

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 2 - HEALTH

COVID-19 CLASSIFICATION OF THE MINISTER FOR HEALTH

UNCORRECTED

At Macquarie Room, Parliament House, Sydney, on Friday 25 November 2022

The Committee met at 9:30.

PRESENT

The Hon. Greg Donnelly (Chair)

The Hon. Emma Hurst (Deputy Chair)

The Hon. John Graham

The Hon. Mark Latham

The Hon. Aileen MacDonald

PRESENT VIA VIDEOCONFERENCE

The Hon. Lou Amato

The Hon. Taylor Martin

The CHAIR: Welcome everybody to this public hearing of Portfolio Committee No. 2 for this inquiry into the COVID-19 classification for the Minister for Health. My name is Greg Donnelly and I am the Chair of the Committee. Before we commence, I would like to acknowledge the Gadigal people of the Eora nation, the traditional custodians of the land on which we are meeting today. I pay my respects to Elders past and present, and to their ongoing connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to Aboriginal and Torres Strait Islander people who may be joining us today, in person or over the internet. Today we will be hearing from witnesses who were either at the event in question, involving the health Minister, or were employed by NSW Health and involved in the public health response to the COVID-19 pandemic. We thank everyone for making their time available to give evidence to this important inquiry, particularly given the time of the year and time pressures on everybody.

Before I commence, I would like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, the House has authorised the filming, broadcasting and photography of the Committee proceedings by representatives of media organisations who may be joining us sometime this morning, from any position in the room, and by any member of the public, from any position in the audience. Any person filming or photographing proceedings must take responsibility for the proper use of the material. This is detailed in the broadcasting resolution, a copy of which is available from the Committee secretariat.

While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at this hearing. I, therefore, urge witnesses to be careful about comments they may make to media or others after they complete their evidence today before the hearing. Committee hearings are not 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's 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 a witness wishes to hand up documents, they should do so through the Committee staff. Finally, due to the tight time frame for the Committee of this inquiry in terms of tabling its report to the House, witnesses will not be asked questions on notice and there will be no supplementary questions.

In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into their microphones. As we have a number of Committee members in person and via videoconference, it may be helpful to identify who questions are directed to and who is speaking in responding to those questions. 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 tele-coil receivers. Finally, I invite everyone to check your phones to ensure that they are silent for the duration of the hearing.

Mr DAVID HEFFERNAN, Private Individual, sworn and examined

The CHAIR: Mr Heffernan, I am sure you would be aware by now that we have processed your submission to the inquiry, which is most helpful. Thank you for providing it to us. It has been processed. It stands as submission No. 3 to the inquiry and has been uploaded to the inquiry's webpage, and it's publicly available. I thank you for that. If you wish to do so, we invite our witnesses to make an opening statement, bearing in mind we have received your submission. If you wish to proceed that way, you can. If not, we can go straight to questioning. We have representatives here around the table representing the Opposition, the crossbench and the Government, and we have an allocation of time of just a bit under 45 minutes now, closer to 40 minutes or thereabouts, and what we do is provide opportunities for Committee members to ask questions in a free-flowing way. Are you comfortable with that format?

DAVID HEFFERNAN: Yes.

The CHAIR: First of all, then, would you like to make an opening statement?

DAVID HEFFERNAN: No, I'm fine.

The CHAIR: Okay. We will get underway, then. I invite the Hon. Mark Latham to commence questioning.

The Hon. MARK LATHAM: Thanks, Mr Heffernan. You are now under oath and bound by the provisions of the Parliamentary Evidence Act. Under oath, do you stand by the full contents of the statement that has been provided to the Committee and now taken as a submission dated 17 November?

DAVID HEFFERNAN: Yes.

The Hon. MARK LATHAM: You do? You should have available in front of you there a copy of a statement, also taken as a submission, from Adam Marshall that contradicts directly with your version of events. If I can quote Mr Marshall, he says:

I clearly recall standing at the northern end of the room—

this is the National Party fundraising dinner in the Strangers' dining room—

engaged in a conversation with two gentlemen representing the Pharmacy Guild of NSW, one of whom was David Heffernan, who is well-known to me—

Adam Marshall—

At some point we saw the Health Minister enter room from the door at the northern end ... and he made his way across and joined us in conversation. It was obvious to me, as well as completely understandable, that Mr Heffernan was also well-known to the Health Minister. The four of us were engaged in conversation at close quarters for several minutes before the Minister moved on to another part of the room.

How do you explain this dramatically divergent recall of events between yourself and Mr Marshall?

DAVID HEFFERNAN: I can't explain Mr Marshall's recollection; I can only explain my own.

The Hon. MARK LATHAM: Do you recall having a meeting in my office on Thursday 20 October?

DAVID HEFFERNAN: Yes, correct.

The Hon. MARK LATHAM: We discussed the event that we're talking about, and I asked you who the fourth person was in the conversation between yourself, Hazzard and Marshall.

DAVID HEFFERNAN: Yes.

The Hon. MARK LATHAM: You do? What was your answer to that question?

DAVID HEFFERNAN: I think I said it was Walshy.

The Hon. MARK LATHAM: You said it was Walshy. So how can you now tell us, in answer to a question I asked you on 20 October, that there were four people in the conversation—yourself, Mr Walsh, Adam Marshall and Brad Hazzard—which accords with the Marshall recollection of events? How can you have given us a statement, which you say you confirm under oath, that the four of you at no time were actually together in a conversation?

DAVID HEFFERNAN: I don't think we really had a conversation between the four of us, collectively. My recollection is that I was in a conversation with Minister Marshall, and I introduced Minister Marshall to Richard Walsh, and then Mr Hazzard entered the room, and I went over and acknowledged Minister Hazzard. My

recollection is that he just nodded to us. I don't believe we really had a conversation for several minutes. My recollection is that not long after him entering the room, he went to or was asked to the podium to give a short speech.

The Hon. MARK LATHAM: You have said earlier on that—in answer to the question I asked you on 20 October, "Who was the fourth person in the conversation between yourself, Marshall and Hazzard?" you said Walshy. Doesn't that indicate that the four of you were together in conversation?

DAVID HEFFERNAN: I don't believe so. I know we were talking about cricket. That was before Minister Hazzard walked into the room. We were talking about cricket because Minister Marshall and Richard Walsh are cricket fans.

The Hon. MARK LATHAM: Was there a conversation topical at the time about the vaccination rollout using pharmacies, particularly in country areas that don't have a GP or a hospital?

DAVID HEFFERNAN: That's a well-versed conversation I have with all sorts of politics.

The Hon. MARK LATHAM: So that was also part of the conversation with Adam Marshall and Brad Hazzard?

DAVID HEFFERNAN: I don't remember the specifics of talking about—I only remember talking about cricket, to be quite honest.

The Hon. MARK LATHAM: You have no recollection of the conversation with Adam Marshall and Brad Hazzard about the vaccination rollout, using your own members, the Pharmacy Guild members, in parts of the State that don't have a GP or a hospital?

DAVID HEFFERNAN: I wasn't there if there was a conversation between Minister Marshall and Minister Hazzard regarding vaccination.

The Hon. MARK LATHAM: In my office on 20 October, do you recall expressing surprise that Brad Hazzard didn't have to isolate after this event like everyone else, including yourself?

DAVID HEFFERNAN: No, I don't recall expressing surprise in your office.

The Hon. MARK LATHAM: You don't? Okay. Can I put it to you, Mr Heffernan, that your account of events is quite vague and misleading, compared to the very clear recollection that Adam Marshall has given this Committee? We are dealing with a very important matter, and that is the consistency of the health Minister in dealing with his own health orders that he has imposed upon millions of people in the rest of New South Wales. Isn't it true that Hazzard came over to you, Marshall and Walsh and had a conversation for several minutes as per the Marshall statement?

DAVID HEFFERNAN: Minister Hazzard entered the room. Where we were standing wasn't far from the entrance, which I believe is over that side from where he came in—sorry, could you repeat the question? "Isn't it true"—

The Hon. MARK LATHAM: Well, I think what the Committee has in front of it is your vague and misleading recollection of events, compared to a very clear recollection from Adam Marshall that the four of you were engaged in a conversation.

DAVID HEFFERNAN: Look, it's a year ago, so understandably vague. I take a point to the suggestion that I'm misleading, and I stand by my statement that I—as Minister Hazzard approached, or came into the room, I saw him and went over and acknowledged him.

The Hon. MARK LATHAM: And who else was present for that acknowledgment or conversation?

DAVID HEFFERNAN: Well, I had a short acknowledgment to Minister Hazzard, and he nodded over to Minister Marshall, and very soon after that he went up to the podium, and very soon after that he left the room.

The Hon. MARK LATHAM: Nodding over to Minister Marshall, what does that mean in practice?

DAVID HEFFERNAN: A nod, basically. I don't recall any—

The Hon. MARK LATHAM: How close was he to Minister Marshall at that point?

DAVID HEFFERNAN: You know, a few metres perhaps.

The Hon. MARK LATHAM: Right. So it would be valid to say the four of you were in a conversation group, if it is just a couple of metres that we are talking about?

DAVID HEFFERNAN: It was pretty—well, if one wanted to say that, they could, yes.

The Hon. MARK LATHAM: Okay. So that's now your evidence, that there was a conversation group between the four of you: yourself, Marshall, Hazzard and Richard Walsh?

DAVID HEFFERNAN: No, I wouldn't say it was a conversation. But anyway, if there was a—

The Hon. MARK LATHAM: The four of you were close enough to—

DAVID HEFFERNAN: —small moment in time, there was a gathering.

The Hon. MARK LATHAM: There was a gathering. Okay, you are saying now there was a gathering and that gathering, in the context of COVID, you were close enough physically to each other for transmission to occur, potentially?

DAVID HEFFERNAN: Using my clinical knowledge—look, you couldn't presume with this virus, not then and not now. We learn about it every day, so I couldn't give a definite answer to the transmissibility of the event.

The Hon. MARK LATHAM: But it was possible?

DAVID HEFFERNAN: Potentially.

The Hon. MARK LATHAM: Adam Marshall was infected at the time, and he's a couple of metres away, you say, in a gathering of the four of you. So it's possible that transmission could have taken place.

DAVID HEFFERNAN: Yes, between me and Adam, I would say most definitely, because I was speaking to Adam for five or 10 minutes. But I can't speak for Minister Hazzard.

The Hon. MARK LATHAM: Did you have any contact with Minister Hazzard prior to lodging your statement with the committee?

DAVID HEFFERNAN: When, for some reason, the journalist decided to out me as an attendee of that event, amongst other people, I got many phone calls. I got a phone call from Minister Hazzard, yes.

The Hon. MARK LATHAM: What was said at that point?

DAVID HEFFERNAN: We discussed about that event. I discussed the steps I had taken, knowing that I was a close contact. We discussed the event, yes. I don't recall much else, though.

The Hon. MARK LATHAM: This was in June last year. Did you express surprise to Minister Hazzard that you were isolating for a fortnight and he wasn't?

DAVID HEFFERNAN: I was, like everyone, more concerned about my own personal responsibility, not Minister Hazzard's. I did what I was told to do, basically, once I'd sought advice from both ACT Health and NSW Health.

The Hon. MARK LATHAM: In more recent times, have you had contact with Minister Hazzard about the preparation of your statement and your appearance here today?

DAVID HEFFERNAN: No.

The Hon. MARK LATHAM: Or anyone associated with the Minister?

DAVID HEFFERNAN: No. I contacted Minister Hazzard about Pharmacy Guild—pharmacy matters, I should say. Yes, and I did discuss, when I saw it on Twitter, the events of this committee meeting when you and Minister Hazzard were conversing—in a gathering, one might say.

The Hon. MARK LATHAM: What conversation did you have with Minister Hazzard about the matter?

DAVID HEFFERNAN: I said to Minister Hazzard, "That was interesting." I think it was more of a humorous discussion, and it was pretty benign. Yes, that's about it. There wasn't much said about it. I did say I may be appearing as a witness, but—

The Hon. MARK LATHAM: How did the Minister respond to that?

DAVID HEFFERNAN: He just responded with a few comments about the events of that interaction between yourselves in the committee when he was being questioned.

The Hon. MARK LATHAM: What contact and coordination did you have with Richard Walsh in the preparation of your two statements, which seem to mirror each other?

DAVID HEFFERNAN: We've had offhand conversations. When we were seeing many members of Parliament and canvassing our industry and community pharmacy, I know we had a function in Parliament House

that night, which you attended. I spoke to Richard after that, but it was fairly benign. It was just saying, "Alright, looks like we might be appearing in front of a committee." But other than that, Richard and I—he got his legal advice and that legal advice was basically separate, so we were in different rooms. I haven't had much interaction with Richard, except for the Sydney Institute, which we were both at. We didn't talk about this, though.

The Hon. MARK LATHAM: You've told us today that there was what you've described as a gathering of the four of you. Why isn't that reflected in your statement?

DAVID HEFFERNAN: I think I may have said previously one might call it a gathering. I'm not necessarily saying it is; if you want to call the whole room a gathering, you could. You know, people were in a room. There were no health orders at the time, I understand; otherwise, I would not have been there. As far as that, yes, I wouldn't—I don't believe it was a close gathering and Minister Hazzard was a good distance away from Minister Marshall. But, you know, I'm not sure what orders were in there or the advice. I'm pretty sure, but I'm not certain.

The Hon. MARK LATHAM: Right.

DAVID HEFFERNAN: I think there was a period of time where most people were asked to maintain personal responsibility with regard to advice and not orders, but I can't be sure exactly of the dates. One thing I am sure is that the next day was when Bondi started to, or was asked to, lock down, and most of Sydney. I was halfway to Canberra by the time that happened.

The Hon. MARK LATHAM: Right. Have you got any reason to doubt Adam Marshall's submission to the Committee that "The four of us were engaged in conversation at close quarters for several minutes"?

DAVID HEFFERNAN: No. I've got no reason to doubt Minister Marshall.

The Hon. JOHN GRAHAM: Firstly, thank you for appearing, Mr Heffernan. It is helpful. One of the reasons that this Committee is revisiting this is that it has not been possible to determine exactly what's happened through the estimates process—one you've described as interesting. It really didn't shed a lot of light on this, which is why we appreciate your being here today. I will return to that question that has just been put because former Minister Marshall's statement is very clear. He details the fact that he is in discussion with you and your colleague and then says:

At some point we saw the Health Minister enter [the] room from the door at the northern end (the door closest to the Members Dining Room entrance) and he made his way across and joined us in conversation. It was obvious to me, as well as completely understandable, that Mr Heffernan was also well-known to the Health Minister.

The four of us were engaged in conversation at close quarters for several minutes before the Minister moved on to another part of the room.

That's a clear contradiction to where your statement started, and the Committee has to weigh those up. You've said, "Look, this was a year ago. You can understand there might be some vagueness." How strongly do you feel about your recollection, now you've seen this statement from former Minister Marshall recalling clearly this discussion?

DAVID HEFFERNAN: No, my recollection is pretty strong because, by virtue of being published in the media as a potential spreader, I was very diligent in my actions and what I should do there going forward, including conversation with Mr Hazzard nearly 48 hours later, and with Richard Walsh. We went over the events. I remember speaking to Richard and we were both surmising that it was very unlikely we would be infected, but we had to do what we thought was right, and that's it. What was your question exactly, again?

The Hon. JOHN GRAHAM: Given the contradiction—

DAVID HEFFERNAN: Given the contradiction—

The Hon. JOHN GRAHAM: The statement from Adam Marshall says clearly, "Here are some things I don't recall, but here are some things I do. And this is one of them." How strongly do you—given he says, "The four of us were engaged in conversation at close quarters for several minutes before the Minister moved on", is that possible that that did happen or are you ruling that out categorically?

DAVID HEFFERNAN: I can't say that you could derive a binary position on this. It depends on the definition of "conversation". My recollection is he came—Minister Hazzard, that is. I approached him. But it wasn't like—I only took a few steps towards him, and we had a short chat. And he nodded to Adam or may have said his name—I don't recall. Then we started chatting—presumably about vaccines, but I can't remember—and then he said, "Yeah, look, I've got to get up on stage now", and then off he went, and that's the last I saw of him.

The Hon. JOHN GRAHAM: So there was some conversation, however brief. That's agreed. It's really then the length of that conversation, how close the quarters were—the two things—that are really in doubt here. Is that a fair statement?

DAVID HEFFERNAN: Yes, I mean, "close quarters"—depends how you define that. How big is your house?

The Hon. JOHN GRAHAM: Exactly. But some discussion—I can't think of a reason why Adam Marshall would want to contradict his colleague, a motive for that. Can you think of some reason why the Committee should take the view that Adam Marshall's statement—there's a motive why it would misrepresent this position?

DAVID HEFFERNAN: No, I don't dare to presume in the world of politics.

The Hon. JOHN GRAHAM: That's wise, but we're in the position where we have to make a judgement about the veracity of this statement. Can you give us any guidance as to any reason why this would not be Adam Marshall's best recollection?

DAVID HEFFERNAN: No, I can't, because I ran into Adam here in Parliament House, and I said, "Oh, you're the gift that keeps on giving", and told him that I'm appearing in front of this Committee. But I don't know, I have no answer to why he would be saying it, to be honest.

The Hon. MARK LATHAM: Do you acknowledge, Mr Heffernan, that Adam Marshall hasn't just provided this statement to our Committee but at the time he was interviewed by several contact tracers over a three-hour period and had a legal obligation to tell them the truth of his contact with Minister Hazzard and told them exactly what he's now told our Committee?

DAVID HEFFERNAN: I wasn't aware that he had. I've only just read this now where it says he had an intense interrogation, for want of a better phrase—it's not what he said. So I wasn't aware of that, but I was very aware of the process of close contact back then.

The Hon. MARK LATHAM: Were you interviewed by contact tracers?

DAVID HEFFERNAN: I took the steps to contact them. By the time I got my text message I was on the way to the clinic because I became aware that I may have been a close contact in my hotel room in Canberra. I was just walking out the door and saw Adam Marshall's name on the TV, so I stopped in my tracks.

The Hon. MARK LATHAM: What did you tell the contact tracers? Is it the version you gave us earlier on of Richard Walsh being the fourth person in the conversation or the gathering, or is it the version you've got in the statement dated 17 November?

DAVID HEFFERNAN: I don't believe I had the same interrogation—sorry, I should use a different word: interview—as Minister Marshall did. I had the standard public interview but I put forward that I was a close contact and then was given instructions so I wasn't asked the questions you're asking me today.

The Hon. MARK LATHAM: What does that mean in practice? Did you describe the nature of the conversation with Marshall, Walsh and Hazzard?

DAVID HEFFERNAN: In practice, it was pretty simple. I said, "I'm definitely a close contact. I'm in a hotel room in Canberra. What actions should I take?" They told me as long as I've got a mask, I can go downstairs to the car park and I could drive straight to a PCR testing centre, and then after that go straight home.

The Hon. MARK LATHAM: You told them that because of your conversation with then Minister Marshall, you were a close contact. Did you tell them that, as part of that, a metre or two away, you also had a conversation with the health Minister?

DAVID HEFFERNAN: No, I didn't, because I had a conversation with lots of people that night.

The Hon. JOHN GRAHAM: Essentially, because you'd already self identified as a close contact, that abbreviated what might have been a longer discussion while the contact tracers would have been dealing with a lot of contacts. This information didn't come to light as a result?

DAVID HEFFERNAN: I presume so.

The Hon. MARK LATHAM: Coming back to the conversation you had with Minister Hazzard, you're now saying it was about the vaccine rollout?

DAVID HEFFERNAN: I don't recall, to be honest. I know at the time we were discussing many things with regard to vaccines. It was a hot topic. I can't remember what part of the COVID cycle we were in then, to be honest.

The Hon. MARK LATHAM: Well, we were right at the beginning of the Delta outbreak.

DAVID HEFFERNAN: I just remember it was prior to the Bondi outbreak.

The Hon. MARK LATHAM: Yes, we were right at the beginning of the Delta outbreak.

DAVID HEFFERNAN: Delta, yes.

The Hon. MARK LATHAM: I think you mentioned earlier on the conversation with Adam Marshall and Richard Walsh was about cricket. Is that right?

DAVID HEFFERNAN: It always is about cricket with me and Adam Marshall because we have a mutual acquaintance who was on the NSW Cricket Board, I believe. I've never witnessed it, but I'm told Adam used to be a cricket umpire.

The Hon. MARK LATHAM: What's the cricket that you talk about in June?

DAVID HEFFERNAN: Every time I see Adam Marshall, he says, "How's Hoggy?" It's always same conversation. Then, when Richard came up, I said, "Well, Richard's a cricket fan." We started talking about cricket.

The Hon. AILEEN MacDONALD: Mr Heffernan, was it a crowded event?

DAVID HEFFERNAN: It depends how you define "crowded". It wasn't a mosh pit, put it that way. I wouldn't say it was, from these standards. I mean, it's a big, long room. I've got a feeling it was partitioned off, but I don't know if it was crowded.

The Hon. AILEEN MacDONALD: Do you know if social distancing was observed, like being 1.5 metres from people when you were in conversation with them?

DAVID HEFFERNAN: I can't remember what orders were in place because orders changed nearly on a daily—or sometimes on a daily basis, back then. I know for a fact that the public generally obeyed orders when required to, and when they were relaxed, they themselves relaxed.

The Hon. AILEEN MacDONALD: Do you recall at that time whether you had to wear a mask or not, or other people?

DAVID HEFFERNAN: I don't believe anyone was wearing a mask at that time.

The Hon. AILEEN MacDONALD: Adam, in his letter, does say his recollection—because the event was over 17 months ago—is nowhere near as complete or accurate. Would you say that would be your recollection as well?

DAVID HEFFERNAN: Yes, look, it depends what you're asking.

The Hon. AILEEN MacDONALD: Yes, with the passage of time. Mr Marshall has said that his recollection is not as accurate as it was when he was interviewed by the contact tracers and that we would be better to probably talk to the contact tracers, if they have a transcript, rather than relying on his memory and probably your memory as well.

DAVID HEFFERNAN: I can only speak for myself. I don't remember how I got to Parliament House that night. I definitely remember I was a close contact because it was quite an emotional period, where I had to act, and there was a lot of anxiety that I may have been spreading the virus down to Canberra. So I remember specifics with regards to my close contact.

The Hon. AILEEN MacDONALD: For you.

DAVID HEFFERNAN: For me, yes.

The Hon. AILEEN MacDONALD: As it turned out, you were negative?

DAVID HEFFERNAN: Yes, eventually.

The Hon. AILEEN MacDONALD: Yes, but you still had the 14 days isolation?

DAVID HEFFERNAN: Yes, that's right. I believe, at the time, that was required of a close contact.

The Hon. AILEEN MacDONALD: Yes, and time has changed. That's all from me.

The CHAIR: I ask the Hon. Lou Amato or the Hon. Taylor Martin, do you have any questions?

The Hon. TAYLOR MARTIN: None from me, thank you, Chair.

The Hon. LOU AMATO: No, I am fine, thank you, Chair.

The Hon. MARK LATHAM: I will come back to the contact tracers' notes, Mr Heffernan. These are now public documents because of the work of the Legislative Council. One of the contact tracers, from interviewing Adam Marshall, recorded, "Marshall was very close to Minister Hazzard and had a conversation before he spoke," and then a second contact tracer records, "Marshall had no contact with the Premier or the Treasurer, but seems to have had direct contact with the health Minister at the charity event." This is right on the spot a day or two after the actual event and Marshall has recorded this and the contact tracers have written it up in the documents. Have you got any reason to doubt that this could be untrue? It seems to be consistent with what you saw and experienced on the night.

DAVID HEFFERNAN: Yes, look, my recollection is probably best put in my statement.

The Hon. MARK LATHAM: Wouldn't you have expected Minister Hazzard to isolate for a fortnight, given that Marshall—his ministerial colleague—has said this to two contact tracers?

DAVID HEFFERNAN: No, not at that time.

The Hon. MARK LATHAM: Why? If you have direct contact with someone who is infected with COVID, why don't you have to isolate for a fortnight within the rules of New South Wales?

DAVID HEFFERNAN: Personally, I just had to get conditioned to inconsistencies with many things. But everything was moving so fast back then.

The Hon. MARK LATHAM: So you just put it down as an inconsistency?

DAVID HEFFERNAN: No. One might acknowledge that, if one person was infected at the time, the whole room may isolate, but others—you know, for example, one person went into Bunnings but everyone who went to Bunnings that day didn't have to isolate. It's up to the judgement of the bureaucrats that were in charge. Once health orders were put, it was up to the public to maintain their personal responsibility.

The Hon. MARK LATHAM: In the submission from NSW Health, they present what is kind of like an exemption clause for Hazzard and maybe a few others. They say that if you were performing critical functions in the pandemic response, you were treated differently, effectively, in terms of contact classification. Are you aware of any such exemption that was communicated to you by the Minister or by the contact tracers?

DAVID HEFFERNAN: I'm only aware of ones for frontline health workers. I can't remember when they came in. But that's an example of how things changed at Glad o'clock—11 o'clock—every day, in the press conference. But that's the way it was then.

The Hon. EMMA HURST: Obviously, there are some implications, throughout some of the submissions, that people were unfairly treated, being put into isolation while the Minister wasn't. Do you feel that you were unfairly put into isolation or treated different in some way?

DAVID HEFFERNAN: No. I was definitely a close contact. I was annoyed that I was one of many people there who seemed to be the focus of the media, but that's about it.

The Hon. EMMA HURST: Obviously, it sounds like it was usual practice to perform specific and more detailed assessments of people who perform critical functions. It sounds as though, while you were a close contact, there were people at that event that probably were put into isolation, that may not have been as close a contact as you were and perhaps even less of a contact than the Minister was, but the Minister received a more detailed assessment, whereas others, because of resourcing, were put automatically into isolation. I just wanted to get your thoughts around that process and the fact that the Minister appears to have been treated differently to other people that attended that event.

DAVID HEFFERNAN: My thoughts are that I was a close contact. So I did what I did. I wasn't really concerned about anyone else. I was more concerned about (a) whether I infected anyone else—it turns out I didn't—and (b) that I had not stepped outside of the health orders.

The Hon. EMMA HURST: I understand that was your initial reaction. But, now, on reflection and now that you know that there was a lot of other people that were put into isolation, outside of your own experience, do you have any sort of concerns or thoughts around that process, that one person was treated differently to other people attending that event—not necessarily your own experience?

DAVID HEFFERNAN: I don't, to be honest. Some days I rolled my eyes at the decisions made by the powers that be, and other days I just accepted them. But, yes, I don't have any thoughts otherwise.

The CHAIR: If there are no other questions, thank you very much, Mr Heffernan. I appreciate you're very busy. I presume you've travelled up from Canberra again. So thank you first of all for the submission and making yourself available today to attend this hearing.

(The witness withdrew.)

Mr RICHARD WALSH, Private Individual, sworn and examined

The CHAIR: I confirm that we have received your submission and thank you very much for that. It is a submission dated 17 November 2022. It's been processed by the Committee secretariat and stands as submission No. 4 to this inquiry. It has been uploaded to the inquiry's webpage. It's a helpful contribution to the inquiry. I invite you now, if you wish, to make an opening statement. It's entirely a matter for yourself. Just so you appreciate the format, there are representatives on this Committee from the Government, Opposition and crossbench. If you're agreeable, what we do is share the questions between ourselves to work through the time available that we have with you. That's the usual format we follow, if you're agreeable to that. Would you like to make an opening statement, or shall we move into the questioning?

RICHARD WALSH: No, I'm happy to move into the questioning.

The CHAIR: Thank you very much. We'll commence the questioning with the Hon. Mark Latham.

The Hon. MARK LATHAM: Thanks, Mr Walsh, for your appearance today. Now that you're under oath, do you stand by the full contents of the statement that you've provided to the Committee?

RICHARD WALSH: Yes, I do.

The Hon. MARK LATHAM: You do? You heard your colleague Mr Heffernan earlier on say that in answer to the question from me and my office on 20 October—"Who was the fourth person in the conversation between Marshall, Hazzard and Heffernan?"—he named you. Why isn't that reflected in your statement?

RICHARD WALSH: I didn't recall that. My statement is as I recall it.

The Hon. MARK LATHAM: Why do you think Mr Heffernan told me on 20 October there were four people in the conversation: himself, Minister Marshall, Minister Hazzard and yourself?

RICHARD WALSH: I don't know that. But I don't recall speaking to Minister Hazzard.

The Hon. MARK LATHAM: That's not the question I've asked. I've asked why Mr Heffernan would tell me on 20 October that you were the fourth person in the conversation? I didn't know you; I hadn't met you. The only reason you've been called today is that Mr Heffernan told me on 20 October you were the fourth person in the conversation at the National Party fundraising event. There was Adam Marshall, Brad Hazzard, David Heffernan and yourself. Why isn't that reflected in your statement?

RICHARD WALSH: I don't know that, but I don't recall. I don't recall that.

The Hon. MARK LATHAM: Right. What do you recall of the evening? You say that you didn't observe any interaction between Minister Hazzard and Minister Marshall. You would have heard earlier on—

RICHARD WALSH: I said I don't recall any interaction between Mr Hazzard and Mr Marshall.

The Hon. MARK LATHAM: You don't recall it, but did Mr Heffernan prompt your memory moments ago when he said that there was interaction between Hazzard and Marshall? Hazzard came into the room and gave an acknowledgement to Marshall. He was just a metre or two away as the four of you were in what he described as "a gathering".

RICHARD WALSH: No, that hasn't changed. I recall Minister Hazzard entering the room. I had been speaking with Adam Marshall and David. I don't recall being in conversation with four people. I certainly don't recall speaking to Minister Hazzard.

The Hon. MARK LATHAM: Have you got any reason to believe that Adam Marshall has provided false or misleading evidence to this Committee? Have you seen the statement that he provided? It should be in front of you.

RICHARD WALSH: I've read—

The Hon. MARK LATHAM: You've read that?

RICHARD WALSH: Sorry, I've read Mr Marshall's statement—

The Hon. MARK LATHAM: It's very clear, isn't it, that the four of you were in a conversation at close quarters for several minutes?

RICHARD WALSH: That could be, but I don't recall it. I do recall speaking to Adam Marshall with David Heffernan. I do recall Minister Hazzard entering the room. But as for standing with four people in a—I just don't recall it, I'm sorry.

The Hon. MARK LATHAM: So it's possible, but—

RICHARD WALSH: I'm not saying it's not possible.

The Hon. MARK LATHAM: Right.

RICHARD WALSH: I'm saying I don't recall it.

The Hon. MARK LATHAM: You're saying it's possible. You can recall talking to Adam Marshall and David Heffernan.

RICHARD WALSH: Yes.

The Hon. MARK LATHAM: You can recall Hazzard coming in.

RICHARD WALSH: Yes.

The Hon. MARK LATHAM: But then your memory from that point goes blank?

RICHARD WALSH: Well, you can term it that way. But I was—there were a number of people in the room. I don't recall whether I joined that conversation.

The Hon. MARK LATHAM: Right.

RICHARD WALSH: I recall speaking to Adam Marshall. I recall speaking to another gentleman. There were people milling around. I recall the Minister entering the room, and I do think I recall him speaking to David Heffernan.

The Hon. MARK LATHAM: Are you aware that Adam Marshall at the time told contact tracers, over several hours of interview, that he was very close to Minister Hazzard and had a conversation before the Minister addressed the gathering? This is in the group that you were described as the fourth person.

RICHARD WALSH: I've read Mr Marshall's submission. I don't recall that.

The Hon. MARK LATHAM: You're under oath and you're subject to the provisions of the Parliamentary Evidence Act. Is it really credible for us to believe that your memory cuts out at the point where Hazzard joined the group and there was a conversation between the four of you?

RICHARD WALSH: I'm sorry, I do not recall a conversation between the four of us. I do recall Minister Hazzard entering the room. I do recall speaking with Adam Marshall. My memory is that David Heffernan spoke to the Minister and I do not recall being in a conversation with the other people. I'm not saying it's not possible; I don't recall.

The Hon. MARK LATHAM: In the normal social practice, there are three of you having a conversation—you, Heffernan and Marshall. Someone who is known to the three of you comes in: Brad Hazzard. You're saying that Heffernan peeled away from your group of three and had a conversation with Hazzard. How far away was he at that point?

RICHARD WALSH: He would have been in the vicinity.

The Hon. MARK LATHAM: Like a metre or two?

RICHARD WALSH: I'm not saying exactly in what vicinity, but it wasn't far away. Everybody was milling around at the top of the room.

The Hon. MARK LATHAM: Adam Marshall described it as "very close". Is that a fair description?

RICHARD WALSH: I'm not going to confirm that. My memory will not let me confirm that, I'm sorry.

The Hon. MARK LATHAM: Did you have any conversations with Brad Hazzard in the preparation of your statement?

RICHARD WALSH: No.

The Hon. MARK LATHAM: Or anyone associated with Mr Hazzard who took an interest in what you were going to tell this Committee?

RICHARD WALSH: No.

The Hon. MARK LATHAM: You had conversations with Mr Heffernan, did you, to coordinate your stories, which are very similar?

RICHARD WALSH: I had a conversation with Mr Heffernan about this, but it was a little while ago now and it was brief. We haven't talked about it at length.

The Hon. MARK LATHAM: Did you ask Mr Heffernan how you had been called as a witness, that he nominated you as the fourth person in the conversation?

RICHARD WALSH: No, I haven't asked that.

The Hon. JOHN GRAHAM: Mr Walsh, thank you for appearing. While we appreciate the evidence you've given, in some ways we're hearing frustration, after this issue has been canvassed a number of times at estimates, but unsuccessfully; the Minister hasn't really provided any answers. In fact, there have been some quite high-conflict estimates hearings on this, so we've come to you and other witnesses to try to shed some light on this question. That's really why these questions are being put to you, and I thank you for the evidence you've given. You've stated clearly that you don't recall, but it is possible, that some of these things did occur. From the evidence of David Heffernan, there may have been some interaction. It's really the length of time that interaction happened or the proximity of that interaction. Can you give us any recollection on either of those questions?

RICHARD WALSH: It wasn't a long time involved. We were all standing around waiting for official proceedings to begin, as I recall. As far as how long I was talking to Adam Marshall—again, it wasn't a long time. Whether it was three minutes, five minutes or 10 minutes, I wouldn't like to state that. As I said, I do recall speaking to another gentleman in the same area around about the same time. Distance-wise, it was not a long length. But whether it was one metre, two metres or three—well, it was probably not many more. Anyway, whatever that distance, it wasn't 10 metres, that's for sure.

The Hon. JOHN GRAHAM: On the interaction between Brad Hazzard and Adam Marshall, David Heffernan recalled that perhaps Minister Hazzard might have said Adam Marshall's name. They were close enough to perhaps have that interaction. Can you shed any light on—

RICHARD WALSH: Look, I'm sorry. I have thought about this quite a bit—

The Hon. JOHN GRAHAM: Understood. Yes, I appreciate that.

RICHARD WALSH: —and I honestly cannot recall Adam Marshall speaking to Minister Hazzard.

The Hon. JOHN GRAHAM: You're not ruling it out.

RICHARD WALSH: I'm not going to rule out anything. I mean, it was a while ago.

The Hon. JOHN GRAHAM: Yes, but to your best recollection you don't recall it?

RICHARD WALSH: No, I don't recall. My thought was that David Heffernan spoke with the Minister. As to whether Adam Marshall spoke with the Minister, I honestly can't confirm either way there.

The Hon. JOHN GRAHAM: You just can't remember. When David Heffernan was speaking to Minister Hazzard, can you recall at all where Adam Marshall was at that point?

RICHARD WALSH: My feeling is that he was still in the same area, in the same vicinity. Whether that be one metre or two metres or three—or whatever—I wouldn't like to—

The Hon. JOHN GRAHAM: You just can't say.

RICHARD WALSH: Yes. Everyone at that stage was milling around, as I recall it, in the top section of the room. There wasn't a great distance, no. Well, there couldn't be.

The Hon. JOHN GRAHAM: Yes, precisely. That discussion between David Heffernan and Minister Hazzard—Adam Marshall somewhere in the vicinity—do you recall how long that discussion was? Just to press you on that.

RICHARD WALSH: No, my feeling was that it was fairly brief. That's my feeling. I can't say how long that was.

The Hon. MARK LATHAM: So social distancing wasn't being observed?

RICHARD WALSH: No, I don't recall social distancing being observed.

The Hon. MARK LATHAM: Mr Walsh, why does the Pharmacy Guild go to such an event?

RICHARD WALSH: We probably go to meet the parliamentarians and put the Pharmacy's case to those people.

The Hon. MARK LATHAM: At the time your case was that you should be involved in the vaccination rollout, particularly in country towns that don't have a GP or a hospital?

RICHARD WALSH: Yes, that would have been a major point at that stage.

The Hon. MARK LATHAM: So the conversation with Adam Marshall was about that issue, given that he is a very prominent country MP, and at the time in the Cabinet and worried about lack of vaccination access in some of his country towns?

RICHARD WALSH: I don't recall the detail of our conversation, but I think that's quite likely that that was raised, yes.

The Hon. MARK LATHAM: So you remember something beyond cricket, which was Mr Heffernan's recollection, that this topical issue of vaccination rollout naturally would have been discussed and that's part of the reason the guild paid its money to go to the dinner and have some access to these MPs.

RICHARD WALSH: I would think that with most parliamentarians at the time that was being discussed by our group, so I would think that that was being discussed with Adam Marshall, yes.

The Hon. MARK LATHAM: When Mr Heffernan went over to talk to Minister Hazzard—a metre or two away—who's entered the room, that would have been a topic as well? That was really part of Heffernan's brief to lobby the Minister to get that rollout happening through pharmacies?

RICHARD WALSH: I feel that Mr Heffernan would have been keen to speak about that but I don't know. I didn't hear their conversation and I don't recall it. My feeling was that they weren't speaking for very long. That was my feeling.

The Hon. MARK LATHAM: It's being discussed with Marshall. It's not surprising Heffernan is discussing it with Hazzard—it's only a metre or two away—so you've got no doubt of Adam Marshall's recollection that the conversation blended into one discussion between the four of you on this particular topic?

RICHARD WALSH: That's possible. I don't recall. As I said—

The Hon. MARK LATHAM: Have you got any reason to doubt what Adam Marshall told the contact tracers at the time? He was very close to Minister Hazzard; he's told two of them in the records.

RICHARD WALSH: I've no reason to doubt—

The Hon. MARK LATHAM: You've got no reason to doubt that.

RICHARD WALSH: I've got no problem with Adam Marshall. I've spoken to him on a couple of occasions. I've got no reason to doubt what he was saying. I simply say that I can't recall all that.

The Hon. MARK LATHAM: It's not in your recollection. Thank you.

The Hon. JOHN GRAHAM: Thank you for that, Mr Walsh. The Committee is in a position, given we haven't had answers, to have to weigh up these statements. That's why we need to put this to you but I appreciate your answers.

RICHARD WALSH: Yes, I understand.

The Hon. JOHN GRAHAM: I just want to put the two specifics to you. I think you've given us a clear answer, that this is possible but you don't recall, but I want to put to you the two specifics out of Adam Marshall's statement. Firstly, he is clear about the extent to which he recalls, and this is what he says:

While I could easily speculate and offer evidence, on the balance of probability, as to other details from the day of my interactions with the Health Minister, I have only provided here what I can recall today with absolute certainty, given the passing of time and without the benefit of seeing the notes from my contact tracing interviews at the time.

So he doesn't remember everything, but he does remember some things, and this is what he remembers. And the key part is:

The four of us were engaged in conversation at close quarters for several minutes before the Minister moved on to another part of the room.

That is you, David Heffernan and Minister Hazzard. I just want to put that part of that statement to you directly. Does that prompt any recollection?

RICHARD WALSH: It doesn't prompt any recollection. I'm honestly sorry, I just don't recall that, and I don't recall myself speaking with Minister Hazzard. As I said, my feeling is that David spoke with him.

The Hon. JOHN GRAHAM: I appreciate the answers you've given. We're in this difficult position where we just have not had the responses from the Minister, so that's why we've put this to you. You've made it clear that you have no reason to cast doubt on Adam Marshall, given your relationship with him, but can you think of any other motive? I can't think of any reason why Adam Marshall would put this view, this recollection, and for it to be false. But can you think of any reason you're aware of, or has been raised with you, over the course of the time that's passed, as to why he might have a motive to misstate the facts on that night?

RICHARD WALSH: I don't know. No, I've got no thoughts on that.

The Hon. EMMA HURST: I asked Mr Heffernan this question as well, but one of the implications that has come forward is some sort of idea around people being unfairly treated; the Minister wasn't put in isolation whereas the other 80 attendees were. Do you feel that you were unfairly put into isolation or treated differently in some way?

RICHARD WALSH: No, I've got no thoughts. I was told to go along with the health orders. That's what I did. As far as how one person was treated or another—as far as I'm concerned, right through this whole thing, I've simply gone along with the health orders and I leave it with NSW Health. Our director always stressed that with our group. The health orders are there; it's not for you to surmise or have different thoughts or what have you. We all have to go along with the health orders.

The Hon. EMMA HURST: One of these submissions that we received talked about the fact that there was a resourcing problem back then, obviously, and there were 80 people that were coming—a resourcing problem in regards to being able to give every single person that attended that event a detailed assessment. And that's one of the reasons why a lot of people were automatically put into isolation, whereas the Minister was treated differently. But that was because he was considered a critical function for the pandemic response. Do you have any thoughts around that and around any implications for the other 80-odd people that were also automatically classed and put into isolation?

RICHARD WALSH: I really don't think that's for me to make comment on. This is surely for the epidemiologists and NSW Health. As I said, it wasn't for us to reason about things. Everybody had to follow the orders of NSW Health and that was it. I don't think I should comment on that.

The Hon. EMMA HURST: But you indicate that you don't feel like you were unfairly treated in any way?

RICHARD WALSH: I did speak with Adam Marshall, so no.

The CHAIR: Mr Walsh, thank you very much for the submission and for making your time available today. We know you're very busy, and we appreciate you coming along.

(The witness withdrew.)

(Short adjournment)

Ms JENNIE MUSTO, Private Individual, affirmed and examined

The CHAIR: Welcome, Ms Jennie Musto.

JENNIE MUSTO: Thank you. I am appearing here as a private citizen, because I no longer work for the New South Wales Ministry of Health. But I am here because from February 2020 to July 2022 I was the Head of Operations in the Public Health Response branch for COVID.

The CHAIR: Thank you very much, Ms Musto. Do you have an opening statement that you would like to make or have prepared?

JENNIE MUSTO: Just briefly, perhaps, to explain my background and experience.

The CHAIR: Thank you very much. That would be helpful.

JENNIE MUSTO: As I said, until July 2022, I was Head of Operations for COVID, which, as it sounds, is a very operational role, with a team of people. We're epidemiologists and contact tracers. Contact tracing is a part of epidemiology. There are a large number of roles that we consider field epidemiology and, of course, in COVID that was very important. Prior to coming back to NSW Health in February 2020, I worked for the World Health Organization for seven years in several countries around the world. Before I went to WHO, I was also at the Ministry of Health where I did the majority of my training and where most of my experience comes from. I think the words "contact tracing" have somehow become part of our normal vernacular now, but I'm not sure that everyone understands that it involves not just interviewing people but a number of other considerations that I think this Committee has already heard about from others. I think that's all I need to say.

The CHAIR: Thank you very much. That's very helpful to give us a context of your background, and some thoughts around the terminology of contact tracing. We will move now to questioning, and perhaps start with the Hon. Mark Latham.

The Hon. MARK LATHAM: Thank you, Ms Musto, for your appearance today. Can I just ask with curiosity, how many individual assessments did you perform arising from the National Party budget night dinner in June of last year?

JENNIE MUSTO: How many did I personally perform from the dinner?

The Hon. MARK LATHAM: Yes. We know that you did the assessment on Minister Hazzard.

JENNIE MUSTO: I certainly did the assessment on Minister Hazzard. I personally spoke to at least six other individuals for those two days—not just the dinner, but also within Parliament, and the dinner. So I personally assessed six people. Everyone else would have been assessed by other people, including the Premier, who was also assessed by our team. And then others were assessed by other contact tracers.

The Hon. MARK LATHAM: I don't know if you've seen the note that was provided by Dr Michael Douglas in response to a call for papers by the upper House. He provided this retrospectively—you know, after the event. It states at the beginning, "In the absence of comprehensive records detailing the assessment of the National Party budget dinner fundraising event"—why weren't comprehensive records kept of these assessments?

JENNIE MUSTO: I believe there will be some records within the Ministry of Health, not my personal records.

The Hon. MARK LATHAM: Then Dr Douglas, in response to a second session of budget estimates, produced something that should have been forwarded initially. That's this document here, which we were told at budget estimates is your handwriting, dated 24 June 2021, and it's headed "Min Hazzard". Presumably, these are your assessment notes. It won't take long to read; there are only 27 words. It reads:

- reception at office but not FTF—

face to face—

- 6.30 pm – Nat—

Nationals—

Strangers dining room

- head of pharmacy

- 3m past Heff., David

- 20 secs - speech then left

- left at 6.50 pm

And then underlined "casual", meaning casual contact classification. Is that the extent of the records that were kept?

JENNIE MUSTO: They are my notes, as you say, and I take notes for my own recollection. That's not for medical records. If there are records, they would have to be accessed from the Ministry of Health.

The Hon. MARK LATHAM: Why is there no mention of the infected Adam Marshall in these notes?

JENNIE MUSTO: Perhaps on a different page, but that was the reason for contact tracing. It was that it was—

The Hon. MARK LATHAM: Is there a second or third page? This was all that was produced by the department.

JENNIE MUSTO: That was my notes from my conversation with Minister Hazzard, because Adam Marshall became a case.

The Hon. MARK LATHAM: Did you ask Minister Hazzard what contact he had had with Adam Marshall?

JENNIE MUSTO: Absolutely.

The Hon. MARK LATHAM: What was the answer to that?

JENNIE MUSTO: He had no direct contact with Adam Marshall is what he told me.

The Hon. MARK LATHAM: Why would he say that, given that Adam Marshall had already told at least two contact tracers, separately, over three hours of interviews that he was "very close to Minister Hazzard and had a conversation before he spoke"? There's also a second one that's recorded along similar lines, "No contact with Premier or Treasurer. Seems to have had direct contact with the health Minister at the charity event." It's extraordinary, isn't it, that Adam Marshall interviewed over three hours with two contact tracers and has recorded direct close contact with the health Minister, and you are saying the health Minister told you that he had no such contact. Is that right?

JENNIE MUSTO: I can only say what the health Minister told me, and that was that he had no contact with Adam Marshall on that evening and was briefly in the Strangers' room.

The Hon. MARK LATHAM: Right. Have you seen Adam Marshall's submission to this inquiry where he says he recalls—

JENNIE MUSTO: I have just seen it now, yes.

The Hon. MARK LATHAM: You have? It verifies what he has told the contact tracers. There is a legal obligation to tell contact tracers the truth, isn't there?

JENNIE MUSTO: That's correct.

The Hon. MARK LATHAM: What action was taken, given the contradiction between Minister Marshall and Minister Hazzard? Obviously, one of them is not telling the truth.

JENNIE MUSTO: I think that someone would have to review the notes taken by the contact tracers from Adam Marshall, and the information that I have is that Minister Hazzard did not have direct face-to-face contact with Adam Marshall.

The Hon. MARK LATHAM: But why would you review the contact tracing notes about Adam Marshall when they are so crystal clear: two records of close and direct contact with Minister Hazzard? Why didn't the department make an attempt to reconcile these vastly different accounts? One Minister is saying, "I've had direct close contact in conversation," and Adam Marshall has said that he told the contact tracers pretty well verbatim what he has in this submission to us about the nature of the conversation when the Minister entered and that they were in conversation at close quarters for several minutes. Surely there must have been an attempt to sort out the truth, given the importance of this—that, potentially, the Minister could have been infected?

JENNIE MUSTO: I don't recall if there was any investigation into Adam Marshall's claims or otherwise.

The Hon. MARK LATHAM: So it was just left unattended?

JENNIE MUSTO: I don't remember if it was attended or not. But, basically, the assessment I made for Minister Hazzard was that he had no direct contact with Adam Marshall and so, therefore, was not considered a close contact.

The Hon. MARK LATHAM: That's what he has told you. But did you have at your disposal these contact tracer notes from the extensive interviews with Adam Marshall and said, "Listen, Brad, Adam Marshall is saying very clearly here he has had a conversation with you at close quarters. There has been direct and close contact. One of you is not telling the truth to contact tracers"? Did you have access to the Marshall records of interview?

JENNIE MUSTO: I could have, if I had chosen to, but I didn't believe there was any reason to. I have no reason to disbelieve what Minister Hazzard tells me at the time. He is more likely to remember exactly what he did than I am in investigating the person's recall sometime after the date.

The Hon. MARK LATHAM: Ms Musto, I'm not asking you whether you could have had access, I'm asking you when you interviewed Minister Hazzard, did you have in front of you the extensive case notes that were taken from the interviews with Adam Marshall?

JENNIE MUSTO: I had some information of the interviews of Adam Marshall. The extensive case notes probably weren't even available when I spoke to Minister Hazzard. I relied on what Minister Hazzard told me, based on the information that I had of Adam Marshall's movements at that time.

The Hon. MARK LATHAM: When was that interview with Minister Hazzard?

JENNIE MUSTO: On 24 June, as you say, in the morning.

The Hon. MARK LATHAM: The Marshall interviews had already been performed and written up by that time.

JENNIE MUSTO: Yes, but I had no—

The Hon. MARK LATHAM: So did you have them in front you?

JENNIE MUSTO: No.

The Hon. MARK LATHAM: And did you subsequently check them to see whether the Hazzard version of events was accurate?

JENNIE MUSTO: No, because we trust the people who provide us information.

The Hon. MARK LATHAM: What do you say now, given the importance of this, that you have got one Minister—Marshall—who was infected, clearly saying he had close, direct contact with Minister Hazzard, and Minister Hazzard saying something 180 degrees different?

JENNIE MUSTO: I can only say what I was told by Minister Hazzard, and that was that he had no direct contact with Adam Marshall.

The Hon. MARK LATHAM: Doesn't it appear now that Minister Hazzard was lying?

JENNIE MUSTO: I don't believe that's the case. I can only say—

The Hon. MARK LATHAM: You're saying Adam Marshall was lying? One of them is not telling the truth. That's obvious, isn't it?

JENNIE MUSTO: I can only say what I was told when I spoke to Minister Hazzard and that was that he had no direct contact.

The Hon. MARK LATHAM: Did you feel like because he was the Minister for Health you just needed to take his version at face value and let it rest there without checking any of the Marshall records?

JENNIE MUSTO: Absolutely not. Every single person we contact is treated exactly the same way.

The Hon. MARK LATHAM: Why isn't that Hazzard statement recorded in your notes on 24 June?

JENNIE MUSTO: That's, again, my notes of my own recollection, that statement itself. I'm a poor note keeper, I will admit, but that statement itself is not documented. You're right.

The Hon. MARK LATHAM: But you've got a clear recollection that Hazzard told you he'd had no contact with Adam Marshall?

JENNIE MUSTO: I absolutely do, because it would have made a difference.

The Hon. MARK LATHAM: And who asked you to do the individual assessment of Minister Hazzard?

JENNIE MUSTO: I don't remember who asked me. There are a number of people senior to me. Somebody senior to me asked me.

The Hon. MARK LATHAM: Who could that be? How many people were senior to you?

JENNIE MUSTO: Well, we have a number of deputy controllers within the Public Health Response branch, most of whom you've spoken to, like Michael Douglas. Obviously, Dr Chant is senior to me. It's a busy place. This was the beginning of the Delta wave, you are asked to do a lot of things, so you don't note these things down.

The Hon. MARK LATHAM: Sure, but it's not the catering staff, it's the Minister for Health that you are assessing. You are saying you have got no recollection at all of who asked you to do the individual assessment of the health Minister?

JENNIE MUSTO: No, I do not recall.

The Hon. MARK LATHAM: It could have been Dr Douglas or it could have been Dr Chant?

JENNIE MUSTO: It could have been, yes.

The Hon. MARK LATHAM: Have you spoken to them in preparation for this inquiry to ask for their recollection?

JENNIE MUSTO: No.

The Hon. MARK LATHAM: Dr Douglas said at budget estimates he had no recall, indicating that it wasn't him, so was it Dr Chant?

JENNIE MUSTO: I don't recall.

The Hon. MARK LATHAM: And would you have been briefed about what you needed to do with Minister Hazzard in line with what is now the Health Department's submission? "The most experienced and knowledgeable contact tracers were used"—so that's yourself—and it was to have contact classification of people who performed critical functions in the pandemic response. Were you aware of that policy when you assessed Minister Hazzard—that he was to be regarded as someone who performed critical functions in the pandemic response?

JENNIE MUSTO: I was aware that I was asked to interview Minister Hazzard, or a number of other people that have been interviewed, because there is often a sense of urgency or they are people who perform critical functions. It's not specific to Minister Hazzard.

The Hon. MARK LATHAM: That was a policy in writing in NSW Health at the time, that the Minister for Health was regarded as a special case performing critical functions in the pandemic?

JENNIE MUSTO: I think that's a question for the Ministry of Health.

The Hon. MARK LATHAM: Right, but were you aware of such a written policy?

JENNIE MUSTO: There were so many policies. I'm not sure I've got them all straight in my head, but that sounds like a reasonable response.

The Hon. MARK LATHAM: You're saying when you were asked to do the assessment, were you told specifically about this classification of someone performing critical functions, or you just had that as assumed knowledge?

JENNIE MUSTO: I don't remember, but I would think anyone who's in Parliament performing a critical function, as Adam Marshall was, would be considered someone who we would prioritise so people would continue with important work.

The Hon. MARK LATHAM: Right. This is the health Minister, Brad Hazzard, you're assessing, not Adam Marshall.

JENNIE MUSTO: No, but I'm saying the situation was based on Adam Marshall becoming a case.

The Hon. MARK LATHAM: The inference of this policy is that Brad Hazzard was so important to the pandemic response, performing critical functions, that essentially you were going to let him off. He was going to be a casual contact, no matter the risk level of his contact with Marshall.

JENNIE MUSTO: I don't think the Minister for Health is the only person performing critical functions in a pandemic. I think that captures a number of people.

The Hon. MARK LATHAM: Did you assess the Premier?

JENNIE MUSTO: I didn't, but my colleague did, at the same time.

The Hon. MARK LATHAM: And the Treasurer?

JENNIE MUSTO: I assessed the Treasurer.

The Hon. MARK LATHAM: And the Deputy Premier?

JENNIE MUSTO: Who was who at the time?

The Hon. MARK LATHAM: John Barilaro.

JENNIE MUSTO: Yes, I assessed John Barilaro.

The Hon. MARK LATHAM: You assessed him as well, you say with a smile?

JENNIE MUSTO: Yes, so a number of people on the same day considered to be performing critical functions.

The Hon. MARK LATHAM: Did you check any of the Adam Marshall records in assessing Perrottet and Barilaro for potential contact with Adam Marshall?

JENNIE MUSTO: All of this happens in conversations a lot of the time and so, yes, we had a team of people who were then assigned to Parliament.

The Hon. MARK LATHAM: Was the interview with Brad Hazzard on the phone or in person?

JENNIE MUSTO: That was on the phone.

The Hon. MARK LATHAM: Why didn't you record in your notes Hazzard's statement that he had no contact with Adam Marshall? Wouldn't that have been useful for others to crosscheck the Marshall records, where he's clearly saying he had direct close contact with Minister Hazzard?

JENNIE MUSTO: There would be other people who have recorded notes that are more comprehensive than mine, and they can be sourced from the Ministry of Health.

The Hon. MARK LATHAM: In your decision-making, how much weight did you give to that policy of recognising those who perform critical functions in the pandemic response—that you needed them still on deck, that Hazzard couldn't isolate for a fortnight because of his importance as health Minister?

JENNIE MUSTO: If I assessed Minister Hazzard as a close contact, he would have been treated as a close contact, like everybody else, and he would have had to isolate at home for 14 days.

The Hon. MARK LATHAM: If you had known of, read or had in front of you the Marshall account of the close contact with Hazzard, what would you have done?

JENNIE MUSTO: I can rely only on what Minister Hazzard told me, and that was that he had no direct contact with Adam Marshall.

The Hon. MARK LATHAM: So you would have wiped the Marshall evidence and just gone with what Hazzard told you, even though Hazzard was lying?

JENNIE MUSTO: You have to believe the person that you're speaking to; that's the nature of contact tracing.

The Hon. MARK LATHAM: Is that standard practice if there's an infected person? What was the point of Marshall doing three hours of interviews, clearly listing the contact he had with Minister Hazzard, for Hazzard to then be interviewed with no regard to that record?

JENNIE MUSTO: I think interviewing Adam Marshall for three hours was to try and understand how transmission could possibly occur in such an important environment as this. It wasn't just about one individual; it was about his days of activity once he was infected, and multiple individuals. That's why it took so long. It wasn't focusing on Minister Hazzard. At that time we were trying to understand how infectious Adam Marshall would have been whilst he was here in Parliament House and at the function. It's an iterative exercise and it's not just about one individual, and certainly not just about Minister Hazzard. As you can see, a number of people from that event were assessed as close contacts. But also a number of people were not assessed as close contacts, such as the Premier.

The Hon. MARK LATHAM: Only four were given individual assessments. Eighty guests at the function—whether they had contact with Marshall or not—had to isolate for a fortnight, along with seven hospitality staff. Do you see now that it was very unfair on those people, who complained that Hazzard had had close contact with Marshall at the function? He's out there as a casual contact with no isolation responsibilities, and the hospitality staff and the guests at the function, many of whom said they didn't go anywhere near Adam Marshall, had to isolate for a fortnight.

JENNIE MUSTO: The national guidelines at the time were that if you spent more than an hour in the room with someone, you were a close contact.

The Hon. MARK LATHAM: Why didn't that apply to Brad Hazzard?

JENNIE MUSTO: Because he wasn't there for an hour.

The Hon. MARK LATHAM: But he had close direct contact with Adam Marshall in conversation. Adam Marshall describes it as a close-quarters conversation for several minutes.

JENNIE MUSTO: And Minister Hazzard says he had no contact with him.

The Hon. MARK LATHAM: In the telephone conversation, did Minister Hazzard also say to you how important it was that he remain as health Minister without isolation?

JENNIE MUSTO: No.

The Hon. MARK LATHAM: Did he put that case?

JENNIE MUSTO: No, absolutely not.

The Hon. MARK LATHAM: Over what period of time did you ask him questions? Was it a five-minute conversation where all he had to say was, "I didn't have contact with Adam Marshall," and that was the end of it?

JENNIE MUSTO: I don't remember how long the conversation was. It was definitely more than five minutes but I don't remember.

The Hon. MARK LATHAM: But at no time did he talk about the importance of his work and that he qualified under the critical functions exemption?

JENNIE MUSTO: Absolutely not.

The Hon. JOHN GRAHAM: Firstly, thanks for your evidence today and also for your work during the pandemic. It is much appreciated. Essentially, the reason the Committee is here is just trying to reconcile two conflicting accounts. I think it's clear from the questions you've just answered they conflicted at the time, but maybe that was not clear at the time. So Minister Hazzard saying there was no contact; Minister Hazzard telling contact traces there was no contact; Minister Marshall saying there was contact at the time; and now we've got this statement from Adam Marshall saying his clear recollection is there was close contact and it's been very difficult to get an answer from Minister Hazzard. That's essentially what the Committee's grappling with, so thank you for your assistance in reconciling that.

What I am interested in is if you could give us any more details about what information you had accessible at the time you were dealing with these, about what Adam Marshall had actually told us. You've gone to that a bit, but can you give us any more detail about what you did know about what Adam Marshall had already spelt out at the time?

JENNIE MUSTO: Adam Marshall had been already interviewed at that stage in preliminary fashion, and of course the interview was not just about the Strangers' dining room, which is obviously the focus of this inquiry. It takes some time, so a step-by-step interview from when he was diagnosed and his movements over a number of days. We knew that much information. At that stage what we were doing is what eventually became called a stop and stay, and that was to contact everyone who had been in touch with somebody who became a case, and get them to wait where they were, to stop what they were doing, to stay at home while we had the opportunity to get the information together, and then interview them with that knowledge.

As I said, there then was a team that was focused on this parliamentary issue because we knew it was important. That information is shared broadly among everyone. I do not remember exactly the information I had when I spoke to Minister Hazzard and the others that I spoke to on the 24th, except for movements of Adam Marshall, and slowly the details are coming out. Things like understanding the size of the Strangers' dining room was important to us. Where people sit in the Chamber was important to us. All of these things take a lot of time to unpack.

The Hon. JOHN GRAHAM: Yes. That seems reasonable. There are a lot of people involved, a lot going on here. You didn't have the notes from the Marshall interview, but you did have some knowledge of that. On that question of Marshall's statement that he did have contact with Hazzard, was that something that you can recall was known to you or was not known to you at the time?

JENNIE MUSTO: I don't recall, no.

The Hon. JOHN GRAHAM: You've put the view that obviously one of the crucial factors, as you weighed up your assessment, was this statement from Minister Hazzard that there was no contact. That was obviously crucial in determining which way you fell with this assessment, whether it was close contact or a casual contact. Is that a fair statement?

JENNIE MUSTO: That's a fair statement.

The Hon. JOHN GRAHAM: You made a reference to there may be other notes from the Ministry of Health separate to your notes which have been provided. I don't believe that we've had other notes returned in those. What other notes may be available in an instance like this, or in this specific instance?

JENNIE MUSTO: There would be records of interviews within the notifiable diseases management process. That may or may not be available. You'd have to ask the Ministry of Health for that.

The Hon. JOHN GRAHAM: Yes, understood. Is that similar to your notes that have been provided here, or is that a more formal record?

JENNIE MUSTO: Much more formal, I would hope.

The Hon. JOHN GRAHAM: How would you describe that record, just in your words?

JENNIE MUSTO: They're standardised questionnaires that contact tracers use.

The Hon. JOHN GRAHAM: I was slightly lost between the number of people who were given individual assessments. Was it six or was it four by you and others—by the team?

JENNIE MUSTO: By others, there would be many more. I can't speak for how many people were contacted over this event. Again, it's not just the dining room; it's everyone that Adam Marshall was in contact with.

The Hon. JOHN GRAHAM: But these more specific and detailed assessments for people who performed critical functions in the pandemic response—how many of those were there, to your knowledge?

JENNIE MUSTO: This is not a category that exists for—I think it's a legal categorisation, but it's not a category that exists for us as contact tracers. The question I answered was how many people I spoke to, and that was six. And that was not necessarily because they were considered critical, but perhaps because of what is a critical role that you play in Parliament. I picked up six of them. A colleague of mine spoke to the Premier and perhaps other contact tracers spoke to the other however many people there were. Again, that's information the ministry would have.

The Hon. JOHN GRAHAM: Who were the six who you assessed?

JENNIE MUSTO: Off the top of my head, Dominic Perrottet, John Barilaro, Adam Marshall's chief of staff, whose name I've forgotten—

The Hon. JOHN GRAHAM: The position is actually probably more appropriate, yes.

JENNIE MUSTO: I spoke to somebody associated with the Premier, maybe an executive assistant.

The CHAIR: The Treasurer?

JENNIE MUSTO: And the Treasurer. Some of them were classified as close. Some of them were classified as casual, depending on their exposure, like everybody else.

The Hon. JOHN GRAHAM: Yes, on what you were told, what you relied on to make that assessment.

JENNIE MUSTO: A lot of it was how long they actually spent in that dining room.

The Hon. MARK LATHAM: Did you do the Minister for Health's chief of staff, Leonie Lamont?

JENNIE MUSTO: No, I didn't do Leonie, but there was no reason unless Leonie was actually there, because—

The Hon. MARK LATHAM: Adam Marshall had a habit of visiting lots of ministerial offices and they're listed in some of the documents—"Minister for Health talking with and standing next to the chief of staff",

and she was classified as a close contact. Marshall verified that he talked with and stood next to Leonie Lamont. She was classified as a close contact. He also verified he talked with and stood next to Minister Hazzard at the National Party dinner and Hazzard was a casual contact. These inconsistencies stand out, don't they?

JENNIE MUSTO: I don't believe they stand out. I believe it's the information people were provided. I didn't assess Leonie, but that does sound like close contact to me. The information that I was provided with by Minister Hazzard was that he didn't have face-to-face contact with Adam Marshall the way Leonie has just described.

The Hon. MARK LATHAM: Did you ask, also, or assess the time indoors? You said an hour was the threshold. When you add up the time in question time, the National Party dinner and the Marshall visit to the health Minister's office, it's well over an hour of time in the vicinity of Brad Hazzard, isn't it?

JENNIE MUSTO: I don't remember. I'd have to go back and get a lot more information than I had at the time.

The Hon. JOHN GRAHAM: Just on that point, you've referred to one of the four dot points that have been provided in the Health submission about one of the criteria here. That is the hour for face-to-face contact. Well, it's actually sharing a close space for at least one hour or face-to-face contact of any duration. You agree with that?

JENNIE MUSTO: They were the national guidelines at the time, yes. They were also rapidly changing, but that was correct at the time.

The Hon. JOHN GRAHAM: Agreed. But the information we've also got here from Health about what conditions were applying at the time indicate that the exposure may be of any duration, depending on the risk settings.

JENNIE MUSTO: Yes.

The Hon. JOHN GRAHAM: Then there's a range of things that you might take into account. So, depending on the circumstances, the hour might apply, or it might be a much shorter period if there is contact, certainly, or based on the other risk settings in the area. Is that correct?

JENNIE MUSTO: Frequently we will reassess what has happened if the situation changes and the information we have changes. For example, that might be, if there was transmission in the Strangers' dining room, if we knew that there was another person that was infected by Adam Marshall, we would go back and we would reassess and we would probably reclassify anyone—

The Hon. JOHN GRAHAM: That might tip the balance.

JENNIE MUSTO: —who had been there, but that didn't happen. To my recollection, there were no secondary cases.

The Hon. JOHN GRAHAM: Understood.

JENNIE MUSTO: But certainly, that was practice at the time.

The Hon. JOHN GRAHAM: Just two other issues, perhaps. One is, again, the guidance from Health says, "There may be these specific and more detailed assessments performed for people who perform critical functions in the pandemic response." You have said that that's really a legal framework question; it wasn't practically how you were assessing it. Can you give us any guidance about, as you were doing your work, how would you know who was in this category or not? Were you given any guidance about that at all?

JENNIE MUSTO: I don't recall specific guidance. I think, obviously, there was urgency at times. This includes critical functions like some food services, or food production, or animal husbandry—things that are not just government-related that would become prioritised. Essentially, you have to prioritise in public health. There are not enough resources to do everything you want to do, so of course you prioritise. It might mean that the children's party doesn't get prioritised but the people who are providing food for the country do. But not specifically did we have a list of people who fell—

The Hon. JOHN GRAHAM: Understood.

JENNIE MUSTO: Legally, there may be a list, but it was not something that was in my consciousness day to day.

The Hon. JOHN GRAHAM: It wasn't a decision you were making; it was a decision that was made elsewhere in Health. Is that right? Or was this your decision, who was critical to the—

JENNIE MUSTO: No, it was not my decision.

The Hon. JOHN GRAHAM: But you can't recall who made the decision in this instance?

JENNIE MUSTO: No.

The Hon. JOHN GRAHAM: Finally, thank you for your evidence. You may not be able to add much to this, but I just want to put to you the recollection Adam Marshall has now, that he has put in front of the Committee, just to see if that is of any assistance. In the past, he said he did have contact, and then he reiterates that he doesn't remember everything. He would prefer to know what was in the notes from the detailed interviews that happened at the time. But he does recall this; he is certain of this, "The four of us were engaged in close conversation at close quarters for several minutes before the Minister"—that is Minister Hazzard—"moved on to another part of the room." That's clearly in contradiction—his recollection, even now—to what you were told. That's really the heart of what we are trying to reconcile here. Can you give us any guidance as to those competing stories?

JENNIE MUSTO: I can only say to you that when I interviewed Minister Hazzard he told me he had no contact with Adam Marshall.

The Hon. JOHN GRAHAM: And that was really the thing that tipped him over into being a casual contact?

JENNIE MUSTO: That's correct.

The Hon. JOHN GRAHAM: Thank you.

The Hon. MARK LATHAM: Did you ask Minister Hazzard what happened at the National Party dinner, where the infected Marshall was present?

JENNIE MUSTO: When I interviewed Minister Hazzard, I just asked him to explain to me exactly what his movements were through that day and through that evening, without trying to lead him at all, so he could describe to me, and that was the description he gave me. He went to the Strangers' dining room, he didn't speak to Adam Marshall, he gave his speech, and then he left shortly afterwards.

The Hon. MARK LATHAM: Why do you think Adam Marshall is saying the exact opposite?

JENNIE MUSTO: I have no idea. I didn't interview Adam Marshall.

The Hon. MARK LATHAM: Did Brad Hazzard give any indication, when he entered the Strangers' dining room, that Marshall was in conversation with Heffernan and Walsh, and Hazzard had conversations there?

JENNIE MUSTO: Only, as you can see in my scrawl, that Minister Hazzard said he was within a few metres of David Heffernan. I don't recall the rest of the conversation. I wasn't interested in his contact with David Heffernan.

The Hon. MARK LATHAM: What is the penalty for giving false and misleading information to a contact tracer?

JENNIE MUSTO: I don't recall. It is in the legislation.

The Hon. MARK LATHAM: In budget estimates, when I asked about the assessment of Hazzard, one of the things that the official said was that these were very sophisticated individual assessments. It depended which way people were facing, how loudly they spoke, whether anyone coughed. There is no record of that in your one-page handwritten notes. Did you ask those questions about Hazzard or, once he said that he had had no contact with Marshall, it didn't come up?

JENNIE MUSTO: That's right. If he had no contact with Marshall, those questions are irrelevant.

The Hon. MARK LATHAM: So what we were told at budget estimates about sophisticated assessment didn't apply?

JENNIE MUSTO: It depends on the individual assessment. If I was speaking to you face to face, I would want to know what distance I was from you if I was interviewing you. But, if you had no contact, then it's not relevant.

The Hon. MARK LATHAM: At the time, you were just happy to accept Hazzard's assurance that he had had no contact with Marshall, and that was the end of the matter. Why did the conversation take so long?

JENNIE MUSTO: That is because, as I said, I needed to get Minister Hazzard to walk through all of his movements that entire day and evening, not just the dinner. It was about what he did in his office, what he did in Chambers that day and where he went here in this facility. It takes a while.

The CHAIR: Ms Musto, so I'm clear, I ask about the interview with the Minister. Earlier in your evidence you mentioned, if I recall correctly, that you spoke to the Minister by telephone.

JENNIE MUSTO: Yes.

The CHAIR: That is not the interview, or is that the interview?

JENNIE MUSTO: That was the initial assessment of the Minister.

The CHAIR: Just to get the chronology correct so that I can be clear in the evidence for the inquiry, could you please lay out the occasions upon which you spoke to the Minister and whether it was face to face or by telephone? Can you recall that?

JENNIE MUSTO: I only spoke to the Minister by telephone. I did see him a few days later in the ministry, but that was not related.

The CHAIR: Where does the interview fit in? Sorry, I may be misunderstanding that.

JENNIE MUSTO: I did the assessment of the Minister as a casual contact.

The CHAIR: When was that?

JENNIE MUSTO: That was on the twenty-fourth. I don't remember, but there perhaps was a fuller interview after that. But it was not—

The CHAIR: I beg your pardon? A what?

JENNIE MUSTO: A fuller interview—a more detailed interview—after that. But it was not conducted by me.

The CHAIR: Where does the telephone conversation fit in, as you recall, that you described earlier in your evidence? Was that before or after the longer period of interview which, I presume, you had face to face with the Minister?

JENNIE MUSTO: It was never face to face.

The CHAIR: Sorry, right.

JENNIE MUSTO: Adam Marshall would have been diagnosed and interviewed. We identified that there were some issues that we had to solve in Parliament House. I called the Minister on the morning of the twenty-fourth.

The CHAIR: That's the telephone conversation you referred to earlier in your evidence?

JENNIE MUSTO: That's the telephone conversation, with the scrawly notes.

The CHAIR: So they are the notes you took from the telephone discussion to prompt you, as to what was being said on the telephone.

JENNIE MUSTO: That's right, but also to classify the Minister as to whether he was a close or casual contact. At this time, he was isolating. There probably should have been a fuller, more formal interview afterwards but I don't recall if that happened.

The CHAIR: You said a moment ago that you thought that there may have been a fuller interview, but now your evidence is that you are not sure that there was a fuller interview. Is that what you are saying?

JENNIE MUSTO: I thought there was, but I'm not sure. I haven't seen it because I believed that—

The CHAIR: What would make you think there may have been a fuller interview?

JENNIE MUSTO: That is because, again, I'm not sure about where we were in the response. But the process was to interview all contacts.

The CHAIR: That would obviously be a more thorough exercise of that fuller interview? That would obviously be beyond some general discussion? That would be a more complex discussion, in terms of the various issues?

JENNIE MUSTO: That's correct. But, again, I'm not sure where we were in it. This is the beginning of the Delta wave and so we changed how aggressively, perhaps, we followed up casual contacts. I couldn't be clear that casual contacts got that fuller interview.

The CHAIR: Given this was the health Minister of New South Wales, there may have been a possibility that there was, but you just don't know. Correct?

JENNIE MUSTO: Correct, and it certainly wasn't me.

The CHAIR: It certainly wasn't you. How would one find out about whether or not that took place or not? Where would that be evidenced?

JENNIE MUSTO: If an interview was taken, it would be recorded.

The CHAIR: And that would be somewhere on NSW Health's records.

JENNIE MUSTO: That's correct.

The CHAIR: Following that, then, did you ever have any further contact with the Minister about this matter of his exposure or potential exposure at the event?

JENNIE MUSTO: Not specifically. I saw him, of course, afterwards.

The CHAIR: This matter didn't get discussed? He didn't raise it with you, and you didn't raise it with him?

JENNIE MUSTO: He reported to me that he had a second negative PCR.

The CHAIR: That just came out in the course of the—you bumped into him somewhere in the city?

JENNIE MUSTO: No. We were in a meeting in Kerry Chant's office.

The CHAIR: He volunteered that, did he? He said, "Listen, by the way. This is the position."

JENNIE MUSTO: Yes, he volunteered that.

The CHAIR: Did Dr Chant respond in any way to that comment of his? Or was there any discussion involving Dr Chant, yourself and the Minister about this issue of the event with respect to the potential exposure at that meeting?

JENNIE MUSTO: No. They had moved on to probably more important things.

The CHAIR: This is considered pretty important, but I think I understand the point you're making.

The Hon. MARK LATHAM: Ms Musto, did you hear the evidence earlier on, of Mr Heffernan and Mr Walsh?

JENNIE MUSTO: No, I didn't.

The Hon. MARK LATHAM: They gave evidence, to some extent verifying the Marshall account. They said that Minister Hazzard was in the vicinity of Adam Marshall. They mentioned a gathering and a metre or two in terms of distance. Do you feel that's something that Minister Hazzard should've told you in the interview?

JENNIE MUSTO: Again, he told me that he had no face-to-face contact with Adam Marshall. I can't comment on what other people said.

The Hon. MARK LATHAM: We know certain things now. Shouldn't that have been revealed to you? We've got two witnesses and we've got Adam Marshall saying that Hazzard was close enough to have COVID transmitted to him. Shouldn't he have mentioned he was in the vicinity of Marshall, at a minimum?

JENNIE MUSTO: Minister Hazzard told me he had no face-to-face contact with Adam Marshall. That's all I can go on. The submissions of those two people didn't mention that either. They mentioned that they did not see Adam Marshall speaking to Minister Hazzard.

The Hon. MARK LATHAM: You've read their submissions, but their evidence today was somewhat different under questioning. But, as a professional person looking back, do you now feel that Minister Hazzard should've given you more information, given what we now know?

JENNIE MUSTO: I can only base my decision on the information I was given at the time.

The Hon. MARK LATHAM: That's not what I'm asking. I'm asking, as a professional person wanting to get these things right—they're critically important in terms of public health—do you feel that, at a minimum, Brad Hazzard should've said, "I walked into the function, and I was within the vicinity of Adam Marshall—a

metre or two. There wasn't social distancing. There was a conversation"? Wouldn't that have been a more accurate answer by Brad Hazzard?

JENNIE MUSTO: I can't answer that, because I don't actually know if that's accurate or not.

The Hon. MARK LATHAM: It's a criminal offence, as it turns out, to mislead a contact tracer—and a \$5,000 on-the-spot fine and, I suppose, other action they take. Do you feel now that the health department should conduct an inquiry into who was telling the truth, Marshall or Hazzard?

JENNIE MUSTO: No. Quite frankly, I think that would be a waste of the health department's time.

The Hon. MARK LATHAM: You don't think it's important to have on the public record a guarantee to the people of New South Wales, millions of whom have been bossed around by this Minister waving his finger, telling them to follow the rules, that the Minister who, clearly, has misled you shouldn't be held to account for that action?

JENNIE MUSTO: I don't think it's clear that he has misled anyone. I can only base my decision at the time on the information I had and what he told me.

The Hon. MARK LATHAM: Do you believe the people of New South Wales deserve some clarity as to what's gone on here and an investigation by Health? Clearly, someone has told the contact tracers false and misleading information. It was either Marshall or Hazzard. I'd suggest, on what we've found out today, it was Brad Hazzard. Shouldn't Health investigate that, given there's been a breach, a criminal offence, misleading information to a contact tracer?

JENNIE MUSTO: I think that's a matter for Health. But my view is that that would be a waste of government time.

The Hon. MARK LATHAM: Was it a waste of time for all the people who lost their jobs or were arrested by police in parks and beaches and told to wear masks or locked in their homes or the children who couldn't see their friends for weeks on end, locked in their bedrooms? Was that all a waste of time as well? Or do we have consistency across the board in the application of these rules, rather than Hazzard just being allowed willy-nilly off the hook? Don't you think this is just the bad example you're setting?

JENNIE MUSTO: I don't believe that's the purpose I'm here for.

The Hon. EMMA HURST: I know we're running low on time. Thank you for coming here today and thank you for your time. I echo the thanks given by the Hon. John Graham for your work during the COVID time. Given the scrutiny that's occurred around this event—and I assume that there's been a lot of time to reflect on what's happened—do you remain confident in the process that you undertook in relation to Mr Hazzard, or the process that was taken more broadly by the Health team, in determining to classify him as a casual contact?

JENNIE MUSTO: Yes, I do remain confident. I remain confident based on the information we had at the time. And in hindsight, there was no transmission within that dining hall event, which is also somewhat reassuring—even those who were close contacts. I don't think it was the wrong call.

The Hon. EMMA HURST: Thank you.

The CHAIR: If I could perhaps ask just one final one, because a statement that's been made by yourself a number of times during the questioning is that the response from the Minister to yourself in terms of the question about exposure to the Hon. Adam Marshall was—and I believe these are the words you've said time and time again—his response to you when asked the question by you, so you initiated the question, was, "I was not in close contact with Adam Marshall". They are the words—or very close to those words—he said to you?

JENNIE MUSTO: They would be the words. Certainly the Minister understood our language because he spent a lot of time, obviously, in the Ministry of Health and understood the way we spoke.

The CHAIR: Yes, so it's a very direct question.

JENNIE MUSTO: Yes.

The CHAIR: Unambiguous, the question.

JENNIE MUSTO: Yes. He would have also understood what our definitions of contact—

The CHAIR: Close contact was, yes.

JENNIE MUSTO: Yes.

The CHAIR: To the best of your recollection, did you put the question to him in that form of asking him whether he was a close contact and he said no or whether or not, in the course of the questioning, he came out and said, "I have not have been a close contact with Adam Marshall"? Can you recall? Would it most likely have been a prompting by yourself with a direct question, do you recall?

JENNIE MUSTO: The questioning was about his movements throughout the number of days that he could have been in touch—in contact with Adam Marshall. I would not have said, "Were you a close contact?" because that's a definition in itself.

The CHAIR: Right. Although he understood what that meant?

JENNIE MUSTO: He did understand what that meant. But I would have—again, I don't remember, but I would have said, "Did you have face-to-face contact?" That is probably the language we were using at the time. I don't believe—look, I don't remember.

The CHAIR: But to the best of your recollection, his response—

JENNIE MUSTO: Would not have been about being a close contact but direct, face-to-face contact.

The CHAIR: So he was likely to have said, to the best of your recollection, "I have not been in direct contact with Adam Marshall"?

JENNIE MUSTO: That would be reasonable—

The CHAIR: Approximately what he would have said.

JENNIE MUSTO: —but I'm not sure that's the wording, yes.

The CHAIR: Pretty close thereto. When he responded with such a definitive answer, did you then move onto the next part of your discussions with him, that would have taken you forward about this whole consideration? Or would you have said, "Can we just be very clear about this?" or something like that, and he confirmed that he had not been in direct contact with Adam Marshall?

JENNIE MUSTO: I would have continued the conversation until I was satisfied that I had the information I needed to categorise on.

The CHAIR: Yes, so that may—sorry, I'm not putting words in your mouth—or may not have included pressing him further on that point about whether he answered to you about being in direct contact? You wanted that reconfirmed in your mind so you pressed him further?

JENNIE MUSTO: I definitely pressed him further because I had him describe to me the whole Strangers' dining room situation because I hadn't been there before. I didn't understand the size of it or the layout of it. I definitely pressed him further. He described to me where others were sitting in the room or standing in the room and where he was.

The CHAIR: But the key issue, of course, was Mr Marshall, wasn't it, and whether or not he had had close contact or direct contact with Mr Marshall?

JENNIE MUSTO: Yes.

The CHAIR: You pressed him further on that key question, that key point, to get it clarified in your mind. He was very clear that he was responding to you accurately with his response?

JENNIE MUSTO: I pressed him so much as, "Where was Adam Marshall in the room?" Where was he in the room.

The CHAIR: Do you recall what he said in regard to the answer?

JENNIE MUSTO: He described to me that he was some distance away.

The CHAIR: Some distance?

JENNIE MUSTO: I don't recall.

The CHAIR: That phrase resonates in your mind? He said "some distance"?

JENNIE MUSTO: No, that's just me saying that now. I don't recall exactly his words, but I do recall that I asked him to describe the size of the room so I could understand how many people were in the room and where he was with respect to Adam Marshall.

The CHAIR: But if he said anything other than that there was some distance between him and the Hon. Adam Marshall, that would, in effect, contradict what he had said to you in the first instance, wouldn't it?

He had said to you, as I understand your evidence, that he had not been in direct contact with the Hon. Adam Marshall.

JENNIE MUSTO: He had not been face to face, that's right. I don't understand. Where's the contradiction?

The CHAIR: The contradiction is that his first response was that he had not been face to face.

JENNIE MUSTO: Yes.

The CHAIR: You pressed him further and, in pressing him further—as I understand your evidence, without the actual precision of the words—he, in effect, intimated to you that he was some distance away from the Hon. Adam Marshall. He wasn't close to him. If he said that he was close to him, that would have contradicted clearly what he had put to you in the first place, wouldn't it?

JENNIE MUSTO: I don't think it's a contradiction. You're either face to face, as in having a conversation with someone, or you're not.

The CHAIR: Right.

JENNIE MUSTO: So I still don't see the contradiction.

The CHAIR: If his first comments to you were—once again, you can't remember the precise words. Whether it was direct contact or face to face, you believe it probably wasn't the phrase "close contact". We have set that aside for the moment. That was signalling to you very clearly and unambiguously that he and Marshall never got close, right, as I understand the evidence. In further prompting of him and questioning by yourself, as I understand, his further evidence was giving more clarity that there was more distance between him and Marshall, correct?

JENNIE MUSTO: Yes, I think that's correct.

The CHAIR: But, of course, he would have had to have said that, would he not? If he changed his position, that would have sent up a red flag, because that would be at odds with what he put to you in the first place, wouldn't it?

JENNIE MUSTO: He didn't change his position. He was explaining the situation so that I could understand further. He didn't speak to Adam Marshall. That would have changed my assessment.

The CHAIR: Sorry, say that again?

JENNIE MUSTO: He didn't speak to Adam Marshall. He said he didn't have face-to-face contact with him. I know that contradicts what Adam Marshall says, but that was the information I had at the time and that's what I assessed it on.

The Hon. MARK LATHAM: Ms Musto, it's on the public record that as soon as it became known that Adam Marshall was infected, Brad Hazzard isolated for 24 hours. If he hadn't had close contact, and he knew that, and he knew your language and procedures, and he told you that, why did he isolate for 24 hours?

JENNIE MUSTO: Because that was the process at the time and that was our advice at the time. To give us time to do these risk assessments, we asked everybody who could even possibly be a contact to what we called "stop and stay", which I mentioned before. Everyone stops what they're doing, stays at home and takes a test to give us time, as contact tracers, to assess the whole situation. As you can imagine, it's quite complicated. And this was actually quite complicated and it takes time. So he isolated based on health advice, like everybody else would have, until we had time to work out—

The Hon. MARK LATHAM: I didn't isolate. I wasn't told to isolate. I was here in the building. I could have passed Adam Marshall in the lift or the corridors—anywhere. Many hundreds of people here weren't told to isolate.

JENNIE MUSTO: We wouldn't isolate the entirety of Parliament unless we thought that there was a reason to.

The Hon. MARK LATHAM: What reason did Hazzard have to isolate if he knew that he hadn't had any contact with Adam Marshall? He's the health Minister. Wouldn't he have said to you, based on your advice, "No. I'm telling you, I haven't had face-to-face contact with Adam Marshall. There's no need for me to isolate for 24 hours"?

JENNIE MUSTO: I believe he isolated before I spoke to him.

The Hon. MARK LATHAM: Did you discuss his isolation with him, as to why he'd done that? Even though he—

JENNIE MUSTO: That is because that was the guidance at the time. I didn't discuss it, from recollection, but that was our guidance.

The Hon. MARK LATHAM: But it was a selected guidance, wasn't it, that it applied to some people in the building and not to others?

JENNIE MUSTO: No, it was blanket guidance that may or may not have been received by everybody.

The Hon. MARK LATHAM: Well, there was no instruction that went out to me or my office or anyone that I knew on the eleventh floor, that we had to isolate. I would have thought Brad Hazzard isolating was an indication that he knew that he had a problem.

JENNIE MUSTO: No, I believe he was doing the right thing by isolating until we assessed him and until he had a negative PCR.

The Hon. MARK LATHAM: Thank you.

The CHAIR: Thank you very much. We appreciate you coming along today. I apologise for going over slightly. You have been very forthright. Once again, I share my colleagues' comments of thanking you very much for the most important work you did during a very difficult time.

JENNIE MUSTO: Thank you.

(The witness withdrew.)

Dr KERRY CHANT, Chief Health Officer, and Deputy Secretary, Population and Public Health, NSW Health, affirmed and examined

The CHAIR: I welcome and thank those that have joined us today in the public gallery. It's really pleasing to have people come along and participate in the Parliament and particularly join us at meetings. You are most welcome. I commence by acknowledging and thanking NSW Health for its substantial contribution to the inquiry. The submission stands as No. 1 to the inquiry. It's been checked—

[*Interruption*]

The CHAIR: Order! Submission No. 1 to the inquiry has been processed, uploaded to the inquiry's website and is now publicly available. As you know, with these proceedings you are invited to make an opening statement if you wish and then we'll lead into questioning. We have representatives around the table from the Opposition, crossbench and Government. If you are comfortable, we will share the questions between ourselves. With that then, with no opening statement and acknowledging the submission, we'll open up for the questions from members.

The Hon. MARK LATHAM: Thank you, Chair. Thank you, Dr Chant, for your time today. We've heard evidence from Jennie Musto, who performed the individual assessment on Brad Hazzard, that she did so without the Adam Marshall record of interview in front of her. How could that happen, given that Marshall gave an extensive interview over a three-hour period to a number of contact tracers? Wouldn't it be standard process, in working out who had had contact with Adam Marshall, to have his record of interview in front of her so that she could see his evidence of having close, direct contact with Brad Hazzard, including at the National Party dinner in the Strangers' dining room?

KERRY CHANT: I think you've obviously had the opportunity to speak to Ms Musto. I'd like to say that the contact tracers do a professional job, and they will draw on additional information if there is any need to do so, would be my understanding of their standard practice. So I think that question is most appropriately directed— having had the opportunity to speak to Ms Musto. I can't formulate the thinking in Ms Musto's mind, but obviously there was clarity around the evidence given to her, or the information given to her, by the people that she interviewed.

The Hon. MARK LATHAM: But, in tracing those that have contact with Adam Marshall, wouldn't it be contact tracing 101 to have the Marshall record of interview in front of her? She could have said to Brad Hazzard, "Well, Marshall is saying he's had these conversations with you. He's had direct close contact, including in the Strangers' dining room at the National Party function." This is a huge oversight, isn't it? And we got to the point where, effectively, Brad Hazzard just had to say, "No, I didn't have any close contact," and that was the end of the matter.

KERRY CHANT: I think I'd just like to draw your attention to the case definition, at the time, in the CDNA guidelines, which is referenced in the submission.

The CHAIR: Could you please draw the page number to our attention, Dr Chant?

KERRY CHANT: Yes, certainly. Page 2 of the submission from NSW Health states:

The CDNA SoNG provides detailed national guidance on the considerations for classifying close or casual contacts.

We append the relevant SoNG and draw your attention to the definition of the New South Wales "close contact", aligned to the "primary close contact", as referenced in the CDNA SoNG. In that section 6, you will see that the "face-to-face contact of any duration or shared a closed space (for at least one hour) with a confirmed case during their infectious period" would classify as a close contact.

I think that, in reviewing some of the transcripts and some of the other documentations, there is this clarification about whether someone was in proximity with someone versus the distinction about the nature of the contact in terms of face to face. Also, you will note here that there is recognition of the airborne nature of the transmission of COVID 19 virus. You'll see the "shared a close space for at least one hour", and I think that also explains why some people who had spent a longer period of time were classified as close contacts, because of that duration in that space.

The Hon. MARK LATHAM: Well, that didn't add up either because question time, combined with the National Party event, combined with Marshall's time in Minister Hazzard's office was well over an hour, and still he wasn't a close contact in the Musto classification. Just coming back—

KERRY CHANT: Mr Latham, can I just clarify that point. If you read the guidelines, on that first dot point on page 2 of our submission, it states:

... face-to-face contact of any duration or shared a closed space (for at least one hour) ...

So what we're talking about is the risk, obviously, of airborne exposure within a closed environment for an hour. So we're not talking, necessarily, about different exposures. It's around the setting and the hour in that Strangers' dining room.

The Hon. MARK LATHAM: Well, question time goes for over an hour and it's a closed space, obviously. It's not a very big space at all. But that aside, how is it possible for Jennie Musto to have made an accurate assessment of Brad Hazzard if she didn't have, in front of her, the Adam Marshall record of interview where it says, "Marshall was very close to Minister Hazzard and had a conversation before he spoke at the National Party event," and then further, "No contact with the Premier or Treasurer. Seems to have had direct contact with the health Minister at the charity event." It's an incredible oversight, isn't it, that these points weren't put to Minister Hazzard and he was allowed to just say, "No, I've had no contact," and that was the end of the matter?

KERRY CHANT: I think your characterisation of that is inaccurate. I think what has been clear is that the purpose, I would have assumed, for Ms Musto, in having the separate interview to Minister Hazzard, is to clarify the nature of the contact that occurred. I believe, and you presented at the last budget estimates—

The Hon. MARK LATHAM: She said she was unaware of this record. She was unaware of these Marshall interview records and didn't have them in front of her to ask questions of Brad Hazzard. One of them is headed, "Text message 7.40 p.m. Guest speakers. Minister Hazzard. Very close to Minister Hazzard. Had a conversation." The others, "On the handover document on 23 June." So this precedes the Musto interview with Brad Hazzard and these points were never put to him.

KERRY CHANT: As I said, if the interview with Minister Marshall did occur, you've had the opportunity to clarify with Ms Musto about what records or additional information she accessed. But, as I said, the interviews were conducted with Minister Hazzard because obviously there was an issue that had been raised that he was at the same place as Minister Marshall and that that exposure needed to be clarified because he was a guest speaker and was not there for the full event. And also because of his role, it was important that we clarified the nature of his contact, and it was delegated to Ms Musto to undertake that assessment.

The Hon. MARK LATHAM: What was the point of Marshall doing a three-hour interview if Musto didn't use the information that came out of it?

KERRY CHANT: Can I just say that there was extensive use of Minister Marshall's information. As you're aware also from the submissions to this inquiry, staff of the ministry went to review the CCTV footage on 24 June to actually undertake a further assessment of Minister Marshall's movements and other contacts that could have occurred, to conduct a very thorough investigation in relation to the exposure events in Parliament House.

The Hon. MARK LATHAM: What did those cameras show in the Strangers' dining room?

KERRY CHANT: I'm not aware of that. I am happy to note if anyone has any other record of that. I'm not sure if there are CCTV footage—

The Hon. MARK LATHAM: No, there aren't. So that's not relevant, is it?

KERRY CHANT: I think it's relevant to the fact that—

The Hon. MARK LATHAM: There are no cameras in there. There was nothing to check. The only thing you could check was Marshall's record of interview.

The CHAIR: Order! I think we need to ensure that there's an opportunity for the witness to answer.

The Hon. MARK LATHAM: Yes, sure.

KERRY CHANT: Mr Latham, I was responding to the comment around the fact that the interview notes from Minister Marshall were used extensively in guiding the points to look at in relation to CCTV footage, as complementary to other modes of identifying who had close and casual conduct.

The Hon. MARK LATHAM: Yes. You were trying to leave open the possibility that there's CCTV footage in Strangers' dining room that could have checked these things. I'm just saying there was none.

KERRY CHANT: No, I was—

The Hon. MARK LATHAM: That's clear in the submission from the building manager. But you and others also told us at budget estimates that Hazzard received an individual assessment. These are very sophisticated things about which direction people are facing in, who coughed, how loudly they spoke, how strongly they breathed and so forth. Were you able to hear Jennie Musto's evidence earlier on that there was no such assessment of Hazzard? It just stood and fell on the proposition that he said he hadn't had any close contact

with Adam Marshall, and she didn't have to go into any points about who was facing in which direction, how loudly they spoke and who coughed, and so forth. The casenotes are 27 words of pretty uninformative information.

KERRY CHANT: I didn't directly listen to Ms Musto's evidence. I was waiting outside. I would just like to say that the contact tracers are experienced. They conduct the interview and will assimilate a lot of information in that contact interview and write their notes. Ms Musto is experienced, had worked extensively in this area of transmission and was aware of the contemporary evidence around transmission of COVID, as we knew it at that time. She would have applied that. I'm very confident she would have applied that in her assessment. As I said, the process was clear. Dr Douglas has spoken to that at the previous budget estimates, that he was coordinating the overall response. There were a number of elements of the response to the complex array at Parliament House around the multiple touchpoints with Minister Marshall, and the Strangers' dining room was one component of that.

The Hon. MARK LATHAM: Did you ask Jennie Musto to do the Hazzard assessment?

KERRY CHANT: I can't recall who allocated it. You'd be better raising that with Ms Musto directly.

The Hon. MARK LATHAM: She couldn't recall either.

KERRY CHANT: My recollection is that, in terms of the management of the exposure, Dr Douglas was appointed as the coordinator for Parliament House, given the complexity of the touchpoints and because we needed to view the CCTV footage. Who allocated the specific tasks to the different contact tracers, I'm unaware of.

The Hon. MARK LATHAM: Right. Was it your expectation, though, that Jennie Musto in her work would apply this clause about the importance of Brad Hazzard's work in the pandemic response?

KERRY CHANT: In terms of the identification, I think it's important to say that the first point is that, as we've indicated, the contact definition at that time as per the CDNA guidelines were if you had shared a close space for at least an hour. My understanding is that the event at the Stranger's dining room actually went for over one hour. I believe that in Michael Douglas' comments in the previous Standing Order 52 submission that I think you drew the Committee's attention to, at the last when I reviewed that, it indicated that it is understood there were about 80 persons attending the event as a sit-down dining event, with some mingling afterwards. The event lasted for about two hours, 18:45 to 20:45, and all guests at the function were hence identified as close contacts.

He then goes on to say that's what—they were identified, these guest speakers, who didn't stay for that full duration of the event. Those individuals were also important in terms of performing critical functions to the State, and hence there was a particular approach to interviewing those to ascertain and confirming any contact and then the nature of the contact. Then, in the final paragraph of that, he does also highlight that there were other guest speakers who were at the event who sought reclassification and one further exemption, to his recall. I haven't confirmed this but I'm just referring to the notes that he tendered, indicating that clearly if people could make the case that they were there for a very short period of time, that would be aligned to the assessment made in terms of the guest speakers.

The Hon. MARK LATHAM: Through the pandemic, Dr Chant, has Health taken action against anyone for giving misleading advice to a contact tracer?

KERRY CHANT: The general approach to health has been to seek the cooperation of contact tracers. I'm not aware that we actually have, but I would actually have to just check with our legal team about whether we have brought charges against anyone.

The Hon. MARK LATHAM: If you could take that on notice. Thanks. It's a criminal offence, isn't it, to give false and misleading information to a contact tracer?

KERRY CHANT: I think there was a requirement for individuals to be appropriately correct in terms of their evidence to the contact tracers, Mr Latham.

The Hon. MARK LATHAM: Our Committee has a situation where Adam Marshall has given evidence that's 180-degree opposite of what Brad Hazzard has told Jennie Musto. Will Health now investigate what clearly is an example of someone providing false and misleading information to contact tracers and take the appropriate action?

KERRY CHANT: I was just provided with the Adam Marshall statement, just prior to coming in. Clearly, in relation to this, I think what you're alluding to is the statement that Mr Marshall is making in relation to his recollections around his position—that he actually was part of the group speaking to Minister Hazzard.

The CHAIR: Just to be clear, that's paragraphs 2, 3 and 4 on the top of the second page.

The Hon. MARK LATHAM: That's his submission to our inquiry. But you've got in your own records, very clearly, his interview with contact tracers in June of last year where it says, "He was very close to Minister Hazzard and had a conversation before he spoke. No contact with the Premier or Treasurer. Seems to have had direct contact with the health Minister." He has provided to us a submission that verifies what he told the contact tracers on the spot in June last year.

KERRY CHANT: Obviously, the issues to go with the distance away that that conversation had, the positioning—and, obviously, Minister Hazzard was interviewed, and that was done promptly by Ms Musto, who recorded those conversations.

The Hon. MARK LATHAM: But do you accept that either Hazzard or Marshall has provided false and misleading information? They both can't be accurate because they are 180 degrees different. They're direct opposites.

KERRY CHANT: I am not in the position to have reviewed thoroughly the issues at base. I'd just like to indicate that someone can be having a conversation with people—it depends on the distance, the location, the nature of the positioning, whether you've got direct face-to-face contact and for the duration.

The Hon. MARK LATHAM: Will you review it now? We're not talking about Fred out in the suburbs, we're talking about the health Minister, who not only knew the rules, he was part of making the rules as to what a close contact constituted. He is saying he had no close or direct contact with Adam Marshall. Adam Marshall is saying the exact opposite. Someone has provided false information to a contact tracer.

KERRY CHANT: I think it's also important to note that the inquiry is being held to look into these matters. I think that's probably the appropriate place for it. You're conducting a full investigation. People will have different recollections of it. I'm happy to go back to the record of review from Minister Marshall, but the facts stand. The contact tracing process was a robust one and I have the utmost faith in the integrity of the staff conducting it. There were no concerns that any pressure was put on anyone to do anything other than follow the correct process.

The Hon. MARK LATHAM: Sure, but you're not concerned by this direct contradiction, that someone has misled a contact tracer? It's either Marshall or Hazzard; they can't both be accurate.

KERRY CHANT: I think there will always be differing recollections of events. I'm not sure that those two things are inconsistent. I'm not in a position to really comment on that. All I can comment on is the process that was followed and the assessments that were done and relied upon.

The Hon. MARK LATHAM: We're a parliamentary unit providing an inquiry but we don't administer the criminal law of New South Wales. Don't you have a responsibility to ensure that the contact tracing is accurate and accurate information has been provided to your tracers? Clearly, in this instance, you'd have supreme concern that Brad Hazzard has said that he didn't have the contact so he could get himself off the hook?

KERRY CHANT: I think the issue is the distinction that would need to be teased out. I also know that you've also had the opportunity to speak to two other people that were in the proximity. I, again, did not listen to their evidence but I did review their statements and they seem to put a slightly different picture. So it just highlights that information is sometimes provided with different recollections.

The Hon. MARK LATHAM: Their information under questioning was a bit different to the statements that you've read. But we're happy to forward the transcript.

KERRY CHANT: Apologies, I was not in attendance to hear.

The CHAIR: There is no need to apologise.

The Hon. JOHN GRAHAM: Dr Chant, thank you for appearing. You've been thanked in this forum many times for the work that you've all done. I think it is appropriate, given these questions, to thank you again.

The CHAIR: Hear, hear!

The Hon. JOHN GRAHAM: Returning to that central contradiction because, look, that is why the Committee is here. I accept it's hard for you to say is this false or misleading. Can you shed any light, though, on the central contradiction here where contact tracers are told at the time by Minister Marshall, "Yes, there was face-to-face contact or close contact," and by Minister Hazzard, "There was not," then now, we've got this clear recollection Minister Marshall—or former Minister Marshall—now says, and no answers at the moment from Minister Hazzard on that question. Is there any light that you can shed on that contradiction that we're grappling with here, given what you do know, given the records Health has?

KERRY CHANT: Again, I can't shed further light on it, other than the difference in the words where we're using direct contact or proximity contact, and close. When the contact tracers are applying the CDNA guidelines, they are applying the face-to-face component of that. I think it goes to the fact that you might identify people that are in your proximity and you might use the colloquial term "close", but that doesn't mean for the technical purposes of the CDNA guidelines you're a close contact. I think some of this is maybe the way language is being used. Direct contact—what does that mean? It may be different. I think Dr Gale also commented on this in her evidence to the previous committee on page 51 where she addressed the way that language is different between direct contact, versus the strict definition of close contact, versus the CDNA guidelines.

The Hon. JOHN GRAHAM: Yes, and I can accept that. There are clearly some different recollections here and a confusing situation, but the accounts are so far apart. That's the thing that we're really struggling to reconcile here. I put to you that statement from Adam Marshall:

The four of us were engaged in conversation at close quarters for several minutes before the Minister moved on to another part of the room.

I just cannot reconcile that with the statement that tipped the assessment over into casual contact, the statement put to Ms Musto that there was no conversation and there was no contact.

KERRY CHANT: Again, I did not listen to Ms Musto's evidence, but all I'm going on is the handwritten notes that I alluded to. It indicated there not face-to-face contact; it didn't necessarily reflect on—I don't know what Ms Musto's position was on whether a conversation occurred or not. I cannot comment on that.

The Hon. JOHN GRAHAM: Understood. Acknowledging that there's not a lot of light you can shed on that contradiction to bring that gulf together, why didn't the contradiction itself come to light at the time? Why wasn't it clear that there were two conflicting accounts? There are now; there were at the time. Why didn't that become more clear in the process?

KERRY CHANT: I can't comment on the processes; all I can say is that the staff team were acting rapidly to assess the cases and contacts and follow the process. I can't comment on the particular issues around—obviously the fact that Ms Musto was allocated the task of doing the assessment indicates that Minister Hazzard had been identified as being potentially in proximity or in some way needing to be assessed.

The Hon. JOHN GRAHAM: If a Minister of the Crown, the Minister for Health, says, "Look, I didn't have contact," I don't think it's unreasonable to take that at face value—except for that detailed and very different statement from Adam Marshall that was passed over to the contact tracing team at the time. That's the issue I'm struggling to understand.

KERRY CHANT: And as I said, I think it may be the way language is described about direct contact. Obviously, in a group, you can be standing and having a conversation but very distanced. It's very different, those dynamics, and I can't comment on that.

The Hon. JOHN GRAHAM: But that is not what Adam Marshall is putting. He is saying "engaged in conversation at close quarters". He's quite specific about the fact that there's a lot he doesn't recall. This is quite some time ago. He has some other views that he hasn't put down because, on the balance of probabilities, he's probably got a recollection but he doesn't recall clearly. He says, "I have only provided here what I can recall today with absolute certainty." This bit he is certain of, and it's not a matter of language, and that is "conversation at close quarters for several minutes". That would have triggered the guidelines at the time for a close contact, if that was true, wouldn't it?

KERRY CHANT: If it was face-to-face contact with the individual. As I've said, per the CDNA guidelines, face-to-face contact would have constituted a close contact.

The Hon. JOHN GRAHAM: Are there other records held by Health that have not yet been provided to the Committee that might shed light on this question that you're aware of, records of interview or something from that matter?

KERRY CHANT: I'll just have to take that on notice and check in our NCIMS records whether there's anything more detailed in the NCIMS records.

The CHAIR: Just for the purposes of *Hansard*, Doctor, is NCIMS an acronym?

KERRY CHANT: Yes, sorry, it's our notifiable infectious disease—

The CHAIR: But it's an acronym; we can find that.

KERRY CHANT: I'm happy to provide it on notice, but it's basically a notifiable disease database. It's our IT infrastructure that we use for recording information. It sucks in our positive notifications and does our data.

Sorry for using that colloquial term NCIMS, and I can't even remember the acronym, for which I'm going to be killed at some point.

The CHAIR: That's all right. We can find that out. It is fine.

The Hon. JOHN GRAHAM: I'm relieved to hear that even you can't recall some of these acronyms. On the question of the way this process should work in future if it came to improving the process, acknowledging that our contact tracing has been favourably compared to what's been possible in other States, the central contradiction here between two different accounts of two different Ministers in the Government at the time were not compared in a way that might have brought that to light immediately in the chaos and confusion in a big event like this. Is that something that should be improved for the future? Is there something that could be done differently to make that happen, or is this just a product of everything that you're dealing with in the pandemic and you really feel like the processes are robust?

KERRY CHANT: I think the processes around the contact tracing were actually incredibly thorough and, to some extent, the fact that people were erred to put into close contact. So we erred on that. Sorry, I don't mean "erred" in a negative manner.

The Hon. JOHN GRAHAM: I understand.

The Hon. MARK LATHAM: On the balance of risk.

KERRY CHANT: On the balance of risk, we included people in close contacts. It was only at the fringes where we could be absolutely sure. We also had convened an expert panel to guide us because Minister Marshall's level of infectiousness was likely to be different over the day and other factors. So we actually did quite a thorough effort. We immediately deployed people to look at CCTV footage, and we acknowledged the cooperation of the parliamentary services for permitting that. For me, the investigations were actually complex but done to a very high standard. Obviously, in all things, we are happy to improve, but we actually did have staff on the ground operationally transferring information. Generally, that worked incredibly well.

The Hon. JOHN GRAHAM: I agree with that. I think that's the impression of MPs in the building, I have to say. That's the view that has been put to me. There were some remarkable things done to track this down, but this contradiction didn't come to light and it seems that it should have. There are two very different accounts here and that contradiction was not brought to light at the time. Is there something you could do to improve the system to ensure this doesn't happen down the track as you're continuing to do this work?

KERRY CHANT: I think we recognise that sometimes people have different recollections of events. As I said, that's why we also erred very much more on calling people close contacts in this context. From my perspective, the team did an amazing job in a complex environment. I acknowledge the cooperation of the parliamentary services and the parliamentarians in cooperating with quite a difficult time in a complex workplace. I am always happy to reflect on anything we can do better, but people were working very hard at the time to do the best we could to do the most thorough assessment using the CDNA guidelines. I have a lot of pride in the diligence and commitment of staff that worked very hard during this period.

The Hon. JOHN GRAHAM: Returning to where I started, we'll do our best to reconcile these competing recollections—very different recollections at the time—as reported to the contact tracers. But there's nothing additional that you want to place on record that will assist us as we weigh those up?

KERRY CHANT: No, I have indicated that we're happy. I think you have requested that we look at the NCIMS records, and we are very happy to do that.

The Hon. JOHN GRAHAM: I appreciate it.

The Hon. EMMA HURST: I only have a couple of questions. Thank you so much for your time today. To get a bit of an understanding, I assume that there's quite a specific process in regards to classifying a casual or close contact and it's not an exact science. Is there some level of judgment call based on the evidence, especially in those early stages around determining that, or do you feel like it's much more stringent?

KERRY CHANT: If you refer to the CDNA SoNG guideline, you'll see that there are some elements of that definition of the primary close contact that are very concrete—the face-to-face contact or the shared space for at least an hour. But then, if you look at some of the other—the second dot point in that is the exposure may be any duration depending on the risk setting, such as: transmission has already been proven to readily occur and there are concerns about adequate air exchange in an indoor environment and concerns about the nature of the contact in the place of exposure. Then the next dot point is being exposed to a setting or exposure where there is a high prevalence of infection and being in a venue where transmission has been demonstrated. So you can see that we move from the precision of what we absolutely agree, but there's actually a lot of flexibility to do that

more nuanced assessment in others. We're generally erring to move people into a higher degree of protection, which at that stage would've been close contacts.

The Hon. EMMA HURST: I know you haven't heard some of the evidence today, but I assume you heard various things that have come up in regard to this inquiry. I just wanted to get your thoughts about whether there was anything out of the ordinary about the assessment of Minister Hazzard. Are there any kinds of concerns that you have now on reflection?

KERRY CHANT: As I said, my recollection of it is that Dr Douglas—and I know that Dr Douglas answered a number of questions at the last budget estimates—oversaw the Parliament House as a workplace in entirety just because of the complexity of the movements of Minister Marshall through the building and the potential contact points. So it was decided to treat this as a whole. There was extensive analysis using CCTV footage and interviews. The team did the best they could in the circumstances of the complexity. I have trust in their expertise. I suppose it does require—all the processes, to my oversight of it, look like they occurred. Whilst we're really always happy to improve and reflect, but for me this was an example where there was a lot of work. I acknowledge the impact it did have on parliamentary services and the parliamentarians and the other staff that work in this facility.

The Hon. EMMA HURST: You've already touched in a different context on some of this already, but I just wanted to give you an opportunity to respond to a quote that I'm taking from the submission by Mr Adam Marshall. He stated:

... reflecting on the impact my COVID-positive status had on others, I am still amazed by the large number of people required by NSW Health to isolate for two weeks, the vast majority of whom I had no direct contact with during the course of Budget Day.

I just wanted to give you the opportunity to respond to that if there's anything that you wanted to put on the record in response to that particular statement.

KERRY CHANT: I suppose, just to go back to that CDNA primary close contact definition, which actually has people that are in an enclosed space—I should use the correct terminology: shared a close space for at least one hour. Obviously that did capture a large number of people in the Strangers' dining room. I think that's an important element. I think it's also important to know that the contact tracers will err on classifying as a close contact where there are concerns in relation to the casual, because close contact provides a greater degree of protection. I just do want to acknowledge that that would've been the approach taken at that time.

The CHAIR: You've indicated you didn't hear Ms Musto's evidence. I understand that *Hansard* will provide an actual reflection of what she said. But we know there's a handwritten note that she prepared. That was, as I understand, notes that she took essentially to prompt her. They were certainly not detailed notes, and she concedes that, nor were they intended to be detailed notes. But if I understand her evidence correctly, there's another stage whereby—and I presume this was done with Minister Hazzard. I think she used the words "a questionnaire", which is completed. A questionnaire is part of the contact tracing process. Forgive me if we've actually received this through Standing Order 52, but presumably there would be no reason why that would not have been required to be done for Minister Hazzard. Or would the fact he responded in the way that he did, by saying, "I wasn't in the vicinity," or "I wasn't a close contact" or "not directly involved with him face to face" obviate the whole thing so there would be no progressing to the next stage of doing the more complex questionnaire? Is that something we are able to check on notice?

KERRY CHANT: I'd have to understand the context of Ms Musto's response and the question put to her.

The CHAIR: That will be in the transcript, yes.

KERRY CHANT: But the process is that the contact tracers would routinely, in their case interviews, collect a lot of information about the case and who they thought they were in contact with, and the various circumstances, to make that assessment. In some cases they would then seek clarification, where we might delve in more deeply in terms of some of the casual or close contact—some of the contact. I don't want to get myself mixed up here in the language.

The CHAIR: I do understand; this is careful.

KERRY CHANT: But where people might have identified that they could have been in contact with these people, but can't actually recall, or anything like that, then further interviews are done with those individuals to clarify what the nature of it is. I think what Ms Musto might have been alluding to is the contact tracing for the cases, but I will double-check.

The CHAIR: But that's to be distinguished from the further point that you took on notice earlier of the separate system which draws down information, in terms of whether there be a capture at that point.

KERRY CHANT: That's correct, because a number of people may raise the possibility that they've been with someone but, on reflection and looking at diaries or other aspects, it's not confirmed that that happens.

The CHAIR: That's fine. We know you are extraordinarily busy, Dr Chant. Once again, we thank you for carving out time from a very busy schedule. On behalf of the Committee—I know it has been said to you many times before, but it is meant with deep sincerity and gratitude—we appreciate the enormous work that you have done over this most difficult time. Thank you for the leadership and the guidance that you have provided. That concludes the public part of the hearing. Thank you to Dr Chant, to those in the public gallery and to those on the internet.

(The witness withdrew.)

The Committee adjourned at 12:38.