

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

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

CORRECTED

At Macquarie Room, Parliament House, Sydney, Tuesday 22 November 2022

The Committee met at 8:00.

PRESENT

Ms Cate Faehrmann (Chair)

The Hon. Wes Fang

The Hon. John Graham

The Hon. Taylor Martin

The Hon. Daniel Mookhey

PRESENT VIA VIDEOCONFERENCE

The Hon. Peter Poulos

The Hon. Penny Sharpe

* Please note:

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

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

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

The CHAIR: Welcome to the eleventh hearing of the Public Accountability Committee inquiry into the appointment of Mr John Barilaro as Senior Trade and Investment Commissioner to the Americas. The inquiry is examining the circumstances leading up to the appointment of the various commissioners, including the processes, probity and integrity measures undertaken. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today.

Today we will hear from Mr Stephen Cartwright, Agent General UK, Senior and Investment Commissioner Europe and Israel, Investment NSW; and Mr Bran Black, Chief of Staff, Premier of New South Wales. I thank the witnesses for making the time to give evidence to this important inquiry. Before we commence, I make some brief comments about procedures. 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 Committee proceedings by representatives of media organisations 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 that material. This is detailed in the broadcasting resolution, a copy of which is available from the secretariat.

While parliamentary privilege applies in New South Wales to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. Therefore, I urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence. All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided within 21 days. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

Mr STEPHEN CARTWRIGHT, Agent General UK, Senior Trade and Investment Commissioner Europe and Israel, before the Committee via videoconference, on former affirmation

The CHAIR: I welcome our first witness, Mr Cartwright. Would you like to begin today by making a short opening statement or proceed straight to questions?

STEPHEN CARTWRIGHT: Chair, I gave you a very detailed statement when I appeared the first time, so I'm happy to proceed.

The Hon. DANIEL MOOKHEY: Thank you, Agent General, for taking the time again this morning to join us. It is appreciated. Can I just check as a preliminary matter that you have access to the first tender bundle that we used at the last hearing?

STEPHEN CARTWRIGHT: Yes, I just found that. So I do, yes.

The Hon. DANIEL MOOKHEY: You have the additional documents that have been supplied to you?

STEPHEN CARTWRIGHT: Yes, they came through very late but I managed to find a printer downstairs and I managed to get a copy done in time.

The Hon. DANIEL MOOKHEY: Thank you for joining us at the hour which you are joining us at your time. We appreciate that as well. We canvassed some of this in the last hearing, but do you mind just taking us through your contacts with Minister Ayres?

STEPHEN CARTWRIGHT: My contacts with Minister Ayres?

The Hon. DANIEL MOOKHEY: Yes. In your opening statement—

STEPHEN CARTWRIGHT: Given that I've known Minister Ayres for a long time, would you help me by being a little bit more detailed?

The Hon. DANIEL MOOKHEY: I mean as Minister for trade, sorry.

STEPHEN CARTWRIGHT: My recollection was he was originally Minister for investment. It was the Deputy Premier who was Minister for trade. So—

The Hon. DANIEL MOOKHEY: You're correct, but he becomes the Minister for trade circa October 2021.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Perhaps we can start from there. You made a point in your opening statement, which is I think on page 8 of 10 in the version that you gave us, in paragraph 3 that early in your time with government you had a one-on-one meeting with Minister Ayres.

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. DANIEL MOOKHEY: And that "he gave me his mobile phone number and told me that I could reach out to him directly if I ever needed to."

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Do you have any further information about the context of that meeting?

STEPHEN CARTWRIGHT: It was just a meeting that I requested of the Minister. I wanted to have a conversation with him before I shipped out to the United Kingdom to take up my posting over here and I just wanted to get a feel from the Minister as to his expectations of the role of the agent general. And that was really the purpose of reaching out and asking for the meeting.

The Hon. DANIEL MOOKHEY: Equally at that point, Minister Ayres said to you, and you clearly recollect him saying, that you could reach him directly if you ever needed to?

STEPHEN CARTWRIGHT: Yes. I was very grateful for that, because I think I referred earlier to my employment contract which committed me in my employment contract to directly briefing the Premier, the various Ministers involved and the Treasurer, so it was helpful that that contact point was offered. I assured the Minister that I wouldn't use it unless I needed to but I was grateful to have that access.

The Hon. DANIEL MOOKHEY: After that, did you have any other conversations with Minister Ayres whilst he was the trade Minister?

STEPHEN CARTWRIGHT: Yes. Minister Ayres came to London for a week in February. I met the Minister and Ms Brown, the CEO of Investment NSW, out at Heathrow Airport and organised a car to take them back to their hotel. That was one occasion. Another occasion was in May of this year. I was in Sydney doing some work-related matters and we both spoke at a—I think from memory it was a Australian British Chamber of Commerce lunch about the upcoming free trade agreement and about the trade and investment opportunities between Australia and the United Kingdom.

The Hon. DANIEL MOOKHEY: There's also the contact that we already canvassed in which you contacted him via WhatsApp in order to raise issues to do with your remuneration, correct?

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. DANIEL MOOKHEY: And that's separate from the incidents you just described?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Is that the best recollection of your contact with Minister Ayres during his tenure as trade Minister?

STEPHEN CARTWRIGHT: I did reach out to his office one other time in relation to a UK company that operates in New South Wales that was a flight risk of moving to Queensland. I wanted to alert him to that potential loss of an important employer in New South Wales, just so that he was aware of it.

The Hon. DANIEL MOOKHEY: Do you mind taking us through, what was your investiture ceremony?

STEPHEN CARTWRIGHT: When I was awarded the Order of Australia, the investiture ceremony was supposed to be part of the normal ceremony that the New South Wales Governor presided over, which would have been a group of people who were presented with their Order of Australia or their other recognition awards. Because of COVID, the ceremony that was to take place—I think it was in November—had to be cancelled. I was moving to the United Kingdom toward the end of January, so the New South Wales Governor very kindly offered to do a once-off investiture ceremony and to invite some key people from the Government but also more members of my family than would normally be permitted to attend. It was, I think, in the words of the Governor, both an investiture ceremony but also a farewell to the first agent general for New South Wales in 30 years.

The Hon. DANIEL MOOKHEY: Do you recall having a private chat with Minister Ayres at that ceremony?

STEPHEN CARTWRIGHT: I had a private chat to most people who were there. There were probably 25 or so people at the event. We wandered around the garden afterwards having a refreshment, so I would have had a chat to everybody, I suspect.

The Hon. DANIEL MOOKHEY: Do you recall having a specific and discrete private chat with Minister Ayres at that ceremony?

STEPHEN CARTWRIGHT: Not off the top of my head, no.

The Hon. DANIEL MOOKHEY: Do you recall discussing with him—

STEPHEN CARTWRIGHT: I remember talking to everybody, including Minister Ayres, but I don't recall—I thought it was largely just normal polite conversation about moving to the United Kingdom and those sorts of things.

The Hon. DANIEL MOOKHEY: Forgive my ignorance, Mr Agent General, but when was that?

STEPHEN CARTWRIGHT: That was January—I'm going to say around 11 January, something like that. I apologise; I don't have my diary here.

The Hon. DANIEL MOOKHEY: That was this year? On 11 January this year?

STEPHEN CARTWRIGHT: It was in January before I left for the UK.

The Hon. DANIEL MOOKHEY: Do you recall having, at this private conversation, a conversation with Minister Ayres about his forthcoming London trip?

STEPHEN CARTWRIGHT: I don't specifically recall that, I'm sorry.

The Hon. DANIEL MOOKHEY: Did he tell you the purpose of his London trip?

STEPHEN CARTWRIGHT: He certainly told me when I picked him up from Heathrow Airport, yes.

The Hon. DANIEL MOOKHEY: There are a couple of issues which I just want to tease out through this. I'm on page 10 of the numbering of the document that you gave us—which is different to *Hansard*, so I'm just relying on that one—paragraph 12 and 13, in which you say:

I also wanted to meet with Ms Brown whilst she was in London to discuss a number of other issues, including my earlier request to have my rent paid.

And then you met Ms Brown at Heathrow Airport on her arrival, but, actually, Minister Ayres was there too, was he?

STEPHEN CARTWRIGHT: That's correct, yes.

The Hon. DANIEL MOOKHEY: And you make the point that you never had that conversation with Ms Brown whilst in London.

STEPHEN CARTWRIGHT: That's right.

The Hon. DANIEL MOOKHEY: Did you have that conversation or any conversation with Minister Ayres in London about your remuneration?

STEPHEN CARTWRIGHT: No, Minister Ayres was certainly very busy with the reason he had come over to the UK. There were scheduled meetings every day to do with that reason for the trip, and so I didn't meet with Minister Ayres at all.

The Hon. DANIEL MOOKHEY: Were you disappointed by that?

STEPHEN CARTWRIGHT: I had been hopeful that I might find a few moments to meet with the Minister while he was in London. But it's not for me to question that, so I accepted that he was obviously very busy and wouldn't be able to find time to do that.

The Hon. DANIEL MOOKHEY: I just want to read you—I'm sorry that we haven't been able to provide this one to you this morning. Apologies on our end. That's my fault. But I'm just going to read you an excerpt from an email that you sent to Ms Bell on 1 February 2022. Then we can get a copy tabled and, I'm sure, sent over to you as well later on to corroborate it. But you say, "Minister Ayres coming over next week but DNSW"—which I presume is Destination NSW—"seem to want to manage his trip from start to finish, so it looks like he won't even do an office opening function now. He and I had a private chat at my investiture ceremony so I know why he's coming, and it's great, but I hoped he would have some time for Investment NSW." Does that prompt any better recall?

STEPHEN CARTWRIGHT: No, it doesn't, but I am comfortable that he may have told me during the investiture ceremony why he was coming over. I still don't specifically recall that being the case, but that email would suggest he may have.

The Hon. DANIEL MOOKHEY: Just to be clear, at either the investiture ceremony or your Heathrow interaction you had no discussions with Minister Ayres about your rent, your school fees and other issues to do with your remuneration.

STEPHEN CARTWRIGHT: No, because, at the investiture ceremony, I hadn't moved yet, and the only interaction I had with the Minister was when I collected him from Heathrow Airport with Ms Brown. We had the chauffeur in the car. We had the Minister and Ms Brown in the back. I was in the front next to the chauffeur, and we kept it very light and very normal conversation. We didn't get into any details.

The Hon. DANIEL MOOKHEY: Forgive my ignorance again, Mr Cartwright, but when did you actually get to London?

STEPHEN CARTWRIGHT: I finally arrived on 31 January because I had to spend a week in Dubai at World Expo hosting some events for the New South Wales Government in relation to Arab health week and a range of other things. So I spent a week on the way over in Dubai.

The Hon. DANIEL MOOKHEY: You got there on the thirty-first, but within 13 days you're intending to start revisiting your remuneration arrangements with Ms Brown, at least according to that timetable.

STEPHEN CARTWRIGHT: Yes, I wanted to raise with her what I discovered after I arrived because I started to seriously look for accommodation as soon as I got there because I knew I had a short window of opportunity with some temporary accommodation that was paid for. You would know, I suspect, that, in terms of a city rental market, you have to do a fair bit of research and you have to start to look at areas you might want to live in. You have to start to talk to real estate agents about how often these properties come and up how it works. So I started to do some of that research as soon as I arrived and was pretty horrified with what I saw. So I wanted

to have a conversation with Ms Brown when she was in the city because it's a lot easier to have those conversations face to face than it is with a 10- or 11-hour time zone difference over a video call or a telephone call.

The Hon. DANIEL MOOKHEY: Okay, but basically the pattern is that the negotiations around your first package, between—to be fair to you, Mr Cartwright, we'll go from June to July. Then that's revisited in October, and, within two weeks of you arriving in country, there is an attempt to renegotiate it again. Is that, loosely speaking, the chain of events?

STEPHEN CARTWRIGHT: No, I disagree with part of what you said. I didn't seek to revisit it in October; I sought to have the original agreement that I had been asked to make honoured in October. It was refused, despite the fact that nobody disagreed that that deal had been made. When I asked for it to be honoured, it wasn't. I did have some conversations about alternate ways that there could be some fairness brought to what was asked of me. All of those were rejected. In the end, I had to accept that I was going to be \$56,000 out of pocket and that I had made a deal in good faith that was not going to be honoured. Therefore, I had to move on and, as upsetting as that was, there was no attempt by me to revisit the contract. What I was asking for was for people to fulfil the obligation of a deal that had been made.

The Hon. DANIEL MOOKHEY: But that's the events of October. You agree that, within two weeks, you were pretty determined to raise it with Ms Brown upon her visit to London? Two weeks, that is, of your arrival.

STEPHEN CARTWRIGHT: Two weeks after my arrival, yes. I wanted to have a preliminary conversation with her so that, by the time the temporary accommodation expired, I was in a position to know what I was doing.

The Hon. DANIEL MOOKHEY: You go on to say—I'm on page 10, paragraph 14—that you received an email from Ms Bell in which she says:

Good news. I had a quick debrief with Amy on a few things this morning and she is comfortable with us amending your package to pay the accommodation directly.

I presume that that was news you received well?

STEPHEN CARTWRIGHT: Yes. Well, Ms Brown had only just got back from her trip to London so, given that I hadn't had the opportunity to raise it with her, I was very grateful that Ms Bell had raised it with her. When I got that advice—you can see that Ms Bell went on to say, "If you wanted to go after that apartment today, then go for it." So, to me, what I had there was an approval to proceed on the basis that the Government would pay the rent, so I was very pleased about it.

The Hon. DANIEL MOOKHEY: Good. Were you having dialogue with Ms Bell whilst Ms Brown and Minister Ayres were in London together? About this?

STEPHEN CARTWRIGHT: I had raised it with Ms Bell around about the same time. I don't know whether during that six-day period I had any conversation with Ms Bell—I may or may not have—but I was certainly having some conversations with Ms Bell during that period about this issue.

The Hon. DANIEL MOOKHEY: Okay. When you say Ms Bell raised it with Ms Brown, that's probably reflective of some interactions between you and Ms Bell which allowed Ms Bell to register that this was a concern for you?

STEPHEN CARTWRIGHT: Yes, I agree with that.

The Hon. DANIEL MOOKHEY: Fair enough. Mr Cartwright, why then two weeks later are you sending quite the WhatsApp message to Minister Ayres, in March? If this issue was resolved on 14 February to your satisfaction, what then prompted you to avail yourself of the private channel with Minister Ayres for you to then raise some matters to do with your rent and the school fees issue?

STEPHEN CARTWRIGHT: I said to Ms Bell—I think we had a phone call—that if I am going to make a commitment to a long-term lease, then I would really be grateful if I got something in writing, some sort of confirmation that—I mean, I got this brief email saying that this was what Amy said, but I would prefer to have something a bit more tangible from head office that says, "Yes, we are definitely going to do that." There was then a series of meetings, as I understand it, between Ms Bell, I think maybe Mr Carr, maybe somebody from HR and I think possibly even KPMG where there was advice being considered and discussed and then I was told, despite what had been said to me on 14 February, maybe it wasn't going to go ahead that way, or, if it did go ahead that way, that it might be done a different way which wasn't going to provide any change in the tax arrangements. It all got very confusing and very difficult.

Meanwhile, my temporary accommodation is getting closer to finishing. I'm living in a small hotel room. I'm waiting to figure out how I get my family to come over and what I can afford to rent that will accommodate my family. The weeks are moving on. The position in head office is changing from "Yes, you can," to "Maybe you can't," to "Maybe we don't quite know how the tax arrangement's going to work." I got to the point where I thought, "There's got to be a circuit breaker here somewhere; I can't keep getting closer and closer towards the edge where I'd run out of temporary accommodation, and I can't lease something." I had a real estate agent saying to me, "Well, if you want this apartment—and good ones are pretty hard to find in London—then you either put down the deposit now or you lose it." All of this was going on, but nothing in head office was getting any clearer. The weeks were going by and so I thought, "I need a circuit breaker," so I took advantage of the offer that was made to me by the Minister when I met with him. As a last resort, I sent him a note saying, "Look, I've got to get this sorted out."

The Hon. DANIEL MOOKHEY: In your mind, was that a display of good judgement on your part?

STEPHEN CARTWRIGHT: The difficulty here, Mr Mookhey, is that New South Wales hasn't had people at this level offshore for something like 30 years, and it was very obvious to me through all of my time leading up to that point that Investment NSW wasn't really sure how to do a lot of these things. It was really clear when I tried to set the office up and tried to get furniture and tried to get things sorted—bank accounts. It was really clear that there was not a lot of corporate memory inside Investment NSW, or corporate knowledge about how you set up and support offshore activities, and so it's fair to say that my experience up to that point in time didn't give me a lot of faith that it was necessarily going to be sorted out in time. Other than maybe Ms Bell, nobody else seemed particularly bothered about it, despite the fact that I was coming close to the point where I was going to run out of somewhere to live. In hindsight, should I have perhaps maybe gone to Mr Coutts-Trotter? Perhaps, but I thought I had the previous email saying that at some point we were going to be ministerial appointments; I had the Minister, who said, "If you ever need to reach out and if you need to contact me, reach out." So I thought, "I'll reach out."

The Hon. DANIEL MOOKHEY: Mr Cartwright, just so I can understand properly here, you get an email that says that the change you're seeking will be obtained?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: You become frustrated because implementing that decision is accompanied with a bit of process. Is that right?

STEPHEN CARTWRIGHT: No, that's not right. No, it's not about the process. It was—

The Hon. DANIEL MOOKHEY: You thought they were reneging?

STEPHEN CARTWRIGHT: I didn't know whether this was Amy saying to Kylie, "Yes, okay, go ahead." When they got HR and legal and KPMG involved, all of a sudden it changed. There was a point, I remember, where it was like, "Oh, well, actually, we don't think we're going to be able to do that." And then it was, "Well, we might be able to do that, but you'll end up paying the same tax." And then it was, "Well, we'll see if there's any other way of doing it." The weeks went by and it looked like it wasn't getting anywhere; it was just bogged down in these discussions and things that were going on in head office. I just got to the point—

The Hon. DANIEL MOOKHEY: Was your fear that it was taking too long, or was your fear that the Government was going to renege?

STEPHEN CARTWRIGHT: My fear was that there didn't seem to me to be a process by which I would end up with an answer, and I was going to run out of somewhere to live.

The Hon. DANIEL MOOKHEY: But do you not see how extraordinary it is for any public servant to privately message the Minister as a circuit breaker in what, to the eyes of many, would just look like a routine dispute around contract interpretation?

STEPHEN CARTWRIGHT: It wasn't contract interpretation, because it would have required, as in the end it did, a contract variation.

The Hon. DANIEL MOOKHEY: But do you not see how extraordinary it is for a public servant to privately message a Minister about matters to do with their remuneration?

STEPHEN CARTWRIGHT: You need to understand, Mr Mookhey, that I've never worked for government before. I suspect that people who have started in the government in relatively junior positions and have spent years and years coming to grips with the way that government works may have inherently known that that wasn't something you did. I have been in the private sector all my life and, therefore, when the Minister said

to me, "If you ever need to, here's my mobile phone; reach out if you need to", then to me—I had never been specifically told, "You don't do those things", so I reached out to the Minister.

The Hon. DANIEL MOOKHEY: Okay. Just to close this matter off before we move to the next interaction, do you recall the date you sent that message to Minister Ayres?

STEPHEN CARTWRIGHT: No. I think you're right. I think what you said before, which was that it was in March, I think that's right.

The Hon. DANIEL MOOKHEY: Did you ever hear back from Minister Ayres about this?

STEPHEN CARTWRIGHT: No.

The Hon. DANIEL MOOKHEY: No contact whatsoever?

STEPHEN CARTWRIGHT: No contact whatsoever.

The Hon. DANIEL MOOKHEY: What about in May? Let's go forward to May when you were speaking with the Minister when he was at a conference. Did you raise with him concerns to do with your rent and/or school fees?

STEPHEN CARTWRIGHT: No. No, we were both speaking on a panel and we were sitting at a table with about 10 people and it was just a chat about how things were going in London. We didn't speak about anything to do with remuneration.

The Hon. DANIEL MOOKHEY: And after May, through to June or July this year, did you have any discussions with Ministers—with any Minister—about any issues to do with school fees?

STEPHEN CARTWRIGHT: No.

The Hon. DANIEL MOOKHEY: You're absolutely positive?

STEPHEN CARTWRIGHT: Well, I don't recall ever speaking to any Minister about that.

The Hon. DANIEL MOOKHEY: Mr Cartwright, I want to return to the matter that we left with before because, to be frank, it doesn't seem as though that what you're telling us aligns with the records, which we started to canvass at your last hearing as well. You would recall we were talking about the issues to do with the contract variations for rent and a similar arrangement being put in place for school fees. I invite you now to see whether or not in the intervening weeks since we first discussed this whether you have any better recall.

STEPHEN CARTWRIGHT: Any better recall about what?

The Hon. DANIEL MOOKHEY: Talking to Ministers about issues to do with school fees.

STEPHEN CARTWRIGHT: No, I don't recall any conversation with any Ministers about school fees.

The Hon. DANIEL MOOKHEY: Okay.

STEPHEN CARTWRIGHT: No, I don't.

The Hon. DANIEL MOOKHEY: Fair enough. If you don't mind—if you've got the first tender bundle that we gave at the last hearing—

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Can you grab it and let's go to page 93.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: You recall that you told us last time that you thought Ms Bell was having conversation with Ministers around school fees. Do you recall saying that?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Do you recall in your recollection which Minister was Ms Bell discussing your school fees, to do with your package, with?

STEPHEN CARTWRIGHT: Yes. On page 92, yes. So I remember you suggested that I must have had a discussion with a Minister because I referred to it in my email—

The Hon. DANIEL MOOKHEY: Well, we'll go through that.

STEPHEN CARTWRIGHT: —but I suggested to you that, no, this was a matter that I had been advised by Ms Bell. I think you then suggested that she must have been having a meeting with the Minister, and

I said to you, "I'm fairly confident she didn't have a meeting with the Minister, either, and that she got it from Ms Brown." So I assumed it was Minister Ayres but I have no direct knowledge that that was the case.

The Hon. DANIEL MOOKHEY: So your recollection is that through a chain of hearsay that went from Ayres to Brown to Bell to you, that's how you became aware of the fact that there was an arrangement that was to be entered into next year to apply a similar salary sacrificing arrangement for the school fees issue that would see New South Wales picking up more fringe benefit tax and you paying less. That's your recollection?

STEPHEN CARTWRIGHT: No. At the time—and, regrettably, that still is the case—I hadn't been able to determine whether I could feasibly move my children from Sydney to London, and so the issue of the school fees wasn't a live issue at the time. So what I was concerned about was that the contract variation that was sent to me was very specific, that the arrangements that had been put in place for the rent were exclusive and that no school fees or any other arrangements would be entered into in the future. I contacted Ms Bell and said, "That's different to what I had understood", and she said, "It's fine. If we need to in the future, we can do a similar contract variation for school fees but in the same way we took care of it for rent."

The Hon. DANIEL MOOKHEY: Let's unpack that into two separate issues. Let's go through the chain of hearsay that apparently led you to believe that the Minister was aware of this, at least. When you say that you think it was some conversation between Ayres to Brown to Bell, when were, in your mind, those conversations taking place?

STEPHEN CARTWRIGHT: I suspect it was after Ms Bell had done the benchmarking report, which looked at the other State agents general and the senior executives in London who worked for Austrade. Ms Bell then looked at the arrangements that were in place for those executives who worked for the Commonwealth, who worked for Victoria, who worked for some of the other States and the way in which the packages for those senior trade executives in London incorporated a consideration for rent, school fees, provision of cars, those sorts of benefits. So Ms Bell prepared the benchmarking report. My understanding was that Ms Brown took the benchmarking report to the Minister and said, "This is what the benchmarking report says." Ms Brown then, as far as I know, instructed Ms Bell to advise me that, as a result of the benchmarking report, the Government is prepared to modify my contract to pay the rent directly. Then ultimately that was turned into a contract variation, which actually took some months to come through. But it finally came through.

The Hon. DANIEL MOOKHEY: Again, before we test that proposition, just so I understand it properly, the sequence of events there is that Ms Bell undertakes a benchmarking study, correct?

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. DANIEL MOOKHEY: Shares it with Ms Brown, presumably?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: She then shares it with Minister Ayres?

STEPHEN CARTWRIGHT: I don't have any direct knowledge that that was the case, but that's—

The Hon. DANIEL MOOKHEY: But that was your understanding?

STEPHEN CARTWRIGHT: That's my understanding of what happened.

The Hon. DANIEL MOOKHEY: Then Minister Ayres and Ms Brown give, effectively, concurrence to the results of that benchmarking, correct?

STEPHEN CARTWRIGHT: I don't know whether Ms Brown just shared it with the Minister as a matter of courtesy or to close the loop and whether the Minister said to her, "It's a matter for you." I have no insight into those conversations.

The Hon. DANIEL MOOKHEY: But after some meeting, the Government comes to the mind to agree to the variation, correct?

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. DANIEL MOOKHEY: That then leads to, did you say, a couple of weeks, months of just actually executing that decision?

STEPHEN CARTWRIGHT: Yes, I think it was maybe four weeks or something because they had to get legal to draft the variation. That always takes a while.

The Hon. DANIEL MOOKHEY: Given the variation was executed, what, in June—was it—this year?

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. DANIEL MOOKHEY: So all of that was taking place between May and June, correct?

STEPHEN CARTWRIGHT: Yes. That's my recollection.

The Hon. DANIEL MOOKHEY: And that was all taking place after you had the interaction with Minister Ayres, which you say you never actually had any discussions with.

STEPHEN CARTWRIGHT: I didn't have any discussions with him. I sent the WhatsApp message, which you know about because it ended up in newspapers. From that point onwards, I didn't hear from the Minister, didn't interact with the Minister at all. Everything I was doing was through Kylie—through Ms Bell.

The Hon. DANIEL MOOKHEY: Sure, okay. You say, as a result of that, that effectively you came to understand that the Minister had agreed to a similar variation—at least in principle—to applying a similar arrangement to school fees?

STEPHEN CARTWRIGHT: That's what I was told.

The Hon. DANIEL MOOKHEY: And Ms Bell told you that? That's your clear recollection?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Do you recall when Ms Bell told you that?

STEPHEN CARTWRIGHT: No, but you can see that it's being discussed between us in these emails on page 92, 93. That's in June so it would have been prior to those emails.

The Hon. DANIEL MOOKHEY: You agree that you invoked that understanding, regardless of how you came to it, in conversations with Ms Bell?

STEPHEN CARTWRIGHT: That I invoked the understanding?

The Hon. DANIEL MOOKHEY: The Minister's concurrence to apply a salary sacrifice arrangement to school fees as you were—

STEPHEN CARTWRIGHT: No. What I was saying to Ms Bell was, the contract variation that had been sent to me specifically said, "We will not enter into anything related to school fees." So I went back to Ms Bell and said, "Well, what happens if the kids do move over and I do have to pay these exorbitant school fees in London? How am I going to manage that?"

She said, "It's fine. We'll do another contract variation for that if and when that happens." Because it wasn't certain.

The Hon. DANIEL MOOKHEY: Mr Cartwright, we will get to that. I think we're going to have to unpack that part separately to the first chain of events that we just went through. Do you not see how extraordinary it is that a Minister was giving direct—was at least given direct knowledge and apparently gave implicit or explicit approval to a change in arrangements that applies to one component of your remuneration strategy that results in taxpayers having to incur a bigger tax bill and you paying less? Do you not see how that looks? I mean, I've not come across any public servant that has ever had such a chain of events take place and that led to quite an extraordinary change, which is the reason why I'm a bit shocked by this. You're saying to me that Minister Ayres was briefed on the arrangement to do with your rent and school fees and raised no objection, at least. As a result, you got your contract changed and taxpayers picked up a tax bill. None of that strikes you as unusual.

STEPHEN CARTWRIGHT: It didn't strike me as unusual because my view had always been that the salary packaging arrangements were set up wrongly in the first place. Therefore, this was really just correcting what was an inherent mistake in the way that the packaging was structured in the first place. Because, if you go back to the original offer that was put to me way back in the early parts of the negotiations, it did envisage a significant contribution to rent and a significant contribution to school fees. That's very standard. That's what Austrade do; that's what the other States do. My view, all the way through, was that Investment NSW had decided to go off on its own path instead of simply adopting what everybody else does, and there's a good reason why everybody else does it.

The Hon. DANIEL MOOKHEY: But, Mr Cartwright, you agreed to this. You signed the contract. Now, you may well have a view that—you signed the contract in July. You raised concerns about it in October.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: To the extent to which you say that none of this strikes you as unusual because you simply thought the Minister was correcting bad arrangements—that just flies in the face of your own actions.

STEPHEN CARTWRIGHT: No. You have to understand, Mr Mookhey, that the last time I lived in London was 1992. When I got over here and found out the outrageous rents that you have to pay here, the school fees that are double anything that you would ever pay in Australia, I then had conversations very quickly with the other agents general and with the senior people from Austrade. I discovered that there is a reason why the Commonwealth do it the way they do it and there is a reason why the other States do it the way they do it, and that is because nobody could afford to do these things if they had to wear them themselves out of a standard salary.

I thought, "That says we got it wrong; that says New South Wales didn't structure things properly." I asked for that to be reviewed because otherwise we would end up in a situation—which is actually where I am today, which is that I'm living in London without my family. I wasn't expecting that I was going to have to live without my wife and children. I'm not sure whether you think that's fine. I don't think it's fine that I live without my wife and children. I'm doing it because I made a commitment to New South Wales, but I don't think that's fine. When I got over here, I discovered just how poorly New South Wales had structured these things, so I asked for it to be changed.

The Hon. DANIEL MOOKHEY: I'm not going to dispute the genuineness of the grievance that you have—

The Hon. WES FANG: You just did.

The CHAIR: Order!

The Hon. WES FANG: Your previous question was exactly that.

The Hon. DANIEL MOOKHEY: I'm not going to quibble with the genuineness of the grievance and how sincerely you hold it. The question I'm asking you is do you actually think that nothing about seeking the intervention of the Minister to correct it strikes you as unusual? Having the Minister's concurrence to something as specific as this would certainly suggest that Minister Ayres was closely and has been closely involved in these arrangements throughout.

STEPHEN CARTWRIGHT: Mr Mookhey, it was a really confusing time because I had a substantial email from Ms Brown towards the end of the year before that said we were going to become ministerial appointments. That had never been countermanded. I never received another communication to suggest that wasn't going to be the case. It was a very confusing situation because I'd had the Minister, who said, "If you ever need to, just reach out. Here's my mobile number. Don't hesitate to contact me." I had an email from Ms Brown saying we were going to transition from becoming employed by Investment NSW to becoming ministerial appointments. It said, "Your conditions are likely to be grandfathered." So I am sitting here with time running out, in terms of my temporary accommodation; my wife and children still in Sydney; me wondering whether I can actually afford to secure a family home and pay school fees and it becoming pretty obvious we weren't going to be able to do that; and me thinking, "How does everybody else do it?"

I went to the Commonwealth people and I went to the other States and discovered that New South Wales—there's a reason why everybody else does it a different way, because otherwise nobody would be able to afford to rent a family home and send their children to these schools. You just can't do it; it would take up more than what you get paid. So I asked for a consideration of change. Should I have gone to the Minister, in hindsight, if I had known it was going to cause such a storm? Probably, I shouldn't have. Probably, I should have gone to Mr Coutts-Trotter, but I didn't. I reached out to the Minister to ask for help. As I said to you earlier, I've not been raised as a public servant; I'm from the private sector. Actually, one of the reasons I think I was hired is because I'm from the private sector. I know how to get business deals done and I know—

The Hon. JOHN GRAHAM: Mr Cartwright, I might just—

The Hon. WES FANG: Point of order: Given the way that the questioning has gone to Mr Cartwright so far, Mr Cartwright is trying to provide a very substantial answer to what has been, I would say, an attack on his credibility. Please allow him to finish.

The CHAIR: Mr Fang, Mr Cartwright was able to give an answer for quite some time without an interruption. It is perfectly reasonable for another question to come from members.

The Hon. WES FANG: I take a point of order. He was continuing to provide—

The CHAIR: You have already taken a point of order. You are speaking to it again, are you?

The Hon. WES FANG: Yes, I am, Chair. I am saying that Mr Cartwright should be able to complete his answer. I don't care if he speaks for half an hour. The point is that he is making a contribution to a question that has been put to him that I think was quite loaded, and he has the opportunity to provide his response.

The CHAIR: He has done that substantially. Proceed, Mr Graham. I think you had a question.

The Hon. JOHN GRAHAM: Mr Cartwright, I return to the point you were making that one of the reasons for your concern was that this recent view was out of step with the previous agreements—that is, that had contemplated a substantial contribution to housing and that had contemplated a substantial contribution to school fees. I want to understand precisely what earlier agreement you were referring to when you said that.

STEPHEN CARTWRIGHT: I referred to the first offer that I was sent by NGS Global, which had those elements in it. That was consistent. That first offer that I received was consistent with what I had understood would be components, if you like, of the package. When I talked to the people from Austrade, they said, "Look, the way Austrade deals with these things is some people come to London and they don't have schoolchildren and so school fees is not a component of their package. Some people who may just come over with themselves or themselves and their partner don't need a three-bedroom family home or a four-bedroom family home and so the components of their package differ in order to accommodate the ability to move a family from Australia to the UK."

The Hon. JOHN GRAHAM: When you say that was consistent with your expectations, one of the reasons that it was consistent with your expectations was the discussions you had right at the beginning of this process on 17 February with the Deputy Premier. Is that a fair comment?

STEPHEN CARTWRIGHT: Yes, I think it is a fair comment because I raised with the Deputy Premier right back in our first conversation the fact that some of the things that would influence whether I was able to make this move to London would be things like my children at school and my elderly parents and other things. We did have that conversation about those things.

The Hon. JOHN GRAHAM: Yes. You talked about the cost of housing and potentially the cost of school fees at that early stage.

STEPHEN CARTWRIGHT: Yes, although I hadn't lived in London for some years and I had never contemplated it would be anything like what it is.

The Hon. JOHN GRAHAM: You have indicated in writing previously that one of the reasons these expectations had been formed was that you were told—it was indicated to you—that the Deputy Premier and the then Treasurer had reached an agreement that the cost of suitable family accommodation in an inner suburb of London could be taken care of as part of these arrangements. That's correct, isn't it?

STEPHEN CARTWRIGHT: Yes. As I said last time, that's my recollection of what was said to me in that first conversation: The Government was prepared to consider components to the package that would take care of those things, yes.

The Hon. JOHN GRAHAM: You put it slightly more strongly than that in writing when you were negotiating about these. You said that the Deputy Premier and the Treasurer had reached an agreement that this could occur.

STEPHEN CARTWRIGHT: That was my understanding of what was said to me by the Deputy Premier in that first coffee conversation.

The Hon. JOHN GRAHAM: Thank you.

The Hon. DANIEL MOOKHEY: Mr Cartwright, we will go through the documents to test the extent to which they align with what you have said. Do you mind turning to page 93 of the original tender bundle that was produced on 2 November 2022?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: We'll start at the bottom of the page. This is an 8 June 2022 email from Ms Bell to you, which cc's in other personnel at Investment NSW, who I think are in the HR team and legal team. Do you see that?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: You can see that the key part here is:

Please see signed letter from the CEO to vary your employment agreement - with us now paying you rent and wearing the tax implications, with a subsequent reduction in your allowances to the same value of your rent. I believe this has all been discussed with Will and KPMG and you are across all the details.

Do you see that?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: If you go up and over the page, your reply email is across two pages: at the bottom of page 92 and the top of page 93.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: At the bottom of page 92, you say:

I look forward to hearing back from Will on the operative date issue. Also, you and I discussed the opportunity for the school fees to be paid via the same salary sacrifice method as the rent if they moved over and went to school here ... I recall that the Minister agreed to this. However, this draft specifically prohibits this in the future?

Do you see that?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Firstly, when were you having those discussions with Ms Bell?

STEPHEN CARTWRIGHT: It would've been in the period before the day of this email. Before 8 June, it would've been.

The Hon. DANIEL MOOKHEY: So around that time?

STEPHEN CARTWRIGHT: Early June. Yes.

The Hon. DANIEL MOOKHEY: So it was a key issue then, and that's when you were saying that Ms Bell was giving you verbal indication that such an arrangement would be possible?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: And then you saw the draft and saw that, rather than what Ms Bell was telling you privately, the draft told you the complete opposite. Correct?

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. DANIEL MOOKHEY: That would've caused you some concern, I presume?

STEPHEN CARTWRIGHT: Yes, because we were still figuring whether I could move the family. It would've probably been the single determining factor about whether I could afford to bring the kids over or not—would've been the school fees.

The Hon. DANIEL MOOKHEY: That's why you then invoked the name of the Minister?

STEPHEN CARTWRIGHT: What I said in the email was, "This is what I understood the Minister had agreed to or had told—"

The Hon. DANIEL MOOKHEY: But you were basically reminding Ms Bell of what Ms Bell told you?

The Hon. WES FANG: Point of order: It has happened twice now that Mr Cartwright is trying to provide an answer and Mr Mookhey puts the next question to him before he has completed his response. Given that we are on Webex, and given that there is a short time delay, I would ask that Mr Cartwright be allowed to finish his response before the next question is put to him.

The CHAIR: I don't think there is a time delay, actually. I will remind the member to—

The Hon. WES FANG: What I mean is it's late over there for him.

The CHAIR: —allow the witness to finish his response.

The Hon. DANIEL MOOKHEY: Apologies, Mr Cartwright, if I was circuiting your ability to respond.

STEPHEN CARTWRIGHT: That's fine.

The Hon. DANIEL MOOKHEY: You were, effectively, reminding Ms Bell of something she had told you, in your mind.

STEPHEN CARTWRIGHT: Yes. That's right.

The Hon. DANIEL MOOKHEY: Just so we are abundantly clear, the Minister you are referring to is Minister Ayres, in this email?

STEPHEN CARTWRIGHT: That's my assumption, yes.

The Hon. DANIEL MOOKHEY: Can we turn to page 92?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: You can see Ms Bell's response there, which comes a few days later, to be fair to Ms Bell. It comes four days later.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: You can see the highlighted section, which says:

However, as agreed, next year if the children are with you in the UK and you require us to pay schooling directly from your base salary as agreed, a new letter will be issued, with specific amounts for fees, and your base salary will further be reduced by the same amount and a new letter will be issued confirming the specifics including the benefits tax we will make good on on your behalf. Each time we enter into a new salary packaging arrangement, a new letter will be issued. The same would apply if you opt for a different apartment ...

Do you see that?

STEPHEN CARTWRIGHT: Yes, I do. Yes.

The Hon. DANIEL MOOKHEY: Were you satisfied by that?

STEPHEN CARTWRIGHT: Yes, because that allayed all of my concerns and that allowed me to go ahead and sign the contract variation.

The Hon. DANIEL MOOKHEY: Did you have any conversations with Bell that surrounded this email or is this the only interaction you had with Ms Bell?

STEPHEN CARTWRIGHT: I think once I received that I felt totally comfortable with it and signed it, although I can't remember if I had any more discussion with her about it. But I can't see why I would have, because this dealt with all the issues I was concerned about, including the operative date.

The Hon. DANIEL MOOKHEY: And part of the reasons why you were prepared to accept this assurance was because Ms Bell had told you verbally that the Minister had indeed agreed to this.

STEPHEN CARTWRIGHT: Yes. According to this email trail, that would be a fair conclusion.

The Hon. DANIEL MOOKHEY: Was the document at this point still prohibiting such an arrangement?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: So despite the actual document that you would legally execute saying that such an arrangement isn't permissible, you were satisfied, because you had a private understanding from Ms Bell that such an arrangement would be possible in the future and because the Minister had agreed to it.

STEPHEN CARTWRIGHT: What I had was a very explicit email from Ms Bell, who at this stage was my boss, telling me that that would be the situation in the future if I needed it to be. So I had that in writing.

The Hon. DANIEL MOOKHEY: That's the email I read to you; that is the actual email, correct?

STEPHEN CARTWRIGHT: That's the actual email.

The Hon. DANIEL MOOKHEY: That's the one you rely on.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: But your confidence to enter into this arrangement, despite the actual agreement saying something to the contrary, relied upon the fact that you had this email and a verbal reassurance from Ms Bell that the Minister had given concurrence or at least agreement to.

STEPHEN CARTWRIGHT: Yes. It was mainly this email because I tend these days to only trust things that I get in writing and that are explicit. But I then had this email from Ms Bell and, therefore, on the basis of that I felt comfortable to proceed.

The Hon. DANIEL MOOKHEY: You took further steps, did you not, to create a paper trail with Ms Brown that would make clear your understanding of the agreements that you were entering into, correct?

STEPHEN CARTWRIGHT: I think I wrote to Ms Brown, thanking her for taking up my case and getting it fixed, from memory.

The Hon. DANIEL MOOKHEY: If we turn to page 96.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Is that the email which you think, or at least the correspondence, in which you were thanking Ms Brown or was there another one?

STEPHEN CARTWRIGHT: Yes, this would be the one. This would be the one where I—yes.

The Hon. DANIEL MOOKHEY: Let's unpack this one. This is after you enter it. You send this email to Ms Brown on 16 June 2022, correct? You see that at the top?

STEPHEN CARTWRIGHT: Yes, I do.

The Hon. DANIEL MOOKHEY: This is the email in which you deliver the actual signed variation to your employment agreement, correct?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Which is, incidentally, from a matter of law, when the agreement goes into effect; when you return it, correct? That's your understanding?

STEPHEN CARTWRIGHT: Yes, although it did have a specific operative date, but yes.

The Hon. DANIEL MOOKHEY: Yes. I can read you the second paragraph if you want, but you can read it yourself, I guess:

I did raise two queries with Kylie in relation to the wording of the agreement, but I have been reassured on both, hence I have signed the document.

It is pretty clear that you relied on the verbal reassurances with Ms Bell before you executed the agreement?

STEPHEN CARTWRIGHT: I always think it's wise if you clarify your understanding when you execute a document that there was a discussion that led up to it, but yes.

The Hon. DANIEL MOOKHEY: Do you want to go to the highlighted paragraph?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Do you want to read that out or do you want me to read it out, just so everyone knows?

STEPHEN CARTWRIGHT: I'm happy for you to, Mr Mookhey.

The Hon. DANIEL MOOKHEY: It says here:

The second relates to the specific clause that rules out applying a similar salary sacrifice structure to school fees should my family move to London permanently. You will recall that the Minister was very clear that school fees could be dealt with the same way as we are dealing with the rent, so this clause caused me some concern.

You see that bit?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Then you go on to say:

However, I have been reassured by Kylie that the Minister did, in fact, approve this, so if my family do permanently relocate we can do another similar variation agreement to cover the fees once the quantum of the fees are known.

You see that?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: When you say, "You will recall that the Minister was very clear that school fees could be dealt with the same way as we are dealing with the rent," you were referring to the conversation Ms Brown had with Minister Ayres?

STEPHEN CARTWRIGHT: I was referring to what Ms Bell told me. You can see I go on to say, "I've been reassured by Ms Bell"—

The Hon. DANIEL MOOKHEY: You do. We will get to that bit.

STEPHEN CARTWRIGHT: —"that the Minister did in fact approve this." So it is clear from the—

The Hon. DANIEL MOOKHEY: But when you say you recall—

The Hon. WES FANG: Mr Cartwright is trying to provide a response.

STEPHEN CARTWRIGHT: It's very clear from the third sentence in this paragraph that I am getting my information about what the Minister has said from Ms Bell. It is very clear, "However, I've been reassured that the Minister did in fact approve this." I didn't—

The Hon. DANIEL MOOKHEY: We'll get to that, Mr Cartwright. We will absolutely get to it. But I am going through the chain because—

The Hon. WES FANG: I think it's appropriate—

The CHAIR: Order!

STEPHEN CARTWRIGHT: Mr Mookhey, you can't read the—

The Hon. WES FANG: Point of order—

The CHAIR: Order!

The Hon. TAYLOR MARTIN: You're now interrupting.

The CHAIR: Order! We will hear from Mr Cartwright and allow him to finish his response.

STEPHEN CARTWRIGHT: I strongly suggest to you that you can't read the second sentence independent of the third sentence, because the third sentence clarifies where I got my information from.

The Hon. DANIEL MOOKHEY: To be frank, I agree with you. You can't separate the two. But when you say to Ms Brown, "You will recall that the Minister was very clear," you're referring to the information you got from Ms Bell about a conversation Ms Brown had had with Minister Ayres.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: So when you say that you're very clear, you are relying on, effectively, Ms Bell's version of the conversation with Ms Brown, to remind Ms Brown that the Minister was very clear, because that's what you were told.

STEPHEN CARTWRIGHT: Yes, and that was obviously important in the context of the document I was returning.

The Hon. DANIEL MOOKHEY: Can you go to the last paragraph that's not highlighted?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: This is when you thank Ms Brown. You say, "I would like to thank"—well, you don't thank Ms Brown. You say, "I would like to thank Kylie and"—X—"for their persistence in shepherding this through our internal processes," then you go on to thank Ms Brown for securing the Minister's approval of the variation. Do you see that?

STEPHEN CARTWRIGHT: Yes, I do see that.

The Hon. DANIEL MOOKHEY: There's an important distinction between that email and how you gave it before, in which you weren't certain about whether or not the Minister had approved the variation. But here it's quite clear that the Minister did. In fact, you thanked Ms Brown for securing the Minister's approval of the variation. Again, in respect of this, it's quite clear that the Minister—I'm reading from this that the Minister did approve it, was asked to approve it and it wouldn't have happened but for Minister Ayres' approval of this arrangement.

STEPHEN CARTWRIGHT: I can't help you with any direct knowledge of that. I can only tell you that these references in this email were to what I had been told, not what I know per se.

The Hon. JOHN GRAHAM: But that was certainly your understanding at the time. It had to be, given the words you've written in this email.

STEPHEN CARTWRIGHT: Yes.

The Hon. JOHN GRAHAM: At the time you believed the Minister had approved this variation. Is that correct?

STEPHEN CARTWRIGHT: Yes, that's correct.

The Hon. DANIEL MOOKHEY: And you thought as well that the Minister's approval was also for an arrangement which would be entered into in 2023 onwards if it was necessary as well and therefore there wasn't a need to go back to the Minister, I presume?

STEPHEN CARTWRIGHT: In financial year 2023, yes.

The Hon. DANIEL MOOKHEY: So it applied to both the rent and the school fees issue, in terms of what the Minister approved?

STEPHEN CARTWRIGHT: That was my understanding.

The Hon. DANIEL MOOKHEY: Mr Cartwright, is there anything further you want to tell us about the school fees before we move to the negotiations from April through to July last year? Is there anything further you want to add on that matter?

STEPHEN CARTWRIGHT: No, other than the fact that I'm not facing having to pay school fees because my children are still living in Sydney.

The Hon. DANIEL MOOKHEY: If you don't mind, we will go to your opening statement. Again, I'm going to use the numbering from the paragraphing in the tabled copy. Thank you for providing that as well. Could we turn to page 6 of that. Just as a refresher, in the last hearing we did spend quite a bit of time on circumstances that led you to enter the process. But for the purposes of this line of questioning, as my colleague made reference to before, there was a conversation with the Deputy Premier on 17 February, correct?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: In which the Deputy Premier made reference to a private agreement he secured with the Treasurer around what the remuneration package could resemble, correct?

STEPHEN CARTWRIGHT: Well, I rejected the use of the word "private agreement". I explained that in terms of the email.

The Hon. DANIEL MOOKHEY: That's the word you used in the email.

STEPHEN CARTWRIGHT: In the email that I sent to Dr Broadbent, I explained to you that when I said "privately" I was referring to between she and I. But we disagreed on that. But I'm not sure much turns on it.

The Hon. DANIEL MOOKHEY: Okay. You used the term "private agreement"?

The Hon. JOHN GRAHAM: Your words at the time were:

... he indicated (privately of course) that he and the Treasurer had reached an agreement ...

STEPHEN CARTWRIGHT: And Mr Mookhey suggested to me in the last hearing that that meant that it was a private agreement between the Deputy Premier and the Treasurer, and I said no. Privately, of course, was me telling Dr Broadbent that I wanted her to keep—

The Hon. DANIEL MOOKHEY: Yes, I get the distinction.

The Hon. JOHN GRAHAM: Yes, but you'd certainly agree it wasn't a public agreement between the Deputy Premier and the Treasurer?

STEPHEN CARTWRIGHT: Well, if there was such agreement—bear in mind that I was told only by the Deputy Premier. But if there was any such agreement then I would suspect it wouldn't be something that was public, no.

The Hon. DANIEL MOOKHEY: That informed you in respect to your starting position in terms of the negotiations that you were set to embark upon, correct?

STEPHEN CARTWRIGHT: It certainly set my expectations that the components of the package that would be offered to me would reflect housing and school fees, and those elements, yes.

The Hon. DANIEL MOOKHEY: Yes. Then we join the chain of events that you describe from paragraph 17 onwards—

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: —in which you say you got an email from Dr Broadbent on 14 April. Do you see that?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: But we actually established—and not much turns on this distinction—that you got the email on 12 April, and it's replicated on page 13 of the first tender bundle?

STEPHEN CARTWRIGHT: Yes. I don't know how I got 14 April, but I'm happy to accept that it was 12 April.

The Hon. DANIEL MOOKHEY: Between that email of 12 April and the events of May, can you just take us through your contacts with Dr Broadbent, to the best of your recollection? Were you talking to her on the phone in parallel?

STEPHEN CARTWRIGHT: Look, I may have talked to her to say, "I haven't heard anything" or "Can I have an update on what's going on?" But I remember getting quite concerned because time was drifting on, there was no meaningful kind of advice coming as to what was happening. Look, we may have had some short conversations about what was happening. You know, by this stage I'd been in this process since February and I needed to understand whether this was going to proceed or it wasn't, so that I could look at other options in terms of what I was going to do. We may have had some interaction during that period, but it wouldn't have been anything particularly meaningful. It would have just been me asking for an update or saying, "Look, I'm concerned about the delays and the fact that time is dragging on. I don't see it progressing."

The Hon. DANIEL MOOKHEY: Effectively from 14 April to early May, you are still of the assumption that an offer might be forthcoming that would resemble what you were told on 12 April by Dr Broadbent; is that fair?

STEPHEN CARTWRIGHT: Until I received this call from Dr Broadbent in paragraph 17, my assumption was that we were still operating on the 12 April offer.

The Hon. DANIEL MOOKHEY: Okay. So there was no interim communication, verbally or in writing, which would allow you to infer that there was a change in the Government's position?

STEPHEN CARTWRIGHT: Well, no, because when this call came, it was a very strange call. It sticks out in my memory because Dr Broadbent was very curt and I was confused as to why she would adopt that tone in her call to me. In hindsight, perhaps there were things going on in the background but, to me, it came out of nowhere, this change of approach and change of tone in communication. When I said, "Could you explain to me what's changed?" It was, no, it's a last and final offer, it's a take it or leave it, and there's no more discussion to be had. I was quite surprised why she would adopt that tone because I had been waiting and waiting and waiting. And all of a sudden I got this curt, last and final phone call. I said to her, "I haven't done anything wrong here. I've been sent an offer and I said I was happy with it." So it was all a little bit of a surprise to me.

The Hon. DANIEL MOOKHEY: Dr Broadbent called you?

STEPHEN CARTWRIGHT: Dr Broadbent called me. I was in a shopping centre with my wife, and she called me. I vividly remember it.

The Hon. DANIEL MOOKHEY: Do you recall when this was in May?

STEPHEN CARTWRIGHT: No. My recollection is it was early May, but I can't give you an exact date. I've searched for phone records and I can't find any.

The Hon. DANIEL MOOKHEY: So, what, the first 10 days of May or thereabouts?

STEPHEN CARTWRIGHT: I think so. I think it was in there somewhere. When you look then at what happened subsequent to that, that sort of position is about right. It was in-between the 12 April email and the first time I ever met Ms Brown. It was in there somewhere, and I'm guessing that's in that first two weeks of May somewhere.

The Hon. JOHN GRAHAM: So it was before 19 May, when you first met Ms Brown?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: So that I understand this, you get a call out of the blue from Dr Broadbent.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: She says to you that the offer was now withdrawn?

STEPHEN CARTWRIGHT: She said, "The offer has changed. It's now a flat \$600,000. There's nothing else—no other benefits, nothing else. It's last and final. You can take it or leave it." I was like, "Whoa, stop. What's happened here? Why all of a sudden is there—please just tell me what's changed?" Because up until that point we'd been proceeding on the basis of the first offer that was made. She said, "I can't go into it with you, but that's last and final. You can take it or leave it, and there won't be any other discussions entered into," or something. It was very curt. I was quite surprised because it was almost like I was getting blamed for asking for

the wrong things, whereas the offer that had come to me was something that was formulated by the Government and sent to me. So I was surprised when the call came because it was almost like she was blaming me for these things. I didn't do it; I was just sent an offer.

The Hon. DANIEL MOOKHEY: Just so I'm pretty clear about what you felt, the early offer had been withdrawn and the offer was reduced to a flat amount of \$600,000?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: I just want to understand how that is different from the first offer, if you don't mind. The components that were withdrawn—I take you to page 13 of the tender bundle, which is just the original offer, right?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Did you interpret that as saying that the Government will now pay you \$600,000 flat but wouldn't be making a "significant contribution to accommodation, understanding that a well-located, three-bedroom residence is required"?

STEPHEN CARTWRIGHT: Yes. If you go to the bottom of page 5 of the statement.

The Hon. DANIEL MOOKHEY: Bottom of page 5, yes. That's right, yes. I'm reading from the same email, effectively, in the tender bundle. It's the same thing.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: But I'm just trying to understand. In your mind, part of the reason why this conversation was a shock was because, effectively, if the offer was just a salary of \$600,000, you were no longer being offered a "significant contribution to accommodation", "appropriate temporary accommodation till longer term arrangements are located" and a "significant contribution to school fees". I presume you still thought you were entitled to "reasonable relocation expenses" and "reasonable travel"?

STEPHEN CARTWRIGHT: No, the reasonable travel had been withdrawn as well.

The Hon. DANIEL MOOKHEY: Okay, so they withdrew that too?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: In effect, the three components that were no longer offered to you were the contribution to accommodation, school fees and the travel. Are they the main ones?

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. DANIEL MOOKHEY: That's sort of what you thought you had an arrangement about with the Deputy Premier, did you not?

STEPHEN CARTWRIGHT: No, I didn't think I had an arrangement with the Deputy Premier. It was matters that we discussed when I said things like "I have school kids to move" and "I have elderly parents who I may need to come back and visit from time to time." And that's where the reasonable travel between the UK and Sydney, as required, came in. It was because I was concerned about having to leave elderly parents back in Sydney and not being able to get back if they needed medical treatment or something. They weren't part of the original discussion.

The Hon. DANIEL MOOKHEY: You're quite right. I shouldn't have characterised it as an arrangement, but it was a significant deviation from the expectations that, at least, the Deputy Premier had led you to believe might be possible.

STEPHEN CARTWRIGHT: It was a significant departure from what was sent to me by the Government on 12 April. I've put 14 April here.

The Hon. JOHN GRAHAM: But, Mr Cartwright, on 12 April this wasn't formulated by the Government. It didn't fall from the sky. You had set out your expectations on 31 March. As you say in your statement and is contained in the documents, you set them out in detail. You detail the discussions with the Deputy Premier. You invoke the name of Treasurer Perrottet. You refer to the arrangements about housing and school. You refer to your discussions with the High Commissioner to New Zealand, Patricia Forsythe. You refer to your discussions on 19 February with Mike Pratt, one of the two most senior public service officials in the State of New South Wales. You set out your views and your expectations. This offer didn't fall from the sky. It wasn't just formulated from the Government in the absence of your view. You put out some detailed requests here, direct to

NGS Global—direct emails from you to Dr Broadbent on 31 March. That's correct, isn't it? You're not disputing any of that, are you?

STEPHEN CARTWRIGHT: Well, I dispute the fact that I invoked the name of the Treasurer.

The Hon. JOHN GRAHAM: Do you want me to put to you the paragraph again where you invoke the name of the Treasurer?

STEPHEN CARTWRIGHT: No, what I was clear about was that it was something that I was told by the Deputy Premier. I didn't invoke the name of the Treasurer, per se, but—

The Hon. JOHN GRAHAM: I'll stop you there, Mr Cartwright, because you do invoke the name of the Treasurer. You're then making the point that you invoke the name of the Treasurer because that was put to you by the Deputy Premier. I agree with that, but there is no dispute here that you invoke the name of Treasurer Perrottet in this email, is there?

STEPHEN CARTWRIGHT: What do you believe is meant by "invoking the name of the Treasurer"?

The Hon. JOHN GRAHAM: I'll put to you the words, and tell me if you dispute this:

Apart from improving the base package (he mentioned low 5's), he indicated (privately of course) that he and the Treasurer had reached an agreement that the cost of suitable family accommodation ... could be taken care of by the NSW Government ...

I'm putting the position to you that, in your email negotiating these arrangements, you refer to Treasurer Perrottet. Is that correct?

STEPHEN CARTWRIGHT: I made a reference to what I was told by the Deputy Premier, that's right.

The Hon. JOHN GRAHAM: Correct.

The Hon. WES FANG: I'm going to take a point of order at this point, Chair. There have been a number of assertions put to Mr Cartwright—

The Hon. JOHN GRAHAM: I'm trying to give him the opportunity to answer, Mr Fang.

The CHAIR: We'll just hear the point of order, through me.

The Hon. WES FANG: Chair, Mr Cartwright has had a number of, I'll say, accusations put to him. He continues to defend those positions. What's not clear, in any of this line of questioning, is what it is that the Opposition are seeking to—

The CHAIR: Mr Fang, that's not a point of order.

The Hon. WES FANG: No, Chair, it is.

The CHAIR: You're questioning the line of questioning. That's not a point of order. Finish your point of order.

The Hon. WES FANG: I'm questioning the continued re-prosecution of Mr Cartwright on matters that he has already addressed without an actual circumstance being put to Mr Cartwright.

The CHAIR: Mr Fang, I'm going to stop you there. That's not a point of order. The Opposition is entitled to ask any questions they would like, as long as it's respectful to the witness, which it has been. The witness is also able to respond as he sees fit. I think this exchange has been perfectly reasonable. Continue, Mr Graham.

The Hon. JOHN GRAHAM: Thank you, Chair, and thank you, Mr Cartwright. You've clarified that small point, but I might return to the broader point I was making. This offer on 12 April didn't fall from the sky. It wasn't simply formulated by the Government. It was a response, in part, to your detailed email to NGS Global on 31 March that set out your expectations, clearly, and invoked the name of the Deputy Premier, Treasurer Perrottet, High Commissioner Forsythe and Mike Pratt in the course of setting out your expectations. Do you agree with that?

STEPHEN CARTWRIGHT: Again, I might quibble with you on the use of the word "invoke". I was simply advising Dr Broadbent of some of the conversations that I had had around these matters. I was trying to familiarise myself with the dichotomy between what I understood was a standard way of managing these kind of packages that I'd got from a range of different sources with the job description information that had been sent to me by NGS Global, which didn't have any of those components in it. I was trying to have a conversation with Dr Broadbent that said, "Look, I don't understand the difference between the two and therefore I am seeking to understand how to raise that with Ms West, because I need to be able to have that conversation with her." I have to be honest with you, Mr Graham, if at that point either Dr Broadbent or Ms West or the offer that had been sent

to me—if any of those things had said, "Look, it's \$430,000 or \$450,000 flat and that's it", I would say, "Well, thanks very much. I can't move to London with those arrangements."

The Hon. JOHN GRAHAM: Mr Cartwright, I'm not critical. You were correctly conveying an assurance that had been given to you by the Deputy Premier, so I'm not disputing any of the facts here and I'm not disputing the factual—fairly conveying those things. I am making the point that this offer did not come out of the blue. Do you accept that your email of 31 March would have been material to the offer that you then received on 12 April? It was designed to influence that offer.

STEPHEN CARTWRIGHT: Yes, it was certainly designed to highlight the fact that there was an inconsistency between the information pack and what I had understood would be the components of the package. That, I felt, needed to be out in the open fairly early on so that we weren't wasting each other's time. I will say though, that I hadn't had any discussion—you won't find any discussion in there about the base remuneration. It was more the components that I was concerned about.

The Hon. JOHN GRAHAM: Yes. I want to take you to another email you have sent. I don't think you will have this in front of you but it was sent on Monday 8 August 2022. It was in response to some Channel 7 interest in your entitlements. I'll read you the first part of that email; it's from you to staff at Investment NSW. You say this:

I understand nobody cares what the truth is but for the record:

1. I never once asked for a package of \$800k - this is a straight up fabrication. I was asked by the DP in our first chat back in Feb 21 what I had been on at the Chamber and I told him it was around \$800k. He said that the govt was looking at a base "in the low 5's" plus allowances and I said that sounded OK.

I'll stop there and I'll indicate that is entirely consistent with what you've set out in your opening statement to the Committee.

STEPHEN CARTWRIGHT: Yes.

The Hon. JOHN GRAHAM: You then go on to say:

From that moment on—

that is from 21 February on—

it was the recruiter making unsolicited offers to me, and the first one sent to me was a base of 600k plus allowances. I never ever asked for it!

STEPHEN CARTWRIGHT: That's right.

The Hon. JOHN GRAHAM: Mr Cartwright, how do you reconcile that with your email of 31 March asking for exactly this in a great deal of detail?

STEPHEN CARTWRIGHT: No, I totally disagree with you, Mr Graham. My expectation, when I was engaging with Dr Broadbent early on, was that there would be a base and I had thought, "Okay, the information pack said \$450,000 base, the Deputy Premier had mentioned low fives", so I had expected a base of around somewhere between \$450,000 and \$500,000, plus the contributions to rent and school fees and the travel. Then out of the blue comes the offer with \$600,000 base. Now, you won't, I don't think, find anywhere where I asked for that, not in the email to Dr Broadbent on 31 March, nor anywhere else. So I am very comfortable with the email that you just read out because it's absolutely factual.

The Hon. JOHN GRAHAM: Even though your email on that date refers to the base and the allowances, you don't feel that your email of 31 March designed to influence the officer, invoking the name—or if you want to choose another word, feel free to—of the Deputy Premier, the Treasurer, High Commissioner Forsythe and Mike Pratt—you don't believe that that in fact was you asking for your offer to be improved?

STEPHEN CARTWRIGHT: No, I had not anticipated that the offer that would come would have a base that high.

The Hon. JOHN GRAHAM: You go on to say:

Amy never told me it was unrealistic because I never met her until a week before I joined. Jenny did all the negotiations and Amy needs to print a retraction.

Is that correct?

STEPHEN CARTWRIGHT: In hindsight, I realise that I had met Ms Brown on 19 May, but it certainly was after we'd dispensed with the \$800,000 issue. So the substance of what I said there is correct. I just got the dates wrong as to when I first met Ms Brown, but I don't think anything particularly turns on that.

The Hon. JOHN GRAHAM: Well, in fact, it was incorrect. You met Ms Brown on 19 May 2021.

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. JOHN GRAHAM: And then you met her again, which is then the meeting you referred to. Why didn't you refer to that first meeting with Ms Brown in this email?

STEPHEN CARTWRIGHT: I had forgotten that we'd met on 19 May, but I knew that by the time I met Ms Brown we'd already dealt with the issue of the \$600,000 flat package. So there is no way that I would have been engaged in a debate with Ms Brown around \$800,000 packages because that had already been dealt with before I met Ms Brown.

The Hon. JOHN GRAHAM: You go on to say:

She—

that is referring to Amy Brown—

has told the inquiry something that can't be true.

What is it that you wanted Amy Brown to retract?

STEPHEN CARTWRIGHT: The fact that she had said to me that an \$800,000 package was unrealistic, because we couldn't have had that conversation.

The Hon. DANIEL MOOKHEY: Sorry, you said "package" just then. You're using the terms "package" and "salary" interchangeably. It's entirely possible that, if you were persisting in your demands, or at least persisting in your attempt to have the offer of 12 April 2021 honoured, that package would well and truly exceed \$800,000.

The Hon. WES FANG: To be fair, I use terms—

The CHAIR: Order! Mr Fang.

The Hon. DANIEL MOOKHEY: I'm asking the witness. You say in your paragraph 18:

Accordingly, in so far as Ms Brown may have given evidence to the Committee that I demanded that she agree to a package of \$800,000 ...

You don't say salary of \$800,000. You say "package".

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: On 19 May were you still pursuing a contribution to accommodation?

STEPHEN CARTWRIGHT: No.

The Hon. DANIEL MOOKHEY: Were you still pursuing a contribution to school fees?

STEPHEN CARTWRIGHT: No.

The Hon. DANIEL MOOKHEY: Were you still pursuing a contribution to rent?

STEPHEN CARTWRIGHT: No.

The Hon. DANIEL MOOKHEY: And your view is that you had abandoned these requests by that point in time.

STEPHEN CARTWRIGHT: If you go to the previous paragraph, 17, on page 6 of my statement, the last line of that paragraph says:

A day or so later I advised Dr Broadbent that I was prepared to continue with the process.

This was after she had made it crystal clear that it was a flat \$600,000. There was nothing else. It was to cover everything. No more correspondence was to be entered into. Therefore, it is totally unrealistic to suggest that sometime later I was still arguing for rent or school fees or any other additional—

The Hon. DANIEL MOOKHEY: Okay, sure. So you're saying that at the 19 May meeting this wasn't a dispute with Ms Brown because you had already abandoned this request.

STEPHEN CARTWRIGHT: It had been made crystal clear to me that, if I was to continue in the process, that was the offer. There was no room to negotiate.

The Hon. DANIEL MOOKHEY: The issue is that Ms Brown never told us that this conversation took place in May. Ms Brown was of the view that this conversation was taking place in October when you were revisiting your arrangements, not in May when you were negotiating them at first instance. Given that, to be frank, you didn't recall—my colleague took you through the inconsistency here. There has never been a suggestion that this conversation was taking place in May. The conversation in which Ms Brown says that you had invoked the name of the Minister, the Deputy Premier and the Premier was taking place through the events that you described in October.

The Hon. JOHN GRAHAM: It was on 28 October at 52 Martin Place in a meeting between you and Ms Brown.

The Hon. WES FANG: What are you insinuating by all of this?

The CHAIR: Order! Mr Fang, just because the questioning might be getting a little tougher, that does not—

The Hon. WES FANG: No, it's not tough. I am actually trying to work out the relevance, Chair. I am trying to understand the relevance of this.

The CHAIR: Sorry, no. Mr Fang, that is not a point of order. You get your 15 minutes at the end.

The Hon. WES FANG: Yes, 15 minutes.

The CHAIR: You will be able to ask questions then.

The Hon. WES FANG: The relevance of all of this—

The CHAIR: Mr Fang. Order!

The Hon. WES FANG: What is the relevance?

The CHAIR: Just because you're wanting to know where the questioning is going doesn't mean—

The Hon. WES FANG: No, I know. I just need to understand the relevance.

The CHAIR: —that you are entitled to take a point of order. So we will continue.

The Hon. WES FANG: I do not understand the relevance.

The CHAIR: Mr Fang.

The Hon. JOHN GRAHAM: Point of order: Chair, the fact that Mr Fang can't keep up is not a point of order. I'd ask that you rule him out of order. He is repeatedly interrupting.

The CHAIR: Yes, he is repeatedly interrupting with no valid point of order. I will ask Mr Fang to sit back and listen. Remember, you will have your 15 minutes of questions, as we have agreed, to ask the witness anything you wish to clarify. Proceed, Mr Graham.

The Hon. JOHN GRAHAM: I'll just put to you your evidence, Mr Cartwright, so we can confirm this point. You are arguing over these issues on 28 October 2021 when you meet with Ms Brown at 52 Martin Place with the general counsel, Mr Carr, on the phone. Do you agree these matters were discussed at that meeting?

STEPHEN CARTWRIGHT: No, I do not. Not in any way, shape or form do I agree with that.

The Hon. JOHN GRAHAM: Can I put to you then the evidence of Ms Brown that she has put to this Committee. She says in that meeting on 28 October 2021 in her office that you did invoke the name of a range of people, including the Premier. She says this:

Yes. It was actually the name of the Premier that jumped out at me. I sent a follow-up text to my general counsel to say, "Oh, I didn't like that." I said I found it quite threatening. But, yes, it was at that point he was saying that he would talk to Michael Coutts-Trotter, or even the Minister or the Premier, because—

and this is now a quote of what you said in that meeting, according to Ms Brown—

"the current outcome is not what I was offered".

Did that exchange take place in that meeting?

STEPHEN CARTWRIGHT: I have dealt with that extensively in my statement, the exact arrangements that took place in October. I am really going to need to deal with this because I have seen at various stages in the transcript of the prior hearings in this Committee that the discussions around negotiating my original salary package and the revisiting of what was agreed to in October were all merged into one in people's time lines.

Certainly the media has completely misunderstood all of that. I would like to be crystal clear here about which bits we're talking about and what was said. Because I'm really clear on it and it's all in my statement.

The Hon. JOHN GRAHAM: Thank you.

STEPHEN CARTWRIGHT: Let's start by saying that the suggestion that I was demanding \$800,000—I never did—never requested it, never demanded it, never asked for it. Let's be clear about that point straightaway. The second thing is that by the time I first met Ms Brown, I had already accepted what Dr Broadbent had put to me, and that is that it was a \$600,000 package—nothing extra, no more correspondence to be entered into, last and final. If you proceed from this point forward, it's \$600,000. What I am suggesting, first of all, is that any suggestion by Ms Brown that we were still haggling over the \$800,000, that I was demanding the \$800,000 and that I said I would go to the Premier or the Minister or somebody else if I didn't get those things has to be untrue. The time line suggests to you that it could not have been happening at that point in time. So that has to be untrue. Let's accept that for the conversation that was happening in May. Now we go forward—

The Hon. DANIEL MOOKHEY: Sorry, Mr Cartwright, before we go forward—and I'm very eager to hear your account of the events of October—in terms of the events of May, Ms Brown never told us that you were raising or invoking the names in May. So you're denying an allegation that has never been put to you. You are denying something which we're not alleging.

STEPHEN CARTWRIGHT: I've read the transcripts over and over, Mr Mookhey, and it is incredibly confusing because it jumps between May and October. Ms Brown gets confused, I think the Committee gets confused and I've no doubt the media got confused because some of the reports that the media ran on this were that I was threatening to go to the Premier if I didn't get the job. They've got it completely wrong. As a result of all of that confusion, I wanted to make crystal clear in my statement that I never asked for \$800,000. I never demanded it, I never threatened to go anywhere over it, and I couldn't have because it was already resolved by the time I met Ms Brown. As long as we are all happy that that is the fact, then I am happy to move to October.

The Hon. DANIEL MOOKHEY: I accept, Mr Cartwright, that that's your account. We are happy to hear your account of October.

STEPHEN CARTWRIGHT: Good. When we move to October—this is based on the fact that Ms West had contacted me prior to me signing my employment contract and asked if I would agree to take that \$600,000 that I had agreed to and that we had been discussing for weeks by that stage; if I would be prepared to do a favour to Investment NSW to break that into two parts: \$487,000 base and \$113,000 allowance. The reason she asked me to agree to that favour was because she said it would save Investment NSW having to make a special application to the remuneration tribunal to have the \$600,000 package approved. I said to her, "Provided that every month when my pay packet comes, it still reflects a \$600,000 base package, then I am comfortable to help out my new employer. I'm happy to do a favour to Investment NSW. I'm happy to agree to break it into two parts." I said, "I don't really mind what you categorise the various components to be, provided that at the end of the day I still get paid the same amount that I would have if it had been a flat \$600,000." She said, "All good. Thank you for agreeing to that. That will save us a lot of problems. Thanks for agreeing to do those things. It will make it a lot easier." I said, "That's fine."

Then I start in the end of July. I get my first pay in August. In my first pay there's the \$487,000, or the pro rata amount of that for the month, and what's missing is the component which was the allowance. So I raised that with Ms West. I raised it with HR; I raised it with payroll. The response that I kept getting was, "Well, that might have been what you agreed to, but you've signed a contract that says that you don't get it until you arrive in the UK." I said, "Well, hang on a minute. I'm not able to move to the UK because of COVID and other matters. So that means that I won't get that big chunk of what I had agreed to in my salary package. I won't get that until January, which is about a \$56,000 loss of income. That can't be right."

Ultimately, I ended up having a conversation with Ms Brown. But prior to the meeting I had with Ms Brown, which is the one that Mr Graham was referring to, I actually set out all of the facts in a very long email to Ms Brown to explain to her the background and explain to her some options that we might have in terms of solving the problem. I said maybe I could go over to the UK early and come back, because I had to pack up the house and move the kids. Maybe I could put the allowance towards some of the costs I was already starting to incur in the UK, because it was a UK allowance. Maybe I could claim the UK allowance after I got there but have the whole annual entitlement after I arrived. None of those things were acceptable to Investment NSW. I was basically told, "You've lost the \$56,000. It's a matter for you."

When we had the meeting that Mr Graham was referring to, I had already the previous day suggested that if Ms Brown didn't have the authority to fix the problem, I was happy if we went and spoke to somebody who did have that authority: Mr Coutts-Trotter. I said we could go and talk to Kathrina Lo, because she had suggested

that if I had any challenges or issues working for the public service, I could go and speak to her. I said, "Or maybe the Minister or whoever had the authority to agree to fix the problem that I had just encountered," because I had entered into an agreement in good faith and it had been reneged upon, and I wanted somebody who had the authority to fix it to fix it. It wasn't a shock to Ms Brown that any reference was made to people in higher authority during the meeting because it was in the email the day before. So it could not have been a shock to her in that meeting. That's why that has to be fabrication as well, because it was in the email the previous day. All of this is in my statement.

The Hon. PENNY SHARPE: Thank you, Mr Cartwright. I am just interested in your evidence that says that Investment NSW came to you to ask you for a favour in relation to your remuneration.

STEPHEN CARTWRIGHT: Yes.

The Hon. PENNY SHARPE: At any point did you get the sense of two things—one, that they were operating within the framework that they had been given by the Government in relation to how much they could pay all of the senior trade and investment commissioners and that yours was a special arrangement?

STEPHEN CARTWRIGHT: No. No, I had no knowledge of any of that.

The Hon. PENNY SHARPE: You don't believe that they felt under pressure to deliver more pay and other arrangements to you as a result of the agreement you believed you had with the Deputy Premier?

STEPHEN CARTWRIGHT: No, I had no insight into what negotiations were happening with the other senior trade and investment commissioners. I had no insight into what the rules were for the Government. I had never worked for government before. I had no insight at all into what was happening behind the scenes. I was only aware of what was happening in my conversations.

The Hon. PENNY SHARPE: You don't believe that those public servants ever gave you information in relation to the constraints which they were operating under for your remuneration package?

STEPHEN CARTWRIGHT: Sorry, what don't I believe?

The Hon. PENNY SHARPE: Did they ever give you an indication of the constraints which they were operating under when putting together your package?

STEPHEN CARTWRIGHT: Toward the end when I was asking for particular clauses in the appointment contract or particular arrangements in the relocation arrangements, Mr Carr or Ms West—I think mainly Mr Carr because it was him that was taking over the kind of legal negotiations—would say, "Well, we can't do that." I thought, okay, I don't know these things but okay. That's very normal in a negotiation for a pre-employment arrangement. There are some things that can be changed and, to be fair, Mr Carr did change one of them, being the reciprocal notice period. But other things he couldn't fix, like the extended redundancy arrangements or other things that I was having conversations with—this is pretty normal stuff, as far as I know. It certainly has been in my decades of hiring senior executives. You have these conversations about what can and can't be done. I had no insight into any other negotiations and I had no insight into the broader rules that were governing the public servants, other than what they came back to me in their response to particular issues we were discussing.

The Hon. PENNY SHARPE: But you did believe that the Minister, or perhaps Mr Coutts-Trotter, could change the arrangements on your behalf?

STEPHEN CARTWRIGHT: Again, can we be crystal clear about the period before I signed the contract and in the period in October where we were trying to resolve the renegeing on the deal that was asked of me back before the contract was signed? I would be really grateful if we can keep those—because I've seen in the transcript that everybody gets confused about those two things.

The Hon. PENNY SHARPE: The thing that puzzles us, Mr Cartwright, is that no other STICs have the arrangements in relation to their rent. Everyone else is paid the allowance, that is also straightforward across all the other senior trade and investment commissioners. We are, or I am, puzzled that after signing the contract and getting that sorted, as soon as that was signed then there were ongoing changes, which led to taxpayers of New South Wales having to pick up the fringe benefits tax arrangements as a result of the changes to your accommodation allowances. That is why we keep asking about it because, yes, there are two separate arrangements, but on one hand you say, "Well, I accepted that that was the package," yet the package continues to change.

STEPHEN CARTWRIGHT: No. The package didn't continue to change. The discussions I had in October were about what was represented to me and what I was asked to agree to, which was then reneged upon. That is fine. In the end I had to accept that and I had to accept the loss of \$56,000 and I had put a whole range of

alternative ways of dealing with it and all of those were rejected. Nothing had changed there. The only change that occurred was then in the following June, so almost a year later there was a change in relation to the rent. So there was one change made only. The other one—

The Hon. PENNY SHARPE: What changed to make that become possible, if it was possible in October?

STEPHEN CARTWRIGHT: It wasn't raised in October. I never talked about rent in October. This is where everybody is getting confused. The Committee's confused, the transcript's confused, the media's confused. We never talked about rent in October. October was about the UK allowance, which I had been asked to agree to as a construction. It wasn't real. It was a \$600,000 package and that had been confirmed by Deloitte. I had been asked to break it into two parts for the convenience of Investment NSW, to save them going to—

The Hon. PENNY SHARPE: Mr Cartwright, I think we'll have to agree to disagree there. The arrangement was within the bounds of what the other STICs had. The interpretation in relation to what was in or out of that is where the point of difference is. Given that you've read all the transcripts and have seen all this material, do you accept that the public servants bent over backwards to maximise your package on the basis that they believed that the Premier—then Treasurer—and the Deputy Premier had wanted that to occur?

STEPHEN CARTWRIGHT: I had no direct knowledge of that, and so far I haven't seen any evidence to that effect. No, I can't help you with that inquiry, I'm sorry.

The Hon. DANIEL MOOKHEY: Mr Cartwright, we will get to the artificial arrangement that you say that Investment NSW asked you to agree to shortly. But just so I'm clear here—because I don't think there actually is confusion around the events or muddling of the time line at all—in October you were agitating for the payment of a cost-of-living/offshore allowance whilst you were still onshore. That is, you were still in Sydney, correct?

STEPHEN CARTWRIGHT: That's one way of putting it, but that's not how I would put it.

The Hon. DANIEL MOOKHEY: But the reason you were agitating for Investment NSW to pay you the allowance that you would be entitled to from the moment that you got to London is because you thought that it was a contrivance from Investment NSW's perspective, and your understanding was that it was a part of your salary that should have been paid regardless of whether you were in Sydney or London?

STEPHEN CARTWRIGHT: I was specifically asked if I would break it into those two parts. Think about this, Mr Mookhey: We're going along, I've got documents from Deloitte that say \$600,000, we're travelling along towards a final destination and then it changes to \$487,000 plus \$113,000. Where did the \$113,000 come from? It's not based on any benchmarking studies. It's simply to allow the \$487,000 to be created as a base that fits inside the bands.

The Hon. DANIEL MOOKHEY: When you say it's not based on any benchmarking figures, we were told that it was, that we had Mercer come in and benchmark it all. We paid Mercer a lot of money to benchmark it, and they thought the whole reason you were getting paid more than the other STICs, in terms of the cost of living, is apparently because there was a benchmarking exercise. Are you telling us that that entire shenanigan was a contrivance?

STEPHEN CARTWRIGHT: What I'm saying to you is they may well have done a benchmarking study that said that the \$600,000 package is the right package for this role in that environment. That may have been the case. But what I'm saying to you is I was proceeding towards signing an employment agreement that had a flat \$600,000. That's what Dr Broadbent said it was going to be; that's what the Deloitte papers that I've included had said it was going to be. We were moving towards signing an agreement that had that as a flat salary arrangement. Then I was asked if I would break it into two parts, and it had to be \$487,000 because that was the maximum that I could receive in relation to a base salary to get it into the right band and therefore avoid the need to have to go to the remuneration tribunal. It was broken into a \$487,000 base and \$113,000 UK—

The Hon. DANIEL MOOKHEY: Yes, I understand that.

The Hon. JOHN GRAHAM: Mr Cartwright, you say you wouldn't have described it as an expatriate cost-of-living allowance. But isn't that exactly the term that was put to you, not in October but on 16 August 2021, in reply to your inquiries? You were told this:

... Our processes require that all employment agreements be set out in writing and comply with the relevant legislation.

That is a sensible point. It goes on to state:

At no point was there an expectation or commitment in the documents provided to you (which were negotiated extensively with you) that you would be paid expatriate cost of living allowances while you are still based in Australia. ...

Do you accept you were told that on 16 August, well ahead of that October meeting?

STEPHEN CARTWRIGHT: Yes, I was told that about a month after I had started and days after I had received my first pay packet, and had therefore raised the issue about why the deal that I had entered into was not being honoured. Yes, I certainly said that.

The Hon. JOHN GRAHAM: And you agree with those observations that this is consistent with what had been set out in writing and agreed with you. Do you agree with that?

STEPHEN CARTWRIGHT: What I agree with, Mr Graham, is that in order for it to be a legitimate employment arrangement, I understood that the base had to be \$487,000 and the UK allowance had to be \$113,000 but I had never understood that it wouldn't be paid to me until I had moved to the UK. Now, I understood that the employment contract had to say that; otherwise, it wouldn't be deemed to be a legitimate allowance. But when I was asked to break it into two parts and I said, "Provided I still get paid the same amount", and was told, "Yes, you will", then I think that creates an expectation. That's why I was so upset when it didn't happen. And so I tried—

The Hon. JOHN GRAHAM: Did you understand—

STEPHEN CARTWRIGHT: I was trying to be reasonable.

The Hon. JOHN GRAHAM: —when you agreed to this that this was an expatriate cost-of-living allowance?

STEPHEN CARTWRIGHT: I agreed that that's how it was to be categorised in the employment contract, yes.

The Hon. JOHN GRAHAM: Do you feel that it is appropriate or inappropriate for an expatriate cost-of-living allowance to be paid while you're not, in fact, an expatriate at all while you're living in Australia?

STEPHEN CARTWRIGHT: I feel that when somebody asks you to agree to something and you are explicit about the terms under which you agree to it, to then not honour that agreement is not appropriate. I did then offer to find other ways to, if you like, offset that substantial loss, and all of those alternative suggestions were rejected. In the end I had to accept that I entered into an agreement in good faith, that I had been taken advantage of in relation to that agreement and that I would end up wearing a substantial loss as a result of entering into an agreement in good faith.

The Hon. JOHN GRAHAM: To return to that point my colleague was making, you really did see this as a contrivance to allow that \$600,000 package to flow. That really is a fair statement about the evidence you're giving us.

STEPHEN CARTWRIGHT: I saw that the breaking up of the \$600,000 into a \$487,000 base and \$113,000 allowance was a construction that allowed Investment NSW to avoid going to the remuneration tribunal and that's what I was told.

The Hon. JOHN GRAHAM: Yes, told by Ms Bell.

STEPHEN CARTWRIGHT: By Ms West.

The Hon. JOHN GRAHAM: And your evidence on the benchmarking is while the \$600,000 might've been benchmarked, that expatriate cost-of-living allowance was never benchmarked.

STEPHEN CARTWRIGHT: I never saw the Deloitte benchmarking report at all so I don't know.

The Hon. DANIEL MOOKHEY: But, Mr Cartwright, when Ms West asked you to agree to this artificial arrangement, did you not think that, or did it occur to you at any point—if we're to believe your version of events that you had gone along with this in order to suit Investment NSW and to do them a favour—to perhaps ask whether or not Investment NSW was engaged in misleading, deceptive or fraudulent conduct with you and that you were being asked to agree with that because that's effectively what you're describing: a conspiracy in order to circumvent public sector rules? Is what you are narrating here that, apparently led by Ms West, which you went along with—

STEPHEN CARTWRIGHT: What I'm saying to you, Mr Mookhey, is that I was assured at the time that if I agreed to that separation, then it would be compliant with the governing rules around the setting of salary packages. That's what I was told.

The Hon. DANIEL MOOKHEY: But there are no documents, no correspondence, no legal advice, no emails, nothing which would suggest that Ms West put this to you.

STEPHEN CARTWRIGHT: Well, what I put to you, Mr Mookhey, is that there needs to be an explanation as to how we moved from an agreed \$600,000 base package, which we were proceeding along towards agreeing to an employment contract that had that in it, to suddenly \$487,000 plus \$113,000. The letter from Deloitte that contained the outline of the salary package that was sent to me by Ms West did not have—did not have—anything to do with the UK allowance in it at the time. So how do we explain the fact that we have gone from a \$600,000 gross package—which is what we were talking about, what we were agreeing to, what's in the Deloitte letter and what they'd considered—to a \$487,000 plus \$113,000? How does it get from one to the other? There has to be some explanation for that change and I've given you the explanation.

The CHAIR: Thank you, Mr Cartwright. We will go for a short break now. We will have a 15-minute break until 10:05. Thank you.

(Short adjournment)

The CHAIR: Welcome back. We will start with questioning again from the Opposition. Mr Mookhey.

STEPHEN CARTWRIGHT: Chair, before we start, can I just make one reference, please?

The CHAIR: Yes, you can.

STEPHEN CARTWRIGHT: I appreciate the opportunity for the break because it allowed me to peruse some of the tender documents. It may assist in the last matter we were discussing before the break. If I can take the Committee to page 62 of the first lot of tender documents—so 62 of 99. What you'll see there is an email from me to the head of HR, copying in Ms West. That email was sent by me on 6 August, which was 12 days after I started in the role. This would have been after I received my first pay slip. I refer the head of HR to the fact that I had only received the base arrangement of \$487,000 in my first pay, not the \$113,000. And I start by saying:

If this is right (and I must admit it has caught me by surprise given the artificial nature of the way my package has been structured)
...

Then I go on to ask if the allowance could be applied pro rata from when I did arrive in the UK so that I didn't miss out on the \$56,000. Then I go on to say towards the bottom:

If this doesn't occur then I am being paid less than I agreed to for this year by a huge amount.

Given the design of my package was artificial to meet internal considerations, I can't imagine Jenny will allow that to happen.

This is 12 days after I started. This is after I received my first pay packet. There seemed to be some doubt that I was asked prior to signing my contract to agree to what I agreed to and I'm just reinforcing here that an email that I sent immediately after I got my first pay very clearly sets out that I was surprised and that I would be surprised if Jenny West allowed that to actually happen. I know Mr Mookhey was perhaps raising some doubt about what I was suggesting occurred. This is an email that's very proximate and very relevant in that regard. Thank you, Chair.

The Hon. DANIEL MOOKHEY: Thank you, Mr Cartwright. I appreciate you drawing our attention to this because I was going to ask you about these emails now, actually. That's quite apt. Just to be clear, I wasn't disputing, and I'm not disputing, the sincerity upon which you held this issue. But I think what I was putting to you beforehand was that if we're to believe what you were saying, which is you went along with an artificial arrangement as a favour, whether or not it occurred to you that you were engaging in or facilitating Ms West's attempt to circumvent public service rules. But that's okay. I think you gave us your view on that matter quite clearly. But I guess let's cover off these emails. You do make the point, as you just did, that you got your first pay slip; you noticed this discrepancy.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Then you immediately email HR. That email is on page 63 of the bundle.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Down the bottom. You see that?

STEPHEN CARTWRIGHT: Yes, I do.

The Hon. DANIEL MOOKHEY: You say to—I believe that's an HR person, or it's a senior leader at the time:

Good afternoon [X]

I just checked my pay slip and I am concerned that there might have been an error interpreting my employment contract.

My first pay seems to be based on my annual base of \$487k, but the extra \$113k of allowances is missing.

Payroll staff may be mistaken in thinking that this only applies when I am in the UK or that I need to claim expense reimbursement etc but the reality is that this is actually part of my negotiated monthly salary.

Could you please explore this for me and let me know when it can be fixed?

That is absolutely consistent with what you've told us.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: If you go up, you can see that the Director People & Culture at the time replied to you the next day.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: And she says:

Hey Stephen

Happy Friday!!

Thanks for your patience ...

I have looked at your contract and also the background on this particular arrangement.

Then she excerpts clause 5.3 of your contract, which is quite clear that the allowances referred to in clause 2 shall only be made in respect of that and it's payable upon your relocation to the UK. So there's no dispute around the actual contractual interpretation, correct?

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: And it is payable upon your relocation to the UK. There is no dispute around the actual contractual interpretation, correct?

STEPHEN CARTWRIGHT: That's correct.

The Hon. DANIEL MOOKHEY: Then you reply on 6 August—that's when you reply with the email you just read out. The most pertinent bit is:

If this is right (and I must admit it has caught me by surprise given the artificial nature of the way my package has been structured) then can you please confirm that the pro-rata application of the \$113k pa allowances will apply from the time I arrive in the UK but calculated to ensure ...

You're not quibbling whether it is payable at this point in time, whilst you're in Sydney. You're suggesting, in effect, that if you don't claim that part of the allowance whilst in Sydney, you should be able to claim it pro-rata when you arrive, so you are paid the full year's amount despite you being in the UK for a shorter period of time, correct?

STEPHEN CARTWRIGHT: I thought that may have been one of the explanations for how it would work.

The Hon. DANIEL MOOKHEY: Sure. Then if we go forward—we will have to jump forward in time to pick up the next part of the email chain, to page 59 this time and page 58. On page 58, I think you forward this email—or actually, to be fair, someone forwards it. In the second part at the top there, you then write to Ms West asking for this to be added to the weekly agenda. You see that? It reads, "I will need your guidance to help get this resolved asap."

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: Then that, in effect, triggers the chain of events that leads to the October meeting with Ms Brown, correct?

STEPHEN CARTWRIGHT: Correct.

The Hon. DANIEL MOOKHEY: I presume, in the interim, it was discussed with Ms West at your weekly meeting, and it wasn't concluded to your satisfaction—

STEPHEN CARTWRIGHT: My recollection is that Ms West said, "Look, there is nothing I can do because the contract is clear."

The Hon. DANIEL MOOKHEY: But, Mr Cartwright, this is another incident in which you seem to be relying on a private arrangement despite signing a contract to the contrary.

STEPHEN CARTWRIGHT: I accept that, Mr Mookhey.

The Hon. DANIEL MOOKHEY: But you're an experienced professional who has led an employer organisation, amongst other parts of its functions. You would know that written contracts supervene and override all forms of private arrangements that are reached beforehand, correct?

STEPHEN CARTWRIGHT: I believe that if it goes to a court, that would be what would be decided.

The Hon. DANIEL MOOKHEY: That's a basic principle of contract law which, frankly, every first-year lawyer is taught. Why did you feel as though your private arrangement should prevail regardless of the fact that you had entered into a written agreement to the contrary?

STEPHEN CARTWRIGHT: I felt that I had only changed my arrangements prior to signing the contracts because I was asked to do so as a favour to Investment NSW, and I had assumed that there was some way in which my allowances would be paid in accordance with what I had agreed to. Look, if I have to be honest with you, in hindsight, I would say I suspect it was probably envisaged that I would get employed toward the end of July, that the approval to reinstate the position of the agent general would come quickly from the UK, and that I would then be over in the UK very quickly.

I suspect Investment NSW thought it would be a very short period between when I started and when I would be collecting this allowance, and that was probably in their thinking at that time. But, as it turned out, with COVID and with the delay to getting the approval from the UK Government taking so long, and a range of other issues, it ended up becoming a six-month delay, which then made it a very big problem. I did try to find alternative ways of resolving it, by saying, "There are UK costs that I'm incurring now, even though I haven't moved yet. Perhaps we could put those against the allowance." I was trying to be reasonable in coming to some way of dealing with this that would be fair under the circumstances. But each one of those suggestions was rejected and so, in the end, I had to let it go and say it was a lesson I've learned in life, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Mr Cartwright, before we move beyond this matter, which I've got maybe five more minutes on—after this dispute is triggered after you get your first pay slip, you, in effect, step by step go up the chain of command as you see it in order to get it resolved, correct?

STEPHEN CARTWRIGHT: I did explore a range of alternatives before I did that. But, ultimately, Ms Brown sent me an email saying, "How are things going?" So I responded and told her that I had a concern.

The Hon. DANIEL MOOKHEY: When did Ms Brown send you that email?

STEPHEN CARTWRIGHT: I would have to go back and find it. But it would have been in the week prior to our October meeting, so it was probably the middle of October.

The Hon. DANIEL MOOKHEY: In effect, you go to HR; they can't solve it. You go to Ms West; she doesn't solve it and then Ms Brown contacts you to inquire into your wellbeing whilst you're in Sydney, and then you take that as an opportunity to tell her that this dispute is going on, correct?

STEPHEN CARTWRIGHT: Yes, that's right.

The Hon. DANIEL MOOKHEY: And then did you request the October meeting?

STEPHEN CARTWRIGHT: After I laid out all the background to it and all the alternatives that I had tried to resolve it, I think she then said, "Well, let's have a meeting to discuss it," and we went backwards and forwards about what date or time that meeting could occur. Ultimately, we did find an opportunity to meet in the offices a couple of days later.

The Hon. DANIEL MOOKHEY: Let me take you to paragraph 7 of your statement on page 9. You make the point here that on 23 October you decided to escalate the matter, so you sent a long email to Ms Brown. Let me be clear here. Did Ms Brown send you an email or did you send her an email?

STEPHEN CARTWRIGHT: She sent me a very short email saying, "How are things going? Are you settling into the role?" It was a very, kind of, you know, structured short email.

The Hon. DANIEL MOOKHEY: That was before 23 October?

STEPHEN CARTWRIGHT: Yes. I responded by saying, "Well, this is an issue that I have encountered," and I provided her with a very detailed explanation of what was going on.

The Hon. DANIEL MOOKHEY: Then Ms Brown, you say, in an email back to you, rejected your request for any consideration and said that she had just spent the day in budget estimates where it was made clear that the issue of offshore expenses would be the subject of ongoing scrutiny by the upper House which, to be fair to Ms Brown, I think that came from myself and Ms Sharpe at the time.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: She said that she was sorry that that wasn't the answer you were looking for, and then you replied to her with another email on 27 October in which you say you made reference to Commissioner Lo, Secretary Coutts-Trotter or even the Minister and the Premier. What, did she then, the day after, say, "Why don't you come into Martin Place and let's have a chat," or did you ask for that meeting? What happened?

STEPHEN CARTWRIGHT: I can't recall. I know that we set up a meeting to talk about it further, but I can't recall who asked for the meeting.

The Hon. DANIEL MOOKHEY: In that meeting, do you recall making reference to the Premier, the Minister or Secretary Coutts-Trotter?

STEPHEN CARTWRIGHT: I think what I said in the meeting was that I reiterated what I had said in the email the day before, and that is that I was happy to talk to anybody in authority that had the authority to fix the problem. Basically, Ms Brown was saying she didn't have the authority to fix it—

The Hon. DANIEL MOOKHEY: Was she saying that?

STEPHEN CARTWRIGHT: —and I said, "Well, I'm happy to talk to somebody"—

The Hon. DANIEL MOOKHEY: Or was she saying that she disagreed with you? It wasn't a question of authority. She thought your request was unreasonable.

STEPHEN CARTWRIGHT: What she was saying was that because of the scrutiny in budget estimates, the answer was no.

The Hon. DANIEL MOOKHEY: That is not the same as, "I don't have the authority." Did she say to you, "I think you've got a good idea here but, gee, it's not within my power to give"?

STEPHEN CARTWRIGHT: No. My apologies. I wasn't meaning that. What I was saying was that her answer was no.

The Hon. DANIEL MOOKHEY: Well, that is a material change.

STEPHEN CARTWRIGHT: It was clear that she was concerned—

The Hon. DANIEL MOOKHEY: Sorry, Mr Cartwright.

STEPHEN CARTWRIGHT: I haven't put in my statement that she said anything about authority. I misspoke, I'm sorry. What I'm saying is that she was making reference to the scrutiny by the upper House in budget estimates of the offshore expenses as the reason why nothing could be done.

The Hon. DANIEL MOOKHEY: That was the reason she gave you; I accept that. But your reply was "Well, then, let's go talk to the Minister or the Premier," was it?

STEPHEN CARTWRIGHT: My reply was "I'm happy to go and have the conversation about what happened", as in, the arrangement I was asked to enter into and what has subsequently occurred. I was happy to have that with anybody who could help, whether that was Commissioner Lo, because in a previous conversation she had said, "If you encounter any issues working in the public service, you can always come to me for support or advice." I was happy to go to Secretary Coutts-Trotter because he was the secretary of the department I was working in. But if it required some other form of intervention, then it may have had to go further. I didn't know how to get it resolved.

The Hon. DANIEL MOOKHEY: Just to be clear, you email her asking her for a solution, and she replies saying it's not possible. Somehow, the very next day a meeting is convened in Martin Place. Effectively, you repeat the position as outlined in your email exchange, she rejects your position again, and you then say words to the effect of, or at least you then invoke the names of the Public Service Commissioner, the Minister and/or the Premier, as you put it in your statement, "because the outcome was simply not what I agreed to and it needed someone with sufficient authority to fix it."

STEPHEN CARTWRIGHT: I think you've missed out one step, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Which step did I miss?

STEPHEN CARTWRIGHT: You missed the fact that I replied to her email before the meeting, where I raised that—

The Hon. DANIEL MOOKHEY: Sure. Fine. You made this—

STEPHEN CARTWRIGHT: The reason that's important is because, in Ms Brown's evidence, she said that I raised the issue of escalating the matter to more senior people in the meeting, and she was shocked by it and taken aback by it, and sent off a note to her general counsel. She couldn't have been shocked by it because it was in the email the previous day.

The Hon. DANIEL MOOKHEY: Mr Cartwright, I think her shock was from the fact that you were persisting with it, despite her rejecting it in an email. I don't think it was a shock—

STEPHEN CARTWRIGHT: That's not what she said in her evidence.

The Hon. DANIEL MOOKHEY: I accept that you raised the names of the Premier, the Minister and the Secretary of DPC in writing the day before you had the meeting in person. Just to be very clear, I accept that happened. Do you not see how your continued attempts to, as you put it, "get this issue fixed", would appear to the public servants like you simply trying to get their bosses involved because they're not going to give you what you want?

STEPHEN CARTWRIGHT: What I was seeking was a way of overcoming the impasse. I was being met with a flat no, despite me trying to be accommodating and saying, "Are there other ways we can get this resolved? Because the unfairness is pretty huge." I said, "There are other ways we could get it resolved." Every one of those suggestions was met with a blank no, so I didn't quite know where to go from there.

The Hon. DANIEL MOOKHEY: You're not the first public servant of the 440,000 public servants in New South Wales to find themselves in an employment dispute.

STEPHEN CARTWRIGHT: I'm sure that's true.

The Hon. DANIEL MOOKHEY: You're not the first SES executive to have issues like this. You seem to be the first public servant and SES to name-drop the Minister, the Premier and Secretary Coutts-Trotter in both writing and in person to get a relatively minor issue—from the perspective of the public service—resolved. Do you not see that is actually intimidatory to public servants?

STEPHEN CARTWRIGHT: I don't know where to start with that statement, Mr Mookhey. I didn't name-drop them. I actually referred to them in the reverse order to the way you referred to them. I know you started with the Premier and worked back to the Minister. I didn't do it that way in my correspondence. I said, "Should we go to the Public Service Commissioner? Should we go to Mr Coutts-Trotter?" I was saying that at some point in the chain of command there is somebody who can intervene to fix the problem. So I wasn't name-dropping. I was simply making a suggestion that if it couldn't be resolved with Ms Brown then perhaps it could be resolved with somebody that Ms Brown reported to. I didn't know where that might come from. You say it's a relatively minor issue. I don't think losing \$56,000 is a relatively minor issue, particularly when it is as a result of me agreeing to something that I was asked to do and a change of position, to my detriment. I think I was entitled to ask for it to be reviewed by somebody who could perhaps intervene to help me resolve the problem. In the end, I didn't. In the end, I had to accept that it was not going to be resolved and fixed, and I moved on.

The Hon. DANIEL MOOKHEY: Can I just ask about one other matter before I pass to my colleague? I'm returning to the negotiations that took place prior to you entering into the arrangement. As you quite rightly say, we should be very separate around the time lines and very clear about the events we're talking to. I'm now talking to events around the conclusion of negotiations with Ms West and thereabouts. Do you recall having conversations with Ms West around 18 June 2021 about your potential contract?

STEPHEN CARTWRIGHT: I'm sure we did.

The Hon. DANIEL MOOKHEY: Do you remember that conversation becoming heated?

STEPHEN CARTWRIGHT: No.

The Hon. DANIEL MOOKHEY: Do you recall that conversation becoming short?

STEPHEN CARTWRIGHT: No.

The Hon. DANIEL MOOKHEY: Do you recall Ms West at all in that conversation expressing any upset with your behaviour?

STEPHEN CARTWRIGHT: No. I recall Ms West was getting a little frustrated because I was asking for explanations as to why some things that we were negotiating couldn't be agreed to or for a logical explanation to some of the positions that were being adopted in the negotiations. I do remember her getting a little frustrated with that. But I don't remember it being particularly difficult in my experience. I guess I've had a lot of experience in these negotiations. It was always professional.

The Hon. DANIEL MOOKHEY: Can I just quickly take you to, just in terms of the bundle from this morning, page 36, if you don't mind. This is the bundle that is titled "Contract negotiations" at the top.

STEPHEN CARTWRIGHT: Yes.

The Hon. DANIEL MOOKHEY: You wouldn't have seen this before. To be clear here, this is correspondence between the HR business partner and the director of people and culture at the time. This is an email that is at 17:07:19 on Friday 18 January. You can just see it refers to some other matters, involving Ms West, for which these two officials are trying to get some clarity from, but the HR business partner goes on to say this about Ms West:

Not sure to be honest where that is at, so let's connect with Jenny on Monday to confirm with her. She's [Jenny] called me a couple of times today but on the last call was in a real tizz and kind of hung up on me, but only because she was so upset from a call with Stephen C.

Do you know why Ms West would've been so upset with you that day?

STEPHEN CARTWRIGHT: No. This is a long time ago, and I have no insight into what this third person might've thought about why Ms West was upset. It's a bit of a stretch to ask me to make a comment on that, because we're not even getting firsthand evidence here. It's third-hand evidence. I—

The Hon. DANIEL MOOKHEY: You are one of the parties to this call, Mr Cartwright, which is why I'm asking you if you recall the conversation and whether or not there's any insight.

STEPHEN CARTWRIGHT: No, I don't. I don't.

The Hon. DANIEL MOOKHEY: I'll move on, then.

The Hon. JOHN GRAHAM: Mr Cartwright, I might just return to the evidence you gave before the break. I just want to return to that 28 October 2021 meeting in the Martin Place office of Amy Brown, where you met face to face. You have said you were surprised that she gave evidence to this inquiry that she was shocked when you raised the matters you had raised in the email beforehand. In fact, you went further than that. You described it as a fabrication. Is that evidence you stand by?

STEPHEN CARTWRIGHT: What I'm saying is that, given that I had said exactly the same thing in the email the day before, I'm at a loss to understand how she could say that she was shocked when we were having the conversation during the meeting, because that email had been with her for 24 hours and I wasn't saying anything different in the meeting to what I said in the email.

The Hon. JOHN GRAHAM: That is her evidence to this Committee. Are you suggesting she's fabricated that evidence?

STEPHEN CARTWRIGHT: I'm suggesting that I'm telling you what happened, and I'll leave it for you to make that conclusion because you know that the email on the prior day raised exactly the same issues or the exact same statement.

The Hon. JOHN GRAHAM: You haven't left it to us. You've suggested that Ms Brown has fabricated that evidence. Are you withdrawing that?

STEPHEN CARTWRIGHT: Perhaps Ms Brown doesn't accurately remember what happened.

The Hon. JOHN GRAHAM: I'll turn to another matter that my colleague raised with you last time. I'll briefly recap the evidence you gave. It was a brief exchange where Mr Mookhey said to you, "You did authorise an extensive advertising campaign directed against the Labor Party, didn't you?" And you replied, "No, I did not." I just want to ask some questions in relation to that campaign. That campaign was in the lead-up to the 2019 State poll and was the NSW Business Chamber's "Keeping NSW number one" campaign. Is that correct?

STEPHEN CARTWRIGHT: That was the campaign we ran in the lead-up to the 2019 election, yes.

The Hon. JOHN GRAHAM: Electoral funding disclosures show that the campaign was worth more than \$500,000, correct?

STEPHEN CARTWRIGHT: From memory, that's true. I think there's a cap. It would've been under the cap. But, from memory, that could be right.

The Hon. JOHN GRAHAM: Under the cap but more than \$500,000. That accords with your recollection?

STEPHEN CARTWRIGHT: That could be right. I can't recall. But I know we invested substantially in the campaign.

The Hon. JOHN GRAHAM: It included \$63,000, for example, on digital strategy with one provider?

STEPHEN CARTWRIGHT: That could be right.

The Hon. JOHN GRAHAM: It included television ads targeting Labor's payroll tax threshold in three marginal seats in the north of the State: Tweed, Lismore and Ballina?

STEPHEN CARTWRIGHT: Yes.

The Hon. JOHN GRAHAM: And you've stated about this campaign, in the chamber's annual report in 2019:

We set about using social media and digital marketing tools with a more powerful reach, targeted at voters in seats where the outcome of the election would be determined.

Those are your comments from 2019 in the annual report; is that correct?

STEPHEN CARTWRIGHT: If you're reading from the annual report, then I guess it is. I don't remember, but that could be right.

The Hon. JOHN GRAHAM: The campaign involved Facebook advertising, digital advertising, radio advertising, print material and newspaper advertising. Is that correct, to your recollection?

STEPHEN CARTWRIGHT: From memory, that's right, yes.

The Hon. JOHN GRAHAM: It also involved a series of meetings. One of those at the Elements of Byron in the electorate of Ballina, one at Doltone House, one at Coogee Diggers in the seat of Coogee and one at the Mingara Recreation Club in the seat of The Entrance. Is that correct, to your recollection?

STEPHEN CARTWRIGHT: We used to have those member meetings all the time in the lead-up to elections and generally, so it's probably right.

The Hon. JOHN GRAHAM: You attended each of those meetings?

STEPHEN CARTWRIGHT: I don't remember. Highly unlikely, actually, but I don't remember.

The Hon. JOHN GRAHAM: Your evidence is that you did not attend those meetings. Did you attend any of—

STEPHEN CARTWRIGHT: No, that's not my evidence. I'm saying I don't remember. It was a long time ago. I went to so many member meetings that I could have, I might not have. I don't remember.

The Hon. JOHN GRAHAM: These were meetings that are disclosed as part of the electoral return relating to this specific campaign: Ballina on 21 February; Doltone House on 12 March; Coogee on 11 March; The Entrance on 19 March, immediately before the election. Does that assist your recollection of whether you attended any of these meetings?

STEPHEN CARTWRIGHT: No, it doesn't at all because, first of all, I wasn't the authorising officer for that campaign and, secondly, from what you've read out, it doesn't say that I was there. So it doesn't assist me at all.

The Hon. JOHN GRAHAM: I'm asking you, were you there?

STEPHEN CARTWRIGHT: I don't remember. We had so many member meetings.

The Hon. JOHN GRAHAM: Do you recall who was there, Mr Cartwright?

STEPHEN CARTWRIGHT: No. We had hundreds of member meetings.

The Hon. TAYLOR MARTIN: Point of order: We've heard this go on. Mr Cartwright has given his recollection or lack thereof. To be frank, I don't believe this line of questioning is within the terms of reference for this inquiry at all.

The CHAIR: I think it is within the terms of reference. The member has been asking a specific question about whether there is a potential conflict of interest between Mr Cartwright and the Government. I think that is a legitimate line of questioning; it is a robust line of questioning. I will just remind the member to allow the witness to respond, but he can continue.

The Hon. JOHN GRAHAM: Mr Cartwright, in the course of running this campaign or prior to the running of this campaign, did you have any discussions or did the chamber have any discussions with members of the Government?

STEPHEN CARTWRIGHT: We, in the 11 years that I was CEO of the NSW Business Chamber, had extensive discussions with lots of members of the Government, lots of members of the Opposition, Opposition Leaders. I met with Michael Daley, Luke Foley, John Robertson. We meet with political operatives all the time, regularly, about everything. There is no way I can help you, Mr Graham.

The Hon. JOHN GRAHAM: I accept that, Mr Cartwright. I accept your meetings about everything. I'm asking a more specific question: Did you meet with or discuss with members of the Government this more than \$500 million election campaign?

STEPHEN CARTWRIGHT: No, I don't recall ever meeting with them to say that we are running an election campaign along these lines. I don't ever remember that. Now, again, I will say to you that I was not the authorised officer running this campaign. You would notice that if you had gone to the trouble of obtaining the information about the return that has been filed.

The Hon. JOHN GRAHAM: That's a point you've made, Mr Cartwright.

STEPHEN CARTWRIGHT: I was not the authorised officer.

The Hon. JOHN GRAHAM: That's not in dispute.

The Hon. WES FANG: Point of order—

The Hon. JOHN GRAHAM: I'm agreeing with the witness, Mr Fang.

The Hon. WES FANG: Whether you agree with him or not is irrelevant. Mr Cartwright is providing an answer. Please allow him to finish the answer before you interrupt.

The CHAIR: I remind the member once again to allow the witness to at least finish what he's responding to.

The Hon. JOHN GRAHAM: Mr Cartwright, I agree with that observation you're making. I'm asking a different question: Did you discuss this campaign with any member of the Government?

STEPHEN CARTWRIGHT: I don't ever remember discussing it with any member of the Government, because it wasn't a matter for the Government; it was a matter for the chamber.

The Hon. JOHN GRAHAM: So it never came up in conversation over the course of March, February, January or December? This was not the subject of discussion with any member of the Government?

STEPHEN CARTWRIGHT: Not a discussion that involved me.

The Hon. JOHN GRAHAM: This campaign was not discussed with either of the Coalition parties?

STEPHEN CARTWRIGHT: Not that I recall.

The Hon. JOHN GRAHAM: Are you aware of other members of Business NSW who may have been party to those discussions?

STEPHEN CARTWRIGHT: No.

The Hon. JOHN GRAHAM: That \$63,000 spend that I referred to was with digital strategy agency Topham Guerin, which was also used by the State Liberal Party during the election. This was the Liberal Party's digital strategist. Were you involved in the selection of that digital strategy agency?

STEPHEN CARTWRIGHT: No.

The Hon. JOHN GRAHAM: Why was this digital strategy agency, used by the Liberals, chosen?

STEPHEN CARTWRIGHT: You would have to ask the authorising officer for the campaign.

The Hon. JOHN GRAHAM: You were not party to any of those decisions or discussions? That's your evidence?

The Hon. WES FANG: Point of order: This question has already been put.

The CHAIR: Mr Fang, honestly, I feel like you're running interference now. It's the last seven minutes of the Opposition's questioning—

The Hon. WES FANG: Chair—

The Hon. TAYLOR MARTIN: It was drawing a long bow.

The CHAIR: As I have said before, he is entitled to ask questions even if they are trying to pursue—

The Hon. WES FANG: No. The question has already been put. The question was already answered. The question has been put again. The procedural fairness resolution is quite clear about the way that questioning occurs to a witness and also, as a Chair, what is relevant. The Chair can rule on the relevance of the question—

The CHAIR: Mr Fang, I've already ruled—

The Hon. WES FANG: I don't understand the relevance of the question.

The CHAIR: Excuse me, I have already ruled on the relevance of this, in that if the member is attempting to draw a connection between Mr Cartwright and—

The Hon. WES FANG: No, he's trying to smear somebody. He's trying to smear somebody as if they're some connection to us.

The CHAIR: —Government members and figures, then that is in order.

The Hon. DANIEL MOOKHEY: Can I remind the Deputy President that no-one should be talking over the Chair.

The CHAIR: Thank you, Mr Mookhey.

The Hon. WES FANG: Well, the Chair is not allowing me to finish my point of order, and that is probably the first problem.

The CHAIR: I think, Mr Fang, you've taken multiple points of order, all to the same—

The Hon. WES FANG: Yes, mostly relevant.

The CHAIR: I am now going to go back to the member. We have seven minutes. If we could just allow this course of questioning to continue.

The Hon. JOHN GRAHAM: What processes were put in place to ensure that the digital strategy agency, which was being used both by the chamber and by the State Liberal Party, did not allow those two campaigns to cross-pollinate at all?

STEPHEN CARTWRIGHT: You would have to ask the officer who was responsible for the campaign.

The Hon. JOHN GRAHAM: Who was that officer?

STEPHEN CARTWRIGHT: I think it—if you have the report there then perhaps you can help me, Mr Graham.

The Hon. JOHN GRAHAM: I'm asking you who the officer is. You're asking us to make our own inquiries, as I take your answer?

The Hon. PETER POULOS: That's exactly what he's doing.

STEPHEN CARTWRIGHT: No, the only reason I'm hesitating is because we ran about five or six campaigns while I was CEO and there were different responsible officers for each of them. So I don't want to mislead you by saying the wrong person—perhaps I take it on notice.

The Hon. JOHN GRAHAM: Thank you. You were the spokesperson, though, for this campaign. For example, you spoke to *The Daily Telegraph* and you said, "This is the first time we've undertaken a television advertising campaign of this kind." Is that correct?

STEPHEN CARTWRIGHT: Yes, that's what I said.

The Hon. JOHN GRAHAM: Yes, and it was quite unusual that you were advertising in these three National Party seats on television; it was the first time that had occurred. Is that correct?

STEPHEN CARTWRIGHT: To the best of my knowledge, yes.

The Hon. JOHN GRAHAM: You say, and you told my colleague, that you did not authorise this campaign?

STEPHEN CARTWRIGHT: That's right.

The Hon. JOHN GRAHAM: This is a statement from Business NSW. When asked, "Who signed off the group's 2019 campaign?", a spokesperson for Business NSW says, "The 2019 campaign was approved by the then CEO." That's you. Why is Business NSW saying you approved this campaign?

STEPHEN CARTWRIGHT: I don't know why Business NSW is saying that. I was very clear on the structure under which these campaigns are built, authorised, approved and funded, and they were designed by the

policy and advocacy department of Business NSW with input from the policy committees of the members. The members identified the crucial issues. The policy and advocacy division of the chamber develops the campaigns. The funding for the campaigns was approved by the board. It was put up as a special resolution and approved by the board. It was beyond my authorisation level to sign off on a campaign of that size. There was an appointed responsible officer for the management and the conduct of the campaign, which was not me; it was somebody who was the head of policy and advocacy.

The Hon. JOHN GRAHAM: That detail is interesting, Mr Cartwright. But why is your own organisation pointing the finger at you, as the person who approved this election campaign?

The Hon. WES FANG: He just provided the response. You've just asked the same question again.

The CHAIR: Order!

STEPHEN CARTWRIGHT: You would need to ask them, Mr Graham. I don't know why they would say that. I was the CEO, so I was part of the decision-making process. I was at the board meeting where the board signed off on the funding for this campaign. They understood the detail of the campaign. But I was the CEO. I wasn't the ultimate decision-maker in any of these areas.

The Hon. JOHN GRAHAM: Mr Cartwright, is one of the reasons why Ministers were so enthusiastic to put you into this process late because of your enthusiastic support for their election campaign in 2019?

The Hon. TAYLOR MARTIN: This is getting desperate now.

The Hon. WES FANG: Point of order: Chair, I ask you to rule that question out of order. It is not appropriate and is not covered by the terms of reference. It is smearing somebody. Let's be honest, the Opposition is just slightly peeved that—

The CHAIR: Mr Fang, I've heard enough. My previous ruling stands.

The Hon. WES FANG: In relation to what?

The CHAIR: This inquiry is specifically looking at the circumstances surrounding the appointments to various positions. If Opposition members are suggesting there may have been favours done or connections between the Liberal Party and The Nationals and Mr Cartwright, they are very well able—and it is within the terms of reference of this Committee—to ask those questions.

The Hon. WES FANG: Then they should spell them out clearly.

The Hon. JOHN GRAHAM: Let me put to you my concern, Mr Cartwright, and allow you to respond. Was this job in London the pay-off for your campaign for the Coalition in 2019?

The Hon. TAYLOR MARTIN: Oh man, that is desperate. Have you run out of questions?

The Hon. WES FANG: You've flogged a dead horse, haven't you? You've got absolutely nowhere to go on this.

The CHAIR: Order!

The Hon. WES FANG: You've painted yourself into a corner.

The CHAIR: We will be eating into the Government's time if this continues. Mr Cartwright, it is over to you.

STEPHEN CARTWRIGHT: I thought I had adequately dealt with this issue in my statement, where I made it crystal clear that I have never been affiliated with any political party, I've never supported any political party and that I was well and truly qualified to get this job on merit without any reference to any of the untenable things that you've just suggested, Mr Graham. What I was known for was being passionate—deeply passionate—about business in New South Wales, growing the economy, creating jobs, generating more taxes for the State Government to be able to fund schools and hospitals and roads and everything else that is done. For 11 years I was deeply passionate about that and was a contributor to the State of New South Wales going from the very worst performing economy in 2010—the bottom, number eight in 2010, of all the State and Territory economies. By working constructively with a series of governments through 2011, 2012, 2013, 2014 and 2015, we became the number one economy in Australia.

The Hon. DANIEL MOOKHEY: Mr Cartwright—

The Hon. WES FANG: You've tried to smear him. Let him answer.

STEPHEN CARTWRIGHT: That was something I was very proud of. But it's nothing to do with politics. It's all to do with business.

The Hon. DANIEL MOOKHEY: Mr Cartwright, given that—

STEPHEN CARTWRIGHT: It's all to do with helping business to grow and to create jobs and to support our communities. That's what I'm passionate about. To suggest that I got this job because I did my job, because I headed the NSW Business Chamber and worked constructively to get the State of New South Wales out of the economic basket case and turn it into a strong, high-performing economy, is offensive, and I have a real problem with it.

The Hon. TAYLOR MARTIN: Yes, so you should.

The Hon. DANIEL MOOKHEY: Mr Cartwright, given that—

The Hon. TAYLOR MARTIN: This is a smear campaign. This is all about Labor getting square.

The CHAIR: We will have one more question from Mr Mookhey, considering the interruptions earlier.

The Hon. DANIEL MOOKHEY: Mr Cartwright, if you're saying to us that your only motivation in 2019 was altruistic and in the interests of the members—which, frankly, I would expect—given New South Wales is again number eight and is again the worst performing economy, are you seriously telling us that you would run the same campaign, directed this time against the Coalition parties? If we follow the logic of what you're saying, then we would expect you to do the same.

STEPHEN CARTWRIGHT: Mr Mookhey—

The Hon. DANIEL MOOKHEY: Are you telling me now that the New South Wales economy is back to the position you allege it was in 2010, we should trust you that you would do the same thing against the Coalition parties—

The Hon. WES FANG: Here's the shadow Treasurer talking down the State. Good job!

The Hon. PETER POULOS: They are hypotheticals.

The Hon. DANIEL MOOKHEY: I might repeat the question because the Hon. Wes Fang was intervening—

The Hon. WES FANG: Great advocacy from the shadow Treasurer.

The CHAIR: Order! Mr Fang, that is not helpful. Mr Mookhey, I think you've finished.

The Hon. DANIEL MOOKHEY: The Hon. Wes Fang does not seem to be able to keep himself under control, Mr Cartwright. I might just have to repeat the question because I'm sorry the Hon. Wes Fang was interfering.

The Hon. WES FANG: Sorry, are you going to use flogging a dead horse or are you going to use a witch-hunt in your questioning?

The Hon. DANIEL MOOKHEY: Are you seriously suggesting to us that we should believe you about your altruism and your desire to put the State first? Because if we would, you would run the exact same campaign today, wouldn't you?

The Hon. WES FANG: Well, he's not in Business NSW, is he?

The CHAIR: Order!

STEPHEN CARTWRIGHT: Mr Mookhey, perhaps instead of answering your hypothetical—because it's been years since I was in charge of the NSW Business Chamber so I'm not as familiar as I used to be with the moving parts that have resulted in any of the economic performance, and I suspect COVID had a bigger impact on New South Wales than perhaps places like Western Australia, and things like the change in the GST arrangements that have favoured States like Western Australia are also part of that picture. But to leave to one side the fact that what you're asking is a completely hypothetical question that I have no ability to answer because I'm not involved in that process anymore, I will point out, as I pointed out in an answer at the end of the last hearing, that when the Coalition Government was proposing to increase workers compensation premiums substantially—

The Hon. DANIEL MOOKHEY: Like they are now.

STEPHEN CARTWRIGHT: Can I finish, Mr Mookhey?

The Hon. DANIEL MOOKHEY: Yes. Sorry, Mr Cartwright. It was just by way of context—

The CHAIR: Yes, Mr Cartwright, you can. The Opposition has finished all their questions—and interjections, I hope.

STEPHEN CARTWRIGHT: When the Government in New South Wales was proposing to substantially increase the workers compensation premiums—which we estimated, if those premium increases had gone ahead, would cost 12,000 jobs across the New South Wales economy—we did run a campaign against that change. That demonstrated beyond any doubt that the NSW Business Chamber is an apolitical organisation that will always argue for the best interests of businesses, their employees and the State of New South Wales. Perhaps that's a better way to answer your question, Mr Mookhey.

The CHAIR: Thank you, Mr Cartwright. We are now going to questions from Government members, if they have any. Mr Martin?

The Hon. TAYLOR MARTIN: Madam Chair, I don't think there's too much more to add or to ask. We have just seen the line of questioning—

The CHAIR: Questions, not comments, though. Are you going to ask a question?

The Hon. TAYLOR MARTIN: You cannot be serious, Madam Chair. I've just started. Five seconds into Government questioning time—

The CHAIR: When you said, "There's not too much to ask"—

The Hon. PETER POULOS: He is prefacing.

The CHAIR: —I assumed you were about to comment. Please go to your question.

The Hon. WES FANG: Don't assume.

The Hon. TAYLOR MARTIN: You've just given them free rein for 20 minutes on old history. The Labor Party is upset because they lost in 2019 and Business NSW might have been upset.

The CHAIR: Order! Mr Martin, if you could just ask your question—

The Hon. WES FANG: Let him ask his questions, Chair.

The CHAIR: I assumed you were going to provide a comment.

The Hon. PETER POULOS: Well, maybe let him preface it.

The CHAIR: Yes, Mr Poulos.

The Hon. WES FANG: Now who's running defence?

The CHAIR: Mr Martin?

The Hon. PETER POULOS: Don't forget, Jenny West applied after applications closed.

The Hon. DANIEL MOOKHEY: Point of order: Does the Government have questions?

The Hon. WES FANG: Yes.

The Hon. TAYLOR MARTIN: Yes.

The Hon. PENNY SHARPE: Point of order—

The Hon. TAYLOR MARTIN: If I'm able to get my first one out?

The Hon. PENNY SHARPE: Hello?

The CHAIR: Ms Sharpe has taken a point of order.

The Hon. PENNY SHARPE: I know that the Government is upset. They have got 15 minutes to ask questions to Mr Cartwright, who has been very forthcoming—

The Hon. WES FANG: Well, we don't have 15 minutes anymore.

The Hon. PENNY SHARPE: —in relation to his answers.

The Hon. DANIEL MOOKHEY: Yes, he has.

The Hon. PENNY SHARPE: It's not an opportunity for them to provide ongoing commentary about how they feel the questioning went or how they feel the hearing is going. I would ask them to ask the questions that they're entitled to. They've got 11 minutes.

The CHAIR: Thank you, Ms Sharpe. I will go back to Mr Martin. I apologise that I interrupted too soon, Taylor.

The Hon. TAYLOR MARTIN: Thank you, Madam Chair.

The CHAIR: I did think you were just going to provide a comment, but now that you're going to ask a question, that is a relief. Please proceed.

The Hon. TAYLOR MARTIN: Madam Chair, given that the last 15 minutes we heard from the Hon. John Graham and Mr Mookhey in regards to the 2019 campaign and a whole range of things that happened, effectively they have belled the cat here. This is the reason why this inquiry has dog-legged away from the New York posting and into the London posting. Mr Cartwright, thank you for your evidence this morning. Is there anything that has been raised this morning that you wish to go back to? Particularly given that I don't believe you were able to finish off all of your answers this morning, is there anything you'd like to revisit?

STEPHEN CARTWRIGHT: No, only to say that I would take everybody back to my original statement I provided at the beginning of the first hearing as my evidence that I still stand by and I still rely upon. I don't believe that there has been any evidence led in this hearing so far that justifies a conclusion that I was appointed other than on merit. You've heard from Mr Pratt that that was the case. You've heard from Mr Reardon that that was the case. You've heard from Mr Warwick Smith that that was the case. Was I referred into the process by the Deputy Premier? Yes, but beyond that point it was a competitive process. I won the position on merit. I have built a great team over here and we are going to deliver for New South Wales. That is already happening now. I am at a loss to understand what else I can tell this Committee other than the fact that I have given the evidence that I've been asked to provide.

The Hon. WES FANG: I just wanted to give you the opportunity to clarify some of the points that were raised initially in the questioning around the arrangements that you sought after your arrival in the UK, and how other jurisdictions perhaps handle issues such as the way that rents for properties and schooling are handled. Could you just detail quickly how some of the other Australian jurisdictions, both State and Federal, handle them, and how that differs to what New South Wales had in place and what it was that you were seeking?

STEPHEN CARTWRIGHT: My information comes from conversations that I've had with senior trade officials at a Commonwealth and State level in other jurisdictions but also some work that was done by Ms Bell on a benchmarking report, which gathered that information in a more formal way. I could summarise it this way: If you take the Commonwealth, it's quite common for the circumstances of the senior trade official to be taken into account when constructing the salary package arrangements. And so, for example, one senior trade official in London, who had three children, was provided with a substantial family home to accommodate the family. And my understanding is that the monthly rental for that would run to about \$16,000 a month—something in that order—as well as school fees at a private school for three children.

Again, you're probably talking, there, about \$15,000 to \$18,000 a month for those. That's \$34,000 just for those two benefits. That's way, way more than I clear. So what I'm saying to you is that, although the base salaries for these positions may be lower, the Commonwealth and some of the other States accommodate the requirements of living in an offshore post by recognising that families have to relocate. They don't get the option of sending their children to government schools because you simply won't get the kids into government schools over here. There's a waiting list. So you have to go to private schools, and private schools cost about twice what they cost in Sydney. The Commonwealth takes care of that.

In the State jurisdictions, there is one State that provides their agent general with a home, which, if it was rented, would be probably more than the Commonwealth official's. They also provide school fees at private schools and they provide a vehicle as well. I wasn't permitted to bring my own vehicle but other States provide their agents general with vehicles. The rents are paid for directly. And in one case there is actually a substantial apartment in a very salubrious suburb that is provided free of charge to the agent general as well. New South Wales used to have one of those apartments but we sold it about 30 years ago when we pulled out of the UK. It's very common for those jurisdictions to recognise that the cost of accommodation and school fees is something that the people posted to London need help with.

The Hon. WES FANG: So the inference that seeking these things is unique to your position and unique to your circumstance isn't supported by the provisions that are provided by other jurisdictions. Is that a fair summary of your last piece of evidence?

STEPHEN CARTWRIGHT: Yes.

The Hon. WES FANG: Is it fair to say that given that the other jurisdictions are prepared to package these entitlements in such a way that it doesn't impact on your agreed package, but is taken up by the State Government, the inference that you have off-loaded the taxation impacts onto the State Government is not recognising the fact that other jurisdictions would also carry the same tax implications as well from the same packages that they offer? Would that be a fair assumption?

STEPHEN CARTWRIGHT: Certainly the State governments would. I don't know what arrangement the Commonwealth trade agency has with the Commonwealth office of taxation. I have no idea how fringe benefits tax or other like taxes are treated at a Commonwealth level.

The Hon. WES FANG: But at the State jurisdiction it would—

STEPHEN CARTWRIGHT: The State jurisdictions absolutely would, yes.

The Hon. WES FANG: Could you briefly outline the difference between the New South Wales office and perhaps some of the other State offices as to how many staff they have and the support that's provided?

STEPHEN CARTWRIGHT: We are potentially around the middle. There are at least two States that have more people than we do here, and there are a couple of States that have around the same-size team as we do here and one, I think, that's smaller. Then there's a ramping up happening in Europe at the moment. At the moment, we have two staff—one in Berlin, one in Paris. Most of the other States have some people in Europe, but the Victorians are actually ramping up [inaudible] in Europe now and getting bigger over there as well.

The Hon. WES FANG: So the inference that has been put forward by the Opposition that this is somehow a jaunt or a favour given to you belies the evidence that other States are operating offices of equal or much greater size in order to leverage off the trade situation in Europe and the UK?

STEPHEN CARTWRIGHT: There is a shared belief amongst the other States of Australia that the AUKUS agreement, the Space Bridge agreement, the FinTech Bridge agreement and the free trade agreement as well as the potential free trade agreement with Europe and the future developments of green hydrogen and critical minerals opportunities in Europe are so big that they are investing very heavily in supporting their agents general in this part of the world. We're talking about a region with 600 million people. We're talking about a region going through a substantial energy transition, and New South Wales could be a big player in relation to satisfying a lot of those needs if we are allowed to get on with winning those opportunities.

The Hon. WES FANG: The Opposition have said that they will abolish these positions should they win the election. Could you just quickly outline what risks that would put to New South Wales and the economy should we not have trade positions overseas to leverage our position?

STEPHEN CARTWRIGHT: I've been instructed, Mr Fang, that I'm not supposed to comment on policy matters.

The Hon. WES FANG: No, that's fair.

The Hon. JOHN GRAHAM: Quite wisely.

The Hon. WES FANG: Then I will accept that, and I will just put one final question to you, if that's all right, Mr Cartwright.

The Hon. DANIEL MOOKHEY: We're very happy for Mr Cartwright to do so—

The CHAIR: Order! One final question, I just heard Mr Fang say.

The Hon. WES FANG: I just wanted to know what the risks were if you were elected, but that's okay.

The CHAIR: Let's just go with that one final question, Mr Fang. If we could focus and have some discipline in these proceedings, that would be great.

The Hon. WES FANG: That would be a nice start.

The CHAIR: Mr Fang, what is your final question?

The Hon. WES FANG: Mr Cartwright, we've heard from the Opposition's questioning today that they believe that you were provided the role, I guess, as a reward for your 2019 campaign. I guess the counterpoint to that is that this witch-hunt which has been occurring is perhaps the Opposition's way of getting back at you for running a reasonably successful campaign against their lack of business acumen in 2019. Do you think that that's a possibility at all?

STEPHEN CARTWRIGHT: Some of the comments that have been made in the media certainly go to that suggestion, and there are direct quotes from members of the New South Wales Opposition that seem to indicate in the media that this is a line of questioning that supports that view. I will simply say that I stand on the record of 11 years acting in a very apolitical way; very passionate about getting involved in making sure that New South Wales has the best possible policies to support business growth, economic growth and job creation; and always very passionate and always prepared to go out and say those things, but always apolitical.

I never told voters who they should vote for. I simply educated the voting public on the competing policies and let the voters decide who should be elected as the government of this State. If I am being now punished for that, then what that's suggesting is that I shouldn't have done my job when I was the CEO of the NSW Business Chamber; that I should have not said anything, not done anything and not worked constructively with the various governments to repair and rebuild the economy of New South Wales; and that I should have simply hidden away so that in the future it couldn't be questioned as to whether I should or shouldn't get a job like this.

One of the things I would suggest to the Opposition is that people who run unions get appointed to these kinds of roles all the time, and nobody ever suggests that it's a reward for the fact that they were running unions and doing their job instead of the unions. I find it offensive that this has been suggested. I got this job based on merit. Everybody—all the evidence has said that. There is no evidence to suggest that this is somehow a reward for me doing my job as head of the peak business organisation in the State of New South Wales. I was very proud of my record. I worked very constructively to help New South Wales recover and rebuild. We created tens of thousands of jobs as a result. And I'm a little offended, I have to tell you, that there is an attempt to smear the appointment that I have had to this role by suggesting that it is somehow doing a favour or jobs for mates. It cannot be said that that is so.

The CHAIR: Thank you, Mr Cartwright. You will be pleased to know that you have the last word here because we are now out of time, even though I am sure there would have been more questions to you after that. Thank you again for appearing a second time. We appreciate you making yourself available to the Committee, also recognising the time difference, once again. The Committee secretariat will be in touch with any questions that you have taken on notice and any supplementary questions that members may have.

(The witness withdrew.)

(Short adjournment)

Mr BRAN BLACK, Chief of Staff, Premier of New South Wales, sworn and examined

The CHAIR: Do you have an opening statement that you would like to make for the Committee?

BRAN BLACK: No.

The CHAIR: We will proceed straight to questions from the Opposition. Mr Daniel Mookhey.

The Hon. DANIEL MOOKHEY: Thank you, Mr Black, for your appearance this morning. We do appreciate it.

BRAN BLACK: It's a pleasure.

The Hon. DANIEL MOOKHEY: I want to be very clear at the outset to say, firstly, we are very respectful of the position that you hold. We certainly have no inferences and no inferences are being made about you at all in your respect, but it is more a case of the role that you performed as staff member for the Treasurer, to be very clear and upfront from the outset. I want to be very clear about that before we get going, if you don't mind.

BRAN BLACK: Thank you, Mr Mookhey.

The Hon. DANIEL MOOKHEY: But equally, it is the case that we have invited you today to give evidence because the Premier has declined. Is there any particular reason you are aware of as to why the Premier has declined?

BRAN BLACK: Well, I would say that there are ample opportunities to ask the Premier questions. Firstly, he has appeared before budget estimates. He answers, in the ordinary course, about six questions in question time. You have opportunities to ask him questions on notice, and he stands up in front of the media approximately four times a week. If accountability is an issue, it's not because he is making himself absent.

The Hon. DANIEL MOOKHEY: I appreciate that, Mr Black. First, some preliminary questions. Your current position is Chief of Staff to the Premier?

BRAN BLACK: That's correct.

The Hon. DANIEL MOOKHEY: You have been Chief of Staff to the Premier since the Premier became the Premier?

BRAN BLACK: That's correct.

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

BRAN BLACK: I was Chief of Staff to the Treasurer.

The Hon. DANIEL MOOKHEY: When did you become Chief of Staff to the Treasurer?

BRAN BLACK: On 18 January 2021.

The Hon. DANIEL MOOKHEY: Prior to that, what were you doing?

BRAN BLACK: I worked with the then Premier Berejiklian as her Director of Cabinet and Legal from, as I recall, 19 December 2019 until 18 January 2021.

The Hon. DANIEL MOOKHEY: Just to be clear, there'll be questioning that covers your tenure as chief of staff to the Premier and questioning that covers your tenure as chief of staff to the Treasurer, which is why it's important to delineate the dates here. What was your basic job description as chief of staff to the Treasurer?

BRAN BLACK: In the ordinary course as a chief of staff, you have overall responsibility for the conduct of the office.

The Hon. DANIEL MOOKHEY: What does that entail?

BRAN BLACK: It entails lots of different things. What in particular are you concerned with?

The Hon. DANIEL MOOKHEY: It's more your general duties, only because there's no defined job description for a chief of staff. As is always the case, different Ministers have chiefs of staff do different things to suit them. I'm just asking for your general duties other than that you were the chief of staff, responsible for staff. From a day-to-day perspective as chief of staff to the Treasurer at the time, what were your responsibilities?

BRAN BLACK: I think it's reasonable to say that as a chief of staff in any office, you're responsible for the overarching policy, media and strategic work that happens within that office.

The Hon. DANIEL MOOKHEY: I presume you interacted regularly with the Treasurer?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Daily?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: I presume as well that you interacted equally with the Treasurer's policy team at the time?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: And the media team and the like? How big was the office at the time, by the way?

BRAN BLACK: I can't recall the size of the office at the time. I think it probably would have had somewhere between 10 and 15 staff.

The Hon. DANIEL MOOKHEY: Okay, so it's a standard office.

BRAN BLACK: Standard office size, yes. A little bit larger because the Treasurer was the lead of the Treasury cluster, so there are additional staff allocated to account for that position.

The Hon. DANIEL MOOKHEY: You would have interacted with the public service, correct?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: How often would you interact with the public service?

BRAN BLACK: Daily.

The Hon. DANIEL MOOKHEY: Who would you interact with?

BRAN BLACK: It would depend on the circumstances. I would most regularly interact at the time, if we're talking about the time that I was chief of staff to the Treasurer, with the Secretary to the Treasury, and in addition to that with the deputy secretaries from Treasury.

The Hon. DANIEL MOOKHEY: The Secretary to the Treasury at the time being Mr Pratt?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: And you would interact with him weekly at least?

BRAN BLACK: Daily.

The Hon. DANIEL MOOKHEY: But would you have a weekly standard meeting?

BRAN BLACK: Yes, I would.

The Hon. DANIEL MOOKHEY: That's standard across most departments; there's nothing exceptional about that. That's fair, Mr Black?

BRAN BLACK: I think what relationships occur between chiefs and departmental secretaries vary across different offices, but my standard practice has always been to have a weekly one-on-one with the department and myself.

The Hon. DANIEL MOOKHEY: Okay, so a weekly one-on-one with the department as in the secretary and his deputy secretaries?

BRAN BLACK: Yes—sorry, just with the secretary.

The Hon. DANIEL MOOKHEY: Okay, so there was just a one-on-one with you and the secretary on a weekly basis?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: Did you also attend meetings between the Treasurer and the secretary?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Were there any standard or fixed meetings akin to a week-to-week meeting that you attended?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: So there are two sets: There are your interactions, and would you have weekly meetings with the deputy secretaries as needed?

BRAN BLACK: I think, from memory, that I had a monthly meeting between myself and the deputy secretaries within Treasury.

The Hon. DANIEL MOOKHEY: As a collective?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: As an executive—I think the term was the Treasury executive at the time?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: Thank you; that's helpful. So you'd interact with the public service. Would you assist the Treasurer in the preparation of correspondence?

BRAN BLACK: Not in the ordinary course, no.

The Hon. DANIEL MOOKHEY: Would you see correspondence that the Treasurer would issue?

BRAN BLACK: It would depend on the nature of the correspondence.

The Hon. DANIEL MOOKHEY: But it's common that certain correspondence would be brought to your attention if someone felt it was necessary for you to see it?

BRAN BLACK: I think the second part of your statement there is the pertinent point—if somebody thought it was sufficient for it to be brought to my attention, yes.

The Hon. DANIEL MOOKHEY: Would the same apply to briefs that came from the department? Would you see all briefs that the Treasury sent to the Treasurer prior to the Treasurer seeing it or concurrently with the Treasurer seeing it?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: So the Treasury had the opportunity to give briefs directly to the Treasurer without your knowledge?

BRAN BLACK: No, we had and still have a process within our office whereby briefs would come via the department to the DLO stationed in our office. That DLO would assign the brief to the relevant policy adviser and that policy adviser would in turn make a call as to whether or not the brief required input from a more senior member of staff, whether or not it could go back to the agency, or whether indeed it should go directly to the then Treasurer.

The Hon. DANIEL MOOKHEY: So no brief got to the Treasurer without that process being undertaken, to the best of your knowledge?

BRAN BLACK: To the best of my knowledge, yes.

The Hon. DANIEL MOOKHEY: Okay. By DLO you mean department liaison officer?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: In respect to policy advisers who would inspect the document at first instance, if they felt it was necessary for your attention, they'd draw to your attention?

BRAN BLACK: Yes—not necessarily directly to me at first. You would, in the ordinary course, expect that a policy adviser might raise it with the policy director at first instance and then, if necessary, it might go on to me, or it might in turn go on to the Treasurer directly.

The Hon. DANIEL MOOKHEY: Okay. Was that a routine thing that happened or was it exceptional?

BRAN BLACK: Was what a routine thing?

The Hon. DANIEL MOOKHEY: As in people would draw matters to your attention prior to that going to your policy advisers taking it to your policy director who'd bring it to you or—

BRAN BLACK: I think the process was reasonably clear and remains clear that briefs go first to the policy director, if there is a need for higher input before going onto the Premier or Treasurer, and that was certainly the case when I was Chief of Staff to the Treasurer.

The Hon. DANIEL MOOKHEY: But was that a common occurrence, that people would feel that if there was a matter of sufficient importance it had to be drawn to your attention?

BRAN BLACK: Yes. I believe so.

The Hon. DANIEL MOOKHEY: Look, to be fair to you, Mr Black, you're responding at a time during COVID, so I imagine there were quite a few.

BRAN BLACK: There were lots of issues to deal with, yes.

The Hon. DANIEL MOOKHEY: Indeed. So you're assisting the Treasurer in the preparation of briefs. What role did you play in Cabinet submissions?

BRAN BLACK: In Cabinet submissions?

The Hon. DANIEL MOOKHEY: Yes.

BRAN BLACK: It depended on the nature of the submission and it depended on, really, what the Treasurer's priorities were. As you'd appreciate, the role of the Chief of Staff includes taking carriage and responsibility for those matters that are top of mind, of highest importance for the Minister. So to the extent that there was a matter to be put forward to Cabinet or that was being considered by Cabinet that fell within that category, then, yes, I would be involved in that.

The Hon. DANIEL MOOKHEY: How would you know what was a matter of importance to the Treasurer?

BRAN BLACK: Based on discussions that I had with him.

The Hon. DANIEL MOOKHEY: Sure. So you said this "depended on". Do you want to take me through those dependencies? Matters that were of high interest to the Treasurer, how would they happen; and matters that were of low interest to the Treasurer, how would they happen so far as it involves you?

BRAN BLACK: In the ordinary course, the Treasurer doesn't tell me things that don't matter to him. He tells me what's important to him and what his priorities are and then, as part of my role, I make sure that we can, as best as possible, deliver on that.

The Hon. DANIEL MOOKHEY: What does that mean in practical terms? If the Treasurer indicates to you that a matter or a subject matter is of high interest, you would take an interest in the matter itself, I presume?

BRAN BLACK: Indeed.

The Hon. DANIEL MOOKHEY: And you'd be assuming that you'd be at least acquainting yourself with the view as to whether or not the submission is in line with what the Treasurer expected or what the Treasurer did not expect, presumably. That's the basic judgement you'd reach?

BRAN BLACK: Agreed.

The Hon. DANIEL MOOKHEY: Then presumably, if you found yourself in a situation where a Cabinet submission wasn't to the Treasurer's liking, you would discuss it with the Treasurer, at least?

BRAN BLACK: Either I would, or somebody else senior in the team would do that.

The Hon. DANIEL MOOKHEY: Okay. Can you take me through the role you played in terms of interactions with other ministerial officers as the Treasurer's Chief of Staff?

BRAN BLACK: Again, it depended on the circumstances. I would speak to other ministerial officers on a daily basis, depending on the issue.

The Hon. DANIEL MOOKHEY: But the Treasurer also would jump on the phone and talk to Ministers as well in parallel, if he felt that that was a better way of handling an issue?

BRAN BLACK: Well, he certainly spoke with other Ministers. I'm not sure. Well, yes, he would absolutely be speaking with other Ministers. That's what Ministers do.

The Hon. DANIEL MOOKHEY: So in the event that there was a position that the Treasurer did not favour that was being brought to the Cabinet, he'd get onto the phone or he'd leave it to you or he'd do a variety of the above?

BRAN BLACK: I can't speak to that. I mean, in relation to any issue that was brought to my attention then I would deal with it, but I can't speak to the point that you're making in relation to how the Treasurer might deal with an issue.

The Hon. DANIEL MOOKHEY: Okay. Did you witness or ever provide him advice to that effect or not?

BRAN BLACK: To what effect?

The Hon. DANIEL MOOKHEY: That he should go onto the phone with Ministers and talk through issues that are in Cabinet if it's not to his liking.

BRAN BLACK: I have given advice to the Treasurer previously with respect to the need to speak to his colleagues on certain points, yes.

The Hon. DANIEL MOOKHEY: Has that process that we just went through—actually, before I do that, I presume that you assisted the Treasurer and the Treasurer's office in terms of meeting requests?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: And in terms of identifying what meetings the Treasurer should be at or not at, correct?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: That included liaising with the public service when the public service was requesting a meeting?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: In respect to the description of the correspondence function, the meeting function, the brief function, the Cabinet submission process, has there been anything dramatic that's changed day to day from the Treasurer to the Premier other than the obvious fact that he's now the Premier and he chairs the Cabinet?

BRAN BLACK: Other than the nature of the work, which has obviously expanded in scope, the process remains substantially the same.

The Hon. DANIEL MOOKHEY: I might pause there on the process issues before we get to some other—Mr Black, were you, once serving with Premier Berejiklian, involved in the development of a Global NSW strategy?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: When you became involved with the Global NSW strategy or became aware of it, it was because you became the chief of staff to the Treasurer, correct?

BRAN BLACK: I wouldn't say that I was involved in the Global NSW strategy but, yes, I became aware of it when I was chief of staff to the Treasurer.

The Hon. DANIEL MOOKHEY: At this point in time, the strategy was being developed by the Treasury—was your understanding?

BRAN BLACK: That was my understanding, yes.

The Hon. DANIEL MOOKHEY: That was your understanding from—January 2021, you said you started? Was it immediately that you came to understand this?

BRAN BLACK: I don't think it was immediately. When I first started working as chief of staff to the Treasurer, I had meetings individually with the deputy secretaries, one of whom was Jenny West. I think she might have brought that to my attention at that—but I can't remember when that meeting took place. It would've been relatively early in the piece. But I dare say it probably wasn't January or even February.

The Hon. DANIEL MOOKHEY: Do you recall—I'm just going to ask you to give us your best recollection of the initial briefing you got from Ms West about the Global NSW strategy and specifically where the Treasury was up to in the recruitment of both the senior trade and investment commissioner to Japan and the agent general senior trade investment commissioner to the United Kingdom.

BRAN BLACK: I honestly couldn't give you a recollection of that conversation.

The Hon. DANIEL MOOKHEY: Nothing at all?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: So just on very specific—did Ms West provide you any advice at all about where the recruitment process was up to?

BRAN BLACK: No, not that I recall from Ms West.

The Hon. DANIEL MOOKHEY: From anyone else?

BRAN BLACK: She may have. I just don't remember.

The Hon. DANIEL MOOKHEY: That's fair, Mr Black. Do you recall anyone else giving you such advice?

BRAN BLACK: The only advice that I recall receiving in relation to the recruitment process was—I think Mr Pratt may have raised with me at some point reasonably early in my time working for the Treasurer that he had, through the Treasury, identified a candidate for the UK role. Beyond that, I don't really recall.

The Hon. DANIEL MOOKHEY: Do you recall Mr Pratt disclosing to you who that candidate was?

BRAN BLACK: I dare say he did. But it didn't register with me at the time and, but for this Committee's work, I wouldn't know who that person's name was.

The Hon. DANIEL MOOKHEY: Fair enough.

The Hon. JOHN GRAHAM: When did that disclosure—

The Hon. DANIEL MOOKHEY: I was about to say—I will ask you to search your recollection, Mr Black. Can you recall when Mr Pratt would have disclosed this to you?

BRAN BLACK: No, I don't. What I remember in that regard is that there was an initial conversation with Mr Pratt in which he indicated that there was—and this would've been, I think, I can't remember the actual conversation itself. I just remember having the knowledge. As I recall, I had the knowledge of the existence of a candidate reasonably early in my time working for the Treasurer. Then some weeks later there was a further update to me to the effect that there was another candidate who was preferred for that role. I can't remember the time frame. But that's the general nature of my recollection.

The Hon. DANIEL MOOKHEY: That's actually very helpful, Mr Black. But you recall that there was a change?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Thank you. We will come back to unpack that. I want to cover one matter, because if we don't do it now we'll have to return to it and it will create a disjointed transcript, which I don't want to do. In respect to the decision to create Investment NSW and move it from Treasury, when did you first find out that that was taking place?

BRAN BLACK: The decision itself, as I recall, was made around 20 March. There were some discussions in the mix in respect of that movement for, I think, approximately three to four weeks beforehand. I'd be guessing there, but that's broadly—

The Hon. DANIEL MOOKHEY: On what basis did you say that there were some discussions?

BRAN BLACK: What do you mean, what basis do I say?

The Hon. DANIEL MOOKHEY: Where did you get that information that people were discussing it? Were you party to those discussions?

BRAN BLACK: I was.

The Hon. DANIEL MOOKHEY: You were?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Who with?

BRAN BLACK: The then Premier's chief of staff, Neil Harley.

The Hon. DANIEL MOOKHEY: Can you take us through that?

BRAN BLACK: We sought to retain that function within the Treasury, and that was on the basis that it was an investment function. We put that view to the Premier's office and they ultimately made a call that the trade function should move to DPC. That is precisely what has happened.

The Hon. DANIEL MOOKHEY: Thank you, but can I just get a bit more detail around that? You became aware that there was a proposal to move it from Treasury?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: How did you become aware of that?

BRAN BLACK: I can't recall how I became aware.

The Hon. DANIEL MOOKHEY: Okay. Did you tell the Treasurer, or did the Treasurer tell you?

BRAN BLACK: We obviously spoke about it. I can't recall the nature of those conversations, or when they took place, other than as per the description that I have provided.

The Hon. JOHN GRAHAM: I presume the Treasurer was also opposed to that transfer when you had those discussions with him?

BRAN BLACK: Initially, yes. Once the transfer was made, we moved on.

The Hon. DANIEL MOOKHEY: Again, I accept that the decision is announced on 20 March or thereabouts, but do you have any recall as to when those conversations had begun?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: I accept, Mr Black, that this might not assist, but I have to put it to you. Is there a chance that the conversation took place after 18 to 20 March?

BRAN BLACK: I couldn't say.

The Hon. DANIEL MOOKHEY: Do you recall the Treasurer having any discussions with Minister Barilaro, who was the trade Minister at the time, about this move?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: The trade Minister was in the Treasury cluster at this time, correct?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: The Treasury was supporting Mr Barilaro?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: You had conversations with Mr Harley at the time—I will just refer to him now as Ms Berejiklian's chief of staff. Do you recall having any similar conversations with the chief of staff at the trade Minister's office?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Okay. Do you recall Mr Harley at all referring to—

BRAN BLACK: That is not to say that I didn't, but I don't recall any.

The Hon. DANIEL MOOKHEY: That's fair. Did Mr Barilaro, to the best of your knowledge have—were you aware of what his position was on this proposition?

BRAN BLACK: No. I am not sure.

The Hon. DANIEL MOOKHEY: In respect to the actual decision to shift it, did you understand that this was a proposal that came from DPC itself?

BRAN BLACK: That was my understanding.

The Hon. DANIEL MOOKHEY: You made the point that this was a decision that ultimately belonged to the Premier, but it was one that the Treasurer prefer not happen. That's correct?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: But you never discussed it with Mr Pratt?

BRAN BLACK: I'm sure I must have, but I can't recall the nature of those discussions. All I can recall is on one occasion raising it with Mr Harley, and it was very clear in the conversation that the decision had been taken. Once the decision was taken, we moved on.

The Hon. JOHN GRAHAM: How many discussions did you have with Mr Harley about this matter?

BRAN BLACK: I can only recall one. There may have been one or two.

The Hon. DANIEL MOOKHEY: As a result of this decision, as you understood it, it would result in the Treasury having to transfer a lot of its staff and function across to this new agency, correct? That was your understanding?

BRAN BLACK: The machinery of government matters were obviously a matter for the secretary of the department and DPC. But in a broad sense, yes, I understood that there would be some transfer of staff and function from Treasury to DPC.

The Hon. DANIEL MOOKHEY: But, equally, the Treasury would cease supporting Minister Barilaro as trade Minister and that function would be picked by the new agencies of the DPC cluster, correct?

BRAN BLACK: Yes, I imagine that was certainly the case. I didn't really turn my mind to that at the time.

The Hon. DANIEL MOOKHEY: Thank you, that is helpful. Very quickly, before we move on, I will take you to what Mr Pratt told us. I'm going to read from his written answer. I'm sorry that I haven't got a copy for you. I can give it to you afterwards, if you want. It's just scribbled on.

BRAN BLACK: That's alright.

The Hon. DANIEL MOOKHEY: Mr Pratt said:

The date I do remember well is 8 March 2021. I was attending Budget Estimates with then Treasurer Perrottet when I received an email from Ms Amy Brown, enclosing a Brief from Ms Brown to Premier Berejiklian. The Brief requested the transfer of all Global NSW responsibility to Investment NSW in the Department of Premier & Cabinet. This included all components of the strategy, people and budget. The Brief had been approved by the Premier. Whilst I thought the means of communicating the transfer was somewhat unusual (i.e. no prior discussion, no meetings, no phone conversations etc), I respected the right of the Premier as Head of State to be the designated leader of trade and investment in NSW.

That is what Mr Pratt said. We did actually ask Mr Pratt about this. I don't know if you saw that evidence.

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: He told us that the first he became aware of it was when he was sitting where you are, actually, and got the email when I was questioning him on other matters, which I am sure he recalled fondly as well. He said to us that it was the first time, to the best of his recollection, that the Treasurer was aware of it. But you are saying to us that the Treasurer knew beforehand.

BRAN BLACK: That sort of time aligns with my recollection, but I honestly don't recall whether or not, on that particular occasion—as in, on that day—it was when the Treasurer first found out or whether or not it was beforehand. I couldn't tell you.

The Hon. JOHN GRAHAM: Can I just ask about that, Mr Black? I don't mean to interrupt you, if you want to finish that answer.

BRAN BLACK: No, that's fine.

The Hon. JOHN GRAHAM: You have given us the date of 20 March. In fact, Mr Pratt's evidence is that this decision had been made and the brief had been signed by the Premier on 8 March. Does that lead to any change in the evidence you have given us?

BRAN BLACK: The dates themselves—I mean, I can remember, now that you have put it to me, that Mr Pratt raised this with me following the budget estimates hearing. I can't recall whether or not that was the first time I had learned of it or whether it wasn't. As I said before, it was roughly at that early stage in the year that I became aware of the transfer.

The Hon. JOHN GRAHAM: Did your engagement with Mr Harley occur before or after that estimates hearing?

BRAN BLACK: I honestly couldn't recall.

The Hon. JOHN GRAHAM: It is quite important; it is whether this occurs before or after the brief has been signed and, in effect, the decision has been made by the Premier. Can you recall?

BRAN BLACK: I don't have any recollection in this regard. What I would point out—and I think this is important context—is that I mentioned before that the Treasurer sets out a series of priorities and those are the priorities that I work towards. This was never one of them. The trade function was never a function that he raised with me as one that he had a particular interest or priority regarding. The priorities that we had at that particular point in time were fairly and squarely the half-yearly review, which was handed down, I think, in the later part of

February, on or around 25 February. From day one of my time working with the Treasurer, that was where my focus was. There were, no doubt, a few other priorities that we were working towards as well, but I can honestly say that this was never on the list as one of those things that I should be giving attention to.

The Hon. DANIEL MOOKHEY: It becomes quite important because it's happening in parallel with what conversations we have since found out that the Deputy Premier was having with Mr Cartwright at the same time. This leads to a pretty significant change in who the decision-making authority is for that decision. It also results in the departure of Mr Barilaro from your cluster to the other cluster, which then, incidentally, becomes quite important later on when we get to the Cabinet submission process that took place in September of that year. The reason we are pushing you on these dates—just so we are very up-front—is not a suggestion about you. I accept that you had other things to matter. But this change in governance is happening at the same time Mr Cartwright has been, effectively, recruited by Mr Barilaro to enter the process. There seems to be a change in governance happening in parallel. I accept that you might not be able to shed any light on that, but I want to ask you again: Do you recall having any conversations with any member of Mr Barilaro's staff at this period of time about this change whatsoever?

BRAN BLACK: No.

The Hon. WES FANG: Point of order: The inference that Mr Cartwright was, effectively, "recruited" by Mr Barilaro has not been supported by the evidence. "Referred" is perhaps a better word.

The Hon. DANIEL MOOKHEY: It's a debating point, Chair.

The Hon. WES FANG: I think it's put in context to the situation, which isn't accurate.

The CHAIR: Thank you, Mr Fang. I will allow the member to proceed with the question. It was in order.

The Hon. DANIEL MOOKHEY: Just to cover off on the context so that you have the information, from what we can tell, the Treasury secretary is told on 8 March, but the 20 March date aligns because that is, I think, when it's announced publicly through the formation of Investment NSW. Incidentally, that is a day when a different group of Treasury officials was giving evidence at budget estimates. Those are probably the two dates, just so you have context around what that is. Before I pass to my colleague—

BRAN BLACK: There are many budget estimates.

The Hon. DANIEL MOOKHEY: There are. Long may that continue. The Treasury secretary made it clear that he certainly wasn't pleased about the decision, or the manner in which he was informed, when he came and spoke to us a week or two ago. Do you recall, in any of the weekly meetings or daily interactions with him between the 8th and the 20th, any specific conversations you were having with him about what the implications of this would be?

BRAN BLACK: No, I don't. As I said, no doubt it was a matter that Mr Pratt was exercised about. He has made that plain. It was not a matter that was high on my list of priorities. So, whilst it was a matter that I raised with the Premier's office, once it was clear that there was a decision, we moved on. I can't recall the timing associated with those discussions. It may have been early March; it may have been late March. I honestly couldn't tell you.

The Hon. JOHN GRAHAM: You have indicated that you raised this matter once or perhaps twice with the Premier's chief of staff. Did you raise it in strong terms or in the passing manner which your observation just now seems to suggest?

BRAN BLACK: No, I don't believe that I raised it in strong terms. I probably just sought from him an understanding as to why the decision was taken. I can't remember precisely what he said.

The Hon. JOHN GRAHAM: To the best of your knowledge, did the Treasurer raise this matter with the Premier?

BRAN BLACK: I'm not aware.

The Hon. JOHN GRAHAM: To the best of your knowledge, did the Treasurer raise this with the Secretary of the Department of Premier and Cabinet?

BRAN BLACK: I'm not aware.

The Hon. JOHN GRAHAM: To the best of your knowledge, did the Treasurer discuss this with Mike Pratt, the Secretary of NSW Treasury?

BRAN BLACK: You would expect that there might've been some discussion between them in their weekly catch-up. Beyond that, that's just me drawing an inference rather than having any actual knowledge.

The Hon. JOHN GRAHAM: You would expect that, which is why I ask about it. You don't recall being party to any such discussion?

BRAN BLACK: No. But I may well have been, because I was in those discussions. But, again, I can't recall when those discussions were taking place—at what point in time.

The Hon. JOHN GRAHAM: So your evidence is really that these functions, these staff, sailed from the Treasury cluster to the Premier and Cabinet cluster with barely a murmur. That is the impression you're giving with this evidence. It was not strongly contested by your office or by the Treasurer.

BRAN BLACK: I think that's correct.

The Hon. JOHN GRAHAM: Or by the Treasury.

BRAN BLACK: I don't know about the Treasury, but certainly, by us, we had other priorities.

The Hon. DANIEL MOOKHEY: Mr Black, I might just take this opportunity to give to you some documents that we can tender right now, if you don't mind. Can I just ask you in the first instance, so I'm clear here, you commenced in the role as the Treasurer's chief of staff on 18 January 2021—that was your evidence. I heard correctly?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: The office was obviously functioning in January that year. Correct?

BRAN BLACK: Yes, it was. I'm unsure of what the arrangements were before I commenced in relation to the Christmas period, but yes.

The Hon. DANIEL MOOKHEY: Fair enough. In respect to diary requests and such, at first instance, it would be the case that people would go to the executive assistant of the Treasurer at the time, if they were requesting a meeting?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: Amongst other people, I presume?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: But that was a legitimate way in which people could seek a meeting?

BRAN BLACK: All diary requests ultimately have to find their way through the executive assistant, as that is the only way we can properly coordinate the diary. So you might have—

The Hon. DANIEL MOOKHEY: Standard office practice.

BRAN BLACK: Yes. You might have a diary request that comes first to myself or to a policy adviser or somebody else within the office. But ultimately it needs to be coordinated and managed through the diary-setting process.

The Hon. DANIEL MOOKHEY: If a person was to make a request to the EA directly, for a meeting, what would then happen? Would the EA have authority to just grant them on their own volition? Or would they have to seek your approval, the Treasurer's approval, the policy adviser's approval? How does that work?

BRAN BLACK: In the ordinary course, we had a diary meeting with the Treasurer. The great majority of meetings would be popped into the Treasurer's diary off the back of those discussions. From time to time there are other circumstances in which meetings would be put into his diary, without having that direct input with him. But that's really only in a departmental context, not with externals.

The Hon. DANIEL MOOKHEY: So it's the case of—effectively, the EA would prepare a log of requests that they bring to you and the Treasurer at the time?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: You'd go through them and say "yes", "no", "maybe", "Here's what I would like beforehand"?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: Was it just you three? Or is there other people?

BRAN BLACK: It depends. Sometimes you might have a diary request that has come via a member of staff. In those circumstances, that staff member might be invited into the meeting to explain why they think it's important for the Treasurer to take that meeting.

The Hon. DANIEL MOOKHEY: Just to be very clear, this is a very important decision. Allocation of ministerial time is really important.

BRAN BLACK: It is.

The Hon. DANIEL MOOKHEY: Correct?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: It is the case, particularly with senior members of the Government, it can't be treated lightly, because Ministers' times can't be wasted. Correct?

BRAN BLACK: Diary management is a constant problem.

The Hon. DANIEL MOOKHEY: Indeed. I just want to be very clear, Mr Black. What you're describing is relatively standard arrangements. Correct?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: There's nothing exceptional about them?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: The frequency of this was to happen, roughly, weekly, was it?

BRAN BLACK: Roughly weekly, yes.

The Hon. DANIEL MOOKHEY: I presume that this was a matter that the Treasurer took an interest in because, like any person, they'd be interested.

BRAN BLACK: It's his time.

The Hon. DANIEL MOOKHEY: So he was, presumably, an active participant in it.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Would he be provided, prior to that weekly meeting, any information about what was to come?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: So he had the opportunity to be ambushed effectively with "Here's the 30 people who'd like to see you in the next two weeks" type of routine.

BRAN BLACK: Effectively, yes.

The Hon. DANIEL MOOKHEY: I'm sure he welcomes that as much as anyone would. Correct?

BRAN BLACK: He loves diary time.

The Hon. DANIEL MOOKHEY: I'm sure. Thank you. Can I take you, please, to page 7 of the tender bundle that you've just been given?

BRAN BLACK: I have it.

The Hon. DANIEL MOOKHEY: Thank you. Just going to refer to these people by their positions, not their names, Mr Black, just as a matter of respect for them, if you don't mind, as well. You can see here this is an email that is sent on 12 January by the executive assistant to the Treasury secretary, to the person who—I'm going to ask you to confirm—is the executive assistant, at the time, to the Treasurer.

BRAN BLACK: That's correct.

The Hon. DANIEL MOOKHEY: Thank you. You can see here that this is a diary request? You can see:

NON URGENT/FOR YOUR RETURN | Interview NSW Agent General - UK, Europe and Israel

You see the subject?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: I won't read you the first paragraph, because it's not relevant. But you can see the second:

Treasury engaged NGS Global to conduct Executive search for the NSW Agent General and the panel has now concluded the interview process and are recommending Mr Paul Webster for review and endorsement by the Treasurer.

Please find attached:

- Resume of Paul Webster
- Job Description
- Interview Notes

Can you please let me know if the Treasurer is available to meet via MS Teams with Mr Webster? Mr Webster is UK based so hours are sometimes a bit tricky but Mr Webster is very accommodating.

I have included his details below but I am more than happy to tee this up ...

You see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: You can see the most important of that is, I guess, two bits. The first is, "the panel has now concluded the interview process and are recommending Mr Paul Webster for review and endorsement by the Treasurer", which clearly states what the purpose of the meeting would be, amongst other things, or at least an opportunity of getting to know him. Then you can see equally there's a request for a time for the Treasurer to meet with Mr Webster in order for the Treasurer to reach a view about Mr Webster's candidacy. Do you see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: That's a fair reading? Thank you. Do you recall any discussions with the Treasurer's EA about this request at the time?

BRAN BLACK: No, I don't.

The Hon. DANIEL MOOKHEY: Do you recall any discussions with the Treasurer about this request at the time it was received?

BRAN BLACK: Not at all.

The Hon. DANIEL MOOKHEY: Do you mind going up the page? It is over pages 6 and 7.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: You can see that the Treasurer's EA replies two weeks later as well.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: And it's on a Monday. Can you see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: I presume that would have been the day that the diary meeting would have taken place—at the start of the week. Is that a fair inference?

BRAN BLACK: No, I wouldn't infer that. The diary meeting—we pop it in when we can. But at this point as well it's important to bear in mind that by that stage I had been working for the Treasurer for a week.

The Hon. DANIEL MOOKHEY: I do remember that. I was about to say.

BRAN BLACK: In addition to that, as I recall, the Treasurer had been working from home for that first week. I believe that Monday was the first time that I saw the Treasurer in the office after commencing in the role.

The Hon. DANIEL MOOKHEY: That's helpful context, Mr Black. I was about to say, to be very fair to you, you're one week into the job at this point in time. So it's fair to say that contextual knowledge was still perhaps being acquired. Is that true?

BRAN BLACK: Including as to office process, yes.

The Hon. DANIEL MOOKHEY: Fair enough. But the Treasurer's EA, presumably, has been the EA for a while—correct?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: So this person replies and cc's you:

Hi Z

Before proceeding to scheduling in an 'e-meeting' between the TSR and Mr Paul Webster.

The Treasurer has requested a 'short list' of the other candidates that were interviewed, together with a copy of their resume.

Do you see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: And then over the page, just to round out this email:

When the info is available, could you please send to me and I'll forward to the Treasurer for his attention.

Correct?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: I can only presume the EA was not making up this request?

BRAN BLACK: I can only assume what's in front of me because I don't have the benefit of any recollection in that regard. I don't have a recollection of a discussion with the Treasurer. I certainly don't remember having a diary meeting on his first day back in the office, so I can't comment.

The Hon. DANIEL MOOKHEY: So—just unpacking that—I presume you would have registered the email, but you can't recall it until you've seen it again now?

BRAN BLACK: I certainly can't recall it.

The Hon. DANIEL MOOKHEY: Fair enough. Do you recall having any conversations with the Treasurer or the EA or any policy adviser in the office at the time about this short list?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you know which policy adviser was managing this, without having to name them? Was it a senior policy adviser? Was it the director of policy?

BRAN BLACK: It was an adviser. Yes, I do.

The Hon. DANIEL MOOKHEY: I think we may get to that person later, for whom we will then have a title to refer to them, but can we at this point refer to them as a policy adviser?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Do you recall discussing with the policy adviser why the Treasurer was interested in a short list?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you know whether or not the Treasurer got the short list?

BRAN BLACK: No, I don't.

The Hon. DANIEL MOOKHEY: Let's go up the page. If you don't mind going to page 5. This is where we are going to get a bit more confused, to be fair. If you don't mind, I will hold for one second. By any chance, do you have a document in front of you labelled "S1", which is outside that tender bundle?

BRAN BLACK: No, I don't, Mr Mookhey. I am sorry.

The Hon. DANIEL MOOKHEY: That's okay. That's not your fault; it's my fault. At this point in time, after this request is made, do you recall a policy adviser following up the request?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: No recall whatsoever about any policy adviser on 8 February following it up?

BRAN BLACK: No. That's not to say it didn't happen. My understanding is, from the evidence that's been given before this Committee, that it did. But I have no recollection.

The Hon. DANIEL MOOKHEY: Let me be very clear around the narrative. On the twenty-fifth we have a request apparently channelled from the EA to the Treasurer about the Treasurer seeking a short list. Can you turn to pages 3 and 4—working back from page 4 of the tender bundle? Sorry, I just found it. On the bottom

of page 4, that simply identifies the sender of the email. Was that the policy adviser you were thinking about before?

BRAN BLACK: Yes, correct.

The Hon. DANIEL MOOKHEY: Let's just refer to that person as "policy adviser". There are going to be two of them, so we will call them "policy adviser 1", if you don't mind?

BRAN BLACK: Certainly.

The Hon. DANIEL MOOKHEY: I do want to respect their privacy. You can see that policy adviser 1 sends an email to Ms Kylie Bell and another person with the subject "Trade commissioners", and then seeks an update:

Morning Kylie and [X],

Hoping you can provide me with an update on where the trade commissioner appointments are up to?

You see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: So that's taking place two weeks after the Treasurer has requested a short list. Do you recall having any conversations with this policy adviser about the process?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you have any reason to know why this person would have been prompting an update at this point in time?

BRAN BLACK: I can only speculate. I don't know for certain.

The Hon. DANIEL MOOKHEY: Okay.

The Hon. JOHN GRAHAM: What would that speculation be?

BRAN BLACK: She was the policy adviser responsible within the office for that particular area and she was undertaking, what I would have thought to be, a reasonably routine inquiry.

The Hon. DANIEL MOOKHEY: Were you aware at any time at this point in time was the Treasurer meeting with the Deputy Premier at all?

BRAN BLACK: He would have been, yes.

The Hon. DANIEL MOOKHEY: At any point in time did the Treasurer, in any discussion with you around this period of time, reference any conversations he was having with the Deputy Premier about any matter to do with the STIC appointments?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Okay. Go up to the top of page 3. You can see the response that policy adviser 1 gets:

Hi [X]

Jenny West, our new Dep Sec has been leading the interviews for the London Agent General and Tokyo Senior Trade & Investment Commissioner. Internal interviews have been completed and I believe meetings are due to be scheduled with the Treasurer soon to meet preferred candidates. Our goal is to launch our new London and Tokyo operations by July this year, with the remaining hubs then scheduled over the following six months. The attached provides our current timeline.

I have cc'd Jenny in so she can arrange a time to chat with you to talk things through in more detail.

I presume that the policy adviser never shared with you that time line?

BRAN BLACK: No, not to my recollection. She may have, but I have no memory of that.

The Hon. DANIEL MOOKHEY: Do you recall, at all, the policy adviser registering with you or providing any form of an update as to where these positions were up to after having received this advice?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Is it possible that they would have done that with the policy director?

BRAN BLACK: I don't know.

The Hon. DANIEL MOOKHEY: Okay. Fair enough. Now we have to go back in time.

The Hon. JOHN GRAHAM: Are you off this? I just had a couple of questions on that point.

The Hon. DANIEL MOOKHEY: I'm going back to—not off it, no.

The Hon. JOHN GRAHAM: Good. Keep going.

The Hon. DANIEL MOOKHEY: Don't mind us.

The Hon. WES FANG: I thought you had your strategy sorted out before this.

The Hon. DANIEL MOOKHEY: Sorry, Deputy President, did you have something to say?

The Hon. WES FANG: No, I just thought you had your strategy sorted out before this.

The CHAIR: Order! Ignore interjections and continue, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Thank you for that. If you don't mind, just return back to where we were before on page 6.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Where we left off, we were talking about the email on 25 January 2021, yes?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Then, just going up the page, you can see that the Treasury secretary's EA emails the Treasurer's EA, and cc's you:

Deputy Secretary, Jenny West has kindly sent through the attached email with details from the recruitment agency NGS Global including the shortlist.

Jenny also mentions that she's happy to discuss if required.

So the Treasurer's request to get the short list is achieved within two days. You see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: And you're cc'd—

The Hon. JOHN GRAHAM: With Australia Day in between.

The Hon. DANIEL MOOKHEY: Yes, with Australia Day in between.

The Hon. JOHN GRAHAM: The request is made the day before Australia Day at 6.19 p.m. and it is satisfied the day after Australia Day, on 27 January.

The Hon. DANIEL MOOKHEY: For context.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Do you recall seeing that short list?

BRAN BLACK: No. I accept that the email was sent to me, but I don't recall seeing it.

The Hon. DANIEL MOOKHEY: Do you recall discussing the short list, at any point from then onwards, with the Treasurer at all?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Okay. Just going up to the next email—this one is over pages 5 and 6.

BRAN BLACK: Of 9 February?

The Hon. DANIEL MOOKHEY: Yes. It is the email that commences 9 February from the Treasury secretary's EA at 3.01 p.m. Do you see that one?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: This time you're actually the subject of it, as in you happen to be the first person addressed. It reads:

Hi Bran, ...

I hope this email finds you well.

I just wanted to check in and offer my assistance with getting this interview/meeting in the calendar, please let me know if there are any other details I can provide.

Christine in your office has also reached out to Jenny West and Kylie Bell asking for an update on where the Trade Commissioner Appointments are up to so I just wanted to assure everyone that this is in the works 😊

Also quick update – we have identified a preferred candidate for the North Asia role (based in Tokyo) – if possible it would be good to lock in a time for them as well. This candidate is located in Sydney so we can hold the meeting in person or virtually, I'll be guided by you on preference.

...

She then sent through the same material. Do you recall seeing that email?

BRAN BLACK: No. But, again, I accept that I received it.

The Hon. DANIEL MOOKHEY: We go up in time to the final email on page 5, where the Treasurer's EA responds and cc's you. It states:

Hi ...

I will revisit the request with the Tsr and Bran to set up an e-meeting for the NSW Agent General – UK, Europe and Israel.

And add STIC North Asia Candidate to the list.

So the Treasurer's EA is presumably doing what was expected of her, which was to respond, but then flags that she would revisit the request with the Treasurer and you. Do you recall the Treasurer's EA doing that?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you recall the Treasurer's EA doing that with the Treasurer?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: What happened? Do you have any recall as to what happened with this particular meeting request?

BRAN BLACK: No, I don't. As I've said before, this just didn't register as one of our priorities at the time. When you look at the date there, 10 February, that's two weeks before the half-yearly review was handed down. That was wholly and solely the focus that our office had at that particular point, so I'm not surprised that I don't have a recollection of this.

The Hon. DANIEL MOOKHEY: I will pause there. There are a few other emails to cover with respect to an attempt to get this meeting going. But I might just pause for my colleague before we move off those particular pages.

The Hon. JOHN GRAHAM: I will just recap a couple of things for clarity. I think you've said that you don't recall but you accept that the short list was emailed to you.

BRAN BLACK: Indeed.

The Hon. JOHN GRAHAM: Do you recall any reason why—let me put this to you first. You see that email on page 6 indicates that the Treasurer himself requested the short list. The wording is:

The Treasurer has requested a 'short list' of the other candidates that were interviewed ...

You accept that's the request from the office?

BRAN BLACK: I accept that that's the wording, but I have no way of verifying.

The Hon. JOHN GRAHAM: Yes. So you don't personally recall that.

BRAN BLACK: No.

The Hon. JOHN GRAHAM: But you accept that that's—

BRAN BLACK: The wording of the email.

The Hon. JOHN GRAHAM: —the request from the Treasurer's EA to the agency. Are you aware of any reason why the short list was being requested?

BRAN BLACK: No.

The Hon. JOHN GRAHAM: The email also goes on to say:

When the info is available, could you please send an email and I'll forward to the Treasurer for his attention.

I'm interested in whether that is a usual practice. If this information came back—say, the short list—would it have been—

BRAN BLACK: Sorry, where was that one? Apologies.

The Hon. JOHN GRAHAM: This is on page 7, highlighted.

BRAN BLACK: Yes.

The Hon. JOHN GRAHAM: Would you have expected a short list such as this to be emailed straight through to the Treasurer?

BRAN BLACK: No.

The Hon. JOHN GRAHAM: But you agree that that's what this email does say?

BRAN BLACK: That's what the email says.

The Hon. JOHN GRAHAM: Yes, but it would have been unusual for that to occur?

BRAN BLACK: Very much so.

The Hon. JOHN GRAHAM: Thank you. Did you have any concerns when you saw that request or when you received that short list, accepting that you don't recall very much about the process?

BRAN BLACK: No, I don't recall having any—that's not to say that I had concerns or that I didn't have concerns. I don't recall anything in relation to this email.

The Hon. JOHN GRAHAM: Why didn't you have concerns about the Treasurer personally requesting a short list for a merit selection process in the public sector? Why didn't that spark a concern?

BRAN BLACK: He was being asked to—well, I don't recall receiving this email. But you're asking me why I wouldn't be concerned?

The Hon. JOHN GRAHAM: That's precisely my question. Why didn't this email, where the Treasurer personally requests a short list in a merit selection process conducted by the public sector—you're an experienced chief of staff. Why did that not spark concerns? Why don't you recall this email?

BRAN BLACK: There are a couple of points that I'd make there. Firstly, I don't have any knowledge at that particular point in time in relation to what type of recruitment process this is. It is a recruitment process that is being clearly handled by Treasury. I think it's fair to assume that if Treasury comes to the Treasurer's office with an offer to meet a candidate, then it is permissible for that meeting to be arranged within the context of whatever recruitment was taking place. Equally, if there were a request to see a short list of other candidates, then it would have been a matter for Treasury to say either "Yes, that's permissible in the context of the process" or "No, it's not". The recruitment process wasn't being managed by us.

The Hon. JOHN GRAHAM: I agree that the agency—yes?

BRAN BLACK: What I would add is that I think these proceedings have conclusively shown that, with respect to Mr Cartwright, everybody involved was proceeding on the basis that it was a Cabinet appointment.

The Hon. JOHN GRAHAM: I agree that the agency may have provided advice. But why did you not develop any concerns when the Treasurer personally requested this short list?

BRAN BLACK: But on what basis would I be concerned?

The Hon. DANIEL MOOKHEY: Am I right to understand, Mr Black, that your evidence is that because at this time the prevailing assumption was that it was a Cabinet process, inevitably the Treasurer would have to give concurrence?

BRAN BLACK: I didn't have an assumption at the time because I wasn't thinking in relation to this particular issue—as I've said before, it wasn't a priority. But what I can say, on the basis of what I'm reading in front of me now, is that if there were a request for information put to Treasury, it wasn't a matter for the ministerial office to say this can or can't be done in the context of public sector recruitment processes. That's a matter for the agency.

The Hon. JOHN GRAHAM: That may be a matter for the agency. I'm simply asking, did it catch your attention? In my experience, it's highly unusual to ask for a short list of candidates who have not been appointed and not been recommended.

BRAN BLACK: I wouldn't agree with that at all in the context of job interviews.

The Hon. JOHN GRAHAM: I'm concerned to hear that, Mr Black!

BRAN BLACK: No, I would think it is an appropriate thing to do, if you're being presented with an individual, to ask, "Well, who else was considered in this process?" That strikes me as reasonably normal.

The Hon. DANIEL MOOKHEY: But in this situation, you don't have any recall of the Treasurer acting on the information that was provided to him?

BRAN BLACK: No, I have no recollection.

The Hon. DANIEL MOOKHEY: And so you have no recollection of the Treasurer saying to you, "Oh, gee, this short list doesn't look particularly good. I have an issue with Mr Webster"?

BRAN BLACK: No, not at all.

The Hon. DANIEL MOOKHEY: Do you have any recollection of the Treasurer raising with you any concerns about Mr Webster?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you recall having any discussions at all with anyone in the office or the public service about Mr Webster?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Is it possible that the Treasurer was having such conversations with any policy adviser?

BRAN BLACK: I couldn't comment on that.

The Hon. DANIEL MOOKHEY: But you accept the agent general position in the UK was being recreated?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: After 30 years?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: And, in fact, that this actually was a strategy that was led by the Treasurer—

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: —to the reform at Global NSW, and it was one for which he absorbed some public heat, to be frank, which I created for him?

BRAN BLACK: That's decent of you.

The Hon. DANIEL MOOKHEY: Yes. But despite that, it wasn't a key priority at the time. Is that what you're saying?

BRAN BLACK: By the time I came into the office it wasn't a priority.

The Hon. DANIEL MOOKHEY: Okay.

BRAN BLACK: It was never on my list of priorities.

The Hon. DANIEL MOOKHEY: But again, to be very clear here, there is no recall of the Treasurer ever expressing to you any issues with Mr Webster?

BRAN BLACK: That's entirely correct.

The Hon. DANIEL MOOKHEY: Do you have any reasons or understanding at all about why this meeting with Mr Webster never happened?

BRAN BLACK: I think the context of the timing associated with this request would probably give you a reasonably good answer. Specifically, no—but again, consider it in the context of the time. It was within the month prior to half-year review.

The Hon. JOHN GRAHAM: But, Mr Black, doesn't that raise the question why the Treasurer is taking time out of his busy schedule to request this short list if it wasn't a priority?

BRAN BLACK: I can't speak to whether the Treasurer made that request. I can only speak to what is here in writing in front of me. But I have no personal knowledge as to whether or not that request was made.

The Hon. JOHN GRAHAM: It states clearly here it was made weeks before the half-year budget process you're referring to.

BRAN BLACK: I accept that.

The Hon. DANIEL MOOKHEY: Fair enough. But your point is basically that there are other matters which are more urgent at the time.

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: But in the interim period between—when was the half-year budget review given that year?

BRAN BLACK: I believe it was 25 February. But if it wasn't that date, it was around that time.

The Hon. DANIEL MOOKHEY: Fair enough. Can we go forward in time in the documents? If you don't mind turning to page 9 and 10. Just to be very clear here, there is no basis for any reasonable person to conclude that you should have seen this email before at all. But this does give us a real insight into what Treasury's expectations were at this point in time. You can see here that the Executive Officer of the Office of the Deputy Secretary, Trade, is providing an update to the deputy secretary around where all the STIC appointments are up to. And you can see here—I'm on page 9 now—on the email that is sent at 12.49 p.m. on 18 February 2021.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: You can see here:

Hi Jenny,

In your weekly update to Mike, you're asked to include the below on upcoming Cabinet/ERC/DaPCo Submissions.

Please note that AG and STIC appointments require a set of forms for endorsement by Cabinet are not fully fledged Cabinet Submissions.

To be frank, that actually aligns with what you've said, Mr Black, which is what everyone has said to us, which is at this point in time everybody thought that these were Cabinet positions. But you can see here:

Appointment of Agent General to the UK and NSW Senior Trade and Investment Commissioner to Europe and Israel

You can see here that in the "Cabinet/DaPCo/ERC" table is "Cabinet" and:

Meeting Date

Planned for 15 March 2021, pending Candidate being endorsed by Treasurer, DP and Premier

Do you see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: And you can see that the eCabinet lodgement date is 1 March 2021. Do you see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: As well, if you go over the page, you can see the same applies to the STIC Tokyo position.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: And then you can see that at this point in time—and we will probably have to revisit this after lunch—with the Americas, you can see that the Americas position is slated for 10 May 2021.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Just going back to page 9, "Planned for 15 March 2021" had to be lodged by 1 March 2021. Now, the first thing that we have established here is that the only candidate who could have been presented to Cabinet that day is Paul Webster, because Mr Cartwright is not yet in the process at all. He doesn't enter the process until officially 22 February. But he actually isn't interviewed until 30 March.

BRAN BLACK: I have no knowledge in that regard.

The Hon. DANIEL MOOKHEY: I don't expect you to, Mr Black, to be very frank. I'm just disclosing that so you can understand the timing here. But you can see here quite clearly that Treasury is sort of saying that they need the Treasurer to weigh in on this in order to present Mr Webster's candidacy to the Cabinet. That's how I read that. And then you can also see at the top, Ms West replies by saying, "We won't be in a position by March for the UK role." Do you recall having discussions with either Ms West or the Secretary to the Treasury around the urgency of this request at all?

BRAN BLACK: Not at all.

The Hon. DANIEL MOOKHEY: And do you have, between that 18 February and 1 March, any recollection whatsoever, accepting that the half-year review is being given in that period of time as well?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you have any recollection about any conversation with the now Premier then Treasurer between 1 March and 30 March 2021?

BRAN BLACK: In relation to what?

The Hon. DANIEL MOOKHEY: A meeting with Mr Webster and/or Mr Webster's candidacy?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: I accept at this point your earlier evidence, Mr Black, which said that this wasn't a priority at the time because of the reasons you gave. But the problem is that as a consequence of that decision, that then gives the opportunity for Mr Barilaro to invite Mr Cartwright to apply and for the process to then be reopened, which would never have been possible had the Treasurer actually met with Mr Webster and proceeded as according to the original date. So I'm just asking you, do you accept that as a result of the inaction of the Treasurer in meeting with Mr Webster, that gave rise to the circumstances which led to the termination of Mr Webster's candidacy?

BRAN BLACK: I can't comment on that. I have no knowledge.

The Hon. DANIEL MOOKHEY: Okay.

BRAN BLACK: As I said, my recollection of this matter was that at some point in the year there was a discussion with Mike—with Mr Pratt, I should say—with respect to there being a candidate in the field, who I now understand to be Mr Webster. Then some weeks later—and I can't recall how many—I can recall being aware of the fact that there was another candidate, and that's as far as I can recall.

The Hon. DANIEL MOOKHEY: How did you become aware of another candidate?

BRAN BLACK: Again, in a similar discussion with Mr Pratt.

The Hon. DANIEL MOOKHEY: So Mr Pratt told you?

BRAN BLACK: I believe that's correct, yes.

The Hon. DANIEL MOOKHEY: Did he give you any indication as to why there was another candidate that was allowed into the process?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Did you tell the Treasurer?

BRAN BLACK: It may have been in the course of—I can't recall, but it was either in one of my weekly one-on-ones with Mike or in one of the weekly Treasurer chief of staff and secretary meetings that we had, but I can't recall. All I can recall is being conscious of the fact that some weeks later there was another candidate in the mix.

The Hon. DANIEL MOOKHEY: All right. So Mr Pratt disclosed that to you and/or the Treasurer at one of your weekly meetings?

BRAN BLACK: I believe that was the case.

The Hon. DANIEL MOOKHEY: So the Treasurer was told that another candidate had entered the process. Do you recall him raising any objections or making any inquiries about that?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: At that point it didn't come up that the Treasurer had asked for a short list and was apparently sent one?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Was the Treasurer at all surprised? Do you recall any surprise on that part?

BRAN BLACK: No, I don't recall. I don't recall reaction one way or the other.

The Hon. DANIEL MOOKHEY: In respect to the North Asia position, the Treasurer did end up meeting with the candidate who was successful, did he not?

BRAN BLACK: I understand he did.

The Hon. DANIEL MOOKHEY: How did that meeting happen when the other one couldn't?

BRAN BLACK: I can't comment on that.

The Hon. DANIEL MOOKHEY: If you turn to page 13, you can see that this has to do with—well, the best evidence we have available to us is that it's an email which is actually about the Japan position. You can see that it certainly says here, "I can confirm the preferred candidate has met with the DP and the Treasurer," and the only person that we're aware of in any of these positions who has ever met with the Treasurer is the STIC North Asia position. Do you recall the Treasurer meeting with any of the other candidates for any of the other positions?

BRAN BLACK: Not that I recall.

The Hon. DANIEL MOOKHEY: That's happened to have done by 6 April as well. I haven't bored you with all the logistical emails that were being organised in respect of organising that Japan meeting.

BRAN BLACK: I thank you for that.

The Hon. DANIEL MOOKHEY: Any time, Mr Black. I'm here to help. But can you shed any light on how it's possible that the Japan candidate goes forward but Mr Webster does not?

BRAN BLACK: Apologies, I honestly can't.

The Hon. DANIEL MOOKHEY: Fair enough.

BRAN BLACK: I don't recall.

The Hon. DANIEL MOOKHEY: Fair enough. Just turning back to page 9, this email update that is provided to Ms West is on 18 February. We then have evidence from Mr Cartwright. I'm just going to read to you from his opening statement. I don't know if you had an opportunity to view any of Mr Cartwright's evidence at this hearing today or earlier. Have you?

BRAN BLACK: I've seen some but not all.

The Hon. DANIEL MOOKHEY: Let me just read you the pertinent matter here. He says:

On 17 February 2021 I attended a coffee meeting, which had been requested by the then Deputy Premier, John Barilaro. The Deputy Premier had asked me if I could introduce him to a board member from the NSW Business Chamber. After that board member left us, the Deputy Premier asked me if I might be interested in the UK agent general role. I was taken by complete surprise by his question because I had not heard much about the role since it was announced by Premier Berejiklian back in 2019 as part of the Global NSW strategy announcement.

That's what he says then. He then goes on to say:

During this conversation, the Deputy Premier asked me what package I had been on at the chamber. I told him that my base was about \$650,000 and that for the past few years, my annual bonuses had been about \$150,000. That is a total of about \$800,000. The Deputy Premier then said that the New South Wales Government would probably be offering a base in the low fives ... plus the usual support for offshore trade roles, such as the payment of rent and school fees. ... He said that the Government was keen to attract high-calibre people from the private sector who understood business and trade, who were passionate about New South Wales and who knew how to get business deals done.

He then also goes on to say:

On 18 February 2021 I met with the Deputy Premier in his office in Parliament House and I told him that I was interested in the role. He then made it clear during the meeting that he would immediately let the external recruiter know of my interest, that there was an established independent recruitment process to be followed and that he would not have any further involvement in the process.

I will leave the excerpt from Mr Cartwright's statement there and ask you, were you aware that the Deputy Premier was engaged in such activities?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Was it appropriate for the Deputy Premier to be engaged in such activities?

BRAN BLACK: I don't think it's appropriate for me to comment in that regard. That's not for me.

The Hon. DANIEL MOOKHEY: I accept that, Mr Black, but was that your understanding of what the leeway was available to a Minister at the time?

BRAN BLACK: Again, I don't think it's appropriate as a member of staff to provide comment in relation to the appropriateness of what a Minister is or isn't doing.

The Hon. DANIEL MOOKHEY: Were you aware at all of any disclosure by the Deputy Premier to the Treasurer about his efforts with Mr Cartwright?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Are you aware of any disclosure between any member of Mr Barilaro's staff and this office that you led?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Heretofore you had never heard this conversation had taken place?

BRAN BLACK: I've obviously read about these conversations or Mr Cartwright's evidence in the context of these committee hearings, but otherwise no.

The Hon. DANIEL MOOKHEY: Again, you don't have any recall of talking with the Treasurer about any conversations he was having with Mr Barilaro about the UK and/or other STIC positions between January and February of that year?

BRAN BLACK: I couldn't—again, I certainly couldn't be clear on dates. But as a broad proposition I don't recall discussions in relation to this matter.

The Hon. DANIEL MOOKHEY: Mr Cartwright has provided a written account of his conversation, which was far more contemporaneous than the one he gave us at the hearing. To be fair to him, it was his best endeavours to recollect it as well. But he actually did provide a further email to the recruiter on 31 March 2021 which aligns with what he says there but perhaps doesn't give the full picture. Because on 31 March 2021 he's emailing the recruiter. Just to be clear to you, Mr Black, so you have an idea of when this is taking place, Mr Cartwright is interviewed on 30 March, he's offered the job on the evening of 30 March, and then negotiations commence on 31 March about his package that he should get paid.

The Hon. JOHN GRAHAM: At 9.47 a.m.

The Hon. DANIEL MOOKHEY: He states:

When the Deputy Premier first asked me to consider the role back in early Feb, he and I had a very open and frank discussion about my circumstances (i.e. I have been on a package of over \$800k for some years and have made financial commitments accordingly) and about his view that the current package on offer was not attracting the right calibre of candidate. Apart from improving the base package (he mentioned low 5's), he indicated (privately of course) that he and the Treasurer had reached an agreement that the cost of suitable family accommodation ... in an inner suburb of London could be taken care of by the NSW Govt outside of the salary package. He also suggested that, given I have kids in school here, and elderly parents who recently moved ... to be close to us, I should propose how I believed I could make it all work.

I will not read the next two sentences. He goes on to say:

His parting words were, "You come back and tell us how it can be made to work for you."

Firstly, I presume you were not aware, Mr Black, that Mr Barilaro was going into this deep level of detail.

BRAN BLACK: That he was going into what, sorry?

The Hon. DANIEL MOOKHEY: This level of detail in the conversations he was having with Mr Cartwright.

BRAN BLACK: Well, I wasn't aware of any of those discussions.

The Hon. DANIEL MOOKHEY: Fair enough. Equally, can I ask you as well, did you ever have any discussions with the Treasurer about such an arrangement?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Mr Cartwright has told us now on two separate instances, he has affirmed that this is what he was told by the Deputy Premier, that there was an arrangement with the Treasurer.

In fact, he affirmed it again this morning as well, that the Treasurer and the Deputy Premier had reached this arrangement. He hasn't shifted. To be very fair to Mr Cartwright, he has been consistent with that version of events as well. Was the Treasurer having meetings or discussions with the Deputy Premier about this in isolation from other Ministers, to your recollection?

BRAN BLACK: Not to my knowledge.

The CHAIR: Order! Mr Mookhey, we will break there. It is 12.30 p.m., which means we are on a lunch break until 1.30 p.m.

(Luncheon adjournment)

The CHAIR: Welcome back, Mr Black. I hope everybody had a good lunch. We will now go straight to questions from the Opposition again.

The Hon. DANIEL MOOKHEY: Mr Black, prior to lunch we were asking you whether you had any recollection of any conversations with the Treasurer to do with the conversations you may have had with Mr Barilaro, and I think you said you had none.

BRAN BLACK: That's correct, yes.

The Hon. DANIEL MOOKHEY: I'll move on from this pretty quickly but, in respect of the Treasurer's engagement with the short list process and with the Webster meeting, I presume he made no reference to any conversations he was having with Mr Barilaro?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: So I ask you this again before I pass to my colleague, if he has any more on this particular matter: Do you have any explanation for why or how Mr Webster was removed from the process?

BRAN BLACK: No, I don't, and—

The Hon. DANIEL MOOKHEY: Do you mind moving the microphone forward again, Mr Black?

BRAN BLACK: Sorry about that. No, I don't. As I said before, the only recollection I have—and it's really not a question of timing—was being aware at one point in time that there was a preferred candidate, who I now understand to be Mr Webster, in the role, and then subsequently also being aware that there was a new candidate in the role. But I couldn't tell you the timing between those two recollections.

The Hon. DANIEL MOOKHEY: Yes, and you did recall that that was disclosed to you and the Treasurer at a meeting with Mr Pratt, by Mr Pratt?

BRAN BLACK: I believe that's the case. I couldn't say definitively, but I believe that was the case.

The Hon. DANIEL MOOKHEY: That's your best recollection.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: In respect of that, did Mr Pratt tell you at the time that Mr Cartwright was recommended into the process by the Deputy Premier?

BRAN BLACK: No, not that I recall.

The Hon. JOHN GRAHAM: Mr Black, I think you've really covered this in some of your answers. But just for clarity, you don't have any awareness or understanding of the nature of the agreement that Treasurer Perrottet may have reached, suggested by the Deputy Premier to Stephen Cartwright, about how the cost of suitable family accommodation and the cost of school fees might be dealt with in the remuneration relating to the agent general position?

BRAN BLACK: No, no knowledge in that regard.

The Hon. DANIEL MOOKHEY: Mr Black, just before we move beyond the agent general position, let's go forward in time to the point where the Treasurer is now the Premier and you're now the Premier's chief of staff, which from my recollection is from 4 or 5 October onwards.

BRAN BLACK: That's correct.

The Hon. DANIEL MOOKHEY: At that point in time, the change in function that ensues is that the Premier becomes the employer of all departmental secretaries. Is that correct?

BRAN BLACK: That's my understanding.

The Hon. DANIEL MOOKHEY: In practice, it's delegated to the Secretary of DPC?

BRAN BLACK: That's also my understanding.

The Hon. DANIEL MOOKHEY: But it's routine, is it not, for department secretaries to contact you should they feel that there's a matter that requires the Premier's office's attention?

BRAN BLACK: Yes, it does happen. In the ordinary course it's the ministerial office that contacts me, so when I say it happens—yes, it does, but it's not all that common.

The Hon. DANIEL MOOKHEY: It's fair to say it's not routine for direct contact by a department secretary without the Minister's office advising you earlier?

BRAN BLACK: I wouldn't say it's not routine, but it's not as common as the contact that I expect between ministerial offices.

The Hon. DANIEL MOOKHEY: Between Mr Cartwright formally taking up the position in July and October, did Mr Cartwright ever seek to contact you to talk about any matter?

BRAN BLACK: Contact me? No.

The Hon. DANIEL MOOKHEY: Are you aware of him attempting to make any contact with the Treasurer?

BRAN BLACK: Not to my knowledge.

The Hon. DANIEL MOOKHEY: When the Treasurer became Premier, do you recall Mr Cartwright from that point onwards, in October last year, making any contact with you about any issues to do with his remuneration?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you recall any conversations with CEO of Investment NSW Amy Brown regarding any issues to do with Mr Cartwright's remuneration?

BRAN BLACK: Not from the point in time at which the Premier became the Premier, no.

The Hon. DANIEL MOOKHEY: In October that month at all?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Around 27 or 28 October, no particular recollection?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you recall having any conversations at any point in time with Ms Brown about Mr Cartwright's remuneration?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Do you wish to take us through that? I want to give you a right of reply.

BRAN BLACK: No, thank you. I was contacted by Ms Brown and I believe it was on approximately 11 or 12 May—

The Hon. DANIEL MOOKHEY: This year?

BRAN BLACK: No, last year—in relation to Mr Cartwright's remuneration and she—

The Hon. DANIEL MOOKHEY: Sorry, 11 and 12 May 2021?

BRAN BLACK: That's correct.

The Hon. DANIEL MOOKHEY: So when the Treasurer was Treasurer?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: Okay. Thank you.

BRAN BLACK: She indicated to me that she had a preferred candidate. She indicated that she was nervous about losing that candidate and the basis for those nerves, so to speak, was that he was asking for a salary that couldn't be paid. I indicated to her—I agree, I've read her evidence in this regard and I entirely agree that I said to her that they're important roles. I also said to her that I'd had experienced myself overseas, seeing how

important these roles could be, being in rooms where you have a presence from Victoria and Queensland and South Australia actively seeking trade opportunities, but an empty chair from New South Wales. I also agreed with her that it was appropriate—or that he should be paid appropriately.

Where I disagree is, I guess, what followed with respect to her evidence. What I indicated was, as I say, that he should be paid appropriately, but I didn't know what appropriate was. So my recollection is that we had one or—I'm sorry, two exchanges. I can't recall whether the second was by text or by phone, but the first was certainly by phone because the first one concluded with me effectively saying, "I don't know what is appropriate. Do you know what is appropriate? Have you done any benchmarking?" She indicated to me in that call that she hadn't and that was the end of that first contact. Then, subsequently—I think, from memory, it was within 24, 48 hours—she reverted to me and indicated that she'd done a bit of work and figured out that either the Victorian or Queensland agent general had been the DPC Secretary for that State and that that person had taken that salary over with them to their agent general position, and that was \$800,000.

I indicated to her that was too much, and she said that Austrade paid its officials either—I think it was \$450,000 or \$500,000 base with a \$100,000 or \$150,000 expenses allowance. I also considered that that was too much, being aware, as I was, of roughly what secretaries make in New South Wales. What I put to her was that she should consider potentially a \$400,000 base with a \$200,000 performance incentive. But what I stressed to her was that that was just an idea because I didn't know what was appropriate. I had no experience in relation to these matters and I would say that I was surprised to get this telephone call. It came out of the blue. I'd had no previous contact with her in relation to these matters. After that subsequent follow-up, I had no further engagement with her or in relation to this issue.

The Hon. DANIEL MOOKHEY: Okay. Let me just put to you one or two propositions that Ms Brown did, just in case there is anything further you wish to respond to directly. Mr Black, I appreciate the evidence and it does align with what Ms Brown says as well, with some key differences, which I appreciate you've pointed out as well. But Ms Brown was of the view that— word for word, she said:

He tells me his view that the salary would be worth it—or relayed his view—but he couldn't tell me or direct me what to do with this candidate, and I was very clear on that.

I think she is paraphrasing your conversation as well, but do you recall telling Ms Brown specifically that you thought the salary expectation level that Mr Cartwright had would be worth it?

BRAN BLACK: I can categorically rule that out. And I should add in that regard I didn't know Stephen Cartwright. I never had any contact with him. I still don't have his details in my phone. I've only spoken to him once in my life. So for me to say, "Oh, he's worth it", is not consistent with the knowledge of him that I had.

The Hon. DANIEL MOOKHEY: I did push Ms Brown and said, "Was it a strong opinion? Was it given emphatically?" She said, "Yes", and she goes, "I still remember the conversation", as well. But your account is different in that respect. You don't recall giving any emphatic advice to that effect?

BRAN BLACK: I can categorically rule that out.

The Hon. JOHN GRAHAM: Mr Black, you're at this point offering those opinions. You're reasonably heavily involved in the remuneration discussions about a public sector appointment. Did you feel uncomfortable about that at all?

BRAN BLACK: Well, I wouldn't say that I was heavily involved. As I said, she called me out of the blue.

The Hon. JOHN GRAHAM: I accept that.

BRAN BLACK: The conversation stood out to me at the time because it was—I mean, I don't recall ever having had a conversation about public sector remuneration beforehand or ever since. But she was calling me and, you know, in the ordinary course I try to be helpful and I tried to be helpful to her. That's why I said to her—and I do stress that the frame of the conversation was, "I've got a preferred candidate. I'm scared of losing"—or I think "nervous" of losing—"that person". "Scared" is probably over-egging it. "He's asking for too much." So from my perspective, I'm thinking about, "Well, what is appropriate?" And that's why the first conversation—or the first exchange, rather—concluded with me saying, "Well, what's an appropriate benchmark?" And she didn't have that information at hand so she reverted to me with some examples. But I was surprised that I was being asked for this perspective, having had no experience previously with respect to public sector remuneration or, indeed, trade roles.

The Hon. JOHN GRAHAM: That strikes me as reasonable, I have to say. That this did strike you as an unusual request. You helped to the best extent you could, but it was an unusual circumstance to be placed in.

BRAN BLACK: Yes.

The Hon. JOHN GRAHAM: Did you inform the Treasurer of that discussion?

BRAN BLACK: No, I didn't.

The Hon. JOHN GRAHAM: Was there any discussion subsequently that he would've been aware of?

BRAN BLACK: Not that I'm aware of, no.

The Hon. JOHN GRAHAM: Did you disclose this unusual discussion with anyone else in the office?

BRAN BLACK: No, I didn't. And I think the conversation, as I said, stood out to me because it was unusual. But it also stood out to me at the time because I was madly in the middle of budget preparation. It was in the middle of May and May is sort of the most difficult month in terms of ERC workload pre-budget. It was out of the blue in that it was unrelated to anything that we were working on at the time. I don't recall raising it with anybody afterwards. I wouldn't consider that to be unusual because I would immediately have refocused on what we were dealing with at the time.

The Hon. JOHN GRAHAM: On the task at hand.

BRAN BLACK: Yes.

The Hon. JOHN GRAHAM: Finally, just looking back now, knowing what you know now—you dealt with it as best you could at the time. But, as you look back now with the benefit of the Premier's comments that people shouldn't be involved in these processes, looking back at Mike Pratt's comments to this Committee that it'd be inappropriate for Ministers or presumably their officers to get involved in remuneration discussions, does it strike you now as not only unusual but also something that you preferably would've not expressed a view about, that you would've steered clear of?

BRAN BLACK: Well, if I could've avoided an opportunity to appear before this Committee, I think I would've.

The Hon. DANIEL MOOKHEY: We won't take it too personally, Mr Black.

BRAN BLACK: But I do stress at the time I wasn't seeking to be involved. I was endeavouring simply to assist by making some suggestions and those suggestions really went to what type of thought process should go into—

The Hon. JOHN GRAHAM: Yes, and I accept that, Mr Black. But I am going to press you on—given the Premier's comments and given the former secretary's comments, do you now accept that that's an inappropriate level of engagement, one you'd prefer you were not engaged in at that time, looking back?

BRAN BLACK: I wouldn't say that what I did was inappropriate, because, again, she contacted me and all I did was offer an opinion in relation to, effectively, a question put to me.

The Hon. JOHN GRAHAM: Would you do it again?

BRAN BLACK: I wouldn't say that I was involved.

The Hon. JOHN GRAHAM: Yes. Would you do it again?

BRAN BLACK: I think I would have to think very carefully about it in future.

The Hon. JOHN GRAHAM: Thank you.

The Hon. DANIEL MOOKHEY: Mr Black, what date did that conversation happen? Did you give us a date?

BRAN BLACK: It was approximately 11 or 12 May.

The Hon. DANIEL MOOKHEY: Right. Can I just take you to page 19? Work back from page 19 in the tender bundle, if you don't mind. Page 19 has the last part of the email that comes from Ms West to you and copies in Ms Brown. It goes, "As you know ... Investment NSW is establishing six global hubs." The most important part is the last paragraph, which reads:

We are seeking to arrange for the Treasurer and Deputy Premier to meet the preferred candidate for the AG role—Mr Stephen Cartwright—and provide their endorsement of the candidate's appointment.

You see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: In the middle of the page, you reply two minutes later, going, "Thanks, we will come back to you asap." You see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Then, earlier, if you go on to page 17—this meeting takes place, as in the Treasurer's PA or EA comes back and indicates the following diary availability. You can see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: At the top you can see Ms West replies:

Thanks for the email. I will check with Amy and come back. We are still finalising the package with the AG candidate which might be the only sticking point on timings.

You see that's on 26 May 2021.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: In respect to the conversation Ms Brown was having with you, which was close to, if not days before, this particular email, were the two related?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Okay. You don't see Ms Brown—you said Ms Brown contacted you out of the blue. Is it the case that Ms Brown was contacting you to provide you—or did she indicate that she was advising you, providing you some of the information, ahead of this request?

BRAN BLACK: Not that I recall.

The Hon. DANIEL MOOKHEY: When you got this email—do you recall getting this email?

BRAN BLACK: No, I don't recall getting the email, but I accept, obviously, that I received it.

The Hon. DANIEL MOOKHEY: Yes. But when you said, "We will come back to you asap", did it not sort of occur you then to go, "Oh, what's going on with remuneration?"

BRAN BLACK: Look at the timing. Again, it's during that intensely busy pre-budget period. As things stood, ultimately, as I understand it, the Treasurer did not meet with Mr Cartwright.

The Hon. DANIEL MOOKHEY: To be fair, I think that is right; the meeting never actually takes place. But equally, when you get an email saying the only sticking point is on the package, two weeks later, that didn't prompt any action on your behalf?

BRAN BLACK: No, it was entirely a matter for Ms Brown, and I made that clear to her in the call as well. Ultimately, it's a matter for her. All I can do is offer an opinion.

The Hon. DANIEL MOOKHEY: Just that second contact that you made reference to, which was a couple of days later—

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Was it the same day as this email, or the day after, or no idea?

BRAN BLACK: I couldn't recall. It was at some point within 24 to 48 hours of the first—

The Hon. DANIEL MOOKHEY: So it's possible that it was?

BRAN BLACK: It is possible, indeed.

The Hon. DANIEL MOOKHEY: Thank you, Mr Black. We will move on to the next part, if that's all right. We really do appreciate your evidence in respect to the agent general appointment as well. Just to close that matter out, are you aware of any attempt Mr Cartwright made to contact the Premier to discuss any matters to do with his remuneration through the course of this year?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: When was the first time you became aware of the fact that there was a change in the agent general's remuneration arrangements? Was it through this inquiry?

BRAN BLACK: Yes, I believe that's the case.

The Hon. DANIEL MOOKHEY: Other than that, you had no knowledge of the fact?

BRAN BLACK: No, none at all.

The Hon. DANIEL MOOKHEY: You have no recall of Minister Ayres or his office making any disclosure to you around this?

BRAN BLACK: Not that I can recall, no.

The Hon. DANIEL MOOKHEY: Thank you. We might just now turn, if you don't mind, to the issues to do with the Americas appointment. Firstly, we have made it clear that there was some confusion with the AG—sorry, when the agent general was being appointed, the common understanding was that that was a Cabinet appointment. That's correct?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: And then at some point it changes in respect to the other STIC positions after, I think, legal advice that was provided by the Department of Premier and Cabinet's legal or general counsel?

BRAN BLACK: I'm not aware of the circumstances in which that change was made, but, yes.

The Hon. DANIEL MOOKHEY: When did you become aware of the fact that there was now a new process in place for the appointment of STICs?

BRAN BLACK: As I recall, it was actually another telephone call from Amy Brown. Again, it was unusual for me to receive, I think, telephone calls from her. I didn't take them all that often—I should say I didn't receive them all that often. She contacted me to ask why a decision had been taken to transfer the roles, so to speak, from a GSE process to a Cabinet process. I didn't know the answer and said to her, "I'm sorry, I don't know the answer. I can't help you."

The Hon. DANIEL MOOKHEY: When did that conversation take place?

BRAN BLACK: I think it was late August or early September. I was able to be specific with respect to the previous date because I could cross-reference my diary. But I haven't been able to do that with respect to this date.

The Hon. DANIEL MOOKHEY: So it was around August.

BRAN BLACK: I think that's right, but I can't confirm.

The Hon. DANIEL MOOKHEY: Firstly, let's just establish that Ms Brown at this point in time had moved clusters to the DPC, correct?

BRAN BLACK: That would be correct.

The Hon. DANIEL MOOKHEY: Part of the reason why you would have considered it to be an unusual call was because she was no longer a leader of an agency within your own cluster, correct?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: But Ms Brown has said to us that she was keeping the Treasury involved, namely, because there was a lot of transition and turnover. Was that your understanding as to why you would have been called, or you were never given an explanation as to why you were involved?

BRAN BLACK: I can't speak to whether or not she was engaging the Treasury. But I can say that it was, at least from my perspective, unusual to be receiving a call from her.

The Hon. DANIEL MOOKHEY: Was the Treasurer's office getting updates about where the recruitment process was up to in respect to the Americas position around 21 August?

BRAN BLACK: I'm not sure. Certainly, to the extent that this, as I said earlier, wasn't a priority by the time that I became the then Treasurer's chief of staff, somewhat later in the year, after that administrative transfer had taken place, it was very much not a priority.

The Hon. DANIEL MOOKHEY: In that respect, can you turn to page 26 and 27 of your bundle?

BRAN BLACK: Certainly.

The Hon. DANIEL MOOKHEY: From pages 26 to 29 are a series of emails, including an excerpt of the way the IT system—or some IT system—records the distribution of briefs to various personnel and officers. If you start on page 29, you can see that a brief is prepared for the Treasurer around the appointment of a Senior Trade and Investment Commissioner, Americas. Do you see that on page 28?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Equally, there's an attachment, which is a final selection panel, and then, equally, there's a candidate report. Do you see that? Then you can see that that's submitted. If you go up from page 28, you can see the approval chain as to who all the officials were. You can see that Ms Brown approves this on 6 August 2021 at 3.46 p.m. and I think it's distributed to the respective officers. To be clear to you, Mr Black, as well, similar briefings go to the Deputy Premier and the Premier's office on almost identical times as this one. If you go forward to page 30, you can see the briefing note that has been signed by the then Premier. Then, if you go to page 31, you can see the briefing note that is sent to the Treasurer's office.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Forgive me for duplicating that a few times. If you go to page 37 and page 38, starting at the bottom of page 38, you can see that the executive officer of the office of the chief executive sends a revised brief. They send it through to the DLO in your office, who, on page 37 says, "Returning this brief as noted." Do you see that?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Someone got the brief, someone looked at the brief and someone noted the brief. Do you know who that was?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Can you explain to us, given that we established earlier this morning about the way in which briefs are handled: They are submitted to a policy officer, who will inspect it and, if believing that there's any issue or concern, would elevate it; and if anyone would elevate it, they would bring it to your attention for further direction. Do you recall that happening in respect to this brief?

BRAN BLACK: No, I don't recall this brief being brought to my attention.

The Hon. DANIEL MOOKHEY: Can you give us any explanation as to how this brief could be returned to the department as noted from someone in the Treasurer's office without either you or the Treasurer knowing?

BRAN BLACK: There are a couple of points in that regard. Firstly, if you look at the brief, the recommendation is that it be noted with my team. To the point that I made earlier, once a brief comes in, it's submitted to the DLO, and the DLO makes the call as to where the brief subsequently goes. In the ordinary course, as you'd expect, it would go to a policy adviser. The policy adviser can then make a call as to where the brief needs to go after that. Looking at this brief, as I say, it's a brief requesting that the matter be noted. I think it would've been entirely within the remit of the policy adviser to determine that, for a brief of this nature, it could be noted at that person's level and then returned to the agency.

The Hon. DANIEL MOOKHEY: This is the brief that informs the Treasurer's office that Ms Jenny West was considered to be the successful candidate for the Americas position. You're quite right in saying that the advice to you is to note it. If you turn to page 30, you can see that the recommendation is virtually identical to the recommendation that is made to Premier Berejiklian.

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Ms Berejiklian notes it herself, signs it and returns it.

The Hon. JOHN GRAHAM: Signs it and dates it.

The Hon. DANIEL MOOKHEY: And dates it. I accept your view that, effectively, all the Treasurer's office was doing was what was asked of them, which was to note it. But I'm pushing you on this because, clearly, the other two Ministers who got this signed it themselves, or at least caused their electronic signatures to be added to them, to be fair to Mr Barilaro's evidence. His evidence was that his electronic signature was applied to the document, but he couldn't explain how that happened in that respect. The issue is that there's certainly no dispute from Mr Barilaro that he may have seen it. We haven't heard from Ms Berejiklian, to be fair, on this particular matter.

The Hon. JOHN GRAHAM: But the evidence is clear in relation to the former Premier.

The Hon. DANIEL MOOKHEY: You're saying that your policy adviser may have chosen to note it themselves, rather than pass it on?

BRAN BLACK: I'm saying that I don't know with any certainty what, in fact, did happen. Based on office procedures, I would've thought it is entirely within the scope of a policy adviser's discretion to make that

call. I would also note in that regard that, again, context is important here. If you look at the date that this was approved by Ms Brown to be submitted—I'm just trying to find the relevant page.

The Hon. DANIEL MOOKHEY: It's the sixth. It's on page 37.

BRAN BLACK: I've got it. That's fine. It's 6 August. That was, really, a month into what was what I would describe the busiest professional time of my life and, certainly, at the time, the Treasurer's as well. We were a month into the Delta lockdown. Since that time, since that commenced, we had spent, quite literally, every day—weekends, weekdays, of course—dawn until the wee small hours, preparing ERC submissions, difficult negotiations with the Federal Government, preparing for crisis policy meetings, negotiating and having discussions with stakeholders in relation to support packages. I can very safely say that this was so far from the Treasurer's priority list it wasn't even in the ballpark at the time. Had I been a policy adviser at that point, I wouldn't have submitted a brief for noting to him in this regard either.

The Hon. DANIEL MOOKHEY: Mr Black, I don't dispute any of that. But I just would point out that Premier Berejiklian signed it within a day of getting it. It was remiss of me not to inform you that Mr Ayres got a similar briefing, and he signed it within a day after, I think, the Premier did, from memory. The Deputy Premier also did the same. I absolute agree that every Minister can absolutely exercise their own judgement on this respect. But what's unusual in respect of the Treasurer's office engagement with this brief is that the other three Ministers sign it within a day or two but somehow the Treasurer's office returns it with it only being noted. But I accept that you might disagree. Actually, I should ask you if it was a matter of judgement, or if you think it was a matter of judgement, on the part of the policy adviser not to draw it to the attention of the Treasurer.

BRAN BLACK: I think, for a brief of this nature in the circumstances, entirely.

The Hon. JOHN GRAHAM: But, Mr Black, if we wind forward till when this Barilaro appointment became public, which I think might have been 17 June, this matter has then been a matter of controversy every day for about 12 or 14 weeks since then. You're saying you're still not aware today where this brief travelled in the Treasurer's office to not be signed by him, even as you sit here today.

BRAN BLACK: That's correct.

The Hon. JOHN GRAHAM: No idea.

BRAN BLACK: That's correct.

The Hon. JOHN GRAHAM: Even though the Treasurer, now the Premier, has reassured his colleagues that he didn't sign this brief, this has been the subject of some discussion in the Parliament and publicly, no-one in your office has inquired how this brief travelled through your office. Is that what you're telling us?

BRAN BLACK: I'm not saying that nobody's made inquiries. But we haven't been able to determine anything other than that the brief was returned to the agency for noting.

The Hon. JOHN GRAHAM: Have you made inquiries?

BRAN BLACK: I have sought to try and understand what happened with this brief, yes. But, beyond what is in the documentation, I haven't been able to—

The Hon. JOHN GRAHAM: What do these advisers say when you ask them if they signed this brief?

BRAN BLACK: They don't recall either. You got to understand here that this is a brief that is coming up to a Minister who no longer has any portfolio responsibility or cluster responsibility in any way, shape or form with these appointments. So for the Treasurer—as I say, you've got the context of COVID. You've got the fact that he has no responsibility in this regard, and then you've got the fact that it's just a noting brief—

The Hon. JOHN GRAHAM: So your position is no-one in your office recalls this brief or noting it and there is no record held in your office or in the department of who it was who noted it.

BRAN BLACK: You've got the records here as to what we have as well. Beyond that, I'm not able to shed any light.

The Hon. DANIEL MOOKHEY: Let's move forward from the events of 12 August onwards as well. We have established through the course of this inquiry that Minister Barilaro brought a submission to the Cabinet to alter the appointment process for these positions, to revert it back to effectively being ministerial appointments. I presume you were following that part of the inquiry.

BRAN BLACK: I'm aware of that. Yes.

The Hon. DANIEL MOOKHEY: Do you recall your office or you having any discussions with the Deputy Premier's office at all about that submission?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you recall whether or not the Treasurer raised it with you as an area of concern with him at all?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you recall the Treasurer making any mention of any discussions he had with Mr Barilaro?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Mr Barilaro has told us that I think, effectively, it was possible that he did have conversations. In fact, the way he put it was that the only way this can get onto the Cabinet table is with the concurrence of the senior leadership. He said he took it to the senior leadership group. To be fair to him, he did actually make clear that the Treasurer was a member of the senior leadership group. Do you recall the Treasurer raising it with you, or after any leadership group discussion?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: The former Deputy Premier's former chief of staff made the point to us as well that she was operating off the assumption that Mr Barilaro would take responsibility for dealing with this with the Ministers, which accords with your understanding. As in, she wasn't talking about this at the staff level as well. But I just want to stress again that you had no conversations with Mr Barilaro?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: So this submission is then lodged effectively on 18 September and it is agreed to at a Cabinet meeting around 27 September. Do you have any recall of the Treasurer making any points around that point?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: The Deputy Premier told us that only two Ministers in the Cabinet meeting raised issues with it and he wasn't prepared to name them. Of course, I presume you weren't at the meeting either. But are you aware of the Treasurer saying to you anything anecdotally about such things?

BRAN BLACK: No, I don't recall any discussion in relation to this submission at all. Indeed, as I mentioned previously, the first that I was aware of it was that call that I had from Ms Brown, when she was asking whether or not I knew of the origin of this submission, which I did not.

The Hon. DANIEL MOOKHEY: Just go forward now in time to a week later. So on 27 September Cabinet agrees to this change. One week later the Treasurer is now the Premier—October 5. Do you recall any—sorry, let me establish some base facts. The Premier then becomes the chair of the Cabinet—correct?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: He is then responsible for the administration of the Cabinet agenda?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: As well as, presumably, the administration of the agenda that's put before the leadership group, or the subcommittee of Cabinet that operates as well?

BRAN BLACK: No, it doesn't tend to operate that way. The Premier takes carriage of the Cabinet agenda, but subcommittees of Cabinet, for the most part, have their agendas set by the chair of those relevant subcommittees.

The Hon. DANIEL MOOKHEY: But the strategic leadership group of Cabinet, which we had established from the general counsel of DPC, is a committee of Cabinet as well. Is that the Premier who chairs that or someone else chairs that?

BRAN BLACK: I'm not sure what she's talking about in that regard. There is no strategic leadership group.

The Hon. DANIEL MOOKHEY: To be fair, that might be my own thing. But leadership group or senior Ministers group or anything like that?

BRAN BLACK: There is what we call a "strategy committee of Cabinet".

The Hon. DANIEL MOOKHEY: That's the one, I'm sorry. Is that the one the Premier chairs?

BRAN BLACK: Yes, the Premier chairs that as well.

The Hon. DANIEL MOOKHEY: He decides at the agenda?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Do you recall Minister Ayres or his office raising with you or your office, the Premier's office, a decision to delay or otherwise not implement the Cabinet decision to change these into ministerial appointments?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: He's made this point to the Head review. He says he disclosed it at two instances—one in October and one in November. Do you have any idea what Minister Ayres is talking about?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Do you recall having any conversations with the Premier about the status of whether or not that Cabinet submission was in effect?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: What we have established through this inquiry is that Cabinet submission leads to the termination of Ms West's candidacy for this role and the reopening of the position as well. At this point in time, the Premier is obviously in charge of DPC, and DPC, through Investment NSW, is running this process. Do you recall receiving any advice from Ms Brown or Investment NSW through your policy advisers or to you directly that informed them that the process to recruit an Americas position would be repeated?

BRAN BLACK: Not that I can recall.

The Hon. DANIEL MOOKHEY: So when did you learn about the fact that there was to be a repeat of the process to recruit a trades commissioner to New York?

BRAN BLACK: I don't actually recall if I was aware of that before this inquiry. I may have been, but I don't actually recall being aware of that. Again, some context here is important. The Premier, of course, sets Cabinet agendas, but in the course of running through Cabinet agendas, my focus is on those areas that are of the greatest strategic importance to the Premier. And to the extent that there are other items on the agenda, my team will raise those items with me to the extent that they feel that there is a need to. But not every item would be raised in that way, by any stretch, and, as I say, my time is prioritised towards those areas of greatest strategic significance to the Premier. So I don't recall being aware of this as an issue, to be honest, at all.

The Hon. DANIEL MOOKHEY: Okay. At this point Stuart Ayres is being supported by the DPC cluster as well, correct?

BRAN BLACK: I believe that is correct.

The Hon. DANIEL MOOKHEY: So from October to December, your best recollection is that no specific advice was given to the Premier's office around this process?

BRAN BLACK: I couldn't say that definitively, but I have no knowledge of that.

The Hon. DANIEL MOOKHEY: Thank you. That is clear. When did you first become aware of the fact that Mr Barilaro had interest in the role?

BRAN BLACK: I can't tell you precisely, but I believe it was early this year and it was in a conversation that I had with Mr Coutts-Trotter.

The Hon. DANIEL MOOKHEY: Okay.

The Hon. JOHN GRAHAM: What did he say?

BRAN BLACK: All I can recall him saying was words to the effect that Mr Barilaro was an applicant in the process.

The Hon. JOHN GRAHAM: He had applied? So this was post-19 January?

BRAN BLACK: Yes, I believe that's correct.

The Hon. JOHN GRAHAM: Did that pique your interest? Were you surprised to hear that?

BRAN BLACK: I was aware that it would be something that might attract public attention, but he was an applicant in a process.

The Hon. JOHN GRAHAM: But you immediately formed the view that this could possibly be controversial?

BRAN BLACK: No, I was aware that it would be a matter that may attract public attention.

The Hon. DANIEL MOOKHEY: Why was Mr Coutts-Trotter telling you?

BRAN BLACK: You would have to put that to Mr Coutts-Trotter.

The Hon. DANIEL MOOKHEY: Was it in a routine meeting that he disclosed it?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Right. So it was in your weekly or standard meeting?

BRAN BLACK: It would have been. But again, I can't remember when it was.

The Hon. JOHN GRAHAM: And up until that point you were unaware that John Barilaro had applied for this Americas position?

BRAN BLACK: Entirely.

The Hon. JOHN GRAHAM: That was despite the fact that he had informed the Premier that he would be applying?

BRAN BLACK: Well, I am aware of the evidence before this Committee. But, personally, I was entirely unaware of that.

The Hon. JOHN GRAHAM: So the Premier was told but, as the Premier's chief of staff at the time, you had no idea at that point, until this meeting after 19 January?

BRAN BLACK: The first I knew of the application was when Mr Coutts-Trotter informed me.

The Hon. JOHN GRAHAM: The question was not about the application, Mr Black; it was about Mr Barilaro's interest in the role. When were you first aware of his interest in the role?

BRAN BLACK: Yes, in that conversation as well.

The Hon. JOHN GRAHAM: Thank you.

The Hon. DANIEL MOOKHEY: Sorry, I know my colleague just asked you, but you recollect the conversation with Mr Coutts-Trotter was early this year?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Are we talking January, February?

BRAN BLACK: I couldn't tell you, to be honest.

The Hon. JOHN GRAHAM: Okay. So sometime after January—

BRAN BLACK: I mean, it sort of feels—when I think about it, I recall that it was quite early in the year, but I couldn't put a specific month or certainly not a date.

The Hon. JOHN GRAHAM: Did you then raise that with the Premier?

BRAN BLACK: Not that I recall.

The Hon. JOHN GRAHAM: Why didn't you raise that with the Premier, given you had already formed the view it could be controversial?

BRAN BLACK: No, I'm saying that I don't recall.

The Hon. JOHN GRAHAM: You don't recall whether or not you mentioned to the Premier of the State that the former Deputy Premier might be applying for this role?

BRAN BLACK: No, this may have—what I am unsure of, and it may well have been that this was a conversation that was had in the weekly catch-up that the Premier and I have with Mr Coutts-Trotter—

The Hon. JOHN GRAHAM: So the Premier may have been in the meeting when—

The Hon. WES FANG: Point of order: Mr Black's trying to elucidate his response. It would help if Mr Graham allowed him to complete his answer before he jumps in.

The CHAIR: Thank you for the point of order, Wes, but there isn't one. I have been listening to the exchange. I think Mr Black has been able to respond and answer the questions very clearly. Occasionally if members interrupt a witness providing a response, that is okay. So, Mr Graham, if you proceed with your questions—

The Hon. WES FANG: Yes, but it was a response that was—

The CHAIR: It has been going on—

The Hon. WES FANG: It was a response—

The CHAIR: Excuse me, the exchange has been completely respectful. Mr Black has been able to respond. If we start doing interjections at this time, again, we will just take it up into Government time if they're not legitimate points of order, Mr Fang.

The Hon. WES FANG: Well, no, again, that is not the resolution of the Committee. But, anyway, I've made my point of order. You can rule against it—that's fine.

The Hon. JOHN GRAHAM: Mr Black, I think you were about to say that perhaps the Premier was in that meeting with Mr Coutts-Trotter and yourself?

BRAN BLACK: That's correct, but I couldn't recall exactly.

The Hon. JOHN GRAHAM: Yes. Do you recall anything about the Premier's reaction when Mr Coutts-Trotter informed you for the first time, but perhaps not the Premier for the first time, that Mr Barilaro was applying?

BRAN BLACK: No, I don't recall anything in that regard. I do remember, as I said, that I was informed. I believe the Premier may have been in that same discussion, but I can't recall precisely.

The Hon. JOHN GRAHAM: Did you then have any subsequent discussion with the Premier about the potential controversy with this appointment?

BRAN BLACK: At that stage he was an applicant in a process.

The Hon. JOHN GRAHAM: I'm not asking, did you give the Premier any advice about involving himself in the process; I'm asking, did you speak to the Premier at all about the political implications of this appointment—one that you had already come to the conclusion could draw some attention?

BRAN BLACK: I may have had a discussion with the Premier in that regard. I can't recall.

The Hon. JOHN GRAHAM: Mr Black, there's a lot you haven't recalled in the process today. You would've used that phrase about 100 times up till now.

BRAN BLACK: I think that's fair, but this is also—

The Hon. WES FANG: What is the question?

The Hon. JOHN GRAHAM: I can accept that in the early weeks of your role that might have been acceptable. But I find it less believable when it comes to the appointment of the former Deputy Premier into this role, something that attracted quite significant public attention.

The Hon. WES FANG: Point of order: This is not the opportunity to make statements. What is the question?

The Hon. JOHN GRAHAM: I'm going to press you—

BRAN BLACK: I'm happy to answer that.

The Hon. JOHN GRAHAM: I just want to press that question. Do you really not recall giving the Premier advice about this appointment?

BRAN BLACK: I dare say I would have had a discussion with the Premier. As I said—

The Hon. JOHN GRAHAM: Just give us your best recollection.

BRAN BLACK: I don't discuss private conversations that I have with the Premier, and I won't before this Committee.

The Hon. DANIEL MOOKHEY: As part of being chief of staff, of course you would draw attention to political consequences of decision-making, correct?

BRAN BLACK: Of course.

The Hon. DANIEL MOOKHEY: And it's possible that you may have done that in this respect—without necessarily disclosing the nature of the advice that you gave.

BRAN BLACK: This wasn't a matter with respect to which the Premier had any decision-making role.

The Hon. JOHN GRAHAM: But, Mr Black, that is a very different answer, to say you don't want to discuss it at this Committee. We'll take that under consideration. I'm not suggesting that's inappropriate. It's very different to saying you don't recall. They're two very different answers.

BRAN BLACK: No. What I'm saying here is entirely consistent. I don't recall. I dare say there may have been a conversation, but I don't recall, A, whether there was or, B, what was said. But one way or the other, had there been a conversation, I don't think it is appropriate for me to discuss private conversations that I have with the Premier as his chief of staff.

The Hon. DANIEL MOOKHEY: Thank you, Mr Black. We won't push you on that aspect. Did you make any inquiries of Minister Ayres' office as to what was going on here?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Why not?

BRAN BLACK: For the very simple reason that Mr Coutts-Trotter made it plain that this was a public sector appointment. It wasn't a matter for Ministers.

The Hon. DANIEL MOOKHEY: I will have to push you there, Mr Black. On the basis of that answer, a lot does turn then on when this conversation was taking place. Minister Ayres' involvement in these matters, between 22 January—literally that date—and 8 February, have been somewhat heavily interrogated by this Committee because that's the point at which we've established he was adding names to short lists and making inquiries into where things were progressing. We've also established that he was in communication with Mr Barilaro in December and/or October/November, I think, as well. So I'm going to push you again if it's possible that you can recollect or even take on notice to be able to identify when you were having this conversation with Mr Coutts-Trotter.

BRAN BLACK: I'm happy to take it on notice but, honestly, I've tried in the course of thinking about today's appearance to narrow things down. I've tried to do that as well with respect to conversations with Ms Brown, where possible. In some instances, I've been able to by cross-referencing diaries, including with my wife's diary, but in this instance I don't think that I can. But I'm happy to take it on notice.

The Hon. DANIEL MOOKHEY: Thank you, Mr Black. I just want to be clear, I really do appreciate the preparation that you've put in as well. It is appreciated. But the reason I asked you whether you were making inquiries of Minister Ayres is that it equally gives rise to the question of was Minister Ayres making any disclosures to your office or you, or the Premier for that matter, about the contact he was having with Mr Barilaro and, otherwise, his engagement in this process?

BRAN BLACK: Not that I recall.

The Hon. DANIEL MOOKHEY: We established what Mr Coutts-Trotter tells you at that point. Do you recall any further conversations with Mr Coutts-Trotter in which he informed you about the outcome of the selection process?

BRAN BLACK: Yes. There was a further conversation with Mr Coutts-Trotter in which he, as I recall, indicated that Mr Barilaro was to be, or had been, the successful candidate in the process.

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

BRAN BLACK: No, I don't remember when that took place.

The Hon. DANIEL MOOKHEY: Was it around April?

BRAN BLACK: It could have been. I couldn't tell you exactly. It was some months after. I feel as though it was some months after that first.

The Hon. DANIEL MOOKHEY: Look, I think we've been able to establish from Ms Brown and Mr Coutts-Trotter in the evidence that they gave to respective committees—Ms Brown to this one and Mr Coutts-Trotter to estimates—that Ms Brown sought the intervention of Mr Coutts-Trotter. I think the way she

put it was to "sense check" the proposition, given it was her decision, with a view that—she certainly left the impression; in fact, all but said—Mr Coutts-Trotter would raise it with the Premier's office and other senior leaders of the Government to see whether or not such a decision would create controversy that the Government would consider not to be helpful. That is me paraphrasing, to be frank, but that's effectively the import of the evidence that she gave as well. To be fair to Mr Coutts-Trotter, he made clear at estimates that he was very, I guess you would put it, coy in order to not involve himself in the process, mindful of his responsibilities under law as well.

The Hon. WES FANG: Paraphrasing again.

The Hon. DANIEL MOOKHEY: I will be clear I am paraphrasing it, but just to be fair to Mr Coutts-Trotter—

BRAN BLACK: No, I've read his evidence, and it entirely aligns with my recollection of the conversation that I had with him. He did not in any way put to me a proposition that would suggest that there was some level of influence that was capable of being exercised by him or by our office.

The Hon. DANIEL MOOKHEY: Indeed.

BRAN BLACK: It was very much an informing conversation. He made it very clear, again, that it was a GSE process and not a process in which Ministers had any involvement.

The Hon. DANIEL MOOKHEY: I presume that you didn't—what did you or the Premier say in response? Do you recall?

BRAN BLACK: I didn't say much to Mr Coutts-Trotter because there wasn't a huge amount that could be said. I recall that I—again, I can't remember whether or not this was a conversation that I had with Mr Coutts-Trotter on my own or with the Premier, but one way or the other there would certainly have been a conversation. There was indeed a conversation between myself and the Premier afterwards—but, again, I don't think it's appropriate for me to canvass those private conversations.

The Hon. DANIEL MOOKHEY: I'm not going to invite you to. I respect the privacy matter that you're raising. But it is fair to say you at least disclosed to the Premier that you had received this advice from Mr Coutts-Trotter?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Okay.

BRAN BLACK: But I'm not sure whether or not he was in the conversation himself.

The Hon. DANIEL MOOKHEY: Yes, sure.

BRAN BLACK: So it may not have been necessary for me to disclose that to him.

The Hon. DANIEL MOOKHEY: But you had some conversation with him afterwards?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: To be fair to you, Mr Black, the former Deputy Leader of the Government had just been appointed to a position. Of course it would create at least a point of conversation with the Premier. That is reasonable as well and I'm not going to ask you to canvass in depth what that was. But do you recall at this point in time Minister Ayres coming to any form of a leadership group, strategy committee or anything of the sort to make a disclosure that Mr Barilaro was a successful candidate?

BRAN BLACK: No, not that I recall.

The Hon. DANIEL MOOKHEY: The evidence put in front of us is that the only reason why Ms Brown had the confidence to make that decision is because, certainly in the way she puts it, effectively Minister Ayres had told her that he had made such a disclosure and that there wasn't any meaningful opposition that would interrupt her decision-making, and therefore she felt she had confidence to proceed with the appointment. Can you shed any light on any of those events as to whether or not any of that actually happened or did not happen?

BRAN BLACK: I can't shed any light in that regard, no.

The Hon. DANIEL MOOKHEY: Okay. This is finalised in May, when Mr Barilaro then has his appointment effectively finalised. From May onwards, did the Premier's office take any sort of contingency steps to prepare for a public announcement?

BRAN BLACK: What do you mean by "contingency steps"?

The Hon. DANIEL MOOKHEY: Did you have any conversations with the agency or the Minister's office as to when the announcement was likely to take place?

BRAN BLACK: I didn't personally.

The Hon. DANIEL MOOKHEY: But your office?

BRAN BLACK: There would have been some discussion because media releases go through our office.

The Hon. DANIEL MOOKHEY: Sure. And presumably when it was announced, which I actually think was Friday 18 June—maybe 17 June. It could have been Friday—it was definitely the Friday.

The Hon. PENNY SHARPE: The seventeenth.

The Hon. DANIEL MOOKHEY: It was Friday 17 June. Were you aware that the announcement was likely to be made on that date?

BRAN BLACK: I would have been aware, yes.

The Hon. DANIEL MOOKHEY: And at that point no objections were raised by your office around either the timing of the announcement, given that it was four days before the budget, or anything like that?

BRAN BLACK: I don't think it's appropriate for me to disclose conversations that are happening within my office or that I'm having with the Premier. Those are private communications in the context of political decision-making.

The Hon. DANIEL MOOKHEY: Okay. When this is then announced, the Premier at a press conference on the twenty-first defends it—effectively says it was a merit-based appointment. What inquiries were made by your office in that interim period to give the Premier the confidence to make that claim?

BRAN BLACK: Sorry, what was the date?

The Hon. DANIEL MOOKHEY: The Monday. It would have been the twentieth, I think, the day before the budget.

BRAN BLACK: In the second conversation that I had with Michael Coutts-Trotter, he indicated to us that on his advice—as in, he was advised—the process was fair and independent and an ordinary public sector process.

The Hon. DANIEL MOOKHEY: So you were relying on the advice of the secretary of DPC in order for the Premier to make that claim?

BRAN BLACK: Indeed. And he in turn, as I understand it, was relying on the advice from the department, from the—

The Hon. DANIEL MOOKHEY: Then secretary of the Department of Enterprise, Investment and Trade.

BRAN BLACK: Indeed.

The Hon. DANIEL MOOKHEY: I'm not going to have too much before I pass to my colleague. Just on this, in respect to the claims that the then Premier made to the House I think that week as well, was the Premier relying on—only because there's been a bit of confusion around this. At first instance it was explained to us that the Premier was relying on advice that was given by the department, and that is the Department of Enterprise, Investment and Trade. But then equally it was introduced to us by Mr Coutts-Trotter in his evidence that actually he was also relying on evidence given to him by Minister Ayres. Do you know which one of them was providing that advice prior to the Premier making the claims in the House that this was an independent, merit-based process?

BRAN BLACK: I'm aware that there was a meeting between the Premier, Ms Brown, Ms Boyd and there may have been—and possibly also Minister Ayres; I'm not sure. The Premier received advice at that meeting from Ms Brown in relation to the recruitment process.

The Hon. DANIEL MOOKHEY: So it probably came from that meeting.

BRAN BLACK: That's my understand, yes. I wasn't at that meeting; I had another meeting at the time. But in the course of reviewing evidence before this inquiry, I've seen that Ms Boyd has indicated that it was Ms Brown who informed the Premier about the nature and status of the recruitment process.

The Hon. DANIEL MOOKHEY: In respect to the conversations that have been publicly established which took place between the Premier and Mr Barilaro prior to his application, Mr Barilaro told us that he

encountered the Premier in Martin Place. Do you recall having any conversations with the Premier after such encounter?

BRAN BLACK: Not at all.

The Hon. DANIEL MOOKHEY: The Premier has said publicly that Mr Barilaro informed him at a social function. Do you know what function the Premier was referring to?

BRAN BLACK: No.

The Hon. JOHN GRAHAM: And there haven't been any subsequent discussions, given the contradiction in those two bits of advice about which of those two it was, to your knowledge?

BRAN BLACK: Not to my knowledge, no.

The Hon. JOHN GRAHAM: Mr Barilaro's evidence indicated that, when he was told that the Deputy Premier would be applying for the role, he said something like either "great" or "go for it." Can you shed any light on what was discussed when the Premier was informed that Mr Barilaro was applying for the role?

BRAN BLACK: No, and I wasn't aware of that.

The Hon. DANIEL MOOKHEY: In the interregnum period from the point that Mr Barilaro resigns from the ministry but prior to him resigning from the Parliament, he made clear that he was having general friendship chats, catch-ups, with the Premier—check-ins—as you would expect from close colleagues who have worked together in tense circumstances, to be fair to both the parties. Do you recall having any conversations with the Premier about those conversations and whether Mr Barilaro expressed any interest?

BRAN BLACK: No.

The Hon. DANIEL MOOKHEY: Because Mr Barilaro is making it clear that he was making inquiries from October onwards, effectively, around this role, but you can't recall any specific—

BRAN BLACK: No, not even anything specific. Nothing at all.

The Hon. JOHN GRAHAM: Mr Barilaro's evidence was:

... I would've spoken to Mr Perrottet on four or five, six occasions—I can't see it's more than that ...

They were on the phone—repeated discussions in this October, November, December period, where he was weighing up and, in fact, had decided to apply for this role. None of that came across your desk, is of your knowledge? You can't shed any light on the nature of those discussions?

BRAN BLACK: No. I entirely accept that that's his evidence, but I didn't have any communications put to me in that regard.

The Hon. JOHN GRAHAM: I might just turn to two other issues briefly and then hand back to my colleague. I want to rewind to that second discussion you have with Mr Coutts-Trotter. The first one was sometime after 19 January. You are informed—perhaps the Premier's informed—for a second time that Mr Barilaro is applying. You are then told, I think you said around April, that he was the successful candidate.

BRAN BLACK: No. What I said was that I believe that the first conversation was early in the year but I couldn't recall precisely when, and the second conversation was, I believe, some months later.

The Hon. JOHN GRAHAM: You couldn't recall but after he was appointed.

BRAN BLACK: Yes.

The Hon. JOHN GRAHAM: So after 19 January. And the second discussion was when?

BRAN BLACK: I can't recall whether or not Mr Coutts-Trotter said to me that Mr Barilaro was the successful candidate or was very likely to be the successful candidate. I can't recall which one of those it was.

The Hon. JOHN GRAHAM: I accept that. To that question about when that discussion occurred, I will press you on that.

BRAN BLACK: I can't remember, I'm sorry.

The Hon. JOHN GRAHAM: I think we were suggesting around April in the earlier discussion. Why was it that Amy Brown is then texting, in evidence before the committee:

FYI - I've been told that Premier and DP are comfortable with the appointment of Barilaro as STIC to the Americas, and requested to get on with formalising the arrangements (which I'll do).

BRAN BLACK: I can't speak to why Amy would send that.

The Hon. JOHN GRAHAM: Can you give any reason, shed any light, as to why the Premier and Deputy Premier might have been comfortable with John Barilaro being appointed?

BRAN BLACK: No, I can't speak to that. I can't speak to the basis on which she sent that text.

The Hon. JOHN GRAHAM: Do you agree that, given the advice you had received from Mr Coutts-Trotter, it would not be appropriate to have involvement in this public sector process, and that the Premier's view and the Deputy Premier's view should have been irrelevant to whether or not this proceeded?

BRAN BLACK: Yes. I'm not aware of any involvement.

The Hon. JOHN GRAHAM: Given the formal advice you received from the Secretary of the Department of Premier and Cabinet, if they were expressing a view, it should have been irrelevant and it was probably inappropriate? Do you agree with that observation?

BRAN BLACK: I don't know whether or not the Premier was expressing a view. That's a text from Ms Brown. It's unreflective of direct communication with the Premier, so I am reluctant to speculate on that.

The Hon. JOHN GRAHAM: I'm simply asking about the advice you received from the agency.

BRAN BLACK: I can speak to that. I can say that, in accordance with that advice, we took no steps, to my knowledge.

The Hon. JOHN GRAHAM: Thank you. I want to ask about another matter. Shortly before Minister Ayres resigned—I think that was on 3 August—Minister Stokes was in contact with him to express his view about whether or not Minister Ayres' position was sustainable—that is, his public position over this role. I think he conveyed that by text. It suggested that Minister Ayres responded along the lines of, "Have you asked Premier Perrottet to resign as well?" Were you aware of any concerns in your office that if Stuart Ayres was sacked, the same charge might be pointed at Premier Perrottet for his involvement in these appointments?

BRAN BLACK: I don't think it is appropriate for me to canvass the discussions that were taking place within our office at that particular point in time. I would make one point there and that's that, as I understand it, this inquiry is designed to consider the basis on which appointments were made. This would seem to me to go to a point that is beyond that and, indeed, the political response in relation to the appointments.

The Hon. JOHN GRAHAM: Mr Black, I am going to press you on that because it goes to the appropriateness of these appointments and the perceptions of the Premier's Cabinet colleagues about his involvement in some of these appointments.

The Hon. WES FANG: Point of order: I will put what Mr Black has put forward to Mr Graham to you, Chair, and seek your ruling on it.

The CHAIR: What do you mean? You want to seek my ruling on what?

The Hon. WES FANG: As to the appropriateness of the question, given the objection of the witness. As part of the procedural fairness resolution, the witness is able to question the appropriateness of the question and seek a ruling from the Chair. Mr Black has done that. I agree with him. I am asking you to make a ruling on that.

The CHAIR: He has objected to the questions. What was the line of questioning again, John?

The Hon. JOHN GRAHAM: The line of questioning was is Mr Black aware of concerns that amongst the Premier's Cabinet colleagues the same issues that were raised with the Ayres involvement could have been raised about the Premier's involvement? Was that an item of discussion at any point that Mr Black recalls?

The CHAIR: That was an item of discussion between?

The Hon. JOHN GRAHAM: Between anyone whom Mr Black was in contact with.

The CHAIR: The witness can answer the question. If he doesn't want to answer the question, he can take the question on notice.

The Hon. WES FANG: No, Mr Black has taken a point of order that it's outside the terms of reference, and I would agree with him.

The Hon. DANIEL MOOKHEY: Perhaps by way of guidance, in terms of the procedural resolution, maybe the way forward would be to allow Mr Black to give his answer first.

The Hon. WES FANG: But where a question is—

The Hon. DANIEL MOOKHEY: Maybe if we allow Mr Black to give his answer. Mr Black would be well and truly away that he can decline to answer the question on the basis that he just declined. He is well and truly entitled to do that. We can't push him beyond that, but we're entitled to push him once.

The Hon. WES FANG: Again, the procedural fairness resolution is clear that where a witness objects to a question, and where it's clearly outside the terms of reference, the witness may do so.

The Hon. DANIEL MOOKHEY: He can object.

The CHAIR: Firstly, Mr Fang, the question, I believe, was according to the terms of reference. Again, we have allowed quite free-ranging questions, which I think has been according to the terms of reference—

The Hon. WES FANG: That certainly doesn't mean that the previous question—

The CHAIR: —trying to seek the way in which these appointments were made. The question is fine. If the witness is objecting to answer the question, he could state the reasons why he is objecting.

The Hon. WES FANG: He did.

BRAN BLACK: As I've said before, I don't think it's appropriate for me to comment on private discussions between myself and members of my team or, indeed, with the Premier. But what I can say, and this is a matter within my own knowledge, is that I am not aware of any attempt to influence the process.

The Hon. JOHN GRAHAM: I am going to press you in this matter, Mr Black, to this extent. I accept the answer that you have just given. To your knowledge, was that a concern of the Premier's Cabinet colleagues, though, that the pattern of behaviour demonstrated by Stuart Ayres might also be levelled at Premier Perrottet, given his involvement?

BRAN BLACK: I'm not allowed—

The Hon. JOHN GRAHAM: This goes to perceptions.

The Hon. WES FANG: Point of order: This is the same point of order that Mr Black raised last time, which is that this is not in relation to the process of the selection. It's around the political decision-making, which is outside the terms of reference. Also, it is not appropriate to be putting these sorts of questions to the Premier's chief of staff.

The CHAIR: Mr Fang, to be clear, it's not outside the terms of reference.

The Hon. WES FANG: Which part of the terms of reference is this covered by?

The CHAIR: Mr Graham asked that question. I'll see what Mr Black is responding to.

The Hon. WES FANG: Chair, I'm sorry, this is—

The Hon. JOHN GRAHAM: The Chair has ruled.

BRAN BLACK: I wouldn't disclose conversations that I would have had with members of the Cabinet in relation to this either. That's not something that I think is appropriate for a member of staff to do.

The Hon. JOHN GRAHAM: To your knowledge, did Minister Ayres say to Minister Stokes by text, "Have you asked Premier Perrottet to resign as well?"

BRAN BLACK: No, I'm not aware of that.

The Hon. DANIEL MOOKHEY: In terms of the Cabinet decision to convert these into ministerial positions, has the Premier's office taken any steps to cause that Cabinet submission to be implemented?

BRAN BLACK: Not that I'm aware of.

The Hon. DANIEL MOOKHEY: Can I ask why not? Is it still a standing position of the Government, or not, to the best of your knowledge?

BRAN BLACK: No, what I'm saying—I'm not aware. That doesn't mean that it's not happening; I'm just unaware.

The Hon. DANIEL MOOKHEY: Look, to be frank, that's fair enough. That is itself telling, because it is obviously the Premier's responsibility to make sure that Cabinet decisions are followed, correct?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: This Cabinet decision was made a year ago, more than a year ago.

BRAN BLACK: It's ministerial responsibility to implement Cabinet decisions.

The Hon. DANIEL MOOKHEY: And it's the Premier's responsibility to hold Ministers to account though, isn't it?

BRAN BLACK: What was the second point that you just raise—it's the Premier's?

The Hon. DANIEL MOOKHEY: It's the Premier's responsibility to make sure that Ministers are held to account to the decisions made by the Cabinet collectively. That's pretty standard.

BRAN BLACK: Of course, but it is not as though the Premier line by line goes through Cabinet submissions to make sure that Ministers are complying with the terms of the decisions made.

The Hon. DANIEL MOOKHEY: Sure, but the reason I ask—

The Hon. JOHN GRAHAM: The department would. Their agency would.

The Hon. WES FANG: Point of order: One of you needs to be asking the question. Hansard can't record it. Nobody can understand it. There needs to be one question.

The CHAIR: Wes, that's not a point of order.

The Hon. WES FANG: It is a point of order.

The CHAIR: It is not a point of order. It goes through me for starters. Mr Mookhey, continue.

The Hon. DANIEL MOOKHEY: Thank you, Chair. Mr Black, given the New York position is not filled, and apparently the process to appoint the New York position will recommence presumably after this inquiry is finished, how is that position then going to be recruited? Is it through a merit-based appointment to the public service or is it going to be through a—

BRAN BLACK: You'd have to direct that to the secretary of the department or the Minister. I am not aware.

The Hon. DANIEL MOOKHEY: Okay. Has the Premier's office asked or made any inquiries into the Minister's office as to what progress is being made in respect to implementing this Cabinet position?

BRAN BLACK: Not that I recall.

The Hon. JOHN GRAHAM: Are we still at the point where the Government can't tell us how these positions are appointed? Is that still the case today?

BRAN BLACK: I'm not sure what you're saying with respect to that question.

The Hon. JOHN GRAHAM: How are these positions appointed today, given the conflicting Cabinet decisions?

BRAN BLACK: Again, that is a question that I would submit is better put to the Minister responsible for these appointments or to the secretary.

The Hon. DANIEL MOOKHEY: In respect to the former Secretary of the Department of Enterprise, Investment and Trade, just so we can establish this, legally Mr Perrottet was her employer, correct?

BRAN BLACK: Yes.

The Hon. DANIEL MOOKHEY: Then it was delegated to the Secretary of DPC, which is a standard arrangement that's entered into for all secretaries, correct?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: The Secretary of DPC can then exercise the employment function, correct?

BRAN BLACK: Correct.

The Hon. DANIEL MOOKHEY: The secretary did exercise that function in respect to reaching a determination around the conduct of that person?

BRAN BLACK: Sorry, can you say that again?

The Hon. DANIEL MOOKHEY: The Secretary of DPC, Mr Coutts-Trotter, did in fact exercise that function when he caused an investigation to take place into her conduct as the Secretary of DEIT, correct?

BRAN BLACK: That's my understanding.

The Hon. DANIEL MOOKHEY: As a result of that investigation, it was agreed that the former secretary's employment would be terminated under section 41 of the GSE Act, correct?

BRAN BLACK: That's my understanding.

The Hon. DANIEL MOOKHEY: Were you informed? Was your office informed that that was likely to happen?

BRAN BLACK: That Ms Brown was likely to be terminated?

The Hon. DANIEL MOOKHEY: Under section 41 of the GSE Act, as opposed to the misconduct provisions of the GSE Act.

BRAN BLACK: Not that I recall. Mr Coutts-Trotter is a stickler for the rules, and we were aware from the outset that any matter to arise from the Head review was a matter for him exclusively.

The Hon. DANIEL MOOKHEY: Okay, but that was an active decision because, to be frank, the delegation power can be exercised concurrently. A delegation doesn't relieve you of your legal position; it just allows another person to exercise the function on your behalf.

BRAN BLACK: Of course, but in this instance it was entirely appropriate that Mr Coutts-Trotter delegates to—

The Hon. DANIEL MOOKHEY: And no-one disputes that. But what I'm asking is were you told?

BRAN BLACK: Told what, sorry?

The Hon. DANIEL MOOKHEY: Did Mr Coutts-Trotter tell you, as the Premier's delegate, that he had reached a conclusion that termination under section 41 was the appropriate action?

BRAN BLACK: I don't recall. He certainly kept us in the loop in relation to decisions that he had taken. He did not seek our views in relation to potential decisions.

The Hon. DANIEL MOOKHEY: I presume you did not advance a view either?

BRAN BLACK: No, of course not.

The Hon. DANIEL MOOKHEY: In respect to the Minister, I did actually ask him repeatedly about what role he played here. He made it very clear at estimates that it was a matter for the Premier and a matter for the Secretary of DPC as well. Do you recall the Minister at all involving himself in this through your office?

BRAN BLACK: No, not at all.

The Hon. DANIEL MOOKHEY: Do you recall any effort to seek a briefing from the Minister as to what his views would be on this matter, or not?

BRAN BLACK: No, certainly not.

The CHAIR: Thank you. That's the end of questions from the Opposition. We will go to questions from the Government if they have any.

The Hon. TAYLOR MARTIN: No particular questions, thank you, Chair. Mr Black, is there anything that you'd like to round off on and revisit that's been brought up earlier this afternoon?

BRAN BLACK: No, I am fine. Thank you, though.

The CHAIR: Thank you for appearing, Mr Black. We appreciate you agreeing to appear before this inquiry.

(The witness withdrew.)

The Committee adjourned at 14:46.