at that time, meeting many recruiters in the city and I ran into Dom in Martin Place—not at his office, here in Martin Place, literally, out in the open.

The Hon. DANIEL MOOKHEY: Okay.

The Hon. JOHN GRAHAM: What time of day was it?

JOHN BARILARO: It would have been afternoon, or something like that.

The Hon. DANIEL MOOKHEY: Just to be clear, you come directly from an interview with the recruitment agency—

JOHN BARILARO: No, I'm saying I was often in the CBD in January and February, as I was, at that stage, starting that whole job application process, so—

The Hon. DANIEL MOOKHEY: Sorry, Mr Barilaro, I just heard you say that you were coming from a recruitment—

JOHN BARILARO: No, I said—you said what was I doing—

The Hon. DANIEL MOOKHEY: I asked you whether you were coming from a social function?

JOHN BARILARO: No, not on this particular event. I don't know what I was doing on that particular day I ran into Dom Perrottet in Martin Place.

The Hon. DANIEL MOOKHEY: Okay. So, and then what, you just stopped in Martin Place and—

JOHN BARILARO: We chatted about my wellbeing and his wellbeing, everything else, how it was all going. I hadn't really spoken to him since the reshuffle, I don't believe, and then I had mentioned to him that I had applied. So it must have been post the application, so it would have been late—end of January, early Feb.

The Hon. DANIEL MOOKHEY: I can only presume it was a short conversation?

JOHN BARILARO: Very short.

The Hon. DANIEL MOOKHEY: You said to him that you had applied, or words to that effect?

JOHN BARILARO: Yes, correct.

The Hon. DANIEL MOOKHEY: And your recollection is that he gave words that expressed feelings of goodwill and—

JOHN BARILARO: Something like that. That's it, and that's the end of it.

The Hon. DANIEL MOOKHEY: Was that the last contact you had with the Premier about the application?

JOHN BARILARO: As I recall, yes.

The Hon. DANIEL MOOKHEY: From January onwards to date have you had any conversations with the Premier?

JOHN BARILARO: No.

The Hon. DANIEL MOOKHEY: Have you had any conversations with the trade Minister?

JOHN BARILARO: The trade Minister contacted me last week, after he resigned.

The Hon. DANIEL MOOKHEY: What did he say?

JOHN BARILARO: Just wished me all the best.

The Hon. DANIEL MOOKHEY: Okay.

JOHN BARILARO: And indicated how he can't believe what has occurred. I think he seems hurt. He resigned, of course, his post. That's all it was.

The Hon. DANIEL MOOKHEY: Okay, and that was last week?

JOHN BARILARO: Yes. Thursday or Friday.

The Hon. DANIEL MOOKHEY: It must have been after Wednesday.

JOHN BARILARO: Thursday or Friday.

The Hon. DANIEL MOOKHEY: Yes. From the application period of time, 19 January—you lodged your application on 19 January, correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: You were announced as a candidate, or as the commissioner circa 17 June, were you not?

JOHN BARILARO: That's correct.

The Hon. DANIEL MOOKHEY: Let's go from within that period. Did you have any discussions with members of the Government about your future role at any point in time?

JOHN BARILARO: Not that I can recall, but on the seventeenth—now, I've got to get this right. It was a Friday; I was at the Port Macquarie National Party conference and it was already, I think, murmured that I was going to be announced. I think there was something in the media that morning and a couple of my colleagues had indicated that they were supportive, but that was on the day of my announcement.

The Hon. DANIEL MOOKHEY: Before I pass to the Chair, if you don't mind clarifying which of your colleagues said to you at that point that they were supportive.

JOHN BARILARO: Minister Mitchell, Minister Toole—Deputy Premier Toole I should say; I apologise—and Minister Taylor on the Friday at conference were congratulating me on what was about to be—that I was about to be appointed.

The CHAIR: Mr Barilaro, when did you decide that you wanted to leave politics?

JOHN BARILARO: This is a really, really good question and there's been plenty of speculation around that. You know, there is no surprise that in 2020 I took a month off for mental health leave and when I returned from that point, life was never the same. But I didn't want to leave off the back of what was a breakdown and so I chose not to do it then and I worked hard, and of course we had the COVID lockdown situation. So it was head down, bum up. The first time that I was considering leaving politics was budget week of 2021. I spoke to a couple of friends, colleagues, that I had enough—I had had enough. We had reopened. Tuesday was budget day and I was considering at that time, talking to a couple of friends, that I would announce on the Thursday morning and call for a party room meeting so that I would leave in June. That was my plan. That's what I had in my head to do.

What stopped that was, on Tuesday night was a budget dinner; Adam Marshall went down with Delta. We went into lockdown. We were put into isolation and some of my confidants were telling me, "This is not the right time to now leave," so I chose not to leave. That was the correct decision because Delta hit and I played an important role in the crisis to be in the end the road map. The decision to leave on 4 October was a decision that I made only spontaneously after Premier Berejiklian resigned on the Friday. In my mind I thought, "This is an opportunity for me to leave." When is it the right time? And many in this room would understand, when is it the right time to leave? There will just be another crisis or another wave, and I thought it was time for a refreshed leadership.

Speaking to friends and family—and I indicated earlier it was actually by coincidence that Minister Stokes rang me. I think at that time he was nominating to be leader of the Liberal Party. I assume he was ringing me to check in to see if I would have any objection to that, but the conversation turned to where I actually indicated to him that I'm not sure that I'd be hanging around. After that conversation I pretty much made up my mind that I think I am going to leave and on the Monday I made the announcement.

The CHAIR: Thank you. So when did you decide that in all of that time—it sounds like it's between the budget day decision, or just after budget day, and then when you left your role. When did you decide to make the STIC positions ministerial appointments?

JOHN BARILARO: Again, I want to clarify this part. When Global NSW was handed down—and that was when, as the portfolio Minister, I sat within the cluster and the Treasury cluster to have responsibility for trade. Global NSW, the document itself—if you look at it—is very similar to Global Victoria. It was a document created by Treasury and announced by the Premier, myself and the Treasurer.

For months on end, we'd been talking about that these positions of STICs should be elevated to ambassadorial positions. We wanted to attract a higher calibre of individual for these roles: commercial,

businesspeople, former diplomats or even former politicians. This had been probably a narrative for a number of months, well back into June, maybe even earlier. I had Ministers and members of Parliament that were indicating that we should elevate these roles, but do you know what? I was focused on COVID and never really got around to doing anything in that space. When I made the—it was after that we were getting close to the announcement, I understand, of the STIC Americas. I remember understanding that Jenny West was a candidate. I wasn't told at all that she was offered a job, so I'm making that absolutely clear today. I remember in leadership meetings—and the leadership meetings were either between myself, the Premier, the Treasurer and my deputy. In this particular leadership meeting, I recall it was the Premier—and that's Premier Berejiklian—Treasurer Perrottet and myself. I raised the idea, "Should we be elevating these positions to statutory appointments?" As we'd been—

The CHAIR: When was that?

JOHN BARILARO: That would have been September sometime—one of our meetings. I can't point to which meeting it was, but leadership meetings were weekly. So it was clear at that time that this was something that the Government—as the policy and the Executive, we have the right to make these decisions to change process. That's why I put a request to my staffer, Joseph Brayford. I sent him a text in relation to—could he get advice from the department on how to make these statutory appointments?

The CHAIR: That was kind of way back, though, months before September, when you first started making inquiries about that and wanting to change these positions to ministerial appointments, wasn't it? When was it?

JOHN BARILARO: No, I think—to be honest, I think back in June we started asking questions around how we would make these statutory appointments. But, as I said, my focus wasn't on this. My focus was COVID and everything around COVID. And so, the reality was that—probably the thing that I can be accused of is that I didn't act quick enough. But it was later—and I cannot recall if it was August or September—at a leadership meeting. I left the leadership meeting with the support of the Premier of the day and the Treasurer to bring back a Cab sub. The only way you get a Cabinet submission up on the agenda of Cabinet is for it to go through the Premier's office and be signed off by the Premier's office, and that's what occurred. And, I have to say, I was pleasantly surprised that they turned around a Cab sub so quickly.

The CHAIR: Was there a reason at that point—as you're saying, there was a lot that the State was dealing with, and there was a lot that you were dealing with as Deputy Premier in terms of COVID and lockdown and the recovery out of lockdown. What was the reason for the haste at that particular time? Why did you need to turn around that Cabinet submission, that decision, so quickly—I think in the matter of a week or 10 days or whatever? What was the haste?

JOHN BARILARO: Well, there wasn't haste. My instruction to my staffer was, "ASAP." The reality here is that—

The CHAIR: Why was it ASAP?

JOHN BARILARO: Everything's ASAP. I don't sit back. I'm a Minister that just gets on with the job. So the timing may look, to this forum and to the public—it may look like it was rushed through. But a comment like "ASAP"—like, I just made a comment earlier. I was pleasantly surprised that the department was able to turn around the Cabinet submission so quickly. Sometimes, if the agendas are light, you can get things onto the agenda quickly. As I said, the Premier has to sign off on this getting onto the Cabinet agenda. So, by luck or chance, this particular Cab sub got onto the agenda and approved by the Cabinet.

The CHAIR: And did you inquire during that time—in the September time, when you were kind of rushing this through and saying it needed to be done ASAP, did you speak with your CEO of Investment NSW, Ms Brown, about the status of the recruitment process, about how the applications were going, whether anybody had been identified for that role and, indeed, whether things were ready to kick off with the STIC Americas?

JOHN BARILARO: No. I hadn't inquired to see where they were at. I understand there was a process. I'm not sure if I'm allowed to say it, but I'll say it today. I gave evidence recently to the Graeme Head review—I volunteered to do that—where I said clearly that this decision to raise the status of these positions came about from Ministers having conversations and leadership having conversations. I don't recall ever having that conversation directly with Ms Amy Brown. It was through my staffer Joseph Brayford. He went and inquired in relation to the Cabinet submission.

The CHAIR: When did you find out that Ms Jenny West had been identified as the successful candidate?

JOHN BARILARO: I don't believe I ever found out that she was the successful candidate. I found out that she was a candidate, as far as I believe and I recall. In one way, unfortunately for Ms West, the timing where I was changing a policy position and that, where she was—only from watching this hearing I've understood the

events that had occurred behind closed doors, that I wasn't aware of, that that parallel sort of run clashed. I was a big fan of Jenny West. I'm going to make this absolutely clear in this forum. She was a strong professional, a fantastic public servant and someone that did a fantastic job for me in that role. So I have no issue with Ms Jenny West. But the clash of time lines, unfortunately, has interrupted what was—now that I understand she was offered a job.

The CHAIR: But you did sign, back in August, the brief—signed by you on 11 August—that was to invite the Deputy Premier to endorse the preferred STIC candidate for the Americas. Are you saying that you don't sign your briefs or—

JOHN BARILARO: Again, I've watched last week, and I've looked into this. That brief has a digital signature on it. I don't recall actually seeing that brief myself. It is possible that I gave instruction to my staff to sign the brief on my behalf. But that has a digital signature on it. It hasn't got my personal signature on it.

The Hon. ROBERT BORSAK: Is it the habit in your office, then, Mr Barilaro, that they apply your digital signature to whatever they like? Is that what you're saying?

JOHN BARILARO: No, that's not the habit. Again, my chief of staff on Friday clarified that I spent a lot of my time on the road. As the Minister for Regional New South Wales, responsible for bushfire recovery, flood recovery, I'm away from the office. We had in place a system where an e-signature could be used. But I would always be notified by email of what those items would be. But I cannot find—and I don't have access to my emails. I don't recall seeing that, but that does not mean I did not give instructions to sign it using my e-signature. I just can't recall that.

The Hon. ROBERT BORSAK: So you're saying that you would have seen it or you would have been aware of it; you just can't recollect that now.

JOHN BARILARO: No. I'm saying that I can't recall if I saw it or not.

The Hon. ROBERT BORSAK: I think that's what I said. But, given the systems that were operating in your office, you would have authorised them to do it, unless you're saying that they would have just done it without your authorisation.

JOHN BARILARO: It should have been that case. But, as I said, I cannot recall that particular brief.

The Hon. ROBERT BORSAK: Why did you step down as Deputy Premier first and then remain as a member of Parliament? What was the reason for that?

JOHN BARILARO: I think it's quite public. I—

The Hon. ROBERT BORSAK: I'm just asking you again.

JOHN BARILARO: As I said earlier, I pretty much struggled from the moment I had my mental health break. I stepped down because there was an opportunity—because the Premier had resigned, there was an opportunity for me to go, "Let's have a total refresh." I had been struggling with the role. I had a looming defamation case, which, of course, played out since. I said that on the day that I resigned. I got to that point where I lost the fire in the belly. I made that absolutely clear on the day that I resigned.

The Hon. ROBERT BORSAK: Thank you. Did you at any stage have a conversation or a meeting with Amy Brown, prior to your application?

JOHN BARILARO: No. Not that I recall.

The Hon. ROBERT BORSAK: Did you meet with her after your application?

JOHN BARILARO: No. I don't recall I ever met with Amy Brown.

The Hon. ROBERT BORSAK: Did you meet or discuss the role with Minister Ayres as part of the application process?

JOHN BARILARO: No, I did not.

The Hon. ROBERT BORSAK: Who, do you understand, had the last call on your appointment?

JOHN BARILARO: Ms Amy Brown.

The Hon. ROBERT BORSAK: But you never discussed any of these matters with her? Your application didn't go to her in a way that she would find it necessary to contact you or you contact her?

JOHN BARILARO: No. The only contact I got from Ms Amy Brown was after I was contacted by Kylie Bell that I had been successful. From that day onwards with Kylie Bell we started having a number of Teams meetings. I think, later that week, Ms Amy Brown contacted me to congratulate me on the appointment.

The Hon. ROBERT BORSAK: Were you surprised that the statutory appointment process wasn't changed after you sought it to be changed?

JOHN BARILARO: The Cabinet submission clearly defined what that would look like and that it was going to become statutory appointments. There was still a process to be had. The Cabinet submission included parliamentary legislation, so that would still have had to be debated in the House. That never occurred. The new Minister at the time—I assume Minister Ayres—decided not to pursue that Cabinet decision.

The Hon. ROBERT BORSAK: Can you tell me what motivated you to seek that change?

JOHN BARILARO: As I said earlier, conversations with fellow colleagues, Ministers and members and the realisation that we wanted to attract a different calibre of candidate. We wanted to elevate the status of those trade commissioner roles to ambassadorial—a higher level—as we started to see clearly that we were in a very competitive environment, especially against Victoria and Queensland, who have been beating us to the punch with trade commissioners, especially Victoria, who have got a large network. It was an idea that had been around for months and, eventually, a Cabinet submission that was supported by all Cabinet members bar one.

The Hon. ROBERT BORSAK: When you say you discussed it with colleagues and, I suppose, fellow Ministers, who were they?

JOHN BARILARO: I just don't recall. There were—

The Hon. ROBERT BORSAK: Who was encouraging you to lift the status of these positions?

JOHN BARILARO: Yes, there were Ministers and MPs during months of conversations that raised with me these roles. There was absolutely, I think, a sense and understanding because many Ministers had been on trade trips and thought we were behind the eight ball. I think those conversations were had in general—not direct, in general. It might have been in Cabinet at times or in other forums, but there was no doubt in my mind that there was a will within government to change the process to elevate the status of these appointments. That is why I created, or got the agency to create, a Cabinet submission that went to Cabinet and was approved by Cabinet.

The Hon. ROBERT BORSAK: So this was of such a high level of importance that it warranted a change, but it only came about casually. Is that what you are trying to get us to understand and accept?

JOHN BARILARO: Absolutely, absolutely. As I said, to my fault—

The Hon. ROBERT BORSAK: The Government wasn't setting up a bunch of pork barrels with you for people to be able to—

JOHN BARILARO: No.

The Hon. ROBERT BORSAK: —slip out and into these roles—

JOHN BARILARO: No, not all.

The Hon. ROBERT BORSAK: —including yourself?

JOHN BARILARO: No, absolutely not. I reject that. I reject that statement and I reject that accusation. The Government decided—the Cabinet of the day decided that they wanted to elevate these statuses. There was plenty of debate. I recall the debate in that room. The support was significant.

The Hon. ROBERT BORSAK: The support was significant, and what about the support outside the Cabinet room? I'm not asking you to tell me about who supported what in the Cabinet room. You said one Minister didn't and that's fine. But what other members of Parliament supported it? Did Mr Elliott support it?

The Hon. SCOTT FARLOW: He's a member of Cabinet.

JOHN BARILARO: I'm not going to make comment on that. I'm not going to make comment on who supported it in Cabinet and who didn't.

The Hon. ROBERT BORSAK: I'm not asking about Cabinet. I said outside of Cabinet.

JOHN BARILARO: Minister Elliott is a Cabinet Minister. He was part of the debate.

The Hon. ROBERT BORSAK: All right. We will move on. Why did you ask, then, to change the appointment in the first place? Why did that process need to change? You are telling me that there were people

saying to you casually and obviously within the Cabinet that this should be done, but what's the driving economic motivation and what's the trade motivation for doing that?

JOHN BARILARO: The trade roles are important. I mean, for a long time New South Wales has sat idle thinking that investment into this State was just going to flow. While we had the Opera House and the bridge, it seemed like the greatest attraction, but the reality now was that the landscape had changed. Queensland has started appointing trade commissioners all over—

The Hon. ROBERT BORSAK: When did they do that?

JOHN BARILARO: I don't know when Queensland started it, but I think that—

The Hon. ROBERT BORSAK: So when did the process change—

The Hon. WES FANG: Point of order—

The Hon. ROBERT BORSAK: —from just being a statutory appointment to suddenly, all of a sudden—

The CHAIR: Order! A point of order has been taken.

The Hon. WES FANG: The member was trying to provide some more context to the answer. I ask that he is able to finish his answer before the next question is asked.

The CHAIR: I think the witness was trying to respond. We will wait until he has finished his answer.

JOHN BARILARO: Victoria had appointed trade commissioners across the globe. There is significant action in the US. They have two commissioners. They have got offices in Boston, San Francisco and New York. Queensland has an office in New York. This idea that somehow we just willy-nilly pick these destinations, these markets—there was a lot of analysis done by Treasury and I think Ms Kylie Bell on Friday went through that. We had to start being competitive. It was part of the Global NSW statement or document that was launched in late 2020 that identified that we were going to reinstate trade commissioners.

The Hon. ROBERT BORSAK: That's fine. But why, all of a sudden, change it from statutory to government appointment as a process, so late in the event?

JOHN BARILARO: Again, it was—at that stage, I'm not sure, and I'll have to—I could be corrected here, but there were a number of those appointments. It wasn't just the Americas; there was a number of appointments that were still outstanding. We were looking at the calibre of individual that we were trying to attract. We weren't attracting them and, therefore, it was clear that statutory appointments might have been a better option. And that was taken to the leadership; the leadership made the decision. The executive of the day changed the policy—which is the government of the day.

The Hon. ROBERT BORSAK: In your evidence earlier, didn't you say that you didn't know that Jenny West had won the role for New York?

JOHN BARILARO: I didn't know that Jenny West was offered a contract—offered the job. I only found that out during these proceedings. I was aware that she was a candidate—of course I was. I wasn't aware that she had applied post the closure, or any of that. And this inquiry has really opened that up. So the reality here is, regardless of Jenny West, there was still a number of other appointments still to be made and the Government, through conversation at leadership and then a development of a Cabinet submission and a Cabinet decision was to change the status of the process.

The Hon. ROBERT BORSAK: So the process wasn't changed for your benefit?

JOHN BARILARO: Absolutely not. Absolutely not.

The CHAIR: So were you, seriously, in terms of this briefing note that was signed in August by you—digital or otherwise, it's the same thing in this day and age; it's still signed by you—that the Deputy Premier is now invited to endorse the preferred candidate prior to submission to Cabinet. So a reasonably senior brief; you had to endorse something prior to it going to Cabinet. She was a deputy—senior public servant within your department. You have no recollection of, in August, signing a brief that says Jenny West is the preferred candidate. You're seriously—that's your evidence today?

JOHN BARILARO: It is, and I wouldn't say that under oath if I didn't believe that to be the case. As the Minister, I'll take responsibility. My e-signature was used, therefore that note stands and I have to accept that Jenny West was a candidate. But the reality is—

The CHAIR: The preferred candidate.

JOHN BARILARO: The preferred candidate. But the reality today is that that was running in parallel with decisions and conversations that were being made at leadership and amongst government to create, then, a Cabinet submission.

The Hon. JOHN GRAHAM: I just want to come back to your evidence about contacting other members of the Government. You've been very clear about contacting Perrottet, Ayres, Kean. I just want to take you back to that discussion about your colleagues in the National Party. You talked to us about those discussions/congratulations up at Port Macquarie on that day. I think that would have been 17 June, the day of your appointment. Does that mean to say that you had not discussed, prior to that, with those you named—Toole, Mitchell, Taylor—so any of those three—

JOHN BARILARO: I don't recall having conversations with Toole, Mitchell or Taylor pre that.

The Hon. JOHN GRAHAM: So you had not discussed the fact you had applied with any of those three?

JOHN BARILARO: I'm mindful that I may have. Definitely not with Deputy Premier Toole. I don't believe with Minister Mitchell. But, possibly, because I am close with Ms Taylor, I may have spoken to her that I had applied. I cannot, hand on heart, say yes or no.

The Hon. JOHN GRAHAM: That's about your application. What about your interest for the role? "I might be interested in the role."

JOHN BARILARO: No. I'm more than confident that I hadn't spoken to anyone prior.

The Hon. JOHN GRAHAM: To any of those three?

JOHN BARILARO: I think—I believe I'm confident in saying that.

The Hon. JOHN GRAHAM: It might come as some surprise to hear that you had been in contact with Premier Perrottet, with Minister Ayres, Minister Kean, but not with the Leader of the National Party, Deputy Premier Paul Toole?

JOHN BARILARO: Look, it just wasn't something that I did.

The Hon. JOHN GRAHAM: Okay. I just want to turn to the—you've been clear that you had contact with Minister Kean, Minister Ayres, Premier Perrottet, and that, I think you've acknowledged, it is fair to say other candidates, other citizens, may not have been able to do that. I think that's—

JOHN BARILARO: Yes. I'd have to agree with that.

The Hon. JOHN GRAHAM: And, having heard at the inquiry what the involvement of Minister Ayres in the process—you were not aware of this at the time, I take it?

JOHN BARILARO: Absolutely not.

The Hon. JOHN GRAHAM: But you've now heard that—

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: —evidence. Multiple points of intersection was, I think, how it was described. Supportive of you—comments supportive of you, perhaps comments less supportive of other candidates. Now you know that, do you agree that, in fact, it was not the exact same process that was afforded to others? That's not your fault, but not the same process.

JOHN BARILARO: Yes, I can't make that comment, but I will say this: If I knew what I know now, I wish I never had applied. If I knew what I know now, I wouldn't have walked into what was a shitshow. And I'm going to use those terms, I'm sorry to say, because the trauma I've gone through over the last six or seven weeks has been significant. But those conversations, as I've understood it last week from watching the inquiry, from evidence from Ms Amy Brown, surprised me as much as it surprised anybody else. And those interactions—what was the severity of those interactions? Was there weight? I can't answer that. I cannot speak on behalf of Ms Amy Brown. In one way, this has muddied this inquiry for me.

The Hon. JOHN GRAHAM: Yes, and you thought you were walking into a process which was the same for every candidate.

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: But do you accept, having heard that—as others have accepted in this inquiry—that that was not the case, given what you know now?

JOHN BARILARO: I think, just to give some due process to former Minister Stuart Ayres, I genuinely believe he did nothing to help me. I genuinely still believe that. He may have had those conversations, and possibly so that I would be treated fairly. I don't believe he was going in to bat for me, and I think he's been quite public about that. How those interactions are now interpreted, I think the Premier has announced that he will review that, and if he breached the Ministerial Code. I think that, to allow due process, that period should be allowed before any further comment by even someone like me.

The Hon. DANIEL MOOKHEY: Mr Barilaro, you lodged your application on 19 January 2022. That's correct?

JOHN BARILARO: I believe so.

The Hon. DANIEL MOOKHEY: And that was the date applications closed, was it not?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: And you lodged that with the recruiter, did you not?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: Thank you. You made the point just then, actually, that if you had your time again that you would never have applied for the job. I heard you correctly, correct?

JOHN BARILARO: Yes, from what I've learned in the last few weeks.

The Hon. DANIEL MOOKHEY: At any point from the application process onwards, did you withdraw from the process?

JOHN BARILARO: Yes, absolutely.

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

JOHN BARILARO: I withdrew, if I recall, somewhere in the vicinity of 23 or 24 February.

The Hon. DANIEL MOOKHEY: Did you call the recruiter and say, "I no longer wish to be considered"?

JOHN BARILARO: I sent an email.

The Hon. DANIEL MOOKHEY: You sent an email saying you no longer wished to be considered a candidate for the Americas?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: And you did that around Wednesday 23 February or Thursday 24 February?

JOHN BARILARO: That's what I recall, yes.

The Hon. DANIEL MOOKHEY: Why, on 23 or 24 February, did you withdraw?

JOHN BARILARO: At that time—when I applied it was January. I had been, as I said earlier, meeting with recruiters, looking at job options. I was then offered a job in February as an executive director for Coronation Property, and I had the looming defamation case still ahead of me. And I just at that point felt like, "You know what? I don't need to do this. I've now got a really good job. I'm really comfortable with what was being offered for me as an executive director at Coronation." And I had that moment where I thought, "I'll withdraw."

The Hon. DANIEL MOOKHEY: So you were offered a job at Coronation Property.

The Hon. COURTNEY HOUSSOS: Sorry, Mr Barilaro, I just missed—what date were you offered that job?

JOHN BARILARO: I don't have that detail here.

The Hon. COURTNEY HOUSSOS: When did you commence that job?

JOHN BARILARO: It was late February, I understand.

The Hon. COURTNEY HOUSSOS: Late February, but prior to the twenty-third or the twenty-fourth. You'd received the job application or you received the offer. You accepted the job at Coronation and then you subsequently withdrew from the trade commissioner application?

JOHN BARILARO: That's how I believe it to be.

The Hon. COURTNEY HOUSSOS: Okay, thank you. What were your duties at Coronation group?

JOHN BARILARO: I was an executive director overseeing—to be honest, learning all the ins and outs of the company, working closely with other executive members and the owner.

The Hon. COURTNEY HOUSSOS: When did you leave Coronation group?

JOHN BARILARO: I finished at Coronation—it would have been end of June when I resigned, when I was offered the job for the trade commissioner.

The Hon. COURTNEY HOUSSOS: Mr Barilaro, you received special dispensation from the ethics adviser to take up the role at Coronation group. Is that correct?

JOHN BARILARO: Absolutely.

The Hon. COURTNEY HOUSSOS: Can you just explain what the special dispensation covered?

JOHN BARILARO: The special dispensation was that he saw no issue with me working for Coronation. I made it clear that there would be some engagement with Government, probably, in that job role, and I would have been excluded from dealing with agencies that I had been the Minister for for the previous two years.

The Hon. COURTNEY HOUSSOS: Okay, and did you have any engagement with Government as a result of your work at Coronation group?

JOHN BARILARO: I don't understand what that question has to do with—

The Hon. DANIEL MOOKHEY: It's your duties, Mr Barilaro.

The Hon. COURTNEY HOUSSOS: Mr Barilaro, this inquiry is looking into the circumstances around your appointment to the trade commissioner's role. I'm interested to know—what the work you were doing at Coronation group at that time. You said you withdrew from the application because of it. I'm interested to know: What were you doing? Were you lobbying government at that time?

JOHN BARILARO: I think that's unfair to say, that I was lobbying government. I worked as a full-time employee—executive director. I was dealing with issues internally. I was looking to learning the business. As I said, it was very early days. I had an engagement with the Building Commissioner. I had a meeting with the Building Commissioner.

The Hon. COURTNEY HOUSSOS: When did that occur, Mr Barilaro?

JOHN BARILARO: I don't know. I didn't come here prepared to answer questions in relation to my role as an executive director of Coronation.

The Hon. DANIEL MOOKHEY: Deputy Premier, it's material to the reasons why you withdrew and then re-entered, which is why my colleague is asking.

JOHN BARILARO: It's material also—

The Hon. SCOTT FARLOW: Point of order: While it may be material to the reasons why Mr Barilaro withdrew from the process, it's not necessarily pertinent to the terms of reference of the inquiry Mr Barilaro's duties at Coronation Property.

The Hon. DANIEL MOOKHEY: That remains to be seen.

The Hon. COURTNEY HOUSSOS: To the point—

The CHAIR: I'm ready to rule on the point of order.

The Hon. COURTNEY HOUSSOS: Okay.

The CHAIR: The inquiry is looking into the circumstances leading up to the appointment. I believe what you were doing in your role when you withdraw is the circumstances. So the question is in order.

JOHN BARILARO: Okay. I can't answer those questions because you're asking me—I didn't come prepared to answer questions around that, so I'll have to take those questions on notice.

The Hon. COURTNEY HOUSSOS: Mr Barilaro, can you tell us whether that occurred in February, whether that occurred in March? Can you give us a general indication?

JOHN BARILARO: Sorry, what occurred?

The Hon. COURTNEY HOUSSOS: Your engagement with the Building Commissioner. When did you meet with the Building Commissioner?

JOHN BARILARO: Can I have a look my phone for a sec?

The Hon. COURTNEY HOUSSOS: Of course.

The Hon. DANIEL MOOKHEY: Take your time.

JOHN BARILARO: I can't see anything. I would say that I met with the Building Commissioner in April sometime.

The Hon. COURTNEY HOUSSOS: What was the meeting in regards to?

JOHN BARILARO: I met with the Building Commissioner in relation to getting a feel in relation to Coronation. As an executive director, I take my responsibility seriously. The landscape had changed. There was a breach notice on Coronation prior, and that triggered for me to reach out to the Building Commissioner. But that breach notice was not the topic of discussion, and we made that absolutely clear.

The Hon. COURTNEY HOUSSOS: So, Mr Barilaro, you did not discuss the breach notice when you met with the—

JOHN BARILARO: Absolutely not.

The Hon. COURTNEY HOUSSOS: You made it clear or did the Building Commissioner make it clear?

JOHN BARILARO: I actually said that I'm not having this meeting for that purpose. He confirmed that and it was confirmed when we had the meeting.

The Hon. COURTNEY HOUSSOS: So the meeting was to get a feel for Coronation group?

JOHN BARILARO: Coronation group, the work that Mr Chandler was doing, the building industry as a whole—that sort of level. But I can absolutely assure you because I have received questions from media in relation to meetings with Mr Chandler, but I can make that absolutely clear. And I have a record of that for my personal—I took notes that day.

The Hon. DANIEL MOOKHEY: Can you produce them?

JOHN BARILARO: No, I will not produce them. They're personal notes for me.

The Hon. COURTNEY HOUSSOS: Mr Barilaro, did you call or text any Ministers in relation to this?

JOHN BARILARO: No, not at all.

The Hon. SCOTT FARLOW: Point of order—

JOHN BARILARO: I knew this was coming. That's why—

The CHAIR: A point of order has been taken by Mr Farlow again.

The Hon. SCOTT FARLOW: Again, Chair, I do not see how this is relevant at all—

JOHN BARILARO: It's not.

The Hon. SCOTT FARLOW: —to Mr Barilaro's appointment to the North America STIC role or the expanded terms of reference, as moved by the Opposition.

The Hon. PETER POULOS: Or even other matters.

The CHAIR: I say to the member that if we're getting into a meeting in April with the commissioner, it is straying a little bit from the terms of reference as they stand.

The Hon. PETER POULOS: Significantly.

The CHAIR: If you could pull it back please to things in relation to the circumstances surrounding the appointment, that would be advised.

The Hon. COURTNEY HOUSSOS: Yes, absolutely.

The Hon. DANIEL MOOKHEY: Mr Barilaro, at this point that you are meeting with the Building Commissioner, you are still an applicant at this point for the Americas position, are you not?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: And at this point you've been shortlisted, correct—in April?

JOHN BARILARO: I'm not sure when I was shortlisted.

The Hon. DANIEL MOOKHEY: But you'd been interviewed. You were interviewed on 15 March, correct?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You were offered the job circa 23 or 24 May. That's correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: And you signed the contract on 9 June, correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: When did you cease service with Coronation?

JOHN BARILARO: I'll have to do go back to my records because I don't recall and I didn't come prepared to answer questions in relation to Coronation.

The Hon. DANIEL MOOKHEY: Sure. But do you not see that at the same time you're applying for a high-profile public sector role, you having meetings with the Building Commissioner as an executive director of a property group may well create the perception of a conflict?

JOHN BARILARO: Absolutely not.

The Hon. DANIEL MOOKHEY: What steps did you take to ensure that—firstly, did you disclose the nature of the work that you were doing for Coronation to the Government?

JOHN BARILARO: I don't have to. I didn't have to. I actually gave Mr Chandler the option of not meeting.

The Hon. DANIEL MOOKHEY: I'm not talking about Mr Chandler, I'm talking—

JOHN BARILARO: Well, hang on, that's the question you just asked.

The Hon. DANIEL MOOKHEY: Mr Barilaro, did you disclose it to Investment NSW?

JOHN BARILARO: Why would I?

The Hon. DANIEL MOOKHEY: For the very simple reason that that might be a material matter for them to know.

JOHN BARILARO: No, I'm sorry, but I disagree with that entirely. I was employed in a role and I am sure that other applicants who were still employed in their current roles that were applicants and candidates for the trade role weren't telling their bosses or their businesses about their meetings, or Investment NSW their meetings.

The Hon. DANIEL MOOKHEY: Finally on this, before I see if my colleague has anything further, at the same time that you were an applicant for the Americas position, were you having contact with Ministers about any issue to do with Coronation?

JOHN BARILARO: No, I don't believe so.

The Hon. DANIEL MOOKHEY: None whatsoever? Can we go back to your application? You lodged that on 19 January, correct?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You have made it clear that you withdrew around 23 February because you had been appointed as executive director of the Coronation group, but by Friday 25 February you have changed your mind again and you have decided to persist with your application for the Americas position. Is that correct?

JOHN BARILARO: I believe so.

The Hon. DANIEL MOOKHEY: On the twenty-fifth you emailed the executive officer of NGS Global to re-enter, for want of a better term, the race for the Americas position. That's correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: If you have withdrawn on the twenty-third because you have taken a job at Coronation, why on the twenty-fifth have you returned to the Americas position selection procedure?

JOHN BARILARO: As I said earlier, I had a looming defamation case, I had a new job. I made a decision to withdraw. And you know what? I changed my mind. Because, you know what, for my own professional growth I thought why not go through the process. This was a public service job that I could apply for. I was entitled to apply for it as a citizen. So why not continue?

The Hon. DANIEL MOOKHEY: No doubt, Mr Barilaro. I'm not disputing your right to change your mind.

JOHN BARILARO: Thank you.

The Hon. DANIEL MOOKHEY: What I am asking is to be able to go through that entire process, as you have just described, within 48 hours—

JOHN BARILARO: It's very possible because it's live in your head. It's live. It's a live situation or issue that you've got to deal with. I'm sure many people have made spontaneous decisions and regretted it. The old line "buyer's remorse". That normally happens within hours of someone's decision.

The Hon. JOHN GRAHAM: Did you talk to any of your former colleagues during that period, during that 48 hours?

JOHN BARILARO: No, not that I recall. I don't recall.

The Hon. DANIEL MOOKHEY: We might want to provide the witness with tender bundle 002. Mr Barilaro, you can see that the very first document is your application. That's correct?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Do you mind turning to page 6 of the tender bundle?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You can see that this is the last page of your application.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You can see that you list your additional appointments.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You see that you list at the bottom, "References available on request". Do you see that?

JOHN BARILARO: Correct. That is correct.

The Hon. DANIEL MOOKHEY: We have since ascertained that your references were highly influential in the decision to appoint you to this role. Was one of your references Mr Gary Barnes?

JOHN BARILARO: I'm not sure what I'm permitted to confirm or not confirm in relation to what—

The Hon. DANIEL MOOKHEY: Well, we've established that Mr Gary Barnes was interviewed—

The Hon. PENNY SHARPE: It's a public document.

The Hon. DANIEL MOOKHEY: —for your role, as a referee. That is on a publicly available email we know at the time.

JOHN BARILARO: Okay. Well, then you've got the answer.

The Hon. DANIEL MOOKHEY: When did you approach Mr Barnes for a reference?

JOHN BARILARO: I just—I don't recall.

The Hon. DANIEL MOOKHEY: References were available on request, so presumably you did not disclose this on 19 January? It is not disclosed in the application. That's correct?

JOHN BARILARO: I wouldn't have had referees probably set up at that point.

The Hon. DANIEL MOOKHEY: Well, we were told that the reference check was sought after you were interviewed on 15 March. So I am going to presume that sometime after 15 March you were asked to provide references. Is that fair?

JOHN BARILARO: That's correct, to provide references, yes.

The Hon. DANIEL MOOKHEY: At that point did you provide Mr Barnes as one of your references?

JOHN BARILARO: Yes, I did. Because that's on the public record, I'll confirm that.

The Hon. DANIEL MOOKHEY: Indeed. And he is the Secretary of the Department of Regional NSW, correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: Did you have any conversations with Mr Barnes from 15 March onwards?

JOHN BARILARO: I can't recall, and the only conversation I would have had with Mr Barnes would be if he would be my referee.

The Hon. DANIEL MOOKHEY: I presume that you wouldn't have necessarily nominated him as a referee without at least providing him prior notice; that's correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: So you would have provided him prior notice?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: Did you do it before 15 March or after?

JOHN BARILARO: I don't know. I can't recall.

The Hon. DANIEL MOOKHEY: When you provided him that notice, did you call him?

JOHN BARILARO: I'm not sure if I called him or texted him.

The Hon. DANIEL MOOKHEY: What did you say?

JOHN BARILARO: Would he be a referee.

The Hon. DANIEL MOOKHEY: What did he say?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Okay. At any point did it occur to you, or did it occur to him, to check whether or not, as a secretary, he was capable of providing that reference?

JOHN BARILARO: That would be a question for Mr Barnes.

The Hon. DANIEL MOOKHEY: Sure. Was the second person that you provided as a referee the Australian Ambassador to the United States?

JOHN BARILARO: I'm not sure if that's on the public record.

The Hon. DANIEL MOOKHEY: It is.

JOHN BARILARO: If that's on the public record, I can confirm that.

The Hon. DANIEL MOOKHEY: And when did you contact Mr Sinodinos?

JOHN BARILARO: I don't recall.

The Hon. DANIEL MOOKHEY: Mr Barilaro, it's not easy to get onto the Australian Ambassador. It's not like I can call up through the switch and go, "Can I please speak to Arthur Sinodinos?"

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Presumably you would have had to have had quite a process to get to the Australian Ambassador in the United States to alert him to the fact that you were nominating him as a referee?

JOHN BARILARO: No, I was able to contact him on a mobile phone number, as I recall.

The Hon. DANIEL MOOKHEY: You had his mobile?

JOHN BARILARO: And he organised—then I think he organised his PA to organise a meeting or a phone hook-up.

The Hon. DANIEL MOOKHEY: So you had a phone hook-up with Arthur Sinodinos?

JOHN BARILARO: I believe so.

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

JOHN BARILARO: I don't recall.

The CHAIR: Order! Yes, we can come back to it. Mr Barilaro, you spoke earlier of the trauma that you've been through over the last seven weeks. Do you acknowledge the trauma that Jenny West also—

JOHN BARILARO: Absolutely.

The CHAIR: —went through—

JOHN BARILARO: Absolutely.

The CHAIR: —when she had gone through a competitive recruitment process, was told that she had the job and then it was taken away from her because she was told these positions were going to be ministerial appointments?

JOHN BARILARO: Absolutely. She would have been making the same decisions that I was starting to make and then it all gets flipped, so I can understand that.

The CHAIR: Did you have any conversation with Ms Brown about rescinding the offer to Ms West?

JOHN BARILARO: No, I didn't.

The CHAIR: How was that decision made, do you know? Ms Brown—

JOHN BARILARO: That's a question for Ms Brown. I don't know what occurred except for that I asked the agency to prepare a Cabinet submission to change these appointments to statutory appointments and that would have, in one way—and as I've understood from the evidence given to this inquiry—stopped whatever process was in place.

The CHAIR: This was in September, 27 September. In fact, Jenny West, what she tabled to this Committee when she appeared—her bundle of documents and time line—states that on 27 September Ms Brown receives a direction to withdraw the offer made to Ms West, and I believe Ms West was told that by Ms Brown. So do you know where Ms Brown would have received that direction from then, if it wasn't you?

JOHN BARILARO: I don't know. There was no direction to withdraw any offer because I wasn't aware the offer had been made. I was aware, as I said, she was a candidate. All I did was ask my policy adviser to seek advice from the department in relation to creating a Cabinet submission and making them statutory appointments. I had no conversation with Ms Amy Brown.

The CHAIR: So were you aware that the New York office was getting ready to launch, in the initial PowerPoint presentations around the New York office, that there was potential for it to be launched in November?

JOHN BARILARO: No, I wasn't aware of that.

The CHAIR: You had no—

JOHN BARILARO: No sight of it.

The CHAIR: Even though these are the positions that you created, you were very involved and passionate about them, and enough that you are sending a submission to Cabinet to create them, to make them ministerial appointments, you weren't kept informed of the progress of the recruitment for New York, you weren't kept informed of the progress in relation to the office being set up and the lease—nothing?

The Hon. WES FANG: Is there a question?

JOHN BARILARO: Ms Faehrmann, I didn't create the job, so I just want to make this absolutely clear. Those positions were created by Treasury—by Treasury officials—with the launch of Global NSW. I want to make that absolutely clear. Even the evidence from Ms Bell on Friday confirms that these decisions were all made by public servants who prepared Global NSW. That's the first part. I, again, have to remind the Committee that my number one focus at the time was COVID, and COVID lockdown and the COVID road map. That was what consumed me each and every day from press conferences in the morning, sometimes with the Premier, but press conferences during the day. We used to do regional press conferences that were virtual with many, many journos, and I took, I think, a couple of hours every day to deal with that, plus dealing with the work behind closed doors on the road map. My staff were tasked with dealing with issues in those ministerial responsibilities. If there was

an issue they would raise with me, they would. But otherwise I absolutely reject that somehow I created these jobs and this is—going back to my opening statement—for my own self-purpose.

The CHAIR: How often would you meet with Ms Brown as the CEO of Investment NSW? Did you have regular meetings with her?

JOHN BARILARO: No, very rare—rarely. I think Ms Brown indicated last week that we may have only met on one or two occasions and the truth is I can't—I don't have access to my diary since leaving politics. I don't have access to that information, but I would believe that would be right. Because, again, I had tasked my advisers to deal with the agencies.

The CHAIR: Okay. So to get updates or to find out how anything was going in relation to the STICs in terms of the roles, the offices—what was that process?

JOHN BARILARO: Look, there could be a brief that would be put in front of me—briefs like you've shown me earlier that would give me an update directly from the agency, which the adviser would have brought to me. Otherwise there could have been informal catch-ups in the office on these issues. But you know, again, I don't recall often having many meetings in relation to trade. It wasn't a priority. Borders were closed. It wasn't front of mind.

The CHAIR: Did you seek the advice of the Parliamentary Ethics Adviser before making inquiries about the role?

JOHN BARILARO: No, I did not. And I didn't believe I needed to. My understanding was always that you could apply for a government job.

The Hon. SCOTT FARLOW: And it is, under the ministerial code.

JOHN BARILARO: That's right.

The CHAIR: It's technically—technically, it wasn't required of you, but you didn't think it wise to seek their counsel anyway?

JOHN BARILARO: No, not at all, because my understanding was I did not need to. And I'm sure it would have been brought to my attention during the process if I wasn't eligible. I would say that.

The CHAIR: Did anybody at all caution you about taking the role?

JOHN BARILARO: No-one. No-one. Ever.

The CHAIR: Was there any stage when you were inquiring, when you were talking to people about it, when you applied—was there any stage of that process that you thought, "This just isn't going to pass the pub test"?

JOHN BARILARO: No, not at all, because it was a public service job. This was an independent process, a public service job. There is no exclusion of a former member of Parliament applying for a public service job. So in my mind—in one way it guaranteed cover that this process would make it easier to justify such a role. It would have been the opposite if they had proceeded with the statutory appointments. This Committee would be saying that would have been a "jobs for the boys" appointment because my fellow Cabinet Ministers would have made that decision. But that wasn't the process I went through. I went through a public service application process, independent panel, and I was surprised to have got through, like anybody else would have been surprised—as in the candidates. But, you know, I'm proud that I was able to achieve that. It was independent. So, no, I would argue that the independent public service process gave me cover to take the politics out of it.

The CHAIR: It probably did give you cover. So if it was the ministerial appointment you're suggesting—so therefore, in terms of the Cabinet submission process, it did appear that that was going to progress. Then, of course, Minister Ayres got the role and that seemed to kind of go nowhere. So if it was a ministerial appointment, are you saying that it may not have looked so independent at that point?

JOHN BARILARO: No. If it was a ministerial appointment—and we know what happens when governments appoint fellow or former members of Parliament to many roles, both State and Federal and across the country. People have a view of that. And the accusations that were made initially, I think, of the Government were "This was a captain's pick. This was a job for the boys". But I think when the reality became true—that I actually went through a process, a public service process, an independent process—people walked away from that accusation. Look, people would have a right to have a view—as I said, perception is reality—that it's a "jobs for the boys" if it was just a pick by Government. But it wasn't that. I went through a public—this was a public service job. I applied for it.

The CHAIR: Yes, you applied for it, but as we heard on Friday afternoon at four o'clock from the Public Service Commissioner, she was very alarmed at the process in the end and what took place between the secretary and the then trade Minister. You're saying it was a public service appointment but the Public Service Commissioner—

The Hon. WES FANG: What's the question, Chair?

The CHAIR: Order!

The Hon. WES FANG: Point of order: What's the question, Chair?

The CHAIR: Mr Fang, I'm asking the question. I'm getting to—

The Hon. WES FANG: No, you're not. That's the whole point. You're not actually asking a question.

The CHAIR: The Public Service Commissioner actually said that she would not have endorsed the selection panel report ultimately. Do you stand by your claims that it was a fully independent process and it was a public service—

JOHN BARILARO: Absolutely. Was I aware of what may or may not have occurred behind closed doors? No, I wasn't. You can't—you're making an accusation that I must have known that. I have the same view, probably, as the Public Service Commissioner. If I knew—and I used the term earlier—if I had walked into the mess that I walked into in relation to the process, I wouldn't have applied. But I don't have hindsight. I'm not aware of what occurred behind closed doors. They're questions—and, rightly so, you've been asking those questions—of the agency and the public servants. But as far as I'm concerned, I never sought favour. I didn't seek out special treatment. I went through a public service process, independent, and that's what I believe I did.

The CHAIR: You were interviewed for the position on 15 March. Do you know when your reference checks were done?

JOHN BARILARO: No, I don't.

The CHAIR: When were you offered the role?

JOHN BARILARO: When was I offered the role?

The CHAIR: Yes. When did you get the first—

JOHN BARILARO: On 23 or 24 May I received a text from Ms Kylie Bell congratulating me—

The CHAIR: It was 23/24 May?

JOHN BARILARO: Yes, I think it was the twenty-third now—to congratulate me and to set a time for a Teams meeting to start the process.

The CHAIR: That was a couple of days after that?

JOHN BARILARO: The Teams meeting I think was the next day on 24 May. From that point onwards, right through to announcement and beyond, there were many emails or meetings between myself, Ms Kylie Bell, general counsel and others that were in the agency.

The CHAIR: Around contracts and everything?

JOHN BARILARO: Yes, around contracts, police checks, passports—the usual stuff that they'd be now trying to put in place.

The CHAIR: Did you have any say in when it was announced that you had the role?

JOHN BARILARO: No. In the lead-up, say, between 15 June and 17 June, I received from the media team from the department of investment for quotes that they would like to use in the media release. At that time they had indicated that it most likely could be announced on the Friday. But, you know, I didn't get to pick the date it was going to be announced. They announced it.

The CHAIR: When was everything finalised for you then? You're saying you've got the fifteenth or sixteenth or whatever when you're working on lines for the media release. When was everything finalised in terms of contracts? When were you ready to go?

JOHN BARILARO: I don't think I signed a contract. I think Mr Mookhey might be able to answer that because he mentioned it earlier. I think it was 6 June that I signed the contract?

The Hon. DANIEL MOOKHEY: Well, I think it was the ninth or the sixteenth. I think you signed it on the ninth and then Investment NSW on the sixteenth.

JOHN BARILARO: On the ninth. There you go.

The CHAIR: If you signed it on the ninth, is there a reason that it took so long between 6 June and then doing a media release on the seventeenth after you were ready to go?

JOHN BARILARO: Yes, because there were a lot of things not in play. At one stage they weren't sure if I'd go over on a diplomatic passport or my standard Australian citizen passport. There were questions around the US entity. There were questions around tax implications, and of course there was dialogue between myself and the agency in relation to the costs. There was a relocation cost, what that entailed and what it covered, and I of course put in place—I was asking and requesting would my costs be covered, if I was to be sacked, coming home. I understand there is an election next year and there could be a change of government. If I was to get sacked after moving over to the US, would I have costs covered? That was really at the heart of what that conversation was.

The CHAIR: Did the delay have anything to do with the fact that you were in court with Google, the judge found in favour of you on 6 June and that you may have wanted airspace between that and the announcement of this plum \$500,000-a-year job?

The Hon. WES FANG: Point of order: Chair, that line of questioning is—

The Hon. PENNY SHARPE: Perfectly reasonable?

The Hon. WES FANG: No, Ms Sharpe, that's not perfectly reasonable.

The CHAIR: What did you object to, specifically, in relation to the question when you're saying it's not in order?

The Hon. WES FANG: The way that you're phrasing the question is tinged with argument and I'd suggest that we're better off to just keep things to a very factual point.

The CHAIR: I try and be very objective when I'm ruling on a question that I've asked. I do think it was in order, but I'll—

JOHN BARILARO: No, thank you, Ms Faehrmann. In relation to the question, no, because I wasn't aware at that stage. As you would be aware, when you go into a defamation case it's up to then the courts to determine when they hand down the decision. Again, that timing just happened to be all at roughly the same time. So the idea that I didn't make up my decision because I was awaiting the court decision—I mean, that court decision could have taken another six months. I was lucky enough that it only took a couple of months.

The CHAIR: Okay. What was your involvement with the appointment of Ms Amy Brown as Secretary of the Department of Enterprise, Investment and Trade and CEO of Investment NSW?

JOHN BARILARO: I don't believe I had any role. I didn't—I don't believe I had any role.

The Hon. DANIEL MOOKHEY: You were gone, you were resigned, when she—

JOHN BARILARO: Sorry?

The Hon. DANIEL MOOKHEY: You had resigned by the time she was appointed secretary, correct?

JOHN BARILARO: You've got to go back. When I was appointed trade Minister back in—after the election of 2019. Previously to that election, Trade and Investment was under one banner. Post-2019, I had the Trade portfolio; Mr Ayres had the Investment portfolio. The Investment piece, with Amy Brown as dep sec sat within DPC. The Trade piece sat with Treasury, which is where I was involved with. At a point in time, the Premier—Premier Berejiklian—made a decision to merge the two back into one, under DPC, in 2021. And then, what happened after that with Investment NSW is subject to the current—the Minister.

The CHAIR: So did you know Ms Brown before she took the role?

JOHN BARILARO: I knew Ms Brown as a dep sec in DPC. She'd been in Cabinet meetings at times. She stepped in for the Secretary of DPC, Tim Reardon, at times. When I was Acting Premier, I remember she, at one point, was also acting secretary. So, yes, we're—I knew who Ms Brown was.

The CHAIR: Okay, thank you. I might go back to the Opposition.

The Hon. DANIEL MOOKHEY: Thank you. Mr Barilaro, I think we were talking about you organised a Microsoft Teams or such meeting with the Australian Ambassador to the United States, Mr Sinodinos. Do you have any better recall as to when that took place?

JOHN BARILARO: No, I don't.

The Hon. DANIEL MOOKHEY: I presume that the whole purpose of that meeting was in order to encourage him to provide a favourable reference to you?

JOHN BARILARO: No, it was actually, I—my first engagement with Mr Sinodinos was, one, opportunities in the US in relation to trade and, two, if he would be my referee.

The Hon. DANIEL MOOKHEY: So when you say "opportunities in relation to trade", was it your intent to move to the United States and pursue employment there?

JOHN BARILARO: No, not at all.

The Hon. DANIEL MOOKHEY: Okay. So what do you mean by that?

JOHN BARILARO: Well, you know, taking into account that I had applied for the trade role, I was trying to get an insight of what was—what the landscape in the US for trade is.

The Hon. DANIEL MOOKHEY: Okay.

The Hon. JOHN GRAHAM: So you mean opportunities for New South Wales for trade?

JOHN BARILARO: For New South Wales, yes.

The Hon. DANIEL MOOKHEY: Just to benefit your ability—

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: That's fair enough, Mr Barilaro.

JOHN BARILARO: Yes. And don't forget, you know, AUKUS had just been signed, I think, months earlier, so there was a real opportunity for New South Wales in the defence space, especially with the Special Activation Precinct out at—up in Newcastle.

The Hon. DANIEL MOOKHEY: But do you remember when you first recall mentioning to Mr Sinodinos that you intended to apply and intended for him to be a referee?

JOHN BARILARO: I don't recall. No, I don't recall.

The Hon. DANIEL MOOKHEY: Well, I can only presume it was either sometime before—logically, most people when they apply for a job, when they say on their resume "References available on request", would know who their referees would be at that point in time?

JOHN BARILARO: No. I made a comment earlier that I'm not sure, and I don't believe I had my referees locked in place when I applied for the job.

The Hon. DANIEL MOOKHEY: Okay. But presumably you locked them in between 19 January then, if we're to believe you, and presumably when you were offered the job on 23 May, I presume?

JOHN BARILARO: At some point, I—

The Hon. DANIEL MOOKHEY: Did you have a third referee?

JOHN BARILARO: Yes, I did.

The Hon. DANIEL MOOKHEY: Who was it?

JOHN BARILARO: I won't be disclosing that.

The Hon. DANIEL MOOKHEY: Why not?

JOHN BARILARO: I shouldn't have to.

The Hon. DANIEL MOOKHEY: Why not?

The Hon. SCOTT FARLOW: It's not publicly disclosed.

JOHN BARILARO: Because no other candidates are being grilled in who their referees are.

The Hon. DANIEL MOOKHEY: Well, that's not true. You're the person who got the job. Your referee was highly influential. We have a panel report—

JOHN BARILARO: All referees are highly influential. That's why people put them down as referees.

The Hon. DANIEL MOOKHEY: Mr Barilaro, the selection report, the final report that was signed, makes it very clear that your referees were a very important consideration.

JOHN BARILARO: Great.

The Hon. DANIEL MOOKHEY: And in fact was the reason why they had confidence to proceed with your appointment. So, I would ask you again: Who was your third referee?

JOHN BARILARO: I won't be answering that.

The Hon. DANIEL MOOKHEY: Why not?

JOHN BARILARO: I don't think I have to.

The Hon. DANIEL MOOKHEY: It's a lawful question.

JOHN BARILARO: Yep.

The Hon. DANIEL MOOKHEY: You are under oath.

The Hon. WES FANG: Chair, I am going to raise a point of order.

The Hon. DANIEL MOOKHEY: Before we do, just feel free—

The Hon. WES FANG: No, no, no. I can raise a point of order.

The CHAIR: We will need to hear the point of order. Mr Fang?

The Hon. WES FANG: Chair, the point of order is very clear. The witness is able to not answer the question. Given that it has been clear from the testimony of the secretary and CEO of Investment NSW that referees are not disclosed; that the member does not have to. So, in that instance, to insist that the member is required to do so is not lawful. I ask you to rule that out of order.

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

The CHAIR: To the point of order?

The Hon. DANIEL MOOKHEY: Chair, Mr Fang errs when he fails to draw a distinction between a public servant being asked this question and a witness of this type who is a private citizen—not a member. It is a lawful question under the Parliamentary Evidence Act. It is clear that the private citizen has the information to hand so there's no basis for him to take it on notice either.

The CHAIR: Yes.

The Hon. DANIEL MOOKHEY: So, it's a lawful question without any lawful excuse to withdraw.

The CHAIR: Yep.

The Hon. SCOTT FARLOW: To the point of order—

The Hon. DANIEL MOOKHEY: It's a straightforward question. Mr Barilaro has taken an oath under the Evidence Act. There is no basis in the Evidence Act for the witness to simply go, as he has, "I don't want to tell you."

The CHAIR: Yes. I'm aware of what you're saying, Mr Mookhey.

The Hon. SCOTT FARLOW: To the point of order—

The CHAIR: To the point of order again, Mr Farlow?

The Hon. SCOTT FARLOW: Thank you, Madam Chair. I think that Mr Mookhey is aware that privilege has been attached to the referees' names with the documents that have been provided to the Parliament.

The Hon. DANIEL MOOKHEY: It doesn't.

The Hon. SCOTT FARLOW: I would suggest that that privilege still extends to the matters before this Committee inquiry today as well.

The Hon. DANIEL MOOKHEY: Further to the point of order: The privilege is a restriction on members. It is not a restriction on witnesses. It's a restriction on members' ability to utilise information in questioning. I'm not utilising any privileged information in this questioning. I have a report in front of me here that says, "References available on request." That is why I'm asking who the third referee is because we've established that there are three. No privileged information is being utilised whatsoever.

The Hon. WES FANG: Well, I'm—

The CHAIR: Yes.

The Hon. DANIEL MOOKHEY: And the restriction on privilege is not a defence that's available to a person who's being asked questions under the Evidence Act.

The CHAIR: Yes. I'm ready to—

The Hon. WES FANG: Further to the point of order—

The CHAIR: I'm ready to rule.

The Hon. WES FANG: Well, I was just going back—

The CHAIR: We'll go one more to you, Wes, then—

The Hon. WES FANG: I'm just going to address the point to the Parliamentary Evidence Act. While the Parliamentary Evidence Act is clear about what a lawful question is or is not, it is not a lawful question from the Parliamentary Evidence Act's point if it seeks information that the witness may believe is privileged or is—

The Hon. DANIEL MOOKHEY: No. The whole purpose of the Parliamentary Evidence Act is to override.

The Hon. WES FANG: You are unable—

The Hon. DANIEL MOOKHEY: It's not the Evidence Act. The witness is not giving evidence under the Evidence Act of New South Wales. He's giving evidence under the Parliamentary Evidence Act and the distinction—

The Hon. WES FANG: Yes. I understand that. Now, Chair, I'm going to make the point that there was a point of order raised during—I believe it was the first hearing; no, I'm sorry, the second hearing—around the Parliamentary Evidence Act around lawful questions that you ruled against me and it is very much in a similar vein to this.

The Hon. DANIEL MOOKHEY: There's no parallel.

The Hon. WES FANG: So you've already set the precedents in this hearing as to what is or is not a lawful question under the Parliamentary Evidence Act. If you are to uphold the point of order that you held in the second hearing, then you will have to uphold it in this instance as well.

The Hon. DANIEL MOOKHEY: To that point, Chair—

The CHAIR: Thank—I will—

The Hon. DANIEL MOOKHEY: Do you wish to be heard on that point? If you wish to be heard—or need to be hearing me on that point, I'm happy to, Chair; but, otherwise, I'm happy if you wish to rule.

The CHAIR: Yeah. I'm ready to rule. It is a lawful question but the witness is not compelled to answer it. But I will say to the witness that we do have the right to summons you at some point in the future where you will be compelled to answer the question. So, that's up to you.

JOHN BARILARO: So, Madam Chair, just in the spirit of fairness can you at least give me the time during the lunch break to contact my referee to seek advice—

The CHAIR: Of course.

JOHN BARILARO: And I will come back after lunch—

The Hon. DANIEL MOOKHEY: I will happily—Mr Barilaro, I will happily accept.

JOHN BARILARO: —I will be more than happy to answer the question, with their permission.

The CHAIR: Okay.

The Hon. DANIEL MOOKHEY: Mr Barilaro, no problems.

The CHAIR: All right.

JOHN BARILARO: Can I at least get that, please?

The CHAIR: Okay.

The Hon. DANIEL MOOKHEY: If that's the case, that's fair. That's reasonable.

JOHN BARILARO: Thank you.

The Hon. DANIEL MOOKHEY: And no problems whatsoever in that respect.

JOHN BARILARO: Okay.

The Hon. DANIEL MOOKHEY: So we'll move on beyond the references until after lunch.

JOHN BARILARO: Okay. Thank you.

The Hon. DANIEL MOOKHEY: Can I just ask you about just another aspect of your resume, which has surfaced in the public debate for which I think you're entitled to provide your side of the story on. But you see here on page 6 that you list yourself as being a board director of Smarter Regions CRC. Do you see that at the top of the page?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: At this point in time, there was no board of Smarter Regions CRC, correct?

JOHN BARILARO: Well, I disagree with that. I disagree with that, and I saw the story in the press. I was asked to join that board. It was a board. The CEO used to address members as board members. There were minutes for those meetings. Maybe the term "director" is incorrect; it should have been maybe just "board member". But it was a board, and it was an organisation that was seeking Federal funding for AI, advanced manufacturing and making sure regional New South Wales wasn't left behind. I was asked to join, but that funding didn't come through, and then the organisation was pulled apart in end of Jan, early Feb.

The Hon. DANIEL MOOKHEY: Okay, but you do accept—it's not a big point, Mr Barilaro, so I'm not going to spend too much time on it, but you do accept that that was—

JOHN BARILARO: Alright. What I'll accept—maybe the term "director" should be swapped for "member".

The Hon. DANIEL MOOKHEY: Yes, but do you understand in the process of assessment that perhaps you should have gone into more detail about what precisely that role was?

The Hon. DANIEL MOOKHEY: Well, no, because I put these down as additional appointments. In the first part of my reference I spoke about my job, my employment, predominately my time as a member of Parliament, which did consume 11 past years. So they were additional appointments. The recruiter could have asked me that, and I would have been able to square that up. But if it's the word "director" versus "member", that's just an error.

The Hon. DANIEL MOOKHEY: It's a small point. I'll move on.

JOHN BARILARO: It is a small point, yes.

The Hon. DANIEL MOOKHEY: But I just felt you are entitled to respond.

JOHN BARILARO: Yes, and I've responded.

The Hon. DANIEL MOOKHEY: So, Mr Barilaro, why did you want to be the trade commissioner to the United States and why were you qualified for that role?

JOHN BARILARO: There are many in this room that may know my—what I did prior to politics. And, of course, being the trade Minister gave me an opportunity to be part of a development of a plan, a strategy, for this State to really engage with the opportunity to sell New South Wales in a way we've never sold it before, to drive investment, to showcase our lighthouse precincts, including the special activation precincts in the regions. I believe I was capable and had the skill set. One is my style, as many have pointed to, of being able to kick down doors. The opportunity to be aggressive in business—I was in business for 20 years, prior to joining politics, in manufacturing. I was importing out of Indonesia and China. I bought machinery and equipment for my business here in Australia out of the US, UK, Europe.

I'm definitely not on par with people that are in those global markets, but I believed that I had all the capability of being a great salesman, if you want to use that term, for this great State—especially that I was the Deputy Premier that played an important role in the development of this policy. I was the Deputy Premier and the Minister that was part of the crisis cabinet committee that worked with businesses and industries to reboot the economy. I believed I had the skill set to do that very, very well, but it wasn't my decision. In the end, the independent panel decided that those capabilities and those skill sets were there and chose me to be their preferred candidate.

The Hon. DANIEL MOOKHEY: So it was an important part of your thinking that you had delivered the Global NSW strategy, correct?

JOHN BARILARO: Say that again?

The Hon. DANIEL MOOKHEY: It was an important part of your thinking about why you could do this job that you had delivered the Global NSW strategy—

JOHN BARILARO: I was the trade Minister, so I had significant insight of the Government's view of what it wanted from its trade commissioners.

The Hon. DANIEL MOOKHEY: And if you turn to page 4 of your application—which is page 4 of the tender bundle, sorry—you see that you list that:

Delivered Global NSW ...

JOHN BARILARO: Yes, absolutely.

The Hon. DANIEL MOOKHEY: And you developed that strategy as trade Minister, correct?

JOHN BARILARO: I was the portfolio Minister along with the Treasurer, et cetera, yes.

The Hon. DANIEL MOOKHEY: And presumably you took your responsibility to deliver that strategy seriously?

JOHN BARILARO: Yes, absolutely.

The Hon. DANIEL MOOKHEY: And I presume that you did stay engaged with that throughout?

JOHN BARILARO: In the early stages, absolutely.

The Hon. DANIEL MOOKHEY: And that's from the time that this strategy was being delivered by Treasury?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: And the time that it was transferred to Investment NSW?

JOHN BARILARO: Well, less, because COVID took over. Bushfires and COVID consumed my time.

The Hon. DANIEL MOOKHEY: But you would have presumably still kept some level of engagement, correct?

JOHN BARILARO: Yes. Absolutely.

The Hon. DANIEL MOOKHEY: You would've made sure that you were across your briefings and you were keeping up?

JOHN BARILARO: As best as I could.

The Hon. DANIEL MOOKHEY: You were talking to your advisers regularly?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You were, where necessary, making contact with the department, either directly or through your office?

JOHN BARILARO: Very rarely directly.

The Hon. DANIEL MOOKHEY: Yes, but through your office?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: That did entitle you to understand precisely the scope of the governance strategy?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: This was information made available to you as a Minister?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: Then you cited that information that you gained as a Minister in your application. Correct?

JOHN BARILARO: In what way?

The Hon. DANIEL MOOKHEY: The way you've just said it. On page 4:

Delivered Global NSW, a government-wide initiative to support the State's outstanding industry ...

You made repeated—

JOHN BARILARO: That's public knowledge. There was a press release.

The Hon. DANIEL MOOKHEY: Indeed. But you also make reference to it in your page 1, correct, and in your covering letter?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You made extensive reference to the information you gained as a Minister in making your application. Do you agree?

JOHN BARILARO: Yes. That was my job. I was the Minister.

The Hon. DANIEL MOOKHEY: Indeed.

JOHN BARILARO: I was a Minister. I was a member of Parliament.

The Hon. DANIEL MOOKHEY: No-one disputes your ability to have access to this information as a Minister. But, Minister, you're aware that the Ministerial Code of Conduct says that information gained through ministerial service should not be used for private benefit. Are you aware of that?

JOHN BARILARO: Yes. Absolutely.

The Hon. DANIEL MOOKHEY: You've just, by your own admission, made clear that you utilised information obtained to you through a Minister for your private purposes of putting an application in for the job.

JOHN BARILARO: No, I disagree. Because all that information, by the time that I made the application, was public knowledge. Global NSW statement, policy framework, the trade network, everything, the precincts—all of it is public knowledge.

The Hon. DANIEL MOOKHEY: When you received or your office received the brief in relation to Ms West, was that public knowledge?

JOHN BARILARO: In relation to what about Ms West?

The Hon. DANIEL MOOKHEY: The briefing note that was signed without or with your knowledge. Was that public information?

JOHN BARILARO: No, it wasn't.

The Hon. DANIEL MOOKHEY: Was it public information to understand precisely when the role would be rolling out, as when you were Minister for trade?

JOHN BARILARO: I wasn't aware of that either.

The Hon. DANIEL MOOKHEY: Was it public knowledge that you had brought a Cabinet submission to turn these into statutory appointments?

JOHN BARILARO: I'm not sure what was relayed publicly.

The Hon. DANIEL MOOKHEY: So we can establish that many of the features that certainly surrounded your application were not public knowledge, that is, at least three: the fact that there was a candidate for your endorsement; that prior to that there was a selection process; the fact that you had brought a change yourself, which we'll get into after lunch, I'm sure; the fact that you knew at that point in time that the Government was going to change its policy, no matter whether or not that was bona fide or not. But, Mr Barilaro, you knew that the Government was going to change its policy at the time that you put an application in—or afterwards, to be fair. Please can you explain to me how it is the case that you were in accordance with the Ministerial Code of Conduct. It is apparent to me—and, to be fair, I think to most reasonable people—that the information you gained as a Minister absolutely informed your application and, in doing so, you were using information obtained as a Minister for your personal benefit.

JOHN BARILARO: No. I disagree entirely, as I said.

The Hon. DANIEL MOOKHEY: Please explain why.

JOHN BARILARO: I made it absolutely clear. The information in relation to this job was available publicly for everybody. What I referred to in my CV and what I referred to in my opening, in my cover letter, was that I delivered a policy framework, which is quite public. The idea that somehow I used inside information—I had no other information that every other candidate wouldn't have had in the public domain.

The Hon. DANIEL MOOKHEY: Mr Barilaro, when you were interviewed for the role, you made reference to your time as Minister—which, to be fair to you, is reasonable; you were the Minister for trade. But you made reference to it, did you not?

The Hon. WES FANG: You wouldn't ignore it.

JOHN BARILARO: My CV's made reference to my—

The Hon. DANIEL MOOKHEY: No, it's a separate question. It's to do with your interview which took place on 15 March. On 15 March, when you were interviewed by the panel, did you make reference to the Global NSW strategy? Did you highlight that as a positive feature of your candidacy?

JOHN BARILARO: I would definitely have talked to my former role as trade Minister.

The Hon. DANIEL MOOKHEY: Yes. I'm asking you very specifically, Mr Barilaro, in that interview, in front of the four people who were present, did you make reference to the Global NSW strategy and the information you would've had to have obtained as the Minister? And you—

JOHN BARILARO: No, I'm sorry, I disagree. There were questions in relation to the Global NSW strategy. They would've been the same questions they would've asked of other candidates. And if I'd answered—and I can't recall exactly what was spoken in that panel discussion. If I had answered those questions in relation to that strategy, it would have been the same questions being asked of other candidates and what was publicly on the record.

The Hon. DANIEL MOOKHEY: Mr Barilaro, do you understand that it's coming across as highly implausible that in making an application for the STIC Americas position you would not have utilised information available to you as a Minister?

JOHN BARILARO: I think you want to put it that way, but nothing excluded me as a former Minister or former member applying for a public service job as I did in an independent process using that I was the trade Minister previously and not discussing anything else outside of what was on the public record, which was the Global NSW statement and policy.

The Hon. DANIEL MOOKHEY: Mr Barilaro, I will ask you again: Do you understand how implausible it is—

JOHN BARILARO: No, I don't agree with that statement.

The Hon. DANIEL MOOKHEY: —when you tell us that you didn't utilise information available only to you as a Minister and cite that as the main reason why you should get the job?

JOHN BARILARO: No, I did not. I absolutely refute that I somehow used information that wasn't available to anybody else. I refute it.

The Hon. JOHN GRAHAM: We are going to come back to that question about the referees after lunch. I just wanted to come back to what you were telling us about Mr Barnes—Secretary Barnes. You said you had had one discussion in relation to the reference.

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: I just wanted to ask, separate to that discussion, did you at any point have discussions with Gary Barnes about your interest, your application or the process for this role?

JOHN BARILARO: Not that I recall. All I recall was asking Mr Barnes to be my referee, and at that point I would have told him that I was applying for the job and I had applied for the job.

The Hon. JOHN GRAHAM: Yes, naturally.

JOHN BARILARO: Naturally. But I don't recall having any other conversations with Mr Barnes prior.

The Hon. JOHN GRAHAM: So separate to that discussion over any of this time, you did not discuss with him any of those aspects?

JOHN BARILARO: Not that I'm aware of, no. I don't believe so but, you know, I could be corrected. But I don't believe so.

The Hon. DANIEL MOOKHEY: You just said, Mr Barilaro, that you didn't have any discussions with him prior, but what about post?

JOHN BARILARO: I do believe Mr Barnes notified me that he had put up the referee. I have a sense that that happened. He came back and said, "Yes, I've been your referee."

The Hon. DANIEL MOOKHEY: You established the Department of Regional NSW, didn't you?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: And you chose Gary Barnes for the role of secretary, did you?

JOHN BARILARO: He had been my secretary for a long time, yes. Well before even Regional NSW.

The Hon. DANIEL MOOKHEY: What was he the secretary of before?

JOHN BARILARO: He was a deputy secretary previously.

The Hon. DANIEL MOOKHEY: He was a deputy secretary of what previously, precisely? The Department of Primary Industries, it would have been.

JOHN BARILARO: Regional NSW came out of being Regional Development and over a number of years we then became a standalone agency, which was Regional NSW, and Gary Barnes became secretary. It was just a continuation.

The Hon. DANIEL MOOKHEY: And you chose him to be the secretary of Regional NSW?

JOHN BARILARO: Yes, of course.

The Hon. DANIEL MOOKHEY: And Gladys Berejiklian resisted that, didn't she?

JOHN BARILARO: She what?

The Hon. DANIEL MOOKHEY: She resisted it, didn't she?

JOHN BARILARO: Absolutely not.

The Hon. DANIEL MOOKHEY: And Tim Reardon did as well, didn't he?

JOHN BARILARO: No, not that I'm aware of.

The Hon. DANIEL MOOKHEY: They expressed concern to you about Mr Barnes, didn't they?

JOHN BARILARO: Not that I'm aware of.

The Hon. DANIEL MOOKHEY: Okay. But he becomes a secretary when the Government is re-elected in 2019, correct?

JOHN BARILARO: When we established the agency, yes.

The Hon. DANIEL MOOKHEY: Which was then.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: So, effectively, it's the case here that you are the reason why he becomes secretary and he is a big reason why you become the successful candidate to the Americas. Do you understand the perception that creates?

JOHN BARILARO: I think, firstly, I'll go back to the Chair's initial comment that you can't use this forum to defame people under parliamentary privilege.

The Hon. DANIEL MOOKHEY: I'm not defaming; I'm asking you to respond to that perception.

JOHN BARILARO: That is a slur on an apolitical public servant that, I believe, has been in the public service for 35-plus years across the country under all colours of government. To make that slur today that somehow I did him a favour—because that's what you are referring to—and he did me one, is wrong. Under the referee process—the 360 arrangement that I was asked to provide referees—one of them was like someone that you report to and someone that reports to you. Gary Barnes fitted that bill. I spent 11 years in politics—seven years as a Minister and almost five years as Deputy Premier. It would have been very difficult for me to find anyone else that could have fit that bill and, therefore, I thought it was appropriate for Mr Barnes to be a referee. He is honest, trustworthy and he would say it as it is. Therefore, I don't think it's right that we somehow slur Mr Barnes doing me a favour because I had done him one. I absolutely refute that statement.

The Hon. DANIEL MOOKHEY: Mr Barilaro, I certainly reject any inference that this is a slur.

JOHN BARILARO: Well, it is.

The Hon. DANIEL MOOKHEY: I'm asking you to respond to the perception—

JOHN BARILARO: Well, I've answered the question. I've responded.

The Hon. DANIEL MOOKHEY: So it's fair to say you reject that perception—

The Hon. WES FANG: Did you ask Jenny West?

JOHN BARILARO: Sorry?

The Hon. DANIEL MOOKHEY: You reject that perception.

JOHN BARILARO: Absolutely.

The Hon. WES FANG: Did you ask Jenny West?

The CHAIR: Order! Mr Fang—

JOHN BARILARO: Absolutely. I reject that. I absolutely reject it.

The CHAIR: Okay. We have now got questions from Government members for 15 minutes.

The Hon. SCOTT FARLOW: Mr Barilaro, Mr Mookhey has taken you to your CV on several occasions. I take it—you have also outlined that you applied for other jobs during this period, director of Coronation Property being one of them. Did you use this CV, or a CV similar to that?

JOHN BARILARO: This CV has pretty much gone to a number of recruiters, yes.

The Hon. SCOTT FARLOW: And, of course, those recruiters—now, I take it, within this CV, you would have talked about your achievements within the Government during that period of time?

JOHN BARILARO: Correct.

The Hon. SCOTT FARLOW: And no sort of form of private benefit in talking about your achievements in the Government and what you were able to do as a government Minister or member for Monaro?

JOHN BARILARO: Correct.

The Hon. SCOTT FARLOW: That's correct. Before applying for those roles or for the role of Senior Trade and Investment Commissioner, did you consult the Ministerial Code of Conduct?

JOHN BARILARO: Yes. I understood from the Ministerial Code of Conduct that, when it came to applying for a public service job, I did not need clearance or I was excluded from doing so, and that's why I applied for it.

The Hon. SCOTT FARLOW: That would be looking at section 24 (2) where it says:

This clause does not apply to any offer of post-separation employment by the State of New South Wales or any agency representing the State.

JOHN BARILARO: Correct. You can quote the actual paragraph; I don't have it in front of me.

The Hon. SCOTT FARLOW: But you would have seen that and you would have consulted that before applying for this job, of course?

JOHN BARILARO: Correct.

The Hon. SCOTT FARLOW: The Ministerial Code of Conduct itself actually makes a special exemption when it comes to government roles, in effect?

JOHN BARILARO: Absolutely.

The Hon. SCOTT FARLOW: And the requirements to consult with the Ethics Adviser, and the like, for those roles?

JOHN BARILARO: That's what I—how I understood it.

The Hon. SCOTT FARLOW: And, Mr Barilaro, when you applied for other roles outside, like the role you've discussed with Coronation Property, you consulted with the Ethics Adviser—

JOHN BARILARO: That is correct.

The Hon. SCOTT FARLOW: —about that role? And you got a special exemption in terms of your employment there?

JOHN BARILARO: That is correct.

The Hon. WES FANG: I just want to touch on a number of the points that Mr Mookhey raised earlier. Within the interview that you underwent with Investment NSW's selection panel for the role, did you discuss Ms Jenny West at that time?

JOHN BARILARO: At the panel?

The Hon. WES FANG: Yes.

JOHN BARILARO: No.

The Hon. WES FANG: Did you discuss the ministerial arrangements to move from what were public sector appointments to ministerial appointments?

JOHN BARILARO: No.

The Hon. WES FANG: Did you discuss the recruitment process in the previous role?

JOHN BARILARO: No, not at all.

The Hon. WES FANG: So you didn't use any of the information that Mr Mookhey indicated during his questioning—

JOHN BARILARO: Absolutely.

The Hon. WES FANG: —as part of that interview process?

JOHN BARILARO: Exactly right. Absolutely not. In those interviews, I spoke about what was public knowledge in relation to the policy of Global NSW, because they were the questions. They were directed to me by the panel and I'm sure would have been the same questions they directed to all candidates.

The Hon. WES FANG: And you would be aware, Mr Barilaro, that section 10 (1) of the code of conduct obviously says that you can't unknow what you already know, and that to use—that you can't not use the areas of information that you already know in other roles that you may apply to?

JOHN BARILARO: That is correct. And I used no information, in relation to my interview or anything else, that wasn't public knowledge.

The Hon. WES FANG: Do you believe that, given that you had ministerial experience, you would completely ignore it in your interview whilst you were applying for the role? Or do you think that you would have questions around any candidate that may be a former Minister, but not touch on any of that experience?

JOHN BARILARO: Well, I've had two careers in my life. I went from school to my family business—which I did for almost 20 years—and then I became a member of Parliament. I had two careers. My CV shows that. And the reality here is that it would be very difficult going to an interview and not talk about what the most recent employment was, and that is as a member of Parliament, as a Minister, as a Deputy Premier—that is at the heart of who I am today and there is, again, strengths and weaknesses to that. Not everyone in the private sector liked the idea that you have been a member of Parliament—that you are labelled that—or to one side of politics. That becomes a negative. But, at the same time, there are great positives in the achievements that I have been able to achieve in my time. So I proudly talk about my time as a member of Parliament and Minister and as Deputy Premier—all those achievements.

The Hon. WES FANG: Ms Brown confirmed in her previous appearance that Ms Jenny West had either a deputy secretary or a secretary providing a referee for her. In that instance, given that there seems to be some criticism from those opposite, do you believe that that should also flow to other candidates who perhaps had deputy secretaries or secretaries as their referees?

JOHN BARILARO: Well, I saw the evidence given last week, and so be it. What I would argue is, again, if Mr Gary Barnes was not permitted in giving me a referee, he could have chosen not to if there were some rule against that. I don't believe there is a rule against that. I worked closely with Mr Barnes, and I thought he'd be a perfect referee in being absolutely truthful and honest about who I was as a prospective employee of another agency or another organisation. So in my mind, if it suits one, it should suit the other.

The Hon. WES FANG: Thank you. No further questions, Chair.

The CHAIR: Excellent. Let's have an early minute, so we'll break for lunch and we will be back at one o'clock.

(Luncheon adjournment)

The CHAIR: Welcome back from lunch. We will now proceed to questions again, starting with the Opposition. Ms Penny Sharpe?

The Hon. PENNY SHARPE: Thank you. Mr Barilaro, I just wanted to take you back to—we were talking before the break about when you thought about pulling out of the role and then going back into the role. Can I just ask you who you spoke to during that period of a couple of days, or if you spoke to anyone about that?

JOHN BARILARO: Look, I don't recall. I don't believe I did speak to anyone, but I don't recall who I would have spoken to. It was more I made a decision, thought about it and then changed my mind.

The Hon. PENNY SHARPE: But there wasn't anyone that you'd contemplated with that?

JOHN BARILARO: Look, it is possible but nothing comes to mind, and I don't want to say someone if it's not correct.

The Hon. PENNY SHARPE: Sure, that's okay. When you were speaking to Minister Ayres about the role, what did you understand at that point in time was the process for the role? Was it to be a ministerial appointment or was it to be a public service role?

JOHN BARILARO: Can I answer that honestly? I think I'm as confused as others have been. I didn't know at that time.

The Hon. PENNY SHARPE: So when you were warning him—when you were telling people that you were going to be pursuing this role, you didn't actually know how you would ultimately be appointed.

JOHN BARILARO: No. I just reached out, asking what the role would be and then, as I said, weeks later I received the STIC advertisement.

The Hon. PENNY SHARPE: Okay, and just my final one on this before I hand over to my colleague: Did you ever speak to Minister Ayres about a direct appointment to the role?

JOHN BARILARO: No, never.

The Hon. DANIEL MOOKHEY: Thank you, Mr Barilaro. Mr Barilaro, I think you were going to tell us who your third referee was.

JOHN BARILARO: I think the media already announced it, but I'm happy to do so. I sought permission to ask, and my third referee was the former Premier of New South Wales, the Hon. Barry O'Farrell.

The Hon. DANIEL MOOKHEY: And when you do seek Mr O'Farrell's reference?

JOHN BARILARO: Again, it would have been earlier this year. As I said, I am confident to say that when I applied for the job—my CV has "TBC" at the bottom for referees and has always had that, because subject to the job that you're going to apply for would be subject to the type of referee you may go and seek. So, again, I would have sought Mr O'Farrell's support as a referee after the application period.

The Hon. DANIEL MOOKHEY: And the nature of the reference you sought from him came from your time as a member of his Government?

JOHN BARILARO: Mate, he was one of the reasons I got into politics. He inspired. I remember when I won that first election in 2011 and got over the line—I had to wait till the Wednesday to get announced—it was Barry that rang me and congratulated me. I think he said I was the cherry on top of what was already a significant win for Mr O'Farrell, Premier O'Farrell. From there onwards, he has been a big supporter of mine in relation to our time together in politics and post, so I see him not only as the former Premier of this State but a dear friend.

The Hon. DANIEL MOOKHEY: At the time that you approached him, he was the High Commissioner to India, which he still is.

JOHN BARILARO: Yes, absolutely.

The Hon. DANIEL MOOKHEY: So, again, logistically organising a reference with the High Commissioner to India would have taken some doing, correct?

JOHN BARILARO: No, not at all, because I just said a minute ago—

The Hon. DANIEL MOOKHEY: You called him up.

JOHN BARILARO: I just said a minute ago that he's been a dear friend.

The Hon. DANIEL MOOKHEY: So you called him up?

JOHN BARILARO: So he's been a dear friend. I sent him a message, and he offered to be my referee. It's as simple as that.

The Hon. DANIEL MOOKHEY: But again, Mr Barilaro, do you understand the perception that is created when a former leader of the Liberal Party is giving a reference to a former leader of the National Party for a job like this?

JOHN BARILARO: No, not at all. If I was an external candidate and my referee was the chairman of KPMG, because that's who I worked for, another candidate would have no access to the chairman of KPMG or other, yet I had the ability to call on referees who are some—some of them are high-profile referees. I've been lucky enough in my life journey to have met some wonderful people. Mr O'Farrell knew, and knows, my ability and capacity and capability. He's been a supporter and a friend. I asked him if he would be a referee and I think it's very appropriate that he can be. And he has, and that's the end of that.

The Hon. DANIEL MOOKHEY: Mr Barilaro, the reason I ask all this is because it's clear from the panel reports that this was a key factor for you getting the role, the reference from your referees, which, as best we can tell, consists of a former leader of the Liberal Party, a former president of the Liberal Party and a secretary of the department. Do you understand that that would've put a lot of pressure on the public service should they have decided to refuse you?

JOHN BARILARO: Not at all because, firstly, it was the recruitment agency that conducted the referee reports. That's the first point. The second point is that we have an apolitical public service personnel. What you are now questioning is their integrity. The reality here is that everybody that puts up a referee would be referees that are able to put forward the capabilities and skill sets of an individual. I'm sure that every candidate and their referees would've been fantastic referees. I've been lucky enough that these people know me, they know how I work and they were able to give a referee that was reflective of who I am, what I can achieve, and appropriately. Yes, perception—to your point, perception. I get that. But the reality is people call on all sorts of people in their world, in their life and their work journey to be referees, and I've been lucky enough to be surrounded by some very high-profile individuals.

The Hon. DANIEL MOOKHEY: To be fair to you—you probably weren't aware of this but you had an informal reference from Minister Ayres and you had a formal reference from a person of such prominence as the former Premier of New South Wales, Mr O'Farrell, as well as a person of prominence, the former senator and president of the Liberal Party, Mr Sinodinos. Again, can you understand here that it does look like that there was a concerted sort of effort?

JOHN BARILARO: Not at all. Firstly, Mr Sinodinos—as a former president, a Federal member of Parliament, a senator and a Minister in the Federal Parliament—would have no bearing on any public servant in the State of New South Wales. Mr O'Farrell has been gone for—what is it?—seven or eight years, even longer. My maths is not working. The reality here, I didn't even go to a National Party leader or former leader. So I could understand—

The Hon. DANIEL MOOKHEY: I was going to ask you: Why not? They weren't prepared to give you one?

JOHN BARILARO: Not at all. I think I'd be closer to some of my Nats than I do with some Libs. But, as I said, you'd be surprised that in the course of this political journey some of your friends don't actually come from the people that sit beside you. Sometimes they're from across the political aisle. There are some in your party that I would call friends, who I'm proud to have met on this life journey and this political journey. I chose those referees based on that I believe they could sell me for who I was and what I'm capable of, and that is for the interests of this State and that is to be a trade commissioner for the State of New South Wales to make sure when it came to the State of Origin of trade, Queensland and Victoria, who are kicking goals at the moment, we were going to catch up, and I'm confident I could've done that.

The Hon. JOHN GRAHAM: I just want to take you back, Mr Barilaro, to that final week.

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: It must've been a frantic week, that week of 27 September through to 1 October leading to the events of 3 and 4 October—so really, your final week in the job. The twenty-seventh of September, that was the Monday. That was the Cabinet meeting in which this Cabinet submission was considered. That's correct?

JOHN BARILARO: From the hearing, that's what I believe. I don't have access to those files.

The Hon. JOHN GRAHAM: Yes. That was when these roles changed to become ministerial appointments.

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: As we've observed elsewhere in the hearing, that hit the Cabinet table in relatively record time. I won't ask you to comment on that, but just seven working days. Friday 1 October, you made that global trade announcement with others—

JOHN BARILARO: Correct.

The Hon. JOHN GRAHAM: —in the morning?

JOHN BARILARO: Correct.

The Hon. JOHN GRAHAM: And then in the afternoon, that was when the Premier, Premier Berejiklian, resigned. You've told us that on Saturday 2 October you spoke to your colleague Minister Stokes about your intentions—perhaps his intentions, certainly your intentions. That's correct?

JOHN BARILARO: Correct.

The Hon. JOHN GRAHAM: What did you say to him?

JOHN BARILARO: Again, you say it was a frantic week. Unless I had a crystal ball and knew the inner workings of the ICAC, at no point did I know that Premier Berejiklian was resigning on the Friday. So the time line may look frantic but it was business as usual. A Cabinet submission went to Cabinet on the Monday; it was approved. Whatever happened after that in relation to how frantic the week became no-one would have known. The reality would have been is that I would have not resigned that week, or on 4 October, if the events of Friday the first hadn't occurred. So on the Saturday, as I said, I had a missed call from Minister Stokes, as I recall. I returned that call. We spoke about all things, but, in my mind, it felt like it was quite public that he was nominating for the leadership of the Liberal Party, and I think he was reaching out to the leader of the National Party—a Coalition partner. Since that was part of the conversation, I can't recall. I have got to be honest, I can't recall exactly, but I do remember then going into a conversation around that I'm not sure if I'm going to continue anyway.

Talking through, remembering the events of my break, part of it was to debate around the koala SEPP. Minister Stokes was a part of that. Minister Stokes and I, over the months post that period, became quite honest with each other and I believe built a professional friendship. And so to talk something through with someone that you probably wouldn't go to for counsel, it was really good for me—therapeutic, in a way—that I was getting the advice of an individual that I respected. I used to say he was the smartest person in Cabinet, and I do apologise to those other Cabinet Ministers.

The Hon. DANIEL MOOKHEY: It might not be high praise.

JOHN BARILARO: And I think, at the time, it might have been by text message or phone call over that weekend, I even spoke to Andrew Constance. Again, people will probably laugh at this, going, "What? The people that you had public fights with you seemed to have trusted." I think he made a comment that he was part of my decision to go. That's when I decided, and I can tell you, Premier Perrottet—he was telling me to stay.

The Hon. JOHN GRAHAM: On that Saturday, as you had these discussions.

JOHN BARILARO: Sorry?

The Hon. JOHN GRAHAM: On that Saturday, as you had these discussions.

JOHN BARILARO: On the Saturday and the Sunday, and then I spoke to my team because I had to organise a press conference for Monday morning. I think there was noise coming out of the media Sunday afternoon or Sunday night. Nothing is ever quiet, as Barry O'Farrell being my third referee.

The Hon. JOHN GRAHAM: Sure.

JOHN BARILARO: So the reality is it was over that weekend I decided that the Monday morning I was calling it quits, subject to, I had this defamation case and don't forget I was also a witness in the ICAC issue with the former Premier, and all of that played on my mind. I just thought, "Now is the time to go."

The Hon. JOHN GRAHAM: I'll just come back to that point you just made. The Premier at that point—or the incoming Premier, Premier Perrottet—asked you to stay at that point, but you had made your mind up?

JOHN BARILARO: Well, yes. Look, when the announcement happened on Friday, just like Minister Stokes, Minister Perrottet had a chat with me about what the next chapter would look like under his watch if he

was to become Premier. I indicated that I'm not sure at this stage, and he was asking me to stay. He wanted stability. He knew the role that I played in the road map. But I had to be honest with him and I believe until it might have been Sunday before I recontacted Dom—or Premier Perrottet—that I wasn't contested. I believe at that point he thought I was staying.

The Hon. JOHN GRAHAM: Then at your press conference you made this public and events unfolded from there—a rapid resignation from the key role, although, as you've said, you've stayed on as MP.

JOHN BARILARO: Yes, well, I stayed on as MP until December only because initially we thought there were going to be by-elections immediately, I think.

The Hon. JOHN GRAHAM: Yes, understood.

JOHN BARILARO: There was talk about October-November by-elections, and that would have been good. It would have been easier. But then, of course, I think, again, the COVID plans sort of disrupted that.

The Hon. JOHN GRAHAM: Yes, understood.

JOHN BARILARO: And I think the Electoral Commission wasn't comfortable with it, and that dragged out. So I wanted to stay on as a local member and not vacate that seat and not leave that seat.

The Hon. JOHN GRAHAM: On that Monday, on 27 September, when the Cabinet dealt with this issue, you've said you had the support of others to get it on the agenda.

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: It wasn't all you. The Premier—

JOHN BARILARO: One hundred per cent.

The Hon. JOHN GRAHAM: —Gladys Berejiklian, the Treasurer, Dom Perrottet, ticked off in this leadership bidding to say this would be on the agenda.

JOHN BARILARO: That would have been—

The Hon. JOHN GRAHAM: Earlier.

JOHN BARILARO: —a week or two weeks earlier—

The Hon. JOHN GRAHAM: Exactly.

JOHN BARILARO: —when the Cabinet submission was lodged.

The Hon. JOHN GRAHAM: Yes, but you had the support of others to have this discussed?

JOHN BARILARO: Absolutely.

The Hon. JOHN GRAHAM: But you'd accept, though, in that Cabinet meeting you were the key advocate for this proposal?

JOHN BARILARO: I'm the portfolio Minister that submitted the submission, but with the support of the other two. But in the end the support of the whole Cabinet bar one.

The Hon. JOHN GRAHAM: Yes. And I think you are saying to us that we should have no concerns that, as the key advocate in that meeting, you were yet to decide you were resigning at that point?

JOHN BARILARO: No, absolutely not. Absolutely not. As I said, if the events of Friday didn't occur, I would have stayed on for who knows how long. Delta, the road map—all of the above. I had some of my colleagues urging me not to retire and resign because I had said that I wanted to not contest the next election and then of course all of those events. I made it clear on the day I resigned. I just couldn't do it anymore. Emotionally and mentally, I couldn't do it anymore, and with all the events that I was confronted with—

The Hon. JOHN GRAHAM: I might just ask the secretariat to give you a document. I might circulate that. I'll just get you to look at that. There's a copy for the secretariat. So this is your outline of evidence in your court case?

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: You can see there—I've given you the full copy. I'm just tabling the first and last pages. I might ask you to turn to the last page of that. Can you just read out the highlighted?

JOHN BARILARO: Yes. "I have therefore made a decision to retire from politics. I do not want to face another election."

The Hon. JOHN GRAHAM: What's the date on that—down the bottom?

JOHN BARILARO: 24 September.

The Hon. JOHN GRAHAM: So this is 24 September. This is your submission of evidence to the court case. You've sworn this is your view. This is before the Cabinet meeting—

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: —before 27 September, a week before you say you made this decision. But this is what you've told the court in your defamation case.

JOHN BARILARO: Correct.

The Hon. JOHN GRAHAM: "I have therefore made a decision to retire from politics."

JOHN BARILARO: Yes, at some point. As I said earlier, my initial time line was I was going to retire on budget week, but unfortunately Delta struck and I was put into isolation.

The Hon. JOHN GRAHAM: Doesn't that mean—you're sitting in the Cabinet meeting as the key proponent, the key advocate for this measure to change this to ministerial appointments. You know you've put in your court statement. You are resigning from politics.

JOHN BARILARO: At some point in the term. It just says I won't face the next election.

The Hon. JOHN GRAHAM: You know that.

JOHN BARILARO: Correct. I won't face the next election.

The Hon. JOHN GRAHAM: Your colleagues in the Cabinet don't know that, do they?

JOHN BARILARO: No. But I wouldn't be facing—

The Hon. JOHN GRAHAM: Did you tell them in that Cabinet meeting?

The Hon. WES FANG: Point of order—

JOHN BARILARO: No. I'm sorry, but I've answered the question and it's clear here that I therefore made a decision to retire from politics. I do not want to face another election. I've made it absolutely clear today that my intention in June was to retire but I couldn't. Then I was stuck in the role doing the work and who knows when that would have happened? It could have been—

The Hon. JOHN GRAHAM: Can you see why there'd be concerns though?

JOHN BARILARO: —on the eve of pre-selections for the next election.

The Hon. JOHN GRAHAM: Sitting in that Cabinet meeting, you know you're going to retire—you state it clearly here.

JOHN BARILARO: In the future.

The Hon. JOHN GRAHAM: And the others don't.

JOHN BARILARO: In the future.

The Hon. JOHN GRAHAM: But you hadn't made that clear to your colleagues, who were sitting—

JOHN BARILARO: I'm clarifying to you that this statement is that at some point before the next election I would retire. That's what I'm saying.

The Hon. JOHN GRAHAM: And I'm putting to you that these two statements—one you've made to the inquiry that you made that decision on Saturday 2 October and this statement that you made on 24 September—cannot both be true.

JOHN BARILARO: They're both true. They're both true. Because, as I said, if the events of 1 October didn't occur, I most likely would've still been in the role for months—even now, who knows?—until it was the right time to retire. You're trying to say, and what you're suggesting here is, that I knew I was going to retire, therefore I was creating this job for myself. I know where you're going with this and that is absolute rubbish, which I refute—I completely refute.

The Hon. JOHN GRAHAM: I'm saying perhaps your colleagues would've wanted to know.

JOHN BARILARO: This evidence does not actually back that. It does not back that at all. Because all it says is I will not face another election. I think that's quite clear.

The Hon. JOHN GRAHAM: Perhaps your colleagues might've wanted to know. That's important context as you—

JOHN BARILARO: Not at all.

The Hon. JOHN GRAHAM: —advocate to change these roles to ministerial appointments.

JOHN BARILARO: No, not at all. Because when you say it like that, what you're trying to say is that I was advocating to change these roles to benefit me. No, I was changing these roles based on leadership meetings, based on the requests of some MPs and Ministers, based on the aspiration of the Government through Global NSW, a document created by Treasury—

The Hon. JOHN GRAHAM: Mr Barilaro, you can put that case—

JOHN BARILARO: I'm entitled to answer the question so allow me to answer the question.

The Hon. JOHN GRAHAM: —but your colleagues might've wanted to know this.

JOHN BARILARO: No, because there was nothing to know. There was nothing to know.

The Hon. WES FANG: Chair, I'd ask Mr Barilaro be allowed to answer without interruption from the Hon. John Graham.

The Hon. JOHN GRAHAM: They might've wanted to know a week before—

JOHN BARILARO: Actually, a lot of my colleagues publicly knew—

The Hon. JOHN GRAHAM: —that you were going to resign. That's what they might've appreciated being told.

The Hon. WES FANG: Point of order, Chair—

JOHN BARILARO: Actually it was quite public and a lot of my colleagues knew that I was not facing the next election.

The CHAIR: Order! Mr Barilaro, I'd just—

JOHN BARILARO: It was very public.

The Hon. PETER POULOS: Mr Barilaro, you had made that comment.

JOHN BARILARO: Yes.

The CHAIR: Order—Mr Poulos. A point of order has been taken just in terms of allowing the witness a little bit of time to answer the questions. The member is in order—

The Hon. WES FANG: Look, I know there are a lot of TV cameras here. I know that Mr John Graham wants to—

The CHAIR: Mr Fang, I know what you were going to say and I just asked the member to allow the witness a little bit more time to respond to the questions.

JOHN BARILARO: Thank you, Chair. It was very public that I was at some point going to retire. I actually never hid that. I said it quite frequently in the press that I was struggling with the role. As I said, it was very possible I could've even left back when I took leave. The reason why I didn't choose to do that—because that's not what I wanted to be remembered for. I didn't want to be remembered for leaving on mental health grounds, so I worked damn bloody hard to get myself back together with a lot of psychiatric and psychology work. I dealt with some demons and I actually think I did a bloody wonderful job as a member of the crisis committee and rebuilding the road map.

The Hon. JOHN GRAHAM: And I accept some of that.

JOHN BARILARO: It's irrelevant, and it was quite public that at some point I would leave. It would have been to no surprise to any member of the Cabinet—

The Hon. JOHN GRAHAM: But this is—

The Hon. WES FANG: Let him answer, John.

JOHN BARILARO: —that I wasn't hanging around for 2023.

The Hon. JOHN GRAHAM: But you say here, "I have therefore made a decision to retire from politics."

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: That is what you've written here.

JOHN BARILARO: Yes, I said to you that in June I made a decision to retire.

The Hon. JOHN GRAHAM: Mr Barilaro, when did you—

The Hon. DANIEL MOOKHEY: Point of order—

JOHN BARILARO: I have already confirmed that in June I was considering it.

The CHAIR: Mr Mookhey is taking a point of order.

The Hon. DANIEL MOOKHEY: I understand the usual practice is that a question is followed by an answer. You were right to perhaps call my colleague, but maybe my colleague should now be allowed to ask the question and perhaps the witness might wish to allow the question to be asked and then he can respond.

The CHAIR: Yes, fair call. That is the way we should be doing things. The member should also be able to ask the question without interruption. Let's proceed there.

The Hon. WES FANG: Was that a point of order, Chair?

The Hon. DANIEL MOOKHEY: The Chair has ruled.

The CHAIR: Order! Mr Fang, let's just go with that.

The Hon. WES FANG: Okay, let's go with that, Chair.

The CHAIR: If the member can ask the question without being interrupted and the witness can also respond without being interrupted, that would be wonderful.

The Hon. WES FANG: Mr John Graham set the tone of this.

The Hon. ROBERT BORSAK: Point of order: Is Mr Fang dissenting from the ruling?

The Hon. WES FANG: No, I am making the point, Deputy Chair, that—

The Hon. COURTNEY HOUSSOS: Are you taking a point of order?

The Hon. DANIEL MOOKHEY: We have ruled.

The Hon. ROBERT BORSAK: Are you taking a point of order or are you dissenting?

The CHAIR: No, sorry, Mr Fang. I have said that both the member and witness should allow each other to speak a little bit without interrupting. That would help proceedings greatly. Not to mention our poor Hansard reporters, who really struggle when two people speak over each other.

JOHN BARILARO: Absolutely.

The CHAIR: Mr Graham, we will go with you. At this stage the crossbench doesn't have any questions, so you have the next 20 minutes.

The Hon. JOHN GRAHAM: Mr Barilaro, this document is dated 24 September 2021.

JOHN BARILARO: Yes.

The Hon. JOHN GRAHAM: When did you sign it or when did you authorise it to be issued?

JOHN BARILARO: It would have been on that day.

The Hon. JOHN GRAHAM: There is a question over whether it was delivered on that day or otherwise to 1 October.

JOHN BARILARO: I can't answer that.

The Hon. JOHN GRAHAM: You can't shed any light on that?

JOHN BARILARO: No, I can't answer that. But as I indicated earlier, I even made a decision back in June. What I was enduring with the online abuse, the trolling—the issues of course at the heart of my defamation case—I decided at that point I could not face the next election and therefore I would resign or retire at some point. That never left me, but I couldn't do it in June and there was no plan initially to do it in October, but an opportunity arose because of the events of 1 October with the resignation of the Premier of New South Wales. It gave me an opportunity. Some have criticised me that I left that role when we needed stability, but it gave me the opportunity

for a refresh of the Government. That is why, after conversations with some personal friends and of course Minister Stokes and others, I made a decision to go then.

The Hon. JOHN GRAHAM: But do you accept that some of your colleagues around that Cabinet table, as these roles changed, would not have known that you had made a decision to retire?

JOHN BARILARO: No, I disagree. I think a lot of my colleagues knew because I was quite public throughout my term that I was not facing the next election. I think that was obvious. Secondly, it was irrelevant to that debate because this was not about a Cabinet submission for me.

The Hon. DANIEL MOOKHEY: Mr Barilaro, I have a few follow-up questions arising from the two lines of questioning that my colleague just asked you about.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: First, in respect of this particular statement that I think we have established you provided the court—was it the New South Wales Supreme Court?

JOHN BARILARO: Federal Court.

The Hon. DANIEL MOOKHEY: The Federal Court on 24 September 2021. I think my colleague took you to the first two sentences, which he read out. But the third sentence does say this, and to be fair it supports what you have just said:

Although I have previously contemplated resigning, the Respondents' conduct has played an instrumental role in my decision.

That is abundantly clear to all. But when you read the first in conjunction with the second, an ordinary reader may well conclude that at that point on 24 September 2021 you reached a point of definite decision as opposed to a future decision. I am not going to ask you to respond because, to be fair to you, Mr Barilaro, you told us just then. You said, "I have therefore made a decision to retire from politics at some point." That is what you said to us. But to be fair, that's not what you said here.

JOHN BARILARO: That's exactly what I've said here.

The Hon. DANIEL MOOKHEY: No, you said, "I have therefore made a decision to retire from politics," but not "at some point".

JOHN BARILARO: I did not want to face another election. That is the point.

The Hon. DANIEL MOOKHEY: I do accept that, Mr Barilaro. What I am asking you to respond to is that you made the point that you previously contemplated resigning and the respondent's conduct made the instrumental role.

JOHN BARILARO: Absolutely.

The Hon. DANIEL MOOKHEY: It is abundantly clear to all that that's what happened. The issue here is, again, shouldn't you have perhaps said or clarified this to the court? Otherwise you are leaving the impression that what you've told us today is at least more complete an answer than you provided the court on 24 September 2021.

JOHN BARILARO: Not at all. This is reflective of the time and how I was feeling and how I felt. This is absolutely in line with what I said in the court. Today I've been able to give you a fuller answer in relation—and an honest answer—that I even said that the pressures that I was going through, the struggles and the attacks—and you are aware, because it's quite public, it wasn't just online. There were threats when I used to go to a local pub et cetera. The reality here is that I originally wanted to leave in June but because of Delta that didn't occur. That didn't take away that I made a decision I would not face the next election. You want to get caught up on the words. I'm giving you today exactly what went through my head at that time, and it's in line with what I said on the day that I retired.

The Hon. DANIEL MOOKHEY: Mr Barilaro, the other point you made in respect to the questioning asked by my colleagues, you said you brought the submission after you were requested to do so by Ministers and MPs.

JOHN BARILARO: Not requested, but as I said—

The Hon. DANIEL MOOKHEY: That was the word you used.

JOHN BARILARO: No, I said that in discussions with MPs and Ministers they raised the issue around the escalation. Then at a leadership meeting, which includes the Premier, the Treasurer and myself, I raised the issue and therefore concluded from that meeting that I would bring a Cabinet submission.

The Hon. DANIEL MOOKHEY: Yes, we'll get back to that, rest assured. But you did make the point that you had the support of the full Cabinet bar one.

JOHN BARILARO: Yes, on the day. Yes.

The Hon. DANIEL MOOKHEY: Who was the one?

JOHN BARILARO: That's a Cabinet decision and I don't think—I'm bound not to—

The Hon. DANIEL MOOKHEY: Fair enough. But you're telling me that the entirety of the Cabinet, with the exception of one member, supported your submission to turn these into ministerial appointments?

JOHN BARILARO: What I will say is this: Cabinets don't vote on anything. People speak for and against. It was actually quite a vocal debate in support of, but one Minister had reservations about why we would do it. It didn't mean he didn't vote for it, because we don't vote. Therefore the—

The Hon. SCOTT FARLOW: Cabinet solidarity.

JOHN BARILARO: Sorry?

The Hon. SCOTT FARLOW: Cabinet solidarity.

JOHN BARILARO: That's right. Therefore the decision of the Cabinet stands, that it was supported.

The Hon. COURTNEY HOUSSOS: Mr Barilaro, you have publicly said on quite a few occasions that you were considering not running. When you initially stood, you said you were only going to stand for two terms. This is something that you discussed publicly a lot, isn't it?

JOHN BARILARO: Yes, absolutely. And you are aware of it because you were the duty manager down in the Monaro, so you still can get a candidate up—

The Hon. COURTNEY HOUSSOS: Your colleagues may have been aware of this kind of general discussion in the media that you'd been toing and froing a bit. Like you say, you thought you'd made a decision in June but you'd come back from that decision, is that correct?

JOHN BARILARO: There is no question in my mind that my colleagues, ministerial and MPs, in this Government, in the Coalition Government were aware post my break that I was leaving. I think I could hand on heart say that for many of them, they knew I was not facing 2023.

The Hon. COURTNEY HOUSSOS: Yes, but that's a very different thing, though—general discussions about when you're going to leave as opposed to putting your name on a signed court document that says, "I have therefore made a decision to retire from politics."

JOHN BARILARO: But I have.

The Hon. COURTNEY HOUSSOS: The implication from anyone's reading of this, Mr Barilaro, you would understand, is that it was imminent. Would you appreciate that?

JOHN BARILARO: No, it wasn't imminent. You want to assume that, and that's the suggestion and the accusation you're trying to make because it works for your time line, but no. It was clear that it said—and you keep pulling away from this part: "I do not want to face the next election". The next election is in March 2023. That gives you a very big window that at some point in that time line I would retire from politics.

The Hon. COURTNEY HOUSSOS: But you didn't include that in your statement. Why didn't you include that, Mr Barilaro?

JOHN BARILARO: Because I didn't need to. This captured exactly what I felt and what I believed in and why I resigned, and the events of 1 October galvanised at that point an opportunity for me to resign.

The Hon. COURTNEY HOUSSOS: But do you understand, Mr Barilaro, that you might be arguing the semantics? We've got a signed—

The Hon. WES FANG: No, no—

JOHN BARILARO: No, you're the one who is actually stuck in the semantics.

The Hon. COURTNEY HOUSSOS: We've got a signed statement here from you that was submitted to a court.

JOHN BARILARO: Yes, correct.

The Hon. COURTNEY HOUSSOS: It's a very serious document that says, "I have therefore made a decision to retire from politics."

JOHN BARILARO: Before the next election. Can you read the whole statement?

The Hon. COURTNEY HOUSSOS: "I do not want to face another election. Although I have previously contemplated, the respondents' conduct has played an instrumental role in my decision."

JOHN BARILARO: Absolutely.

The Hon. COURTNEY HOUSSOS: The implication from that, Mr Barilaro, is that that is imminent. Did you ever—

JOHN BARILARO: No, it's not. You're concluding—sorry.

The Hon. COURTNEY HOUSSOS: Mr Barilaro, did you ever convey this new decision to your colleagues as you were discussing to transform the STIC appointments to ministerial appointments?

JOHN BARILARO: Well, firstly, I refute your statement. I refute the accusation or suggestion you are making in relation to what was behind my statement to the courts, which I stand by. That's the first part. The second part is it is absolutely irrelevant to my colleagues in relation to what I was going to do when and where in relation to retirement on a Cabinet submission that was in relation to a broad Government policy that had no—that I had no intention, at that point, of applying for or being part of. The accusation you are making is I created the STIC role for myself and, therefore, I should have informed my colleagues that I was going to resign at some point in the future and, somehow, this job would be for me. Now, I refute that. I refute that.

The Hon. JOHN GRAHAM: Isn't it up to them to judge whether it's relevant or not?

JOHN BARILARO: It's not relevant.

The Hon. JOHN GRAHAM: Isn't that really their judgement?

JOHN BARILARO: It's not relevant.

The Hon. JOHN GRAHAM: Isn't your obligation to inform them?

The Hon. WES FANG: I'm just going to seek—

JOHN BARILARO: It is not relevant. I've answered the question.

The Hon. WES FANG: I'm going to seek to ask a clarifying question, if that's okay?

The CHAIR: Okay, we'll allow Mr Fang to ask a clarifying question.

The Hon. WES FANG: Mr Barilaro, what the Opposition is asking you about is seeking to change the appointment from public service to ministerial. Were you appointed under a ministerial appointment?

JOHN BARILARO: I was not. I went through a public service independent process and, therefore, this line of questioning, in my mind, is—firstly, I don't get it. Secondly—but I just want to take Mr Graham's comment. No, I do not believe it was relevant, at all—at all—to the debate of a government policy in relation to a number of appointments, because the aspiration of the Government had changed.

The Hon. WES FANG: So this wasn't a ministerial appointment that was the substance of the Cabinet submission that went to the Cabinet?

JOHN BARILARO: No, absolutely not. I went through a public service process—quite the opposite.

The Hon. WES FANG: Thank you.

The Hon. ROBERT BORSAK: But, Mr Barilaro, you said earlier, before lunch, that it was your colleagues that were influencing you to make that change?

JOHN BARILARO: No, my colleagues raised with me their experience abroad when they travelled. My colleagues were raising with me the opportunity to elevate the status of these appointments—

The Hon. ROBERT BORSAK: So, strategically then, you didn't inform them? You didn't respond to the fact that you had put a statement on at court which actually says that you had planned to and you did—it had brought you to resign on 24 September?

The Hon. WES FANG: That's dated three days before—

JOHN BARILARO: Yes. And, thank you. And, Mr Borsak, I absolutely have a statement that says that I was going to retire, but the statement doesn't say that I was applying for a STIC role. The statement doesn't say

that I'll be applying for a trade role. So you've got to separate the two. You're coming to a conclusion with no evidence, at all, and you're making an accusation and I'm refuting that accusation. To my opening statement, I refute the accusation.

The Hon. ROBERT BORSAK: Mr Barilaro, I'm not making any accusations. All I'm doing is drawing your attention to a series of events—

JOHN BARILARO: Yes.

The Hon. ROBERT BORSAK: —that chronologically seem to demonstrate a process that you were moving through?

JOHN BARILARO: No, absolutely not. To give credit to what you've just said, I must have been the only man in the world that would have known that Gladys Berejiklian was retiring or resigning on 1 October. The events of 1 October changed everything in relation to when I would decide to go or not and what the time line for going, and that I've made absolutely clear today. I've made absolutely clear today and am being absolutely upfront and honest that in June, in budget week, I was considering retiring that week because of the pressures of what I've endured. So nothing has changed. The unfortunate time line of events, a series of—sorry, a series of coincidences and, unfortunately, the resignation of the Premier on the Friday the first, makes it all look like that. But that's just either bad timing or coincidence.

The Hon. DANIEL MOOKHEY: But the series of events as you described, starting from the fact—

The Hon. JOHN GRAHAM: An "unfortunate" series of events.

The Hon. DANIEL MOOKHEY: The unfortunate series of events is this, is it not, Mr Barilaro: on 16 September or thereabouts you lodge a Cabinet submission to convert them into ministerial appointments; on 24 September you've declared to a court that you're intending to resign; on 27 September, Cabinet agrees with your submission; on 1 October the Premier resigns; and on 4 October you resign? Equally, it does look like that Cabinet submission was being put forward urgently because you knew that at some point Ms Berejiklian was likely to have to resign, because as you've already admitted you had been a witness in the ICAC proceeding. It does look like you fast-tracked that Cabinet submission in order to be in a position so that the job was vacant at the time when you could thereafter apply to it?

JOHN BARILARO: Is that the—

The Hon. DANIEL MOOKHEY: That is what it looks like.

JOHN BARILARO: Is that the accusation you are making, Mr Mookhey?

The Hon. DANIEL MOOKHEY: I'm not making any accusation, Mr Barilaro.

The Hon. WES FANG: Yes, you are.

The Hon. DANIEL MOOKHEY: But I'm just saying, if you take the events—

JOHN BARILARO: Well, you are.

The Hon. DANIEL MOOKHEY: You've lodged a submission on the sixteenth. It's proposed and passed within 10 days.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Three days prior—

JOHN BARILARO: By a full Cabinet.

The Hon. DANIEL MOOKHEY: Yes, indeed. Three days prior, you've told a court you're intending to resign?

JOHN BARILARO: Before the next election.

The Hon. DANIEL MOOKHEY: But if we are—

JOHN BARILARO: Before the next election.

The Hon. DANIEL MOOKHEY: But if we are to believe your version of events, Mr Barilaro, we have to basically conclude that you're one of the luckiest men in New South Wales politics?

JOHN BARILARO: Well, no. Actually, I would be the unluckiest man in New South Wales politics, I would argue, because of those series of events. I had no idea what was going to occur on 1 October. The Cabinet submission was "business as usual". It was something that was being considered. Leadership supported it. A full

Cabinet of, at the time—I don't know—22 or 23 members dealt with it. I tell you what: I must be the powerful man in New South Wales if I can get a whole Cabinet to approve something that they weren't supportive of. This will have the full support and the Government's intent in relation to elevating the status of these roles. The unfortunate events are the date of 1 October and what occurred after that. And I chose to retire at that point.

The Hon. DANIEL MOOKHEY: Mr Barilaro, did you give evidence to the ICAC on 10 September?

JOHN BARILARO: Look, I don't recall.

The Hon. DANIEL MOOKHEY: I think the records that have been disclosed by ICAC show that you did.

JOHN BARILARO: I don't recall. I don't have that information in front of me.

The Hon. DANIEL MOOKHEY: That's okay.

The Hon. JOHN GRAHAM: It was around that date.

The Hon. DANIEL MOOKHEY: It was around that date.

The Hon. JOHN GRAHAM: You would accept that?

The Hon. DANIEL MOOKHEY: So just to be clear here, you were giving evidence in private to the ICAC, were you not?

JOHN BARILARO: As a witness.

The Hon. DANIEL MOOKHEY: Indeed, of course. Let's be very clear, Mr Barilaro. We do respect the fact that you were following the ICAC and there were certainly no implications for you.

JOHN BARILARO: Thank you.

The Hon. DANIEL MOOKHEY: Just to be very clear, you are called to a private hearing with the ICAC around 10 September, correct?

JOHN BARILARO: I don't know the dates, sorry.

The Hon. DANIEL MOOKHEY: Okay. Equally, by 16 September a submission is lodged. I mean, any reasonable person who is the Deputy Premier of New South Wales, who is called in to an ICAC hearing to give evidence about the Premier of New South Wales, would conclude that perhaps the ICAC was interested in the conduct of the Premier. Is that fair?

JOHN BARILARO: No, that's actually unfair.

The Hon. DANIEL MOOKHEY: Sorry, you are saying it's unfair to be called for a private—

JOHN BARILARO: No, no; the way you have put that forward— Can I answer? You've asked me a question.

The Hon. DANIEL MOOKHEY: Sorry, just let me finish the question.

JOHN BARILARO: You did.

The Hon. DANIEL MOOKHEY: You are saying to me that the Deputy Premier of New South Wales, who is called for a private examination by the ICAC around 10 September to give evidence about the conduct of the Premier, wouldn't have concluded that perhaps the Premier was facing an ICAC inquiry?

JOHN BARILARO: Firstly, I am not sure what I am allowed to say and what I am not allowed to say about the process involving ICAC. But I will put to you: Do you believe that date you've just pointed to—the 10 September interview with the ICAC—was that the only time? Do you not believe the ICAC does an investigation over months?

The Hon. JOHN GRAHAM: Mr Barilaro, you've said—

JOHN BARILARO: Over months?

The Hon. JOHN GRAHAM: You've said you've had—

JOHN BARILARO: No, no; over months.

The Hon. JOHN GRAHAM: You've put the statement. It's even stronger than what my colleague has just put to you. You've said you had no idea about the events of 1 October.

JOHN BARILARO: Absolutely no idea that she was going to resign on 1 October. Absolutely. Did you know?

The Hon. JOHN GRAHAM: I had no idea of the events that have just been outlined.

The Hon. DANIEL MOOKHEY: Mr Barilaro, I am not suggesting for a second that you had the foresight to predict the exact date or time of Ms Berejiklian's resignation. What I am more interested in is that you are giving evidence to the ICAC on 10 September, or thereabouts, and then six days later a submission goes to Cabinet that is treated as urgent.

The Hon. JOHN GRAHAM: In record time.

The Hon. DANIEL MOOKHEY: That is proposed and passed in record speed—seven working days, as my colleague said. In the interim, on the twenty-fourth, you've told a court that you're intending to retire.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Granted, you say before the election.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Are you honestly telling me that the urgency around the Cabinet submission wasn't at all related to the fact that you anticipated that, at some point in the future, Ms Berejiklian would have to resign?

JOHN BARILARO: Well, I will absolutely refute that disgusting slur and accusation.

The Hon. DANIEL MOOKHEY: Which part of it is disgusting?

JOHN BARILARO: No, no; it is.

The Hon. DANIEL MOOKHEY: Which part of it?

JOHN BARILARO: You're making me out to be corrupt.

The Hon. DANIEL MOOKHEY: No.

JOHN BARILARO: I am answering the question.

The Hon. DANIEL MOOKHEY: I'm not making you out to be corrupt; I'm asking you about your motivation—

The CHAIR: Order! Mr Barilaro was responding to the question so just allow him to continue and then Mr Borsak will go to questions.

JOHN BARILARO: An ICAC interview takes months and months and, as we know, it was almost a year. There was no time line on when they may or may not have acted. Let's be honest here; of that we were assured. The unfortunate time line of 1 October happened to come because of the Premier's resignation. My decision for lodging a Cabinet submission, as I said previously, came from the support of the Premier, the support of the Treasurer and the support of colleagues. And it was debated. The time line, et cetera—coincidental—but I refute, completely refute, any allegation or accusation that somehow I fast-tracked a Cabinet submission in relation to a trade role so that I could apply for it. I refute it completely.

The Hon. WES FANG: I am going to ask a clarifying question again.

The CHAIR: Order! Mr Borsak actually has a question now.

The Hon. WES FANG: Could I just ask a clarifying question on that point?

The CHAIR: No. Mr Borsak is also on the point, so you can go after Mr Borsak, Mr Fang.

The Hon. ROBERT BORSAK: Just getting back to the timeline of getting that submission fast-tracked, you said earlier in evidence that you didn't know why that happened; it was just fortuitous. Is that still your evidence?

JOHN BARILARO: Firstly, it was never asked to be fast-tracked. So, as I recall, it was ASAP—as soon as possible—right, which—

The Hon. ROBERT BORSAK: Sorry, ASAP is not the same as fast-tracked.

JOHN BARILARO: No, no. There is a big difference—

The Hon. ROBERT BORSAK: You're quibbling, Mr Barilaro.

JOHN BARILARO: You asked a question. I'm answering.

The Hon. WES FANG: Stop interrupting, Robert.

JOHN BARILARO: There's a big difference between as soon as possible, or fast-tracked, or urgent. I said earlier in this hearing I was pleasantly surprised how quickly the agency was able to put together a Cabinet submission, but that is as far as it goes—I was pleasantly surprised.

The Hon. ROBERT BORSAK: So you were pleasantly surprised that it was put together quickly, but you weren't pleasantly surprised that it actually got to Cabinet and was approved quickly? Or were you?

JOHN BARILARO: Well, it got to Cabinet, and the Premier's office signs off on anything going on Cabinet, and I have had many a time where I have not been able to get items on the Cabinet agenda. It was fortuitous that this got onto the Cabinet agenda, especially if you put into context that this had the support of the Premier and the Treasurer and, therefore, the office put it on the agenda. It may have been a light agenda and, therefore, that is why it got on sooner rather than later. Again, I don't get an opportunity to pick those dates. We put forward submissions and it was fortuitous that it got on.

The Hon. ROBERT BORSAK: So you are the luckiest person in the New South Wales Government, then?

JOHN BARILARO: Oh, mate, if you have lived the hell that I've lived over the last six or seven weeks—no, I'm the unluckiest.

The Hon. ROBERT BORSAK: You are the luckiest person.

JOHN BARILARO: No. I wouldn't wish it on my enemy.

The CHAIR: Alright, let's just—

The Hon. ROBERT BORSAK: Yes, but it's self-inflicted, Mr Barilaro.

JOHN BARILARO: That's an unfair statement.

The CHAIR: We'll come back to the crossbench for questions. Mr Fang, do you still have—

The Hon. WES FANG: Thank you. Mr Barilaro, the Opposition did call you the luckiest man in politics earlier.

The Hon. DANIEL MOOKHEY: I didn't call him. I asked him whether he was.

The Hon. WES FANG: Okay. I take the point from the Hon. Daniel Mookhey. They asked if you were the luckiest man in politics earlier. But, in relation to the role, you said that it was so—whether it had been set up so you could apply for the job. What, in effect, the Cabinet submission did was appoint the Cabinet and the Ministers to be able to appoint those roles, so you wouldn't have had to have applied at all. But you did have to apply; is that correct?

JOHN BARILARO: I applied. I applied through an independent public service process.

The Hon. WES FANG: Because the—

JOHN BARILARO: Nothing lucky about that. It's hard work.

The Hon. WES FANG: But the ministerial appointment that they're accusing you of having put in place so that you could get the job wasn't in place and that's not how you—

JOHN BARILARO: That is correct.

The Hon. WES FANG: —you attracted the job.

JOHN BARILARO: That is correct. Mr Fang, that is correct. If I was sitting here today because my appointment was made under a statutory appointment—being a Cabinet or a ministerial appointment—and then the accusation that has been levelled at me that I prepared that submission deliberately to open up such an opportunity for myself—you know, you talk about perception. Maybe there would be greater perception. But the reality here is that's not the process I went through. I went through as Joe Citizen, as a public citizen, through an independent public service process with an independent panel, with an external recruiter. And along that journey I did interviews, got the checks done and I was offered a job. That's it. That's what has occurred, regardless of what others may try to put to this hearing, that somehow I manipulated a process to achieve this outcome. It's the complete opposite.

The Hon. PETER POULOS: So how is that jobs for the boys, then?

JOHN BARILARO: Well, it's not jobs for the boys.

The Hon. ROBERT BORSAK: Yes, but—

JOHN BARILARO: At the start of this hearing—

The Hon. DANIEL MOOKHEY: Chair—

The CHAIR: Order!

The Hon. PENNY SHARPE: We are actually—

The CHAIR: I know, I know.

JOHN BARILARO: At the start of this hearing, the accusation that was being made was this was a captain's pick, as I recall in the media, by Dominic Perrottet, and that the Cabinet—I remember the accusation was that Cabinet didn't sign off on it and, therefore, it was a Premier's pick. When that was clear that that wasn't the process—the process was a public service process—then the narrative changed. This was not a "jobs for the boys". This was not a captain's pick. I went through an independent process and was picked by the panel and offered a job.

The CHAIR: We will go to some questions from the crossbench for a little bit. Mr Barilaro, at the time of Gladys Berejiklian resigning, was it a condition of you going quietly from the Deputy Premier role—

JOHN BARILARO: Not at all.

The CHAIR: —to be offered this New York trade commissioner role?

JOHN BARILARO: Not at all. And thank you, Chair, for the question, because it gives me a chance again to reaffirm that Premier Perrottet was trying to convince me to stay and thought I'd stay, and it was conversations with others who normally—and I've said Minister Stokes and Minister Constance at the time. I made a decision to go, and I was not asked or enticed or offered. I can refute that completely.

The CHAIR: Did you have a conversation with Mr Ayres as he became trade and investment commissioner when you were stepping down about these positions?

JOHN BARILARO: No. No.

The CHAIR: No conversation at all with Mr Ayres about these positions?

JOHN BARILARO: When I stepped down, no. I made it clear earlier that I reached out to Mr Ayres in early December about what the process was or about the roles, and he flicked me the STIC advertisement later that month.

The CHAIR: Who told you that you had the role, when you were finally offered the role? Who told you that?

JOHN BARILARO: On 23 May.

The CHAIR: Who communicated to you that you had the role?

JOHN BARILARO: Kylie Bell, in a text message. She sent me a message saying, "I'm not sure if you know. This is Kylie Bell. Congratulations on the appointment. Can we organise a Teams meeting or a catch-up."

The CHAIR: You said earlier that you didn't really know at the time when you were applying for the role whether it was still being a public service appointment or a ministerial appointment. Is that correct, or had you worked—

JOHN BARILARO: Leading into—no, no. Once I saw the advertisement, I knew exactly what the role was. It was a public service, advertised role.

The CHAIR: Even though, I think we've heard evidence, that was all still kind of quite confused and there seemed to be no official communication within the department or from the Minister that it was no longer a ministerial appointment.

JOHN BARILARO: That was referring to leading into that advertisement. Once the advertisement was publicised and then I received the candidate package in January, it was clear what the process was.

The CHAIR: You said earlier as well, I think in your opening statement maybe, that you undertook, in terms of the thorough kind of recruitment process, that you undertook psychometric testing as well. Is that correct? Did you undertake—

JOHN BARILARO: Yes. Whatever they call it today. I called it psychometric, but it's whatever they—

The Hon. DANIEL MOOKHEY: I think you're right. It's psychometric.

The Hon. WES FANG: It is.

JOHN BARILARO: They have another term for it, probably.

The CHAIR: There's an email here that suggests that it wasn't psychometric testing. It was because of the exemption of the section 10 (a) and the exemption in terms of trade roles that psychometric testing, because it's exempt from this type of merit selection, according to this email, and that you were just asked to complete a personality questionnaire. Is that—

JOHN BARILARO: I count that the same way.

The CHAIR: So it wasn't the—

JOHN BARILARO: That's why I said I referred to it as psychometric testing, but if it's personality or whatever you want to call it—but I did those additional tests, yes.

The CHAIR: Were you aware when you were being interviewed whether they were assessing you against various capabilities? Were you conscious, as you were going through that, it wasn't the standard public service capability assessment framework that was being used, if you like, and that that was exempt? Or—

JOHN BARILARO: I've never applied for a public service job. I've never been a public servant, unless you want to call a member of Parliament serving the public. I wouldn't know what to compare it against to. All I know, I went to an independent panel where a series of questions were put to me, allowed me to answer. There was a scribe in the room taking notes of those answers. What happens after that is a question for the panel.

The CHAIR: Can you see why the public is suspicious about this whole process, when you have had the situation in September, when you were getting that Cabinet ministerial appointment—Cabinet submission rushed through, when Jenny West was basically told she didn't have the job, when you stood down a couple of days after Gladys Berejiklian resigned and then applied for this position? Can you understand how it looks to the public?

JOHN BARILARO: Ms Faehrmann, I absolutely understand. That is why I'm here today voluntarily to explain the process, which I've done this morning and this afternoon, that it was a public service, independent process. Just because you're a former member of Parliament, it doesn't exclude you. You're entitled to go in that—

The CHAIR: Do you have any concerns when you heard about the public service commissioner, for example, on Friday afternoon saying that she wouldn't have endorsed the selection panel report if she knew then what she knows now, which suggests it wasn't as independent as you're saying it is?

The Hon. WES FANG: Point of order—

JOHN BARILARO: I would like to answer that. The reality is that I didn't know any of that either. So just like the public service commissioner, I didn't know that there were those intersections—if that's the word that was being used. I went into an independent process, that a panel assessed me and offered me a job. Now in hindsight today, Friday, over the course of the hearing, when other evidence has come about—but that's not on me. All I did was apply for a job.

The CHAIR: But somebody may have been doing your bidding behind closed doors. Why was that?

JOHN BARILARO: That is a question for that individual, if you can find evidence of who that individual is. But I am absolutely saying that I had no role in seeking any favour or special treatment in the process. It's just impossible. It's an independent public service process.

The CHAIR: Yes. But I put to you then that the person that was doing your bidding was Minister Ayres.

JOHN BARILARO: If that was the case, it was without my knowledge. I don't believe he was doing my bidding, listening to the evidence of last week. He sought advice on a number of occasions and he gave that advice, is how I interpreted last week's evidence. As I said earlier, due process must be followed now and allow the next review or inquiry or whatever the Premier has announced in relation, if he was in breach of the ministerial code. But, again, you are asking me to comment on something that I was not aware of. What I was aware of is I applied for a job, I went through a process, I was offered a job. Now it looks muddy and messy, yes. Absolutely. I can understand the perception and understand what's occurred in the public. I'm not silly. I understand that.

And I said that earlier, that I regret that I took the job. Maybe I should have gone with gut feel at some point and said, "The politics doesn't stack up. Maybe I shouldn't be doing this." But that wasn't the case. I accepted

the job because I genuinely believed the process was fair and right and that would give me the cover or the tools when the political attack was always going to come, because it was always going to come. I'm not silly about that. But I was confident that the process was so clean, so independent, that my selection could be easily—anyone could stand against the selection. Today I sit here going—and I used the words earlier today—disappointed that it hasn't been as clean as it should have been. I am the victim out of that; I am not the perpetrator.

The Hon. ROBERT BORSAK: You used the word "cover". How is it cover, if what you are doing is 100 per cent right?

JOHN BARILARO: No, what I am saying is I did everything right. You know, Mr Borsak, that my appointment was always going to be attacked from a political level, yes or no, and the reality is yes. But I would be able to point to an independent process, which I am pointing to, through the public service that my appointment was done fair, square, honestly and clean. That's the cover I am talking about.

The Hon. ROBERT BORSAK: Isn't the true chronology of all of this, and I will put it to you this way, that you sought to create a position that the Government could appoint you to that position—

JOHN BARILARO: No, not at all.

The Hon. ROBERT BORSAK: —that after you left the Government realised, especially with Mr Ayres as the Minister, "Well, if we have to put legislation through, this legislation isn't going to get through." It might get through the lower House but it certainly wouldn't get through the upper House because it's got whiskers all over it. You have admitted that.

JOHN BARILARO: Yes.

The Hon. ROBERT BORSAK: You are then gone. You then find out that this position is now going to proceed on the old basis—in other words, as an appointment.

JOHN BARILARO: Yes.

The Hon. ROBERT BORSAK: You then ring Mr Ayres and you ask for a copy of the advertisement. Is that all you said?

JOHN BARILARO: I asked what the process would be and then he sent me the advertisement.

The Hon. ROBERT BORSAK: And then he sent you the advertisement and then you applied.

JOHN BARILARO: Correct.

The Hon. ROBERT BORSAK: And after that you had no interaction, you had no discussion, you did not know that Mr Ayres was potentially doing your bidding behind your back.

JOHN BARILARO: Absolutely not. Correct, Mr Borsak.

The CHAIR: And after all of the work that has happened and the rushed Cabinet submission process to make the roles ministerial appointments, it suddenly becomes very convenient for you, doesn't it, that Minister Ayres doesn't act to make it a ministerial appointment and suddenly it's a statutory appointment and he is the one who is saying that you, as trade Minister, would be very good in this role and was an informal referee for you? It is suddenly very good for you that he doesn't do that, isn't it?

JOHN BARILARO: Ms Faehrmann, I would argue the opposite. If they continued on with the ministerial appointment or the statutory appointments—and I agree with Mr Borsak's comment—this still had to go through the Parliament. There was no guarantee. I recall even in the Cabinet submission and the debate in Cabinet the issue was, "Could this actually get through Parliament?" But that should not stop the government of the day trying to put up legislation or bills that have to be debated. Actually, if it came to Parliament, you could have debated it and we could have turned it into even better than what it is today. But the appointment, it didn't benefit me that it became a public service appointment, because what you are saying is somehow I would have been able to influence then the Minister to influence apolitical public servants—not one, not two, not three, not four, but half a dozen and an external recruiter. I mean, that's ludicrous. Absolutely not. I applied for a job, fair and square, and went through a process and was offered a job. That's what I did.

The CHAIR: Sure. You are saying that you applied through the public service appointment process—the independent process—but of course the evidence seems to be emerging that there in fact was potentially at least somebody that was equal weighting with you in the second selection round, another highly qualified female candidate that was part of the selection process.

The Hon. WES FANG: He was equal top in the short list.

The CHAIR: We have heard that the Public Service Commissioner, again, suggested that the whole process potentially should be up in the air because she would not have endorsed the report. You just said five or six, but it wasn't five or six, was it, Mr Barilaro? It was Ms Brown. It was potentially Ms Bell. It wasn't the rest of the panel. They didn't have anything to do with offering you that job or deciding—

The Hon. WES FANG: They put him in the top two.

The CHAIR: —that you were the successful candidate.

The Hon. WES FANG: They put him in the top two.

JOHN BARILARO: Actually, I refute that. The panel signed off on the report—as I have understood from this hearing, they put me forward as the preferred candidate.

The CHAIR: After you were offered the contract. Did you—you've caught up with the news over the weekend?

JOHN BARILARO: I was offered a job. I was offered the job.

The CHAIR: I know. But you are sitting here—I'm just wanting to—

JOHN BARILARO: Ms Faehrmann—

The CHAIR: You're saying how independent the process was.

JOHN BARILARO: —I can't answer questions of what the panel may or may have not done, when the decision was to make an offer to me, when I was successful in this role. I have absolutely—there is no evidence. And then you point to evidence. There is no evidence in this hearing that points to me, that I did seek—sought—pressure public servants in any way. None. There has been zero. If anything, you have heard from—

The Hon. DANIEL MOOKHEY: No-one's accusing you.

JOHN BARILARO: —apolitical public servants—

The Hon. PENNY SHARPE: No-one's accusing you of that.

JOHN BARILARO: Apolitical public servants—

The Hon. WES FANG: What are you accusing him of?

The Hon. DANIEL MOOKHEY: Not that.

The CHAIR: Order!

JOHN BARILARO: You have heard from public servants who have said that I was capable and a credible candidate, that I would be good at the job. Those public servants were part of the panel. They were the ones who offered me the job. What did I do wrong? I got offered a job; I accepted the job.

The CHAIR: Just to check, you did see and you have heard that your preferred—sorry, one of your informal referees, which is the Minister—Minister Ayres. Of course, the reason that all of this is—you know, the Head review, which of course hasn't reported yet, but also the Public Service Commissioner. The key things around it was the level of involvement that the Minister had with Ms Brown and the process. So maybe you're sitting here saying you didn't do anything wrong, but somebody potentially was doing your bidding and that is what also doesn't pass the pub test. Possibly it wasn't as independent as you're saying it was, Mr Barilaro. Don't you agree?

JOHN BARILARO: But, Ms Faehrmann—but I can't—I can't tell you what occurred behind closed doors because I wasn't involved in it. I can only tell you what I did. And look at—and listening to the evidence of last week from Ms Amy Brown and Kylie Bell and the Public Service Commissioner and understanding what the Premier said in relation to Minister Ayres' resignation—there's been a whole series of intersections, but I also saw the evidence of the hearing last week, when Ms Amy Brown said that she sought the advice of the Minister, in a way, on many of those occasions. So does that look like someone was doing the bidding for me? Well, I'll tell you what, if someone was doing the bidding for me, I wasn't aware of it, and I would never think that Minister Ayres would ever do the bidding for me.

The Hon. PENNY SHARPE: I've just got a short number of questions on this issue. Mr Barilaro, previously you talked about how frequently you were dealing with Amy Brown. I think your evidence this morning was that probably in the tenure of you as the Minister and her as being a direct report to you, you spoke to her on maybe two occasions.

JOHN BARILARO: Two. That's—but it could be a few more. But a couple, yes.

The Hon. PENNY SHARPE: So a Teams meeting and—

JOHN BARILARO: I don't know.

The Hon. PENNY SHARPE: And did you have text contact with her?

JOHN BARILARO: I would have, on occasion. I'm not sure on what in particular, but on occasion.

The Hon. PENNY SHARPE: But you would have texted each other sometimes?

JOHN BARILARO: Yes, possibly.

The Hon. PENNY SHARPE: And did you talk to each other on the phone very much?

JOHN BARILARO: Very little.

The Hon. PENNY SHARPE: Did you ever ask Ms Brown to recruit/hire someone out of your office into the department?

JOHN BARILARO: Yes, I did. I did contact Ms Brown in relation to a job vacancy in her office—that was through a recruitment agency—on behalf of one of my advisers. Yes.

The Hon. PENNY SHARPE: What was the position, sorry?

JOHN BARILARO: It was a media role.

The Hon. PENNY SHARPE: And who was the person in your office?

JOHN BARILARO: I'm not sure if I should be—it was a media adviser.

The Hon. PENNY SHARPE: Was it your senior media adviser?

JOHN BARILARO: Senior media adviser.

The Hon. PENNY SHARPE: And it was the adviser who ended up going into that role. Is that correct?

JOHN BARILARO: Yes, as a contractor. Yes.

The Hon. PENNY SHARPE: Thank you.

The Hon. DANIEL MOOKHEY: When did it happen?

JOHN BARILARO: Look, I can't recall exactly.

The Hon. DANIEL MOOKHEY: And did it happen prior—at the time that the job was publicly advertised?

JOHN BARILARO: That's a question for the agency.

The Hon. DANIEL MOOKHEY: Sorry, it's a question for you, because you made the call. But did you know at that time that there was a public advertisement?

JOHN BARILARO: No. I was asked by my media adviser—or was told by my media adviser—that she was applying for a job in the Trade space—

The Hon. DANIEL MOOKHEY: And that was at the point that—and then prior to—sorry, I didn't mean to interrupt you.

JOHN BARILARO: So she was applying for a job in Trade, in the department, and would I be a referee. And I chose to reach out to find out about that job. But I wasn't aware if it was advertised, the actual job details. All I know is it was a media adviser.

The Hon. PENNY SHARPE: So how was she aware of the job?

JOHN BARILARO: I don't know; that's a question for others.

The Hon. DANIEL MOOKHEY: But, Mr Barilaro, sorry, there's a bit of a discrepancy between what you said to Ms Sharpe in the first instance and what you just said. Ms Sharpe asked you whether or not you contacted her and asked her to hire a senior media adviser.

JOHN BARILARO: No, I—

The Hon. DANIEL MOOKHEY: Sorry, this is what Ms Sharpe asked. What you said was you then did pick up the phone and ask Ms Brown to effectively—you said yes to that question.

JOHN BARILARO: No—

The Hon. DANIEL MOOKHEY: And—

JOHN BARILARO: Sorry.

The Hon. DANIEL MOOKHEY: So you called up Ms Brown in the midst of a public sector recruitment process for a media adviser position in her office, and you either provided her a reference or asked her to hire her. Is that correct?

JOHN BARILARO: No, I didn't ask her to hire her. I put forward a—

The Hon. DANIEL MOOKHEY: You nominated her.

JOHN BARILARO: No, I put forward her credentials and why she would be a good candidate.

The Hon. DANIEL MOOKHEY: And this is occurring in the pattern in a relationship—sorry, this is occurring in a circumstance where your contact with Ms Brown is relatively rare and infrequent, for good reasons, to be fair to you. That's correct?

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: So were you intending to place pressure on Ms Brown to make that decision?

JOHN BARILARO: Not at all. I mean, I often would go into bat for any of my former staffers that were looking for jobs in or out of government, even—

The Hon. PENNY SHARPE: This was a current staffer, though, just to be clear.

JOHN BARILARO: Yes, and there were plenty of current staffers at the time that were moving, that I would ring and inform other Ministers that were looking for staff. If they were keen to change their role, if the circumstances of working in my office weren't suited to them, I'd do that. Yes, I'm—

The Hon. DANIEL MOOKHEY: But do you understand, again, from the perspective of the person who's in receipt of that call—who is your direct report, who hears from you infrequently—that for you to call them up and highlight a person's credentials may well be seen as the application of pressure?

JOHN BARILARO: No, not at all. Look, again, I put someone forward, and what I've realised post that was, actually, she wasn't hired by the department; it was actually an agency. She was a contractor on a short-term contract; it wasn't actually a direct hire of the department.

The Hon. DANIEL MOOKHEY: We might come back to this, Mr Barilaro. Can I just ask that tender bundle 003 be provided to the witness? Can I also ask that we actually now, to be fair to Mr Barilaro, provide him with a copy of the brief that he signed electronically as well? Forgive me, Mr Barilaro, I didn't have a chance to put this into that bundle.

JOHN BARILARO: Great, thank you.

The Hon. DANIEL MOOKHEY: Can I also just ask, please, that we provide this one? Oh, you've got it. Thank you very much. Mr Barilaro, I might just start with the brief, which I'm hoping someone has provided you.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You've got the brief?

JOHN BARILARO: Yes, I do.

The Hon. DANIEL MOOKHEY: This is a brief that was received by your office on 6 August. Just by way of context to you, Mr Barilaro, I wouldn't have expected you to know that, but we have established that this was sent to your adviser Mr Brayford on 6 August.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You can see that it's "Briefing for the Deputy Premier ... Appointment of Senior Trade & Investment Commissioner".

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: Do you mind just reading the highlighted section in the first box?

JOHN BARILARO: "The Deputy Premier is now invited to endorse the preferred candidate, prior to submission to Cabinet."

The Hon. DANIEL MOOKHEY: Can you also now read the second highlighted section?

JOHN BARILARO: "To invite the Deputy Premier to endorse the preferred STIC candidate for the Americas."

The Hon. DANIEL MOOKHEY: Can you read the first sentence of the third dot point?

JOHN BARILARO: The third sentence?

The Hon. DANIEL MOOKHEY: The first sentence of the second dot point, forgive me.

JOHN BARILARO: "The preferred candidate for the Americas is Jenny West – Deputy Secretary Trade & International Group, Investment ..." Yes.

The Hon. DANIEL MOOKHEY: And you can turn over the page, if you don't mind.

JOHN BARILARO: Yes.

The Hon. DANIEL MOOKHEY: You can see that your electronic signature is applied on 11 August, correct?

JOHN BARILARO: Correct.

The Hon. DANIEL MOOKHEY: When you went to the Cabinet, did you disclose to the Cabinet that Ms West had been appointed? Sorry, to be fair to you, did you disclose to the Cabinet that Ms West was the preferred candidate for the Americas, as you were advised or your office was advised on 11 August?

JOHN BARILARO: Was this document the same document that went to the Premier, the Treasurer and Minister Ayres?

The Hon. DANIEL MOOKHEY: By way of context, it's not the same document but it's a similar document.

JOHN BARILARO: Yes. Well, no, I didn't, because it would have been not relevant in relation to changing a policy that was broader than the Americas.

The Hon. DANIEL MOOKHEY: So, in your view, the fact that a public service process had been embarked upon and had decided that Ms West was the preferred candidate was immaterial to the Cabinet's decision?

JOHN BARILARO: Because it wasn't about the Americas; it was actually about the broader policy, and there were still more appointments to be made. And neither the Premier, the Treasurer or Minister Ayres raised this issue in Cabinet.

The Hon. DANIEL MOOKHEY: Okay, let's unpack that. So at this point we can establish—and to be fair to you, Mr Barilaro, Ms Berejiklian is advised. She signs her note on the twelfth. You sign yours on the eleventh, Mr Ayres signs his on the seventeenth and the Treasurer never signs his. So at least I commend you for being the first to read your brief in this respect, Mr Barilaro. You beat the other three. But no-one thought that it was perhaps necessary for the Cabinet to know that Ms West had been chosen for this role.

JOHN BARILARO: Again, we weren't aware that she was offered a contract. That's what's come out in this hearing.

The Hon. DANIEL MOOKHEY: I'm not asking you whether she was offered a contract.

JOHN BARILARO: Again, we are the Executive Government of the day. We get to make the policy decisions in relation to the Government's agenda.

The Hon. DANIEL MOOKHEY: But various Cabinet—

JOHN BARILARO: But this wasn't about Jenny West. I'm sorry to say it but this wasn't about Jenny West or the Americas. This was about a policy position about elevating all the STICs.

The Hon. DANIEL MOOKHEY: But, Mr Barilaro, the issue is this—

JOHN BARILARO: I actually think that some of it was going to be retrospective as well. The STICs that we appointed were going to be elevated.

The Hon. DANIEL MOOKHEY: We might be able to unpack more of that on Friday.

JOHN BARILARO: Okay.

The Hon. DANIEL MOOKHEY: But let's just stick with this. The issue is, of course—and whether you knew about this or not I'm interested in. I'm not expecting you to have known about this, but we've established throughout the entire Committee process here that the key reason why that contract with Ms West was never finalised was because Cabinet was about to consider a submission to convert them to ministerial appointments.

JOHN BARILARO: Can you say that again?

The Hon. DANIEL MOOKHEY: The issue for Ms West was that she could not have her contract—Mr Barilaro, do you need to complete anything on your phone before—

JOHN BARILARO: No. I'm just getting some advice, that's why.

The Hon. DANIEL MOOKHEY: I can pause if you wish.

JOHN BARILARO: No, it's okay. I'm listening.

The Hon. DANIEL MOOKHEY: No, I don't want to interrupt.

JOHN BARILARO: No, go for it.

The Hon. DANIEL MOOKHEY: Mr Barilaro, the issue is that Ms West couldn't have had her contract finalised because the Cabinet was about to consider a position to convert them into ministerial appointments.

JOHN BARILARO: That's what I've understood from the hearing and evidence.

The Hon. DANIEL MOOKHEY: Again, we're in this remarkable coincidence mode where Ms West's process is interrupted by a pending Cabinet submission but the Cabinet is never told that Ms West's process had to be interrupted because they are about to consider a change. Do you understand that that may have led to perhaps confusion for the department and perhaps an injustice to Ms West?

JOHN BARILARO: I have said that, that there were two processes happening at the same time in parallel. One was an internal process in relation to the appointment of Ms West and there was another process that the Government was looking at as to changing the appointment structure or process in relation to this. That intersection, unfortunately, and in a way, has meant that Ms West wasn't appointed or didn't get a chance to sign a contract or get a contract. But I've said that previously today.

The Hon. DANIEL MOOKHEY: But, Mr Barilaro, again, I'm sure it will come as no surprise to you that every now and then Cabinets leak. Your colleagues have since leaked to various publications that they would have expected to be told that Ms West was the preferred candidate. We are reading this anonymously, granted. And I'm sure you're not a person who would ever do that. You'd announce your views publicly if you found yourself in that situation. But the problem we have is that various of your colleagues—I'm up to two—have complained anonymously that they were never told that Ms West was the preferred candidate, and they would have expected certainly you to tell them, and perhaps the Treasurer and perhaps Minister Ayres and perhaps Ms Berejiklian now that it's been established that they've been known. I want to give you this opportunity to respond to the complaints of your anonymous Cabinet colleagues who say that you should have told them that Ms West was this far down the process and your decision to bring a Cabinet submission on the sixteenth for debate on the twenty-seventh led to her process having to be terminated.

JOHN BARILARO: You made me name my referees, so I should ask you to name those Cabinet Ministers.

The Hon. DANIEL MOOKHEY: Bear in mind, if I had the power to compel every one of them to come here and ask, "Did you leak"—

The Hon. JOHN GRAHAM: Which we're very happy to.

The Hon. DANIEL MOOKHEY: We're very happy to summons them all.

JOHN BARILARO: I don't respond to anonymous so-called information and leaks out of Cabinet. What I know is that Cabinet supported it. Everyone had an opportunity, Premier Berejiklian or Treasurer Perrottet or Minister Stuart Ayres—all of us had the opportunity to put this forward if we thought this was material. It wasn't material in relation to a decision that was being made not about the Americas; it was actually being done in relation to all appointments of STICs.

The Hon. PENNY SHARPE: Mr Barilaro, can we go back to the appointment of your senior media adviser?

JOHN BARILARO: Yes.

The Hon. PENNY SHARPE: Did you make any declarations to Amy Brown when you were giving her a reference and/or pointing to the fact that she wanted a job in Investment NSW?

JOHN BARILARO: Declarations in what way?

The Hon. PENNY SHARPE: That you were in a personal relationship with that media adviser?

JOHN BARILARO: I wasn't in a relationship at that time.

The Hon. PENNY SHARPE: That's your evidence today?

JOHN BARILARO: Absolutely.

The Hon. PENNY SHARPE: So you didn't feel that you needed to—you were obviously friends and you had been working closely together, you didn't believe that you needed to make any declarations around that?

JOHN BARILARO: No. Absolutely not. Absolutely not.

The Hon. DANIEL MOOKHEY: Mr Barilaro, do you have any particular recall as to when this conversation with Miss Brown may have happened?

JOHN BARILARO: No. I can't recall.

The Hon. DANIEL MOOKHEY: I mean, we can establish—

The Hon. WES FANG: I am going to take a point of order. Clearly, Mr Barilaro is happy to answer these questions, but this is clearly outside the terms of reference. But, you know, by all means.

The CHAIR: I wasn't sure what the question was going to be actually. I will allow the member to continue asking the question. I am not sure you had even formulated it yet.

The Hon. PENNY SHARPE: No. No, correct.

The CHAIR: So, continue.

The Hon. PENNY SHARPE: We were waiting for it too.

The Hon. SCOTT FARLOW: This is a step ahead.

The Hon. DANIEL MOOKHEY: I was just going to invite you perhaps, Mr Barilaro—

The Hon. WES FANG: Being perceptive.

The Hon. DANIEL MOOKHEY: —on notice, ahead perhaps of your return on Friday, if it is possible that you could take some steps to ascertain, search your memory for when you think it is possible that such a phone call would have been made?

JOHN BARILARO: On what, sorry? I'm still confused of what you are asking of me.

The Hon. DANIEL MOOKHEY: I apologise, Mr Barilaro, if I have left you confused. But the question that I am asking you to search your memory for is that when you called Miss Brown and recommended or encouraged or nominated or described the credentials of your senior media adviser for a role in Investment NSW whether it's possible you could perhaps see whether or not you could determine when you made that call?

The Hon. WES FANG: I will take the point of order, Chair. That question's clearly outside the terms of reference and should be ruled out of order.

The CHAIR: I will allow the question.

The Hon. WES FANG: On what grounds, Chair?

JOHN BARILARO: Well, I don't understand—

The Hon. PENNY SHARPE: If you want me to go to the point of order, we've been talking about—we are all firmly within the time frame of what was going on with the office and the discussions that were happening. It's actually completely material when Ms Lugsdin started that job what information she was privy to on the way through in relation to this appointment.

The Hon. WES FANG: No. It's got absolutely—

The Hon. PENNY SHARPE: So we haven't got to that yet today, Mr Fang. But, be clear, this is absolutely within order in the terms of reference.

The Hon. WES FANG: No, it's not. It's just muckraking by you guys and it is absolutely outside the terms of reference. Absolute muckraking and it's outside the terms of reference.

The Hon. DANIEL MOOKHEY: Just further to the point of order—

The Hon. ROBERT BORSAK: We know who muckrakes, mate, don't worry.

The Hon. DANIEL MOOKHEY: Just further to the point of order, Chair.

The CHAIR: Order!

The Hon. WES FANG: We are already having to expand the terms of reference because it's—

The CHAIR: Mr Fang, order! Honestly, there are three minutes left. I can stop the clock actually and it can eat into the Government's time. Let's do that.

The Hon. WES FANG: Sure, by all means.

The Hon. DANIEL MOOKHEY: In asking the witness to just search his memory for Friday and to be fair to the witness so he can understand the context of the questions that are likely to arise on Friday, it's because it goes to the question as to how precisely did Mr Barilaro know that a job was coming. And there is evidence we will be introducing on Friday that shows that certainly that particular person was involved in the media releases surrounding the announcement.

JOHN BARILARO: She's a media person.

The CHAIR: Happy to rule the point—

The Hon. DANIEL MOOKHEY: I'm not disputing that, Mr Barilaro; I'm really not.

The CHAIR: —of order out of order to allow you to continue to ask the line of questioning that you are going down, because there is, in terms of the processes and circumstances surrounding the appointment—which is very broad now—and the relationship between yourself and the department, I think the question is in order. Ms Sharpe?

The Hon. PENNY SHARPE: Thank you, yes.

The CHAIR: Continue.

The Hon. PENNY SHARPE: Given the discussion that we've just had, it is important and I have flagged some of that. If you are saying that there was no declaration required for Ms Lugsdin when you were making inquiries in August, I believe it was, with Miss Brown, when did the relationship commence?

JOHN BARILARO: Again, now this is outside the terms of reference in relation to a personal relationship that I had with an individual. I don't see how that is relevant at all.

The Hon. PENNY SHARPE: Can I just—I'll put it to you—

JOHN BARILARO: And a lot's been said publicly about my personal life.

The Hon. PENNY SHARPE: Sure, and look, I know this is uncomfortable and can I say I'm not particularly thrilled to be having to ask these questions either, but this is very important.

JOHN BARILARO: I think you are actually, but anyway.

The Hon. PENNY SHARPE: No, I'm actually not.

The Hon. WES FANG: Yes, I think you are getting—relishing in it and that's disgraceful.

The Hon. PENNY SHARPE: But the question is very important because, as we've said, we've spent a bit of time on this and we're flagging that we will be spending more time on this next Friday, this coming Friday, which is how you came to know about the job and the information that someone you were in a relationship with who—can I just say and flag with you—in documents clearly was aware about the various processes associated with the advertising and the nature of this material. So this is why it becomes material and I'm sorry that you don't like me asking it. As I said, I don't particularly like asking it myself.

The Hon. WES FANG: No, no. I took the point of order—

JOHN BARILARO: It's an accusation.

The Hon. WES FANG: —not Mr Barilaro.

The CHAIR: Order! Mr Fang, you don't have a point of order—

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

The CHAIR: —right now. Stop running interference, Mr Fang.

The Hon. PENNY SHARPE: I'm explaining to Mr Barilaro—

The Hon. WES FANG: Don't pick on Mr Barilaro.

JOHN BARILARO: Thank you, Ms Sharpe, for explaining it, but it is an accusation that is being made and that individual doesn't have the right to defend themselves. Secondly, I was not in a relationship with her while I was the Deputy Premier or a trade Minister, so I can make that absolutely clear, at any time. She had a short-term contract that finished in December well before I applied for the job in January.

The Hon. DANIEL MOOKHEY: Mr Barilaro, just to be clear—

The Hon. PENNY SHARPE: That's not the question that we were asking.

The Hon. ROBERT BORSAK: Yes, but it was all stitched up by then.

The Hon. DANIEL MOOKHEY: Just so you can appreciate, it is not about your involvement—just to be very clear in that respect. The issue is that there is evidence in front of us that you were certainly having conversations, or flagged the interest with the Premier in November. You had two conversations with Minister Ayres as well—one prior to the announcement of the role; the second at the time of the announcement of the role. Obviously, there's an element of interest into whether or not there was any reasonable basis for you to anticipate that the role was forthcoming. And I just want to flag because we're out of time in precisely 50 seconds.

The CHAIR: Two.

The Hon. DANIEL MOOKHEY: Two seconds. We do intend to raise it on Friday. I think the actual question I was asking you, which I don't think, to be fair to you, you ever had a chance to respond to was: Could you search your memory between now and Friday and perhaps recall or check your records—whatever information is available to you—to see whether or not you can tell us when precisely you called Ms Brown to encourage her?

JOHN BARILARO: Okay. I'll do my best.

The Hon. DANIEL MOOKHEY: Thank you, Mr Barilaro.

The CHAIR: Okay. We now have the remaining time for Government members if they wish to take it. Mr Fang?

The Hon. WES FANG: Mr Barilaro, we've heard from the Opposition today the first instance was that you sought to have the ministerial appointments brought to Cabinet so that the Cabinet could then appoint you to the STIC's role. We've now heard that you've been privy to a job ad potentially being placed a couple of days earlier than perhaps it was advertised. If that was the case, then were you successful in being appointed in a ministerial role, and was any information being provided to you early about a job advertisement resulting in the fact that it helped you to win the job?

JOHN BARILARO: Look, firstly, as I've said consistently today, I went through a public service appointment—an independent appointment. I applied for a job which was a public service job. There was no assistance in doing so. I was alerted to the job by a text message from Minister Ayres at the same time it was being advertised in the public domain. I had flagged, as I said earlier today, to the Premier that I was interested in such a role. I flagged that I even mentioned it to other Ministers, and then I applied. I wasn't appointed under a statutory Cabinet appointment process; I was appointed or offered a job through an independent public service process. That's what has occurred, and that is what I've said clearly today.

The Hon. WES FANG: Thank you. In your opening statement you addressed a number of the facts that have been progressed by this hearing that were incorrect. Are you able to address perhaps some of them in more detail? I know that your former chief of staff has obviously made a statement to the Committee that was unsworn and not delivered under oath, which made some claims. Are you able to address some of those?

JOHN BARILARO: I did in my opening statement refer to my chief of staff that in his statement he put forward an argument that I had come back from a meeting in relation to the STIC role and that I was going to create a job for myself in New York. I just want to lay that out. I'm happy someone's asked that question eventually because it is, as I said, not a sworn statement but it is a statement. We'd just won a historic third term in March of that year. If I recall correctly, that statement was that in April I came back from a meeting. There are a few things I'm going to talking about here. Firstly, you've just won a historic third term. I think the last thing I'd be doing is

talking about my exit, let alone savouring what was a great victory with the Premier and what was ahead of us. What was ahead of us none of us could have written a book on, with all the bushfires, floods and COVID.

But also, what I found alarming in that statement was that he referred to April that I came back from a meeting. Now, I've checked all my records as best as I can. I'm limited in what I can check, but you can try and work these things out. There was never any meetings in April or May or June or—I don't actually recall a meeting in relation to where Minister Ayres and Treasurer Perrottet attended where we spoke about STICs or where those offices would be. The evidence on Friday by Kylie Bell clearly defines or answers the question that those decisions were made by Treasury officials or the public servants. I had no role and no say in relation to what occurred in picking those office locations or where those destinations—the other thing that I will note, we had a very brutal and bruising campaign. For the month of April, as I recall, I asked Mr Connell, as my chief, to have a break and he had a break. I find that he has not recalled that he was actually not—and I had an acting chief of staff for that period of time when we were negotiating, I think, still ministries, we were negotiating staff, we were negotiating a lot of things.

Again, I don't believe his account is correct in relation to that, so I refute—and I did say this at the time, because it's the only time that I've gone quite public with evidence because I had to refute that it was false and fictitious. Because there's a series of events there that completely demonstrate that he's got the time lines wrong. There were no meetings. He was on a break, more than likely on a break during that period that he's referred to, and that the appointments or the decisions around where the STICs would be, the office locations et cetera were actually made by the public service, and that was already given as evidence by those public servants last week to this hearing.

The Hon. WES FANG: So just to be clear, your chief of staff at the time was on leave, not around?

JOHN BARILARO: I believe so.

The Hon. WES FANG: The decisions on where the US office was and would be located in the STICs role were not made by you but a departmental—and a role that was based around analysis, which is what Kylie Bell said.

JOHN BARILARO: Yes.

The Hon. WES FANG: And none of that statement was correct?

JOHN BARILARO: Correct.

The Hon. WES FANG: But it was tabled and given weight by the Opposition and that had a detrimental effect to you and your reputation?

JOHN BARILARO: Well, look, people are allowed to put forward what they believe. If that's what Mr Connell believes occurred, it's up to him to put that statement forward. I'm not here to belittle that. But I can counter what he has written because of what I've just said—the evidence from Ms Kylie Bell, my understanding of no diary appointments. These could be easily confirmed if the diaries of the Premier and the Treasurer—sorry, at the time would have been the former Premier and the Treasurer or Minister Ayres. Those diaries could be disclosed. I mean, I don't have access to any of this, but I think it'll prove there were no meetings.

The Hon. PENNY SHARPE: You were going to leadership meetings at that point, weren't you, in which all of those people were in the room?

JOHN BARILARO: Minister Ayres wasn't in leadership meetings, no.

The Hon. PENNY SHARPE: No, but Treasurer Perrottet was.

JOHN BARILARO: Yes, but again I think the statement referred to a meeting of Mr Ayres and Mr Perrottet. That's why I cannot find a single meeting that I can—but, like I said, I'm limited in the resources that I have. So I think it was only fair that I was able to refute that statement, and so be it. And, yes, it has given weight, because the upheaval in the media at that point made it very clear that I created these jobs. I came here today to refute that claim and I continue to refute it.

The Hon. PETER POULOS: Mr Barilaro, just a quick question. There have been some comments about private benefit. Isn't it true that anyone who would have the privilege of serving as a trade commissioner, there is no private benefit, the benefit is to the people of New South Wales?

The CHAIR: My goodness.

JOHN BARILARO: I mean, people will argue that your salary is a private benefit. But if you look at the role in itself, the STIC role for the Americas is quite a significant one. It wasn't just—just to put it into context,

the US, Canada and South America. Victoria actually has two trade commissioners with multiple offices doing that role. Look, I don't want to get into the semantics about private benefit. The reality is I was taking that role on as an opportunity to do what I've always done, to fight for this State and deliver for the people of this State in a space of investment.

The Hon. ROBERT BORSAK: Hear, hear!

The Hon. WES FANG: Good on you, Robert. I'm glad you're backing him. So you should.

The Hon. ROBERT BORSAK: Always back New South Wales.

The CHAIR: It's sounding like we are at the end of today's hearing. Mr Fang?

The Hon. WES FANG: I was going to say it sounds to me as if Mr Mookhey—

The CHAIR: Order! Have you finished your questions? Because if the Government has finished their questions—

The Hon. WES FANG: I was addressing a point, Chair.

The CHAIR: —I can make the call as to what we're doing now. So through the Chair, have you finished your questions?

The Hon. WES FANG: Through the Chair I was saying, yes, it would appear that Mr Mookhey has foreshadowed that Mr Barilaro will be back on Friday and therefore I will hold any questions that I have until then, so that he can have an early mark, given that he has been here all day.

The CHAIR: Thank you, Mr Fang, and on that wonderful closing note, we have finished the session. See you again on Friday, Mr Barilaro. Thanks for coming today.

(The witness withdrew.)

(Short adjournment)

Ms AMY BROWN, Secretary, Department of Enterprise, Investment and Trade, and CEO of Investment NSW, on former oath

The CHAIR: Welcome back. We have our final witness for today. Ms Brown, as you have already been sworn in for this hearing, we don't need to do that, so we will proceed to questions with the Opposition and Ms Penny Sharpe.

The Hon. PENNY SHARPE: Thank you, Ms Brown.

AMY BROWN: Sorry, Chair, do I get to make an opening statement at all?

The CHAIR: Of course. If you have an opening statement, let's proceed with that.

The Hon. DANIEL MOOKHEY: Just before we do, is it possible to get the lights turned up? It is a bit dark.

The CHAIR: Yes, it normally happens about 20 seconds after we commence.

The Hon. DANIEL MOOKHEY: Thank you.

The CHAIR: I assume that is what is about to happen.

The Hon. SCOTT FARLOW: I think this was a Labor strategy.

The CHAIR: Okay, we are happy with the lighting. We have lights, camera, action—literally. Ms Brown.

AMY BROWN: Thank you, Chair. There are a few things about the second recruitment process I would like to tidy up, if possible. Thank you for inviting me to appear for the third time as a witness in this inquiry. I believe my evidence on 29 June and 3 August has comprehensively addressed the first recruitment process for STIC Americas, including the decision of Government on 27 September 2021 to make changes to the STIC appointment mechanism and why I formed a view that no suitable candidate was found by the end of that process. Regarding the second recruitment process for STIC Americas, both the Chair of this Committee and Commissioner Lo—in her evidence on 5 August—have expressed a level of discontent regarding various drafts of panel reports for that process and the manner in which they were prepared.

I concede that their concerns are well founded for the following reasons. Number one, the panel report attached to an email sent to me by NGS Global on 25 March 2022 had the ratings and commentary regarding a female candidate materially ahead of Mr Barilaro. I, Ms Bell and Commissioner Lo have each confirmed in our evidence that this does not reflect the panel deliberations at all. I never requested or authorised the external recruitment firm to send me a draft report and they never discussed its contents with me prior to sending it. Given how materially inaccurate it was, I rightly disregarded it. Its accuracy has been established multiple times in this inquiry. Number two, the documentation regarding a third-ranked candidate is rightly a concern. He is the one candidate who was common to both the first recruitment process and the second recruitment process, but his ratings and commentary differ between the two final panel reports even though the second interview panel did not, in fact, interview him.

Whilst I reviewed the second panel report prior to signing it and noticed that this candidate had been included, I made an incorrect assumption that the ratings and commentary regarding him would be a straight copy and paste from the first report. Only in preparation for my parliamentary hearing in late June did I learn that the first report and the second report had significant discrepancies. I agree with Commissioner Lo that this is appalling. I gave no instructions to the external recruitment firm to change the ratings or commentary and assumed that the ratings and commentary had not changed. If it had been brought to my attention at any time prior to me signing it, I would not have signed the report in that form and would have insisted that the ratings and commentary be identical to the first report.

Three, Commissioner Lo also expressed a valid concern as to whether my multiple conversations with Minister Ayres, the meet and greet between Minister Ayres and the female candidate and informal reference checking with respect to both candidates were factored into the final version of the panel report. I can wholeheartedly confirm that they were not because I would never ask panel co-members to sign a report that factored in conversations that they were not part of. The formal references for Mr Barilaro strengthened our collective view that he could succeed in the job and were factored into the report. The formal references for the female candidate also strengthened our view that while she had an excellent reputation in Asia, this does not by extension mean she would be successful in the US, and this was factored into the report. Whilst it would have been prudent for me to inform the other panel members of my informal due diligence, which did influence my decision to appoint Mr Barilaro, the panel report did not factor in these conversations and I did not mislead the

other panel members by asking them to sign the report in that form. Finally, and in hindsight, it was an error to offer Mr Barilaro the job and commence contract negotiations before the panel report was signed.

My decision was based on a discussion I had with Commissioner Lo prior to her commencing leave, where we agreed that Mr Barilaro was the first-ranked candidate; the fact she was not returning from leave until 6 June; and the pressure I was under to finalise contract negotiations so that the appointment could be announced by 4.30 p.m. on Friday 17 June. But as Commissioner Lo and Mr Smith had not seen the contents of the final panel report, I should have resisted such pressure and waited. I can confirm that with respect to the second recruitment process, I did my best under trying circumstances. The way these roles were set up—as public service appointments but with a high degree of ministerial interest—made it difficult to run an optimal process. While there were flaws in the process, I can confirm the process was in my view fair and that the most suitable candidate in that process was offered the role.

Finally, I anticipate some of your questions will relate to my involvement in the appointment and contract negotiations relating to the Agent General. The intersection points I've had with this: One, responsibility for the rollout of the global network transferred to me on 29 March 2021, and prior to that the recruitment of the Agent General had been managed by NSW Treasury under the instruction of Ms Jenny West and the then secretary, Mike Pratt. I took it on face value that the person who was informed to be the successful candidate had gone through a proper process.

Two, as mentioned in my hearing on 3 August, even though salary negotiations were being managed by the external recruitment firm and Ms West, I as CEO was the appropriate escalation point. Three, there were multiple conversations between the Agent General and Investment NSW staff regarding his salary package both prior to and subsequent to the commencement of his employment with us on 26 July 2021. I remain the decision-maker with respect to these matters, as I have been at all times since the signing of his employment contract. I look forward to answering any questions you may have.

The CHAIR: Thank you very much, Ms Brown. We will move to questions from the Opposition. Ms Sharpe.

The Hon. PENNY SHARPE: Thank you, Ms Brown, and thank you for giving us an update on all of those issues.

AMY BROWN: You're welcome.

The Hon. PENNY SHARPE: That's been very helpful. I know we touched on this on Friday. I'm not sure if you saw Mr Barilaro's evidence just before, but I want to ask a few questions in relation to the employment of his former senior media adviser.

AMY BROWN: Yes.

The Hon. WES FANG: Still muckraking, I can see.

The CHAIR: Order!

The Hon. PENNY SHARPE: I beg your pardon?

The Hon. WES FANG: Still muckraking, and outside the terms of reference. But go ahead.

The Hon. ROBERT BORSAK: You should know about muckraking; you do it all the time.

The CHAIR: Order! Mr Fang, we've already—

The Hon. WES FANG: Oh, come on, Robert.

The Hon. ROBERT BORSAK: You've just started now.

The Hon. WES FANG: Oh, Robert.

The CHAIR: Order! Let's just continue. Ms Sharpe.

The Hon. PENNY SHARPE: Yes, thank you. Are you able to give us an approximate date—not necessarily a precise date—when Mr Barilaro contacted you in relation to a job for his senior media adviser?

AMY BROWN: Thank you for your question. I have tried to source that from my phone records; I've been unable to. However, she was engaged via Contractor Central to commence a contract appointment with us on 16 August 2021. I expect that we were sourcing candidates, so to speak, for that role immediately prior to that, so it was about that time.

The Hon. PENNY SHARPE: Do you recall the contact with Mr Barilaro in relation to this?

AMY BROWN: I do.

The Hon. PENNY SHARPE: Was it a text or a phone call?

AMY BROWN: It was a phone call.

The Hon. PENNY SHARPE: Do you recall what Mr Barilaro said to you in relation to this?

AMY BROWN: He said that there was a senior media adviser in his office who was looking for new opportunities and that he'd heard through the grapevine that we were building out our media and communications team. I said to him, "That is likely to be the case, but she's welcome to apply for opportunities and my head of media and communications is making those arrangements."

The Hon. PENNY SHARPE: Do you think that he would have known this via Mr Brayford? Would you have ever mentioned to him that you were putting more people on?

AMY BROWN: I think my head of media and communications is well networked with other people who work in media and communications, particularly for the Government. This media adviser may well have heard it through the grapevine from my head of communications.

The Hon. PENNY SHARPE: Just to clarify, Mr Barilaro made no comments in relation to any relationship he had with the senior media adviser other than a professional one?

AMY BROWN: No comments other than a professional relationship, yes.

The Hon. PENNY SHARPE: When she came to work for your agency, is there a requirement for there to be declarations in relation to that employment?

AMY BROWN: She wasn't actually employed by Investment NSW. She was contingent labour, and contingent labour hires remain employees of the relevant recruitment agency. She was engaged with us as contingent labour hire via this prequalified agency. She remained their employee. Any kind of referee checking and conflict declarations and so on were with that company as her employer. But at some point we did actually ask whether or not conflict declarations had been made.

The Hon. PENNY SHARPE: Do you recall when that was?

AMY BROWN: It was approximately—certainly in December 2021.

The Hon. PENNY SHARPE: Was there a reason why—I mean, she'd obviously been there since August—you decided at that period of time to ask about this?

AMY BROWN: We saw a report in the media and although it was speculative it concerned us enough to pick up the phone to her employer and ask whether or not she had made a conflict declaration, and requested that if there was a conflict of interest declaration that one could be provided to us. But we don't actually have records of that happening, most likely because we finished up her employment with us on 22 December, which was only a number of days after.

The Hon. PENNY SHARPE: So the recruitment firm, the labour hire firm, weren't able to confirm with you whether there had been a declaration made or they just never got around to sending one to you?

AMY BROWN: I believe they couldn't confirm on the spot and they never followed up with us—

The Hon. PENNY SHARPE: And you never found out?

AMY BROWN: —most likely because the contract ended.

The Hon. PENNY SHARPE: Okay.

The Hon. COURTNEY HOUSSOS: I just have one question. Ms Brown, in your very first appearance before us you talked about the lack of contact that you had with Mr Barilaro when he was the relevant Minister. I think you mentioned one Teams meeting; is that correct?

AMY BROWN: Three phone calls and one Teams meeting.

The Hon. COURTNEY HOUSSOS: Three phone calls and one Teams meeting?

AMY BROWN: Yes.

The Hon. COURTNEY HOUSSOS: And one of those three phone calls was him calling you and saying, "You've got this opportunity; I'd like you to consider someone in my office". Is that correct?

AMY BROWN: Precisely.

The Hon. COURTNEY HOUSSOS: Okay. Thanks very much.

The Hon. JOHN GRAHAM: You said the head of media and communications in your agency was well networked in government. Had they previously worked on the ministerial office side?

AMY BROWN: Yes, she had.

The Hon. JOHN GRAHAM: For whom did that head of media and communications work?

AMY BROWN: She worked for Minister Stuart Ayres.

The Hon. JOHN GRAHAM: Thank you.

The Hon. DANIEL MOOKHEY: Secretary Brown, firstly, thank you for coming back. We appreciate that.

AMY BROWN: Third time's the charm, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Indeed. I'm just going to continue on with this line of questioning, if you don't mind. By any chance—forgive me if I'm stretching your patience here, but have you by any chance—

The Hon. WES FANG: You're stretching mine.

The Hon. PENNY SHARPE: It's not about you.

The Hon. DANIEL MOOKHEY: —brought back your tender bundle from the other day?

The Hon. WES FANG: It's not about this either—but, anyway.

AMY BROWN: No.

The Hon. DANIEL MOOKHEY: No? I apologise. We're having a document printed for you, as we speak—

AMY BROWN: Sorry. Okay.

The Hon. DANIEL MOOKHEY: —to be brought down, from that tender bundle, just in case anyone from the Government side—just because it's only come to hand. I am referring to pages 19-26 of the documents we tendered on 3 August, last week. Secretary Brown, was this the person—how should we refer to her?

The Hon. PENNY SHARPE: The senior media adviser.

The Hon. DANIEL MOOKHEY: Can we provide the documents to the witness? Ms Brown, do you want to just turn to the page?

AMY BROWN: Nineteen?

The Hon. DANIEL MOOKHEY: Yes. Starting from 19. But perhaps, Secretary, it's better to start from page 23.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Because we're going to work our way up an email chain.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Are you good?

AMY BROWN: I'm with you.

The Hon. DANIEL MOOKHEY: Thank you. You can see that this is an email chain. It starts at the bottom of page 22 and goes over to 23, so I think it's probably best you start on 22. You see that this is a person, who I don't know, making an email to two members of, I think, Minister Ayres' staff? You see that—cc'ing Ms Bell, two others and media@investment.nsw.gov.au?

AMY BROWN: Sure.

The Hon. DANIEL MOOKHEY: Who was running the media@investment.nsw.gov.au account?

AMY BROWN: I'd need to take that on notice.

The Hon. DANIEL MOOKHEY: Okay. That's fine. No problems. But I presume the senior media adviser would have access to that account?

AMY BROWN: I'd need to take it on notice.

The Hon. DANIEL MOOKHEY: Okay, no problems. You see here, this is a pretty innocuous email. It says:

Hi both,

Thanks for your time just then. Please see attached our draft of the STICs announcement for your consideration.

You see that?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And you can see on pages 24 and 25 the actual drafts that were being sent for consideration. They're the actual media releases, which are not really material but that's what's attached. If you don't mind working up, let's go back up to the middle of page 22, to the email sent by the Associate Director of Communications, Media and Engagement.

AMY BROWN: Got it.

The Hon. DANIEL MOOKHEY: The reply says:

Suggest a tweak to the attached as I think the order reads clearer.

Again, pretty innocuous.

AMY BROWN: Looks good, yes.

The Hon. DANIEL MOOKHEY: Just go up again, and it goes—this is now the reply from Minister Ayres' adviser, who I presume is a media adviser, and she goes:

Thanks all! It's with the Minister now.

Do you see that?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Okay. Let's go forward, up to page 21. The email that Ms Bell sends at 3:53 is immaterial. The email that Ms Bell also sends at 8:45 is immaterial, but you can see that at the bottom of page 20 over to 21, you can see the policy director in Minister Ayres' office replies to Ms Bell:

Thanks Kylie – the Minister is currently reviewing the med rel. Can I confirm we're still waiting on Vish's signature (which is due to occur today)?

I presume that's a reference to the STIC appointment in Mumbai?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Yes. Can we go to page 19 now? You see here, "Hi Sophie and Ellen"?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And then, over the page, she goes—or this person goes. I think it might be a she—

AMY BROWN: It's a he.

The Hon. DANIEL MOOKHEY: —goes:

We understand the Minister has given feedback via Amy that he would like to say the remaining recruitment would be finalised before the end of the year, however this is not the case as both Americas and China will be Q1.

We have amended in the attached, and I have made minor tweaks to take an errant word out.

AMY BROWN: Sure.

The Hon. DANIEL MOOKHEY: Yes. Again, relatively innocuous, I think, but just go up to page 19.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: See the highlighted section?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: It says this:

One edit made – the Minister was keen for recruitment to be commenced/advertised this year, which it is, so I've included some weasel words to put that beyond doubt. Otherwise, this is fine by me. Will leave with Soph to finalise.

That's on 9 December 2021.

AMY BROWN: Okay.

The Hon. DANIEL MOOKHEY: I presume that that's a reference—because, at this point in time, the only jobs that need to be advertised are the Americas and the China positions. I presume that's correct?

AMY BROWN: Correct.

The Hon. DANIEL MOOKHEY: So the job that the Minister was keen for a commitment to be commenced or advertised this year—

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: —was the Americas position, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And this is an email that he sent on 9 December 2021, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: That is eight days prior to the public advertisement. Is that when the decision was made to start the search for the Americas position, or thereabouts, to recommence the actual advertisement?

AMY BROWN: What do you mean by "decision was made to start the search"?

The Hon. DANIEL MOOKHEY: As in, to press "go", for want of a better term, on the advertisement and to recommence the search.

AMY BROWN: Yes. I can't say when we decided to press "go". That would have been the subject of a lot of conversation. But you're right that it was readvertised on 17 December, so this would have been in the lead-up.

The Hon. DANIEL MOOKHEY: Yes. Just to be very clear:

... the Minister was keen for recruitment to be commenced/advertised this year, which it is ...

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And that could only have been the Americas and China positions, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Okay. Can you just go to the very top—the header? "From: Investment NSW Media" forwards this to many people. Do you see that?

AMY BROWN: Okay, hold on. Yes.

The Hon. DANIEL MOOKHEY: So you can see one of the people whom this email chain is forwarded to is Jennifer Lugsdin. Do you see that?

AMY BROWN: That's correct.

The Hon. DANIEL MOOKHEY: So Ms Lugsdin knew, we can infer—and, to be fair to her, so did the other—

AMY BROWN: A lot of people.

The Hon. DANIEL MOOKHEY: —one, two, three, four, five, six, seven people. They knew—she would have known at least by 10 December that Minister Ayres had made a decision to commence the advertising this year. Is that a fair inference?

AMY BROWN: Assuming she read that email, yes.

The Hon. JOHN GRAHAM: It was sent to her, though.

AMY BROWN: Hmm?

The Hon. JOHN GRAHAM: It was sent to her, though. You're confirming that's clearly what it shows.

The Hon. DANIEL MOOKHEY: And it's reasonably likely—sorry, Ms Brown. You have to respond verbally.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: But also, we still need to get to the bottom of who has access to the Investment NSW Media account, because it is also possible that that's how people become aware too.

AMY BROWN: Fair enough.

The Hon. DANIEL MOOKHEY: If it's possible we can get access to that information this afternoon, that would be helpful.

AMY BROWN: I'll take it on notice and if we can revert this afternoon, we will.

The Hon. JOHN GRAHAM: And, without naming them, can I just confirm that that first person to whom the email is sent is your head of media and communications—

AMY BROWN: That's correct.

The Hon. JOHN GRAHAM: —the former ministerial staffer for Stuart Ayres, to whom Jennifer Lugsdin reported? Is that an accurate—

AMY BROWN: I don't know about Ms Lugsdin's career history. I don't know who she worked for.

The Hon. JOHN GRAHAM: No, no. Sorry. Let me put it to you in two parts—

AMY BROWN: Oh, at this time?

The Hon. JOHN GRAHAM: That is your head of media and communications, who formerly worked for Stuart Ayres—that's correct—at the top of that email?

AMY BROWN: Yes.

The Hon. JOHN GRAHAM: And is that to whom Mr Lugsdin reported while she worked in this role?

AMY BROWN: She actually reported to the associate director for media at Investment NSW.

The Hon. JOHN GRAHAM: And then through to this person?

AMY BROWN: It would ultimately feed through to this person, yes, because they were the head of it.

The Hon. JOHN GRAHAM: Thank you.

The Hon. DANIEL MOOKHEY: Okay, thank you. Secretary, you're quite right in saying that we—your foresight about us wanting to establish some further facts around the Agent-General position was pretty spot on.

AMY BROWN: Okay.

The Hon. DANIEL MOOKHEY: So I might just, if you don't mind, unless you have—

The Hon. WES FANG: You've telegraphed it enough to the media.

The Hon. DANIEL MOOKHEY: Sorry, Wes?

The Hon. WES FANG: You've telegraphed it enough to the media.

The CHAIR: Order! If we could just ignore the interference as much as possible. If a genuine point of order is taken, I'll hear it. Continue, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Thank you. Forgive me, Ms Brown, as I change folders. You'll be pleased to know I haven't got 400 pages for you today. Can we just establish some of the basic facts here again? We have established, I think, that the original process around the design of Global NSW was developed by the New South Wales Treasury at first instance. That's correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Then, upon the formation of Investment NSW, the process transfers. Correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Ms Brown, I don't expect you to necessarily be across all of this. But we have started examining some of the early history here, around the Agent General position. We've established that some form of a recruitment process was embarked upon by the Treasury in 2020. Does that also accord with your understanding?

AMY BROWN: That's what I heard as well, yes.

The Hon. DANIEL MOOKHEY: It's fair to say we haven't established precisely how many processes there were in that period of time. But we've definitely established that there was at least one. But it's fair to say that that process did identify someone who was a preferred candidate? That's correct?

AMY BROWN: My documentation reflects that. Yes.

The Hon. DANIEL MOOKHEY: But the person who ends up being the preferred candidate isn't the person who actually gets the job. That's correct.

AMY BROWN: My documentation reflects that also.

The Hon. DANIEL MOOKHEY: We will have to get more into that in subsequent hearings. To be fair to you, Ms Brown, I think some of this took place before you took responsibility of it.

AMY BROWN: Yes, although a lot transferred to me because the responsibility transferred.

The Hon. DANIEL MOOKHEY: Yes. I think we established as well that, had the process not transferred to you—sorry. A better way of putting it is, if the appointment was made prior to the formation of Investment NSW, the employer would have been the secretary of the department of Treasury. Correct?

AMY BROWN: Once the employment contract was ready to be signed, yes.

The Hon. DANIEL MOOKHEY: Yes. Investment NSW is created on 29 March. That's correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Was there an interview around 30 March 2021?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Was that interview conducted by NGS Global?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: NGS Global at this time was the organisation that was appointed by Treasury to undertake the search?

AMY BROWN: That's right.

The Hon. DANIEL MOOKHEY: You effectively, as Investment NSW, given the interview was scheduled the day after you were formed, presumably, did not seek to interrupt that process?

AMY BROWN: Precisely.

The Hon. DANIEL MOOKHEY: That candidate that was interviewed was Mr Cartwright?

AMY BROWN: Yes. That's my understanding.

The Hon. DANIEL MOOKHEY: He was interviewed on the AG role around that period of time, on the thirtieth. Do you know why? Have you been able to ascertain precisely how he was identified as a person to go forward in interview, by any chance? To be fair to you, Ms Brown—we asked you this the other day. I'm just wondering if the passage of time has meant there's any further information you have.

AMY BROWN: No. My only observation was that he came into the process after a first round of interviews were conducted. So he was a late entrant, so to speak.

The Hon. DANIEL MOOKHEY: Again, you don't have direct knowledge as to how he became a late entrant, do you, because, presumably, you weren't involved.

AMY BROWN: No direct knowledge. No.

The Hon. DANIEL MOOKHEY: He's interviewed. Then, presumably, at some point, he becomes the preferred candidate or at least a preferred candidate. Do you know when that would have happened? Or was the interview more a case of that was confirmation that he was to become the preferred candidate. Is that a better way of putting it?

AMY BROWN: Yes. All I know is that, by the time I came into the conversation, shortly after Investment NSW was established, he was already established as the preferred candidate and contract negotiations had commenced. That was my pick-up point.

The Hon. DANIEL MOOKHEY: You pick it up from the point that contract negotiations are underway but not completed?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: That's fair?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: At this point, I presume, you would have sought to access or at least seek a briefing as to his qualifications, CV, resume, references, to the bare minimum—accepting, according to this version, that the decision was already made for him to be the preferred candidate. But I presume you would have apprised yourself as to the person's biography, background, skills, qualifications.

AMY BROWN: I can't remember if I read a CV or anything, but I definitely asked to be briefed on all of that matter—most importantly because he was about to become an employee of the organisation, and I was very clear that I held the employer function for that and I took it very seriously.

The Hon. DANIEL MOOKHEY: And so, presumably, you would have sought this advice from the agency the job was—the recruitment agency, amongst others?

AMY BROWN: Yes—and Ms West, because she'd been involved.

The Hon. DANIEL MOOKHEY: I presume you would have also asked for and seen the equivalent of the panel report that we've got over in the Americas position?

AMY BROWN: I, personally, have never seen a panel report with respect to this appointment.

The Hon. DANIEL MOOKHEY: Sorry?

AMY BROWN: I've never seen a panel report with respect to this appointment. But it may be because, by the time I picked it up, I just took on face value that the process was done and above board and no issues, and proceeded to have contract negotiations with this person.

The Hon. DANIEL MOOKHEY: Sorry, Ms Brown. Just give me 30 seconds. I might clarify something for us. I ask, because we haven't seen one either—and I think we would have asked.

The Hon. WES FANG: Are you sure?

The Hon. DANIEL MOOKHEY: Yes.

The Hon. PENNY SHARPE: Just to be clear, it should have been provided in the first SO52 from last year and in the one that's still dribbling in from here. So it is unusual that we have not seen that.

AMY BROWN: Yes. I believe we're returning documents this week, but I can't—

The Hon. PENNY SHARPE: Sorry, I'm not having a go about the docs. It's just that it should have been—

The Hon. WES FANG: Yes, you are.

The Hon. PENNY SHARPE: Because it should have been provided last year.

The Hon. DANIEL MOOKHEY: Well, it's possible that it wasn't in the possession of Investment NSW.

AMY BROWN: That's true, too, yes.

The CHAIR: The Opposition can continue with questions.

The Hon. DANIEL MOOKHEY: For what it's worth, we haven't seen one in the Treasury return, either. Maybe we have to go and check again. Just to be very clear, when you were sort of effectively progressing forward in the process around the appointment, you hadn't seen the panel report and, to this day, you still haven't seen a panel report?

AMY BROWN: I still haven't seen a report.

The Hon. DANIEL MOOKHEY: Okay. Fair enough. So you go forward with—the negotiations commence. I think you described them last week as being protracted and, well, "complicated" is probably a better way of putting it.

AMY BROWN: "Heightened".

The Hon. DANIEL MOOKHEY: Heightened. Can we establish that, in respect to the other appointments made, with the exception of Mr Barilaro—I may have asked you this already, but I'll ask you again, just in case I forgot—were the other negotiations with the other STIC candidates as equally as heightened and protracted?

AMY BROWN: They were more straightforward than this one.

The Hon. DANIEL MOOKHEY: Okay. So what was complicated about this one?

AMY BROWN: I think, to be honest, the salary package and what that package was composed of—what component of it equates to base salary, as it's known—sort of base remuneration versus what's cost-of-living allowance or even relocation expenses. By the time it was transferred to me, there seemed to be unmatched expectations between the candidate and what I saw as, I suppose, within my delegation to be able to sign off on. And I also think there was confusion within the organisation as to (a) whether or not these roles had to be GSE compliant in terms of salary banding, and, if yes, could a proportion of the salary be considered within band and then additional expenses be paid on top. All of that was very confused when I kind of picked it up. So I suppose I had to deliver some hard messages to the candidate around some of the conversations that had happened previously weren't going to turn out to be the reality.

The Hon. DANIEL MOOKHEY: Ms Brown, I might just need to unpack that a little.

AMY BROWN: Sure.

The Hon. DANIEL MOOKHEY: Let me just establish that, obviously, you had to negotiate over base salary, as you would with anyone. That's correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And to the extent to which you could—your own delegations turned on, effectively, where the base salary component fell within? That's fair?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Because you don't have authority to give anybody what they want.

AMY BROWN: That's exactly right.

The Hon. DANIEL MOOKHEY: And the process you have to follow does depend on which band they go into.

AMY BROWN: That's right.

The Hon. DANIEL MOOKHEY: And that applies to a person who is band 4, band 3, band 2, EL1, EL2, to the clerk grades.

AMY BROWN: Any role within my organisation.

The Hon. DANIEL MOOKHEY: And your position is common to—identical to every other public servant, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: To the extent to which, perhaps, expectations couldn't be achieved by base salary, then that sort of lead to additional—I guess, for want of a better term—recruitments that would be provided outside the base salary. Is that fair?

AMY BROWN: I think step one was were the expectations around the entire salary package realistic at all? And then, once we established the total number that was realistic and acceptable from a New South Wales Government perspective, how do we package everything up and how does the cost-of-living allowance work, how was it benchmarked against what other States do, so on and so forth. So there were a number of steps to that.

The Hon. DANIEL MOOKHEY: And one thing, Ms Brown, that we have learned through this inquiry is that each step along the way involves tax questions under Australian tax law and UK tax law, correct?

AMY BROWN: That's right.

The Hon. DANIEL MOOKHEY: Okay, that was helpful. I guess the obvious question is: What were the candidate's expectations?

AMY BROWN: When I entered the scene, I was briefed by NGS Global as to where the compensation was up to. They said that the number that the candidate was quoting was closer to \$800,000, and I was certain that that wasn't going to be acceptable by any stretch.

The Hon. DANIEL MOOKHEY: The candidate's expectation was for a total package or a base salary of \$800,000?

AMY BROWN: I'm not certain. I just was told that \$800,000 was the number that was quoted—although, to be honest, the first written piece of evidence that I saw in terms of what had been presented to the candidate actually said \$600,000 plus cost of living, so there's a bit of maths involved there.

The Hon. DANIEL MOOKHEY: Okay, but nevertheless we have a total package of \$800,000-ish.

AMY BROWN: Or thereabouts.

The Hon. DANIEL MOOKHEY: Or thereabouts. Well, as this Committee and other committees have had opportunities before to establish where that would fall within the public sector, best I could tell, that is close to double what the Premier gets or thereabouts.

AMY BROWN: I don't know what the Premier gets. It's more than what I get.

The Hon. DANIEL MOOKHEY: At the time—this was, what, 2021?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: At that time, I can definitely tell you that a band 4 secretary of a department was on a maximum of \$576,000, I think.

AMY BROWN: That sounds about right.

The Hon. DANIEL MOOKHEY: I think the commissioner of police was around that level, correct? So the only other person who I'm aware of—incidentally, at that time—who was given an \$800,000-plus package was the CEO of icare, which is a different organisation. Both Scott, Wes and I have some familiarity with that process, but that's basically—

The Hon. JOHN GRAHAM: Let's not dwell there, though.

The Hon. DANIEL MOOKHEY: That's a red herring I won't go down.

The Hon. WES FANG: That's not in the terms of reference.

The Hon. DANIEL MOOKHEY: Basically, that would have made the Agent General the second highest paid public servant in New South Wales, for what it's worth.

AMY BROWN: That's possible.

The Hon. DANIEL MOOKHEY: And, of course, did that catalyse some resistance from you?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: What did you do?

AMY BROWN: Well, at that time, the clarity around these roles was probably clearer than they have been in more recent times. I was very clear that these were Government Sector Employment Act roles, and I knew what that meant. As CEO, the employer function sat with me, and so it was my decision and my decision alone what salary was to be negotiated and what contract was to be signed. So I set about having conversations with the candidate and Ms West, who was assisting me, around the fact that numbers of that order of magnitude were not realistic, and then I sought to essentially bring the number down.

The Hon. DANIEL MOOKHEY: Okay. At this point I imagine, as you go about seeking to bring the number down—was that, I presume, resisted by the Agent General candidate?

AMY BROWN: Yes. Yes, although, to be fair, he did say that he had to go away and speak with his family and see what was workable and what was achievable. So he was certainly willing to work with us to see what salary package might work for both parties.

The Hon. DANIEL MOOKHEY: Okay. Presumably, at this point in time, there was also a reasonable expectation by the Government that the job would be filled, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And I can only presume that, as the new CEO of an organisation, this is one of the things you had to deliver?

AMY BROWN: It was one of the first things I had to deliver.

The Hon. DANIEL MOOKHEY: And so I can only assume that, therefore, there would have to have been at least some form of update being provided to respective Ministers and others about what exactly was the hold-up.

AMY BROWN: Yes, so I was definitely resisting pressure to be rushed. You'll remember I wasn't the secretary at this time. I actually had Mr Tim Reardon who I reported in to.

The Hon. DANIEL MOOKHEY: You were CEO, yes.

AMY BROWN: Yes, so that was actually really helpful, because I could keep him updated on how the conversations were going. That gave me kind of reinforcement and confidence to keep pushing back, I suppose. But, yes, I did update some ministerial offices around it as well.

The Hon. DANIEL MOOKHEY: Okay, so at this point you're in the DPC, are you not?

AMY BROWN: That's right, yes.

The Hon. DANIEL MOOKHEY: And so you obviously were keeping the secretary apprised?

AMY BROWN: Yes, regularly.

The Hon. DANIEL MOOKHEY: Regularly, yes.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And I presume that you were keeping the Premier's office—were you keeping the Premier's office apprised or not?

AMY BROWN: I do recall giving the Premier's office at least one quick update on how the negotiations were going, yes.

The Hon. JOHN GRAHAM: And it may have been that Mr Reardon was additionally giving the Premier's office these updates.

AMY BROWN: Yes. Mr Reardon had one-to-ones with the Premier and I did not. But I had some good contacts in the Premier's office, between the chief of staff and the deputy chief of staff, who were both fantastic.

The Hon. JOHN GRAHAM: And which of those did you brief?

AMY BROWN: I briefed both of those people. I don't know if it was at the same time or if I just called them in succession.

The Hon. JOHN GRAHAM: Thank you.

The Hon. DANIEL MOOKHEY: Do you recall when you did that?

AMY BROWN: Again, phone records don't go back that far, but it would have been—we were having the conversations in April and May, so it was within that time period. Perhaps before the middle of May, because that's when we started to brief positively in terms of the outcome having been resolved.

The Hon. DANIEL MOOKHEY: What did you tell the Premier's office at the time?

AMY BROWN: I told both the chief of staff and the deputy chief of staff that the expectations of the candidate with respect to the salary were unrealistic. I relayed the type of quantum that was being asked for, and they completely agreed with me that it was unrealistic.

The Hon. DANIEL MOOKHEY: When they said they completely agreed with you, what did they say to you?

AMY BROWN: They thought that that salary was far too high to be justifiable.

The Hon. DANIEL MOOKHEY: Okay.

The Hon. PENNY SHARPE: Were you also talking to the Treasurer's office throughout this period?

AMY BROWN: I didn't brief the Treasurer's office regularly because they weren't my Minister.

The Hon. PENNY SHARPE: No.

AMY BROWN: However, when the global network transferred into the Premier and Cabinet cluster, by virtue of the fact that Investment NSW was established in that cluster, I did undertake to make sure that they were kept up to speed, so to speak, on a number of matters.

The Hon. PENNY SHARPE: They would've had some carriage, I suppose, and interest in the UK—

AMY BROWN: Yes.

The Hon. PENNY SHARPE: —given it started under them.

AMY BROWN: I think that's right.

The Hon. PENNY SHARPE: So you kept them in the loop in the transition period through that. Is that accurate?

AMY BROWN: Yes. I certainly provided at least one update.

The Hon. DANIEL MOOKHEY: Equally, you presumably would have needed to access their knowledge of the process anyway, given it commenced under them. You would have benefited from at least knowing what their expectations were, correct?

AMY BROWN: That's a good—again, because I had a very strict interpretation of GSE, I didn't actually go to them and say, "What do you think the candidate's expectations are?" I just took it on face value when it landed on my desk. But of course they were interested in how it was going because they started the global network, essentially.

The Hon. DANIEL MOOKHEY: Ms Brown, last week you did mention to us that—to be clear, circa October last year, when there was a renegotiation—the Agent General invoked the Deputy Premier and the Premier.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: I am wondering whether or not, in these earlier negotiations, the Agent General invoked the Deputy Premier and the Treasurer.

AMY BROWN: Yes. It's fair to say that during the negotiations, particularly with the recruitment firm before I came in and was a bit more hard-headed about it, which is fair enough, I do believe that the candidate was using the Deputy Premier and the Treasurer's name a lot in terms of he thought he had an understanding of what terms he'd be coming in on.

The Hon. DANIEL MOOKHEY: So that was the view that—sorry, you're negotiating in April. And from as early as April, either to you or the agency—did I hear you correct?

AMY BROWN: The recruitment firm, yes.

The Hon. DANIEL MOOKHEY: The candidate was invoking the names of the Deputy Premier and the Treasurer?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Okay. You said you had one conversation with the Treasurer's office.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Presumably, was that to do with the salary negotiations?

AMY BROWN: After the salary negotiations emerged as though they were going to be quite complex—and they did end up being resolved, but at that point I felt like we could lose the candidate—I thought I would update the Treasurer's office about that fact. So, yes, I did mention that the candidate's salary expectations were unrealistic and that I thought that they were overpriced.

The Hon. DANIEL MOOKHEY: You draw a distinction between the Treasurer's office and the Treasurer.

AMY BROWN: Yes. I never spoke to the Treasurer.

The Hon. DANIEL MOOKHEY: Okay. So who did you speak to?

AMY BROWN: I spoke to the Treasurer's chief of staff.

The Hon. DANIEL MOOKHEY: Okay. The Treasurer's chief of staff. I'm not going to seek to invoke their name.

AMY BROWN: Okay.

The Hon. DANIEL MOOKHEY: The Treasurer's chief of staff in April last year—sorry, there's a bit of—

The Hon. WES FANG: I know where you're going.

The Hon. PENNY SHARPE: It's the same chief of staff he currently has.

The Hon. DANIEL MOOKHEY: I'm looking at Scott because there were some—sorry, I'm wondering—I'm going to say "rely on the Treasurer's chief of staff", and perhaps we can establish afterwards because there was a bit of movement in the Treasurer's office at that period of time. To be clear, I think there were three in that period as a result of the icare scrutiny.

The Hon. WES FANG: That's so, yes.

AMY BROWN: I hope I'm not mistaken as well.

The Hon. DANIEL MOOKHEY: From October through to—

The Hon. WES FANG: That's where it—yeah. I knew exactly where you were going.

The Hon. DANIEL MOOKHEY: So I'm just—that's not for you necessarily, I've just got to be respectful and say at this point "the chief of staff".

AMY BROWN: Well, now I don't know.

The Hon. DANIEL MOOKHEY: Okay. Well, we can just rely on the fact that you called the chief of staff.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And this would have been circa April/May?

AMY BROWN: Yes—no, I phoned a particular person in the Treasurer's office. From memory—and as you say there are movements everywhere between the Treasurer, Premier and so on's office at the time—from memory he was the chief of staff at the time, but I cannot a hundred per cent confirm that.

The Hon. DANIEL MOOKHEY: Okay, that's fine. It doesn't matter, you spoke to someone senior in the office?

AMY BROWN: I spoke to someone very senior in the Treasurer's office.

The Hon. DANIEL MOOKHEY: Who you presumed was the chief of staff?

The Hon. PENNY SHARPE: And who you can confirm is still around?

AMY BROWN: They're still around. That's better.

The Hon. DANIEL MOOKHEY: Okay. I think we've sorted out who it is.

The Hon. PENNY SHARPE: We know who it is.

AMY BROWN: Thank you.

The Hon. DANIEL MOOKHEY: I think we've established who it is.

AMY BROWN: This is stressful.

The Hon. DANIEL MOOKHEY: Again, a bit of a crossover in terms of issues that we have pursued in Parliament.

The Hon. WES FANG: The world's colliding, Mr Mookhey.

The Hon. DANIEL MOOKHEY: So you have a conversation with that person. What did you say?

AMY BROWN: I said I was in contract negotiations with the candidate for the agent general role. In my view it wasn't going fantastically at that moment and I was nervous we were going to lose the candidate. In my view the runner-up candidate was still in play because I knew he was interested in the role, and in fact he ended up taking a role with us later. And I said we might want to just reorder our head space a bit, that we should perhaps go back to that candidate. And he said that the opportunities between Australia or New South Wales and the UK were enormous—which is true, particularly when it comes to foreign direct investment coming out of UK free trade agreements and all sorts—and that it is very, very important to have someone high calibre in the role and we should probably rethink our approaches to salaries and that a high salary is certainly justified.

The Hon. DANIEL MOOKHEY: So basically they told you to pay the high salary?

AMY BROWN: They just told me to bear in mind the importance of the role and the opportunities and that if we're going to attract someone of high calibre we needed to pay a private sector-size salary.

The Hon. DANIEL MOOKHEY: I presume that you would have explained or they would have already known that this was a GSE appointment, correct?

AMY BROWN: Yes, I assume so.

The Hon. DANIEL MOOKHEY: Yes, I mean it is just assumed knowledge on your part that they would.

AMY BROWN: I had multiple conversations with the candidate that this is a public servant role and things are different over here.

The Hon. DANIEL MOOKHEY: Okay. So the Treasurer's office senior member—let me just get this out of the way, is the person who you were speaking to still working for the Premier?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And is he currently the Premier's chief of staff?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Thank you. So your conversation with—I think we can now call that person the Treasurer's chief of staff at the time; we can establish that?

AMY BROWN: Okay.

The Hon. DANIEL MOOKHEY: Your conversation, you call the Treasurer's chief of staff and you explain that the negotiations—well, the expectations of the candidate were quite high. There was no ambiguity about that?

AMY BROWN: That's right.

The Hon. DANIEL MOOKHEY: You made it very clear?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And you suggested that as a result of perhaps that candidate's elevated expectations that there was an option to default to the next preferred candidate?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Because there was more likelihood to reach agreement with that person in the manner consistent with the GSE?

AMY BROWN: They were very enthusiastic about the prospect of being a public servant in New South Wales, yes.

The Hon. WES FANG: Who wouldn't be?

The Hon. DANIEL MOOKHEY: So they're confronted with the choice between two and the advice you get back is that this role requires a person of high calibre, or words to that effect?

AMY BROWN: Whatever that means, yes.

The Hon. DANIEL MOOKHEY: Did you have an understanding what that meant?

AMY BROWN: I always find it a strange phrase, but sure.

The Hon. DANIEL MOOKHEY: And then you—further, this person explains the importance of the New South Wales-UK trade relationship?

AMY BROWN: More, he actually referred to a trade delegation that he had been on himself in some other role and the opportunities that he saw when he was over there—all of which are completely valid and I agree with—and said, you know, "We haven't had anyone in country for a long time and let's make sure we choose someone of high calibre".

The Hon. DANIEL MOOKHEY: Then the conclusion of the conversation or at least the most important take-out from it is that the Treasurer's chief of staff tells you to effectively pay the person their higher expectations that's in line with private sector, alleged private sector principles?

AMY BROWN: He tells me his view that the salary would be worth it—or relayed his view—but he couldn't tell me or direct me what to do with this candidate, and I was very clear on that.

The Hon. DANIEL MOOKHEY: Okay. So it was more advice or opinion for you to consider?

AMY BROWN: A strong opinion.

The Hon. DANIEL MOOKHEY: A strong opinion. Was it given emphatically or—

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Was it emphatic?

AMY BROWN: Relatively.

The Hon. DANIEL MOOKHEY: Okay.

AMY BROWN: I still remember the conversation, so it was—

The Hon. DANIEL MOOKHEY: Well, Ms Brown, what else would you—it was an emphatic conversation.

AMY BROWN: That was all. No, that was all.

The Hon. PENNY SHARPE: So he was basically suggesting that this candidate was of sufficient calibre that you should do whatever is necessary to try to accommodate his requests around salary. Is that accurate?

AMY BROWN: That would be a much more colloquial way of putting it than what he said, but I got the impression that I should consider the candidate's requests very seriously.

The Hon. PENNY SHARPE: Given that all of the other STICs obviously were in the band 3, that had been well established, that was not a surprise to anyone who applied that that was the case, if you were to look at increasing those—you had to look at a SOORT determination?

The Hon. DANIEL MOOKHEY: What's your maximum delegation?

The Hon. PENNY SHARPE: What did you have to do? What are your maximum delegations?

AMY BROWN: Exactly.

The Hon. PENNY SHARPE: Can you unpack all that for us?

AMY BROWN: That's where it got really complicated. The Agent General was the first role. So whilst every other senior trade and investment commissioner has been, I would say, very straightforward to negotiate with—they know what band 3 means, they know what the salary band is, they know that a cost-of-living allowance is Mercer benchmarked. It's not sufficient money to change the world.

The Hon. PENNY SHARPE: Sorry to interrupt you but when people applied for the role, it was clear that that was the—was the remuneration clear, particularly the first one?

AMY BROWN: That is a really good question. I might even take on notice what the role description said, because I felt like when the roles transitioned across from Treasury, the recruiter, through no fault on her own, was very unclear on what we could pay them, what were the rules around it. And I felt that my Treasury colleagues who'd come across were the same, partly because it's the Agent General. What does that mean? They got a very long advice as to whether or not it falls within the GSE Act at all and therefore the salary banding. So it was very confused. Once I determined—it didn't take much—that these are GSE Act appoints and they needed to comply, then it all flowed pretty straightforward from there with the subsequent appointments, and from the very beginning the recruiter was able to say to them, "This is the salary. Take it or leave it." This one was particularly vexed because nobody knew.

The Hon. DANIEL MOOKHEY: But Ms Brown, you're at this point Investment NSW's CEO, correct?

AMY BROWN: Just.

The Hon. DANIEL MOOKHEY: The CEO is classified as a band 3 appointment.

AMY BROWN: That's correct.

The Hon. DANIEL MOOKHEY: And as a member of band 3, it would be illegal for you to pay anyone band 4, correct?

AMY BROWN: I can't hire a band 4.

The Hon. DANIEL MOOKHEY: Hence it would be illegal for you to hire anyone at a band 4 level, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And band 3 at that point—now you're really testing my memory, but the maximum band 3 appointment level would have been somewhere above 430.

AMY BROWN: Four hundred and eighty-seven.

The Hon. DANIEL MOOKHEY: Four hundred and eighty-seven. So the maximum you had the legal authority to give was 487 without someone else supporting your decision?

AMY BROWN: Without a SOORT determination.

The Hon. DANIEL MOOKHEY: Without a SOORT determination. So a candidate that's seeking an \$800,000 job is inherently asking you to do something which you can't do.

AMY BROWN: Well, they wouldn't have known that.

The Hon. DANIEL MOOKHEY: No. And, look, to be fair, not everyone has expertise in GSE rules.

AMY BROWN: No. I'm still learning some of them myself, Mr Mookhey.

The Hon. DANIEL MOOKHEY: But that's clearly a key concern for you, correct?

AMY BROWN: Yes. I either needed to talk to the DPC Secretary about supporting a SOORT determination with an eye-watering number or I had to tell the candidate that the base salary had to be 487 or lower.

The Hon. DANIEL MOOKHEY: And that's basically what happens, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And look, just to be very clear, I'm not suggesting anyone who's an applicant needs to become an expert in GSE rules but the obligation to obey the GSE Act was yours?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: You obviously take that responsibility very seriously?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And so therefore, if someone is asking you for something you have not got the power to give, you would obviously treat that as a cause for a protracted negotiation if nothing else.

AMY BROWN: Well, because there was a textbook answer, which you've just articulated, it meant that I could just push back very clearly because, as you say, I couldn't have done it even if I wanted to.

The Hon. DANIEL MOOKHEY: But there is some form of a SOORT process, or is there not?

AMY BROWN: No, there's no SOORT determination at all.

The Hon. DANIEL MOOKHEY: But there was discussion of whether a SOORT process was required?

AMY BROWN: That's right.

The Hon. DANIEL MOOKHEY: And then ultimately, at the end of the conclusion of that process, a decision is made that a SOORT process is not advisable?

AMY BROWN: Yes. It was my decision not to pursue a SOORT process.

The Hon. DANIEL MOOKHEY: Basically, between the base salary and—we've gone through how the cost-of-living allowance and others have been aligned, so I'm not really going to press you much further on that. But, just to return to that conversation you were having with the Treasurer's chief of staff, you presumably, at the point that you had had this conversation, were aware of all these constraints on your authority?

AMY BROWN: I think so. Yes, sorry, the time line—we were trying to solve all these issues as I was having the conversations.

The Hon. DANIEL MOOKHEY: So at least at the time you were seeking the opinion or advice of the Treasurer's office through his chief of staff, you know that there is a big question mark at least about whether it's even possible to give this person what they want?

AMY BROWN: I think the initial basis for my phone call was that a salary that high for any public service role is ridiculous.

The Hon. DANIEL MOOKHEY: Yes.

AMY BROWN: So I wasn't explaining to him how the GSE Act works and SOORT bandings and things. I was just saying, "This is really a ridiculous number."

The Hon. DANIEL MOOKHEY: No, because to be fair, an \$800,000 request, which is more than the Police Commissioner—

AMY BROWN: Yes, for an office of eight people or something.

The Hon. DANIEL MOOKHEY: —would on the face of it seem ridiculous to anybody, correct?

AMY BROWN: Yes.

The Hon. JOHN GRAHAM: Can I just take you back to that point, perhaps? You've talked about the \$800,000. You also referred to a lower figure in writing: \$600,000 plus the cost of living.

AMY BROWN: Yes, that's right.

The Hon. JOHN GRAHAM: Where did you see that? What was in writing?

AMY BROWN: The recruitment company emailed the candidate with a Word document—and, again, I sort of inherited it so I don't know how it originated—and it had bullet points as to a possible salary package, essentially putting it on the table. It sort of said, "As discussed, here is something that we could look at accommodating", and it had \$600,000, cost-of-living expenses and then went into a bit of detail around that: schools, rent, reasonable travel between the UK and Australia—that sort of thing.

The Hon. JOHN GRAHAM: Given the difficulties you've just described, did you come to any conclusion about how it was that we could look at accommodating, as you say, this? How had they come to that view?

AMY BROWN: I think somebody put that list together before there was any—so they did it wrong way around. They did it before there was clarity on what we could offer under the GSE Act, whereas when I took over, I started with the base question of what are we, as Mr Mookhey said, legally able to offer.

The Hon. DANIEL MOOKHEY: So that was the only conversation you had with the Treasurer's office about this matter?

AMY BROWN: Yes, just once.

The Hon. DANIEL MOOKHEY: I presume this conversation took place either concurrently or after the conversation with the Premier's office?

AMY BROWN: It was after.

The Hon. DANIEL MOOKHEY: So Premier Berejiklian's office—I presume it was her office and not the Premier?

AMY BROWN: Yes, it was her office, definitely.

The Hon. DANIEL MOOKHEY: Her office had indicated to you that the expectations of the candidate—let's go with "unreasonable", yes?

AMY BROWN: A word along those lines.

The Hon. DANIEL MOOKHEY: But a similar call to a similar effect with the Treasurer suggested to you that it was reasonable?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Did you speak to Minister Ayres' office at all?

AMY BROWN: No, not at all.

The Hon. DANIEL MOOKHEY: Was there any particular reason why at that point?

AMY BROWN: It was an interesting dynamic. Because we're in the Premier and Cabinet cluster and the Premier was my senior Minister, and he didn't have Trade, so—

The Hon. DANIEL MOOKHEY: Yes, that's right. Sorry, I forgot that little—

AMY BROWN: —I think he felt a little bit like he was the last to know in some of these conversations. That's just fact, nothing disparaging.

The Hon. DANIEL MOOKHEY: Yes, sorry, it's an important point. He's not your cluster Minister.

AMY BROWN: Yes, that's right.

The Hon. DANIEL MOOKHEY: And at this point, you're not a department?

AMY BROWN: That's right. I was an agency.

The Hon. DANIEL MOOKHEY: Okay.

AMY BROWN: I still had a boss.

The Hon. SCOTT FARLOW: And at this point, Mr Barilaro was still your trade Minister, correct?

AMY BROWN: That's right.

The Hon. DANIEL MOOKHEY: That's an even better point.

The Hon. JOHN GRAHAM: So did you brief Mr Barilaro or his office?

The Hon. DANIEL MOOKHEY: Or did you seek to?

AMY BROWN: Did I seek to? I don't think I did, actually. No. I think it was such early days. Obviously, as I said, I've only spoken to—I can count on one hand the number of times I've spoken to the Deputy Premier himself. And I don't think I'd started my regular one-to-ones with Mr Brayford yet. So I don't remember having a conversation with them.

The Hon. DANIEL MOOKHEY: Secretary Brown, we established that a contract is signed.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: I still don't understand—when was that contract signed, do you know?

AMY BROWN: Yes, 21 July.

The Hon. DANIEL MOOKHEY: When you say "heightened and protracted", it was three months. From April to July—that seems pretty protracted. The obvious question before I make that statement on the length of negotiations is was that the largest duration for any of the STIC appointments?

AMY BROWN: I think so. I mean, Ms West was managing the day to day; I was the escalation point. When I say they were heightened, literally every time they came to me they were heightened.

The Hon. DANIEL MOOKHEY: They were heightened to you.

AMY BROWN: Yes, because I was the escalation, not the primary negotiator.

The Hon. DANIEL MOOKHEY: But it takes three months to conclude what I am now going to refer to as the first contract?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Is the reason why you say that the contract negotiations were protracted because they had commenced with Treasury at least as early as March?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And then it took until July to conclude?

AMY BROWN: Honestly, I cannot say when they concluded.

The Hon. DANIEL MOOKHEY: Let's just go with when the first contract was signed because we are about to ask you.

AMY BROWN: Yes, it was signed in July, but that could have just been getting the final pieces of tax advice and things. I don't know when the most difficult bit was concluded.

The Hon. DANIEL MOOKHEY: This brings me to the point. I think we have to go with the fact that—we are going to refer to that as the first contract and then subsequent variations.

AMY BROWN: Yes, that's right.

The Hon. DANIEL MOOKHEY: I think that is the way a lawyer would describe it.

The Hon. WES FANG: You are a lawyer.

The Hon. DANIEL MOOKHEY: Former lawyer.

AMY BROWN: So am I.

The Hon. DANIEL MOOKHEY: Let's go through the first variation. We have established that there was another variation this year, but I am going to go to the first one and then refer to the events of this year as the second variation, if you don't mind. The reason I am asking this is because we have seen elliptical references in a variety of different documents to certain demands that were surfacing from July onwards.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Is it the case that after the contract is executed Mr Cartwright or Investment NSW sought variations to that contract in respect of the remuneration package?

AMY BROWN: Mr Cartwright's appointment was announced on 1 October and on 23 October, yes—I mean, all of this is in emails.

The Hon. DANIEL MOOKHEY: We are still working our way through it.

The Hon. WES FANG: You can assume they've got them then.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Well, assume also that perhaps we don't. We are still working through them, Ms Brown.

The Hon. PENNY SHARPE: We haven't had a lot of time to look at all of these ones.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Sorry, can you repeat that date?

AMY BROWN: Yes, there were a lot of emails. That's why I can be so forthcoming. Between 23 and 28 October, yes, there were email exchanges relating to a possible variation of the Agent General's contract.

The Hon. DANIEL MOOKHEY: Let me establish a few baseline facts here. When the contract is signed, there is a base salary. Correct?

AMY BROWN: Yes, \$487,000.

The Hon. DANIEL MOOKHEY: So it's the maximum payable under band 3?

AMY BROWN: Yes, that's right.

The Hon. PENNY SHARPE: But there was a super component, wasn't there?

AMY BROWN: No. I asked my team to be very clear on this.

The Hon. PENNY SHARPE: Because this has been very unclear in the documents. That is why I am asking.

AMY BROWN: Yes, the explanation I have is, "As Stephen is paid in the UK under UK tax regime, superannuation is not provided/deducted."

The Hon. DANIEL MOOKHEY: Okay. Was there an attempt by Mr Cartwright to effectively obtain the same amount that otherwise would have been provided through super?

AMY BROWN: No.

The Hon. DANIEL MOOKHEY: But there was a cost-of-living allowance?

AMY BROWN: Yes, that's the one.

The Hon. DANIEL MOOKHEY: And I think you told us before that's \$112,000 at this point?

AMY BROWN: Yes. Round it to \$113,000.

The Hon. DANIEL MOOKHEY: To \$113,000?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Was there anything else?

AMY BROWN: And then a one-off relocation allowance capped at \$60,000.

The Hon. PENNY SHARPE: And there was also reasonable numbers of returns to Sydney—flights. Is that included separately?

AMY BROWN: That's all included. That needs to be covered by the cost-of-living allowance. My team will correct me if I'm wrong though.

The Hon. PENNY SHARPE: Can you check that again? The stuff that I have seen looked like that was separate.

AMY BROWN: Yes, that's a good question. I will just ask my team to check because there is an expense.

The Hon. PENNY SHARPE: Yes, that's fine. As I've said, it's not actually been clear.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Is there a separate expense allowance, incidentally, at this point in time?

AMY BROWN: The Agent General is entitled to expenses as per anyone would be—me included—in terms of if you are required to travel for work, that's covered, and reasonable meal allowances if you are on a work trip. That sort of thing.

The Hon. DANIEL MOOKHEY: So that's the basic package, or that's the package that's agreed to at the first executed version of the contract. Is that fair?

AMY BROWN: Right, yes.

The Hon. DANIEL MOOKHEY: We established that from 23 October to 28 October there are further conversations about remuneration. That is correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Just to be very clear here, this is announced, did you say, on 1 October?

AMY BROWN: He's announced on 1 October, yes. It was a big day.

The Hon. DANIEL MOOKHEY: Yes, you've made that point a few times, Ms Brown. I forget, sorry. But equally the State's in lockdown, correct?

AMY BROWN: Yes. I came into the office because I was doing a webinar for the Trade Statement. That's why I remember it really well.

The Hon. DANIEL MOOKHEY: To be fair to you, Ms Brown, you told us that last week. But to be clear here, the Agent General is physically in Sydney?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Because they haven't yet gone to London?

AMY BROWN: That's right. He went to London on 31 January.

The Hon. DANIEL MOOKHEY: On 31 January the Agent General goes to, I think you'd use the term, "in country"?

AMY BROWN: Yes. "Started in the London office" is what I have written.

The Hon. DANIEL MOOKHEY: What variation to the package did the Agent General seek in the twenty-third to twenty-eighth period?

AMY BROWN: He was predominantly in conversations with my general counsel around interpretation of the employment contract. Again, I just saw the summary version, but the nub of the issue is whether offshore expenses would be paid while he was still onshore.

The Hon. DANIEL MOOKHEY: How is it possible that a person can incur offshore expenses if they're onshore?

AMY BROWN: That's what I asked.

The Hon. DANIEL MOOKHEY: It's a reasonable question, Secretary. What was the nature of the offshore expenses?

AMY BROWN: I think—

The Hon. PENNY SHARPE: Is that like what would normally be allocated for rent—

AMY BROWN: Yes, the cost-of-living allowance, basically.

The Hon. PENNY SHARPE: —or school fees?

AMY BROWN: Yes.

The Hon. PENNY SHARPE: Just to be clear, school fees are covered?

AMY BROWN: It's all covered in the cost-of-living allowance. It's a bulk number and it covers a bunch of stuff.

The Hon. DANIEL MOOKHEY: But one of the offshore expenses that could be incurred onshore is future school fees to accord with whatever the UK enrolment timetable is. Was that one of the matters?

AMY BROWN: Not that I can recall. Here we go—yes, future school fees.

The Hon. DANIEL MOOKHEY: Do you wish to take a bit more advice on that issue? If you need to, Ms Brown, you're welcome to.

AMY BROWN: I think, again, in terms of the detail of what was going on, that was for my general counsel. I was more the escalation point.

The Hon. DANIEL MOOKHEY: The proposition was—

AMY BROWN: I basically had one meeting with the Agent General on this topic.

The Hon. DANIEL MOOKHEY: I guess the question that was being raised, you said it was to do with the interpretation of the contract?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Was the view that the Agent General was putting forward that one of the expenses that should be paid for under a general expense claim was offshore school fees?

AMY BROWN: The way I understood it, it was more that if his salary was comprised of a base salary and a cost-of-living allowance, his expectation was that the entirety of his salary, no matter how it was comprised or characterised, should be paid from the very beginning.

The Hon. DANIEL MOOKHEY: Yes, but I guess the question—what I'm trying to understand is the dynamic of the dispute, for want of a better term. Was the dynamic of the dispute a claim that a matter of school fees and other offshore fees should be paid for separately to the cost-of-living allowance?

AMY BROWN: I don't think so. I might just take that on notice and get a bit more advice.

The Hon. DANIEL MOOKHEY: Do you mind doing that?

AMY BROWN: Because it's quite complicated.

The Hon. DANIEL MOOKHEY: Yes, that's fair. But that's the nature of the predominant dispute from the twenty-third to the twenty-eighth was a desire—

AMY BROWN: It was all around offshore expenses, yes.

The Hon. DANIEL MOOKHEY: And the ability to access them prior to the Agent General actually arriving in London?

AMY BROWN: Yes, that's right.

The Hon. DANIEL MOOKHEY: Okay. Presumably that view was resisted?

AMY BROWN: By me?

The Hon. DANIEL MOOKHEY: By Investment NSW.

AMY BROWN: Yes, absolutely.

The Hon. DANIEL MOOKHEY: By you specifically?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And that was the conversation that was taking place on the Teams format, is that correct?

AMY BROWN: Yes. I had the Teams call—I had two calls in my head muddled. The Teams call I was referring to was a call right at the beginning about salary and it was with me and Ms West and the candidate. I had that mixed up with this issue, so I will correct the record now. This was an in-person meeting that I had with our now employee, the Agent General, and because he'd been having extensive discussions with my general counsel on the interpretation of the contract—obviously a legal matter—we put the phone on the table and my general counsel was on the phone.

The Hon. DANIEL MOOKHEY: Okay. But that conversation with the general counsel on the phone in October was one instance in which the Agent General invokes the name of the Deputy Premier and the then Premier?

AMY BROWN: Yes. It was actually the name of the Premier that jumped out at me. I sent a follow-up text to my general counsel to say, "Oh, I didn't like that." I said I found it quite threatening. But, yes, it was at that point he was saying that he would talk to Michael Coutts-Trotter, or even the Minister or the Premier, because "the current outcome is not what I was offered".

The Hon. PENNY SHARPE: Offered by whom?

AMY BROWN: I don't know. This is—

The Hon. PENNY SHARPE: So you think when he's referring to "offered" it was not the offer that you provided him with, which was your signed contract; he was under the impression there was another offer in relation to the job?

AMY BROWN: I can't say whether or not it's we're just misaligned on what the contract says or whether there was something else that he's referring to.

The Hon. DANIEL MOOKHEY: But, just to be clear, it wasn't like you and he were—well, were you and he disputing the interpretation of the contract you executed in July or was it the case that he was referring to some other negotiation to which you have no knowledge?

AMY BROWN: That's what I can't be certain of, because when I did a follow-up debrief text to Mr Carr I said, "I found that quite threatening and I don't understand why he can't interpret the contract he signed." So in my mind it was a difference in interpretation—

The Hon. DANIEL MOOKHEY: But in his mind—

AMY BROWN: —but rereading the correspondence, I can't be certain of that.

The Hon. DANIEL MOOKHEY: To be fair to Mr Carr and to you, it's ordinary practice that all contracts say that the contract as agreed is the final agreement, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And it's a pretty standard clause that "any other negotiations are set aside by the entering into of this agreement", correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And you were, basically, operating off that principle?

AMY BROWN: Correct.

The Hon. DANIEL MOOKHEY: So in this conversation in which the general counsel is on the phone—that would have been between the twenty-third and twenty-eighth?

AMY BROWN: That was on the twenty-eighth.

The Hon. DANIEL MOOKHEY: How did that resolve, that dispute?

AMY BROWN: There was no variation to his contract or the way that his contract was being interpreted by Investment NSW.

The Hon. DANIEL MOOKHEY: Okay.

The Hon. WES FANG: So, sorry, even though he invoked the name of the Premier et cetera, he didn't get what he wanted?

AMY BROWN: No.

The Hon. WES FANG: Cool.

The Hon. DANIEL MOOKHEY: Just going forward a bit in time, we've established from Ms Bell that there was another negotiation this year, was there not?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: We'll start, this time, with the outcome of it before we go through how did that come about and when did it start.

AMY BROWN: Okay.

The Hon. DANIEL MOOKHEY: But the effect of it was, rather than pay the Agent General cost of living, we instead decided to pay for his accommodation directly?

AMY BROWN: Exactly. So his cost-of-living allowance was reduced by 101,000, because that's the amount that we were paying rent directly to the landlord, and so that left him with a cost-of-living allowance of \$11,800.

The Hon. DANIEL MOOKHEY: And the net effect of that would be to lower the person's income for the purposes of income tax. That's correct?

AMY BROWN: I'm no tax expert by any means, but I know that it created a more favourable tax position for the employee.

The Hon. DANIEL MOOKHEY: Well, Ms Bell, to be fair, confirmed that it would lower it.

AMY BROWN: Good. Alright.

The Hon. DANIEL MOOKHEY: But it also resulted in the State of New South Wales having to pay the UK equivalent of fringe benefits tax, or more amounts of fringe benefits tax. Is that correct?

AMY BROWN: That's right.

The Hon. DANIEL MOOKHEY: So, effectively, the result of that particular negotiation was to transfer a tax liability from this individual to the State of New South Wales. That's fair?

AMY BROWN: That's a fair characterisation.

The Hon. DANIEL MOOKHEY: In respect to these two negotiations—sorry, just before we finish on the third, was there any other change?

AMY BROWN: No, just that one.

The Hon. DANIEL MOOKHEY: And when did it start and when did it end?

AMY BROWN: I believe it started—I don't think it was on 1 July. For some reason, I have 6 July. Anyway, the new financial year. No, 1 July, sorry. I don't know—it's definitely 1 July 2022.

The Hon. WES FANG: Ms Brown, how much is the FBT liability of these costs?

AMY BROWN: We only get an estimate from the tax office because, as you know, you get bills that you're never sure of from the outset. But the estimate is a maximum of 107,859.

The Hon. DANIEL MOOKHEY: Additional FBT?

AMY BROWN: Correct.

The Hon. DANIEL MOOKHEY: So that's pretty significant, yes?

AMY BROWN: It was more than I thought it was going to be, yes.

The Hon. DANIEL MOOKHEY: Well, it's almost the equivalent of the actual full cost-of-living allowance.

AMY BROWN: That's right.

The Hon. WES FANG: Is that a deduction—because it's next year in the UK that we have the employees that we use to employ, I guess, the operations within Investment NSW in the UK. Is that a deduction to that entity?

AMY BROWN: I'll need to take that on notice.

The Hon. DANIEL MOOKHEY: Secretary Brown, in the course of either the negotiation that took place in October or the negotiation which took place this year, did you apprise the Premier or Minister Ayres about the incoming request from the Agent-General?

AMY BROWN: The only Minister who was aware of—the first disagreement, no Minister was made aware or got involved, no Minister's office or anything like that. The second one, Minister Ayres was made aware.

The Hon. DANIEL MOOKHEY: Okay. Just to be clear here, the second one that says in July this year—sorry, the one that started this year?

AMY BROWN: Yes. I signed the document on 16 June.

The Hon. DANIEL MOOKHEY: Okay, 16 June. Yes. Just to be clear, Mr Cartwright indicated to you that he would seek to escalate this to the Deputy Premier—sorry, the Deputy Premier and the Premier.

AMY BROWN: He said the Minister or the Premier.

The Hon. DANIEL MOOKHEY: Oh, the Minister and the Premier.

AMY BROWN: Or the Premier, yes.

The Hon. DANIEL MOOKHEY: I was wondering why Mr Toole would get called.

AMY BROWN: No, no, no.

The Hon. DANIEL MOOKHEY: Thank you for clarifying that.

AMY BROWN: Leave him out of it.

The Hon. DANIEL MOOKHEY: To the best of your knowledge, did he actually do that?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: So Mr Cartwright does seek the intervention of the Minister and/or the Premier?

AMY BROWN: This time it was the Minister, not the Premier.

The Hon. DANIEL MOOKHEY: Okay.

AMY BROWN: Minister Ayres.

The Hon. SCOTT FARLOW: Minister Ayres, at the time.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: So, what, he contacted Minister Ayres?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: He called him?

AMY BROWN: WhatsApp.

The Hon. DANIEL MOOKHEY: WhatsApp?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Okay. What did he say?

AMY BROWN: I don't have—I was forwarded the message. He basically said he has been trying to resolve this issue with Investment NSW. All other States seem to do it that way, where they pay the rent directly so that the tax situation is more favourable, which is true, and he's sorry but he needs to escalate it, and can he please—I don't know the exact words, but—

The Hon. DANIEL MOOKHEY: So he went over your head?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: You're his employer, and he went over your head?

AMY BROWN: That's right.

The Hon. DANIEL MOOKHEY: He went to the Minister?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Has anybody else ever done that?

AMY BROWN: No.

The Hon. DANIEL MOOKHEY: I can assume that you weren't pleased that Mr Cartwright did that.

AMY BROWN: What was the question, sorry?

The Hon. DANIEL MOOKHEY: Is there any additional information you wish to provide, Ms Brown?

AMY BROWN: It's just around the first dispute.

The Hon. DANIEL MOOKHEY: We might get to that. I might give you the opportunity to return.

AMY BROWN: Yes, I think we should get to that because it's the headspace thing.

The Hon. DANIEL MOOKHEY: I can only imagine, as any person who finds themselves as an employer finds their employee going above them, that perhaps you didn't welcome that intervention from Mr Cartwright.

AMY BROWN: No. The good thing about it was that Minister Ayres contacted me and said, "Look, you can do what you like because Mr Cartwright is your employee. I just want to give you a heads up I've got this message. It might be a good idea to benchmark against other States and see what they do but I'm not telling you what to do and I really don't care about the outcome," basically.

The Hon. DANIEL MOOKHEY: Look, to be fair—let's go through the step-by-step play. So Mr Cartwright contacts Minister Ayres via WhatsApp?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Do you know when?

AMY BROWN: Twenty-third of March.

The Hon. DANIEL MOOKHEY: Twenty-third of March this year?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Okay, and presumably with a complaint about the manner in which his package has been structured?

AMY BROWN: Precisely.

The Hon. DANIEL MOOKHEY: And seeking the Minister's intervention?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And do you know the precise form of intervention that he sought? Was he asking the Minister to tell you what to do?

AMY BROWN: Yes. He just said he was escalating at because he wasn't getting any cooperation from Investment NSW.

The Hon. DANIEL MOOKHEY: So he actually told you he was going to do it?

AMY BROWN: No, no, no. I think he actually told Kylie Bell that he was going to do it, yes, not me.

The Hon. DANIEL MOOKHEY: Oh, okay. So he then sends a message to Minister Ayres on WhatsApp?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And then you said Minister Ayres forwarded it to you?

AMY BROWN: Yes. Oh, I think Minister Ayres called me and said, "I just got this slightly strange WhatsApp message. I'll send it to you but you can do whatever you think is best. I don't want to get involved."

The Hon. DANIEL MOOKHEY: Okay. To be clear, Mr Cartwright presumably would have had access to the Minister's number from a relationship they may well have had, correct? I can't send a WhatsApp message to Stuart Ayres.

The Hon. WES FANG: Can't you?

AMY BROWN: I know. He's quite approachable.

The Hon. WES FANG: You should be able to get someone at Sussex Street to get it for you.

The Hon. DANIEL MOOKHEY: I guess you were in no basis to know that, other than he clearly contacted him.

AMY BROWN: He clearly contacted him, yes.

The Hon. DANIEL MOOKHEY: It was referred back to you?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: I guess the obvious question is, it was highly inappropriate for the agent general to seek the intervention of the Minister about a matter related to his remuneration.

AMY BROWN: Highly inappropriate.

The Hon. DANIEL MOOKHEY: Almost unprecedented?

AMY BROWN: In my experience.

The Hon. DANIEL MOOKHEY: And resisted by you.

AMY BROWN: Well, what I did do, which is what the Minister casually suggested I do, although not in a pressured way, is ask Ms Bell to do some research on the way in which other States structure, in terms of whether they pay rent or school fees directly in order to assist with tax treatment, which she did.

The Hon. DANIEL MOOKHEY: At this point in time, Ms Brown, as a person who is ultimately responsible for Mr Cartwright's management, did you conclude that you had a problem with Mr Cartwright?

AMY BROWN: It wasn't looking great.

The Hon. DANIEL MOOKHEY: Did you seek to brief the Premier's office or Minister Ayres about the nature of the relationship that was developing between the agency and its agent general?

AMY BROWN: No. I think Minister Ayres is fairly intuitive and had picked up that the relationship was a little bit difficult and that there was an impression by this employee that they had the elevated status, for obvious reasons. I didn't discuss it with any other ministerial office.

The Hon. DANIEL MOOKHEY: That's because any such issue, if picked up on by Minister Ayres, it was really up to him whether he wanted to brief the Premier or not. Correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Obviously, ultimately the Premier is responsible for the entirety of the public service?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: We have seen reports emerge yesterday and this morning that the Premier was well and truly aware that there was a problem with Mr Cartwright.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Can we infer that he probably would've gotten that view from interactions with his Minister?

AMY BROWN: Yes. I'd probably made a few passing comments to Secretary Coutts-Trotter too, to be fair, but that was just, you know, more of a whinge.

The Hon. DANIEL MOOKHEY: You did, for want of a better term, whinge to the secretary of DPC about the complexity of your management of Mr Cartwright?

AMY BROWN: Well articulated.

The Hon. DANIEL MOOKHEY: I presume that that would've taken place in your regular interaction with the secretary of DPC.

AMY BROWN: It was so casual. It could've been before or after a meeting.

The Hon. DANIEL MOOKHEY: But it wasn't major.

AMY BROWN: No. I didn't go to him with a problem.

The Hon. DANIEL MOOKHEY: Fair enough. But equally it is clear that at the same time Minister Ayres is being contacted directly by Mr Cartwright to complain about his package, at some time you are alerting, be it in a very casual way, the secretary of DPC there are emerging issues or issues that have emerged.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Presumably that could or could not have featured in the discussions that we were having that basically the events of April and May, in which there are discussions at Stratco about the STIC positions in general and the STIC Americas position in particular, it's possible that it was in that context, but you wouldn't know, would you?

AMY BROWN: Wouldn't know.

The Hon. DANIEL MOOKHEY: As a result, clearly at this point it's fair to say that Minister Ayres was entitled to enough information to conclude on his own volition that there was a problem with the agent general?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: You weren't withholding any of this information from the Minister?

AMY BROWN: No.

The Hon. DANIEL MOOKHEY: It wasn't like you were trying to manage it yourself and keep it away from the Minister?

AMY BROWN: I was managing myself insofar as, very clear, he's my employee. But I think I relayed to the Minister that perhaps the agent general didn't understand that he was my employee.

The Hon. DANIEL MOOKHEY: But you didn't really need to tell the Minister, did you, because Mr Cartwright solved that problem for you.

AMY BROWN: That's right. I think once he WhatsApp-ed the Minister, it all became a bit obvious, yes.

The Hon. DANIEL MOOKHEY: You didn't really need to be a detective to figure out that there's a problem. So at this point we can establish that certainly by 23 March Minister Ayres was entitled to conclude himself that there was a problem and he may or may not have disclosed that to the Premier.

AMY BROWN: Sure.

The Hon. DANIEL MOOKHEY: But you have no idea.

AMY BROWN: No idea.

The Hon. DANIEL MOOKHEY: You never had any conversation with the Minister afterwards in which he said to you, "Hey, I've told the—"

AMY BROWN: No.

The Hon. DANIEL MOOKHEY: Fair enough. I might just, if you don't mind, give the Government opportunities to ask some clarifying questions while I converse with a colleague.

The Hon. WES FANG: I just want to establish the time lines, if that's okay, Ms Brown.

AMY BROWN: Yes.

The Hon. WES FANG: In relation to the Opposition's questions, you have inherited the negotiations with the candidate for the agent general position. They were protracted. That candidate believed that they deserved more money. There was a differing view between perhaps the Premier's office and the Treasurer's office as to what that should be. Ultimately, though, it was settled that the lower figure—the top of band three—would be what was settled on and that's what was actioned. Is that correct?

AMY BROWN: Correct. They couldn't direct me, even if they wanted to.

The Hon. WES FANG: No. And so in that respect, even though the Treasurer's office may have had a view about what a public service position that has an equivalent in the private sector may get in that private sector, ultimately, it being a public service position, they weren't paid any more than that band of that public service position.

AMY BROWN: That's right.

The Hon. WES FANG: The Opposition then turned to some of the negotiations that were happening between yourself and the candidate, sorry, I think they were agent general at the time, around the allocation of allowances and the like. At this time the candidate, sorry, the agent general invoked—I think was the word that was used—the Premier and the Minister. I know that it's been discussed with the Deputy Premier previously, but obviously that was I think past 4 October—

AMY BROWN: Yes, it was.

The Hon. WES FANG: —when Mr Barilaro wasn't the trade Minister anymore and the new Deputy Premier wasn't involved at all and he wasn't invoked.

AMY BROWN: No, he wasn't the trade Minister.

The Hon. DANIEL MOOKHEY: When you are done, Mr Fang, we have five more minutes and only one more question and then go to you.

The Hon. WES FANG: In relation to the suggestions that the Opposition are putting forward that the invoking of any names that the agent general may have done was done in order to provide benefit to that person, in reality they didn't get anything at all and you actually, I will say, stuck to your guns. Is that correct?

AMY BROWN: In terms of the original contract and the first variation that was sought, that's correct.

The Hon. WES FANG: And so at most what occurred was the Minister suggested to you that we should perhaps look at what other jurisdictions do with similar positions and similar posts and that resulted in an investigation of those jurisdictions, working out the fact indeed the agent general was right on one account and that the rents for that position overseas were paid by the entity, and so that was accepted and that was adopted but everything else was not accepted.

AMY BROWN: Yes. I believe the majority of other States did it that way, so we decided that that seemed fair.

The Hon. WES FANG: So there was precedent set by the other States and we just follow that precedent.

AMY BROWN: That's right, yes.

The Hon. SCOTT FARLOW: I might just clarify this as well. Ms Brown, I understand you went to Australia House in February, was it, this year? Is that right?

AMY BROWN: No, I went to London in February.

The Hon. SCOTT FARLOW: Did you go to Australia House at the time?

AMY BROWN: No.

The Hon. PENNY SHARPE: Remember, that was the time they didn't go to the office.

The Hon. SCOTT FARLOW: Yes, okay.

AMY BROWN: For good reason.

The Hon. SCOTT FARLOW: But your understanding of Australia House and where the agent general is situated is that effectively all the agent generals are in there together, so to speak?

AMY BROWN: Yes.

The Hon. SCOTT FARLOW: So the agent generals are all talking with each other about potentially their arrangements and all that.

AMY BROWN: Have you seen LinkedIn?

The Hon. PENNY SHARPE: I have.

The Hon. SCOTT FARLOW: I'm not aware what the LinkedIn comments are like. But in terms of—

AMY BROWN: Lots of group photos.

The Hon. SCOTT FARLOW: —where the agent general is situated, he would no doubt be hearing this information from other agent generals that are located in effectively offices next to him about their arrangements.

AMY BROWN: I am certain of it.

The Hon. SCOTT FARLOW: And that would have led perhaps to discussions that occurred with you.

AMY BROWN: Yes.

The CHAIR: Interesting. Questions from the Opposition now. Questions are just flowing freely at the moment.

The Hon. DANIEL MOOKHEY: Just a few more—just sort of details of clarification. You were in the DPC cluster at the time that the contract was executed with Mr Cartwright, correct?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: Okay. And so, presumably, if the total package exceeded band 3, did that require the secretary of DPC at the time, Mr Reardon, to be briefed?

AMY BROWN: No. We did get advice that it's within the rules to specify a remuneration that includes in-band remuneration plus an allowance. So because it was—the remuneration was in band, then I was authorised to sign it.

The Hon. DANIEL MOOKHEY: And then, Ms Brown, you actually did sign it?

AMY BROWN: I signed the contract.

The Hon. DANIEL MOOKHEY: Okay. Great. Thank you. The other detail that I wanted to clarify—you made reference to the fact that there was another candidate who, you indicated to the Treasurer's office, may be an acceptable alternative to Mr Cartwright, given his very high levels of expectation. I heard you correctly say that?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: You also said that that person is now employed at Investment NSW. Did I hear you correctly?

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: I don't want you to name the person, but what do they do?

AMY BROWN: They're—so we have senior trade and investment commissioners, then the idea is that they sort of have a 2IC who is called a TIC—Trade and Investment Commissioner—and they're a TIC for UK and Europe.

The Hon. DANIEL MOOKHEY: Okay. Thank you. I'm fairly positive that's my last question. I know Ms Sharpe does have some. But I just wanted to say thank you, Ms Brown, for listening to my very sensitive questions throughout three hearings.

The Hon. PENNY SHARPE: I wanted to ask about something that was reported earlier today, and that was a report of an email that you sent on 14 August 2021 that said that you'd been asked to include two candidates in interviews for the India- and Singapore-based roles. Can I ask you—not a lot—just a couple of questions on this?

AMY BROWN: You may.

The Hon. PENNY SHARPE: I wanted to ask, firstly, who asked you to include the two candidates in the interviews?

AMY BROWN: I think, by using that language, I was essentially saying that each of those candidates had requested that they be included in interviews.

The Hon. PENNY SHARPE: Right. So it wasn't the case that someone—there was a directive, or anything like that.

AMY BROWN: No directive.

The Hon. PENNY SHARPE: How did you become aware of those two candidates?

AMY BROWN: The Deputy Premier gave me a call. That was one of the other calls.

The Hon. PENNY SHARPE: So No. 2 of three calls that you ever had?

AMY BROWN: That's right. And said—

The Hon. PENNY SHARPE: Sorry, the Deputy Premier at the time being Mr Barilaro?

AMY BROWN: That's right, because it was in August 2021. And said, "Am I able to refer the STIC opportunities on to people?" I said, "Of course, Deputy Premier, you can refer it to whoever you like." And he said, "Fantastic. There are two people who are going to give you a call, just to see how to apply." I said, "Of

course, that's fine." And he texted me their numbers, so then their numbers were in my phone. So then there was a back and forth as to what time would be convenient for me to give them a call. And I called each of them and let them know the process.

The Hon. PENNY SHARPE: And those two people were—can you just tell the Committee, please?

AMY BROWN: The individuals' names?

The Hon. PENNY SHARPE: Yes.

AMY BROWN: I don't think I can discuss—

The Hon. PENNY SHARPE: Right. Okay. Well, they were publicly reported, so why don't I ask you were they former MP Jodi McKay?

AMY BROWN: Yes.

The Hon. PENNY SHARPE: And former MP Pru Goward?

AMY BROWN: Yes.

The Hon. PENNY SHARPE: And it was a result of Mr Barilaro—Mr Barilaro contacted you in the first place and said—

AMY BROWN: "I'd like to refer the opportunity"—

The Hon. PENNY SHARPE: —that you'd like to refer them. And so was your expectation, then, that you would be required to interview them for the role?

AMY BROWN: Interestingly, I was very clear at this point, again, that these were Government Sector Employment Act roles, so I knew that I didn't have to interview them. But I definitely thought that each of those individuals would be really interesting people to interview, and that they would have something to say about the opportunities. So I was keen to include them on the list.

The Hon. PENNY SHARPE: Can you just clarify to us where you were up to with the other roles? So there had already been interviews, is that right, for those roles?

AMY BROWN: Correct.

The Hon. PENNY SHARPE: Can you just tell us where they were coming in, in the time line of the process?

AMY BROWN: Sure. So we'd actually already had sort of approximately half a day of interviews for the ASEAN and the Indo-Middle East role—the month prior, actually. So they were—it is certainly fair to say that they had come in late. They were a late consideration.

The Hon. DANIEL MOOKHEY: And to be fair to those candidates, they may not have known that, correct?

AMY BROWN: That they were late? I don't—no, they probably didn't know.

The Hon. PENNY SHARPE: No, correct. We're not alleging that.

The Hon. DANIEL MOOKHEY: Look, Ms Brown, I misled you—

The Hon. SCOTT FARLOW: And also, if I can just clarify as well, neither of those candidates were successful applicants?

AMY BROWN: Neither of those candidates were ultimately successful.

The Hon. DANIEL MOOKHEY: Ms Brown—

The CHAIR: We do need to move on to Government questions in a sec.

The Hon. DANIEL MOOKHEY: Are you okay with just one or two?

The Hon. SCOTT FARLOW: Do you have anything?

The Hon. WES FANG: I do have plenty, but—

The Hon. DANIEL MOOKHEY: Just a couple? Just two more?

The Hon. WES FANG: Sure.

The Hon. DANIEL MOOKHEY: Thank you, Wes. I did—

The Hon. SCOTT FARLOW: You indulged us before.

The CHAIR: I have been keeping time; I'm conscious of where we're up to.

The Hon. DANIEL MOOKHEY: Ms Brown, I misled you when I said they were my last questions. I apologise.

The Hon. WES FANG: He does that a lot.

The Hon. DANIEL MOOKHEY: I have been provoked.

AMY BROWN: It's an encore.

The Hon. WES FANG: Greatest hits—returning one last time, John Farnham.

The Hon. DANIEL MOOKHEY: The only thing is this conversation presumably would have taken place with you and the Deputy Premier in August, correct, given you sent that email in August?

AMY BROWN: The phone call?

The Hon. DANIEL MOOKHEY: Yes.

AMY BROWN: Yes.

The Hon. DANIEL MOOKHEY: And I can only presume that it was the only incidence in which the Deputy Premier contacted you directly to apprise you of an interest of two candidates or other candidates?

AMY BROWN: Correct.

The Hon. DANIEL MOOKHEY: Incidentally, this is happening in August. At the same time, there's conversations about the preparation of a Cabinet submission to turn these into ministerial appointments, correct? Which was happening in August.

AMY BROWN: Yes, although those conversations commenced later in August, because you'll remember I verbally offered a candidate the role on the twelfth and then started getting asked for advice in early September as to the conversion. And then the decision ultimately ended up being made on 27 September. So this was still quite a bit before.

The Hon. DANIEL MOOKHEY: Okay. Thank you, that clarifies. Thank you again, that was my last question.

The CHAIR: Okay, great. Questions from the Government members? Mr Fang, your turn.

The Hon. WES FANG: I'm just checking Mr Mookhey's finished—most definitely, 100 per cent?

The Hon. PENNY SHARPE: Depends on your questions, Mr Fang.

The Hon. WES FANG: Well, that's true. Ms Brown, again, thank you for appearing. Just to follow on, I think, from where Mr Mookhey finished off, which is obviously Ms McKay and Ms Goward's applications to Investment NSW for those roles. Certainly we've heard that late applications are not outside the norm. Indeed, Ms West's application, herself, was after there was already a short list, I believe. She had been emailed that short list with the, I think, psychometric information that we discussed with Ms Bell on Friday. Is that correct?

AMY BROWN: It was a candidate progress report, yes.

The Hon. WES FANG: Yes. So it wasn't unusual in that instance that that occurred in the process. Neither of those candidates were successful, as my colleague said.

AMY BROWN: That's right.

The Hon. WES FANG: That's correct. In that instance, was there any political pressure applied to you to review, reverse or re-look at that decision?

AMY BROWN: No.

The Hon. WES FANG: So even though the Deputy Premier at the time had approached you with these two names—one from, obviously, a Coalition partner of The Nationals and one from the Labor Party; so obviously there was a mix of political persuasions within the two candidates—there ultimately was no political pressure to appoint one and not the other, or both of them, or neither of them. It was completely an apolitical decision that was left to you and the public service to look at the relative merits of each candidate.

AMY BROWN: Yes, at this point they were very strict GSE Act appointments. That's how I was interpreting them, and I wasn't engaging with any Ministers on them at all, which led to a very different outcome anyway.

The Hon. WES FANG: Okay. Given that Mr Barilaro at the time was the trade Minister, do you think there is an expectation that if he sees or identifies suitable candidates for perhaps being put forward from the Opposition—like Ms McKay—that he do so, given that he obviously wants to have the best people in the role, despite what their political persuasions are?

AMY BROWN: Yes. I think, in hindsight, I could have actually given the Deputy Premier more updates when it came to how the recruitment process was going for these roles. It's just the line for these sorts of high-profile appointments—the line feels very invisible, so I was never sure exactly how much updating to be giving. But the fact that he referred two candidates to me is perfectly reasonable.

The Hon. WES FANG: And not outside the realms of what would be considered reasonable?

AMY BROWN: No.

The Hon. WES FANG: I guess the other part of that question that I was asking was, as the trade Minister, you would expect, as the CEO of Investment NSW and the secretary of that department, that if a Minister had identified that there was a suitable candidate, or somebody that would be a potential candidate, that they would refer them to you to be able to, I guess, provide them some insights around the role, provide them with some more information so that they may start the process with you or the recruitment agency around that role?

AMY BROWN: For sure.

The Hon. WES FANG: Thank you. I want to turn now back to Mr Mookhey's initial—sorry, it might have been Ms Sharpe's initial questioning, or Mr Mookhey, or a melding of the two—I'm not quite sure as to who it was.

The Hon. PENNY SHARPE: We're very well melded at this point.

The Hon. WES FANG: We obviously referred to an email that was sent from Investment NSW to a number of people. It was page 19 of the tender bundle from Mr Mookhey.

AMY BROWN: Oh, yes.

The Hon. WES FANG: Volume one, I think, as opposed to volume 23 or 24, which I think we're probably up at about at the moment. Obviously the email went to a number of people. I can see where the Opposition are leading with around the name of somebody who obviously received the email. But I guess the first thing would be that there has been a lot of emphasis put on the fact that one person received that email. It would be reasonable to say that that person may or may not have read that email. You probably don't have to answer that but I'll put that position to you—

AMY BROWN: I can't say.

The Hon. WES FANG: —as I'm progressing this line of questioning. The second thing is that we heard on Friday that Labor shadow—and I can't remember who the Labor shadow is for trade; I don't think they've been very visible at all.

The Hon. PENNY SHARPE: Anoulack Chanthivong.

The Hon. WES FANG: Thank you.

The Hon. SCOTT FARLOW: Very high profile.

The Hon. WES FANG: Yes, very high-profile shadow Minister.

The Hon. PENNY SHARPE: He's terrific. He's in the other place; he doesn't get to do this.

The Hon. WES FANG: He might have put a press release out about the STICs role around the same time. Are you aware if that perhaps played a role in the Minister wanting these positions advertised early?

AMY BROWN: I think it's just we'd said a number of times that we'd, kind of, get going on all of them and be progressed by the end of the year—maybe even said it in estimates. So I think he just didn't want things to clock over into 2022 and not have been started—just a bad look.

The Hon. WES FANG: So here's the bit that I'm, I guess, really struggling with. Perhaps you can help me here, because I'm not sure the Opposition has really drawn the parallels—and, certainly, I can't in my mind. Let's say, for example, that the person did read the email and they certainly were aware that the Minister was

going to advertise the role. Can you perhaps explain to me how materially it provides an advantage to a candidate to know that the Minister may or may not advertise a role before the end of 2021 so that they can be added—how does that help them be added to the shortlist? How does that help them pass the selection board? How does that help them gain acceptable reference checks? And how does that help them to become the preferred candidate for the role? Because I'm really struggling to draw parallels as to how being included on this email here was materially beneficial to Mr Barilaro eventually becoming the preferred candidate for the role.

AMY BROWN: I don't know, to be honest. This is a role we've been to market for before, and we needed to resolve tax issues and the like before we went to market again. It was widely known that we wanted to roll out the global network as quickly as possible. And, in fact, when we launched the Trade Statement we said that. So I don't think it was strange or startling that this role was going out by the end of the year, personally.

The Hon. WES FANG: Other than—obviously there was the political component around the ad. Obviously Ms West was in charge of the advertisement for round one, where she didn't include "political" for the Americas role, which, ultimately, I guess, would've been of benefit to her when she applied. But it seemed to have been included in all the other advertisements that had rolled out for that round one, I guess, phase. But when the phase two came about, the ad was substantially the same ad as round one. There really is no material benefit to having knowledge around this email or not.

AMY BROWN: Yes. The role description was the same. So anything that was released I suppose was already in the public domain because the role had been advertised before.

The Hon. WES FANG: So would it be fair to say that potentially we're just seeing a bit of muckraking and dirty politics from the Opposition here?

AMY BROWN: That's not for me to comment.

The Hon. WES FANG: Thank you. I'm done, Chair.

The Hon. ROBERT BORSAK: Good try.

The Hon. SCOTT FARLOW: I might just have one question, Ms Brown, that occurs to me from that interaction.

The Hon. ROBERT BORSAK: It comes from a professional muckraker.

The Hon. SCOTT FARLOW: With respect to Mr Barilaro's evidence before was that in terms of the brief that was sent to him about Ms West and her role as a candidate, he reiterated to this Committee that he had no recollection of that brief at least, or of seeing it.

AMY BROWN: Yes.

The Hon. SCOTT FARLOW: Do you have any—in any of your interactions with him did you ever raise Ms West as the STIC Americas role?

AMY BROWN: I gave him a very quick heads up that there was a brief on its way to him that had a successful candidate named within it and he should look out for it.

The Hon. SCOTT FARLOW: But you never discussed who that successful candidate—

AMY BROWN: I never discussed the person, which in hindsight might have been an error.

The Hon. SCOTT FARLOW: Okay. Thank you.

The CHAIR: Okay. That's it. Thank you.

AMY BROWN: I ended on the word "error". That's so disappointing.

The Hon. DANIEL MOOKHEY: Was there anything else you would like to say, Ms Brown?

AMY BROWN: Yes, thank you, Mr Mookhey. I would like to particularly thank my team in Investment NSW, who have worked every weekend for the last seven weeks and will probably work more. I think the amount of blood, sweat and tears that goes into public accountability and being able to respond to a committee such as this should never be underestimated and I would like to thank them.

The CHAIR: Thank you very much. Thank you so much for your attendance over the three days and for being so open with information and helping us as much as you can. That is the end of the hearing for today. The questions that you have taken on notice, the secretariat will be in touch with you about it and of course you have 21 days to get those back to us. Thank you very much, Ms Brown. That is the end of our hearing and we will be back on Friday.

AMY BROWN: Thank you so much.

(The witness withdrew.)

The Committee adjourned at 16:30.