

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY AND WORKS COMMITTEE

**APPOINTMENTS OF JOSH MURRAY TO THE POSITION OF
SECRETARY OF TRANSPORT FOR NSW AND EMMA WATTS AS
NSW CROSS-BORDER ASSISTANT COMMISSIONER**

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Friday 1 September 2023

The Committee met at 9:10.

PRESENT

Ms Abigail Boyd(Chair)

The Hon. Mark Buttigieg

The Hon. Wes Fang

The Hon. Scott Farlow (Deputy Chair)

The Hon. Dr Sarah Kaine

The Hon. Bronnie Taylor

The CHAIR: Welcome to the second hearing of the Public Accountability and Works Committee inquiry into the appointments of Josh Murray to the position of Secretary of Transport for NSW and Emma Watts as NSW Cross-Border Assistant Commissioner. I acknowledge the Gadigal people of the Eora nation, the traditional custodians on the lands on which we are meeting today, and 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 or Torres Strait Islander people joining us today or any who may be watching us online.

Today we will be hearing from a number of senior public servants. I thank everyone for making the time to give evidence to this important inquiry. Before we commence, I will make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. The 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 to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I therefore urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness, according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and want more time to respond, they can take a question on notice. Written answers to questions taken on notice are to be provided within 21 days. If witnesses wish to hand up documents, they should do so through the Committee staff. In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into the microphone. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

Ms EMMA WATTS, NSW Cross-Border Assistant Commissioner, sworn and examined

The CHAIR: I welcome our first witness, Emma Watts. Would you like to begin by making a short opening statement?

EMMA WATTS: Good morning. Thank you for the opportunity to address the Committee. I am a New South Wales public servant, bound by and committed to the code of conduct and ethics. I have been the Assistant Commissioner, based in Queanbeyan, for over 3½ years. I have maintained the public sector values of integrity, trust, accountability and service. This aligns with my personal values. My recruitment is not a recent event—it was almost four years ago. There has been a drought, fires, a pandemic and floods between then and now. My recruitment was conducted through established processes for recruiting public servants in temporary contracts and ongoing roles. I have done everything I have been asked to do on multiple occasions.

The context is very important. Throughout 2019, the Cross-Border Commissioner also held the role of Regional Town Water Supply Coordinator. He supported communities who were about to run out of water during one of the worst droughts on record. This was 24/7. The drought would end eventually, but it had not yet. The world has changed substantially since 2019. It materially changed within six weeks of when I started in January 2020 on a fixed-term, six-month contract, when we were also working with people after the fires that had so damaged our communities. No-one anticipated what was ahead. Domestic borders closed in March 2020 for the first time in almost a century. My work changed to ensuring people had what they needed to navigate the pandemic.

Some of the hardest days of my professional career were the days navigating complex situations to make sure people who were at risk of self-harm could get the care they needed, that young people escaping family violence could feel confident they could cross the border and that people could see loved ones in their final hours, not just their final days. Police and ADF personnel were at checkpoints on the border and people were sitting in caravans and cars to return home for months, and some were not able to get to education or health care or work. That continued for two years. I have conducted myself diligently for these people and with little respite. I worked with people at their worst moments.

I know I made a material difference; I still do. It was regularly 12- and 14-hour days—it sometimes still is—supporting people in their worst moments, when they have no-one else to turn to and when the government is the barrier to help. It is one of the most critical things I have ever done because it changes lives. I need every skill I have developed over a 25-year career to do this job. I was raised in regional New South Wales. I spent the majority of my 47 years in regional communities. I was raised to work hard and to make a difference. I do not easily step down from challenging, purposeful work. I bring to the public service expertise developed over a 25-year career in complex policy and engagement issues. I started my career in this building, working for the Hon. Doug Moppett, MLC. He was a man of dignity and service. I left here in 2003 to build a life and a career outside of Sydney.

I have delivered successful but difficult projects and brought people together to solve problems, even when they disagree. I nurture networks with people of all views. That is the person before you. I work with incredible, dedicated public servants who wish to do good work for this State and for the regions. I have seen what they do. That includes the small team I work with, who, in a harsh spotlight, have kept doing the work. I am so very proud of them and proud to be in their number. Their diligence grounds me. This is an undeniably sharp moment but my focus since I have started has been on the over 2.1 million people who are disadvantaged because they live on a border. They remain my focus. I'm happy to answer your questions.

The CHAIR: Thank you very much, Ms Watts. We will begin with questions from the Opposition.

The Hon. SCOTT FARLOW: Thank you, Ms Watts, for being here today. You outlined partly what your appointment process was, but when did you actually commence as the Cross-Border Assistant Commissioner?

EMMA WATTS: I believe it was on 29 January 2020.

The Hon. SCOTT FARLOW: So you have been in that role now for more than three years?

EMMA WATTS: Yes.

The Hon. SCOTT FARLOW: Who appointed you to the substantive role of Cross-Border Assistant Commissioner?

EMMA WATTS: I need to be clear, that was a temporary contract for six months.

The Hon. SCOTT FARLOW: So you were on a temporary contract from 29 January 2020 till around July 2020?

EMMA WATTS: It was 30 June. The secretary of the department I worked for—or the cluster, as it was then—Jim Betts, signed off on my contract.

The Hon. SCOTT FARLOW: So Jim Betts was the person who appointed you and signed the contract?

EMMA WATTS: He was not the hiring managing. He was the signature—

The Hon. SCOTT FARLOW: Who was your hiring manager for that role?

EMMA WATTS: James McTavish.

The Hon. SCOTT FARLOW: What was that process in terms of you being appointed to that final role or that substantive role thereabouts of July 2020?

EMMA WATTS: I wasn't appointed in a substantive role in July 2020. As a result of COVID-19 and the work that was going on because of border closures, my contract got an extension for a further six months, until about January 2021. Then in January 2021, because border communities were still having those issues—and bearing in mind that we were a team of four people, approximately—that got a further extension for 12 months. I wasn't appointed in a substantive and ongoing role until I believe it was 13 December 2021, after I had gone through an external comparative process.

The Hon. SCOTT FARLOW: There was an external comparative process that was undertaken in order for you to be appointed to that role finally?

EMMA WATTS: Yes.

The Hon. SCOTT FARLOW: Who conducted that process?

EMMA WATTS: It was conducted by—it was a role called director strategy and reform. I did that process—I applied for an advertised role in about March 2021. I believe it was conducted by the executive director economics in the department at the time.

The Hon. SCOTT FARLOW: Thank you. Since that time—actually, let's start from the beginning. What has been your role as the Cross-Border Assistant Commissioner?

EMMA WATTS: It has been largely a role—I think it's important to understand what we do in the Office of the Cross-Border Commissioner. We straddle this quite unusual role in a government, which is an advocate, much like other commissioner-type roles that exist within government in some spaces. We're an advocate for the communities and a conduit for those communities to access government in situations where cross-border communities find it difficult to navigate those two systems. I could any day be dealing with emergency management, domestic violence, school buses, wheelchair-accessible taxis—you name the ways that a person interacts with government and somebody who lives in a cross-border community, whether it's Queanbeyan, where I live, or Albury or Tweed Heads or Moama or Mungindi or Boggabilla-Toomelah. People have this experience of government that makes no sense to them. They don't really care who delivers the service; they just want the service delivered. So I work with those people.

Part of the job is working with government agencies. Often with government agencies, they say, "We can't do this, because it's policy," and you dig into the policy and you discover actually there's no barrier to actually change, except for precedent. So we work with government agencies, who are often really receptive to trying to improve outcomes for people. Then we work with other jurisdictions to find out if there's ways that we can smooth the pathways. The Federation creates some challenges—we all know that—but there are ways that you can smooth pathways for people.

On a day-to-day basis, in those first two years, it was permits for people getting across borders. It was talking to other governments about it. At one stage in time, if you lived in Albury-Wodonga, you might've needed six permits in a day to just cross the border, to take your kids to school, to go to work, to get food and groceries, which makes no sense to anyone. All jurisdictions got better at that stuff over the two years, but it was still quite complicated. If you had more complicated circumstances, it could be more difficult to cross the border. We worked with families who had no-one else to turn to.

We'll all appreciate that everyone was doing their best during that time, but some of the systems were hard to navigate, and we were the people who people came to. For most of the border closures, it was probably 4½, five of us in the team, servicing 2.1 million people who live on our borders. So we were very grateful for some of the support we got from within the department from people, but we saw people in some of their worst days, and

the people who come to us now are also some of the people that come to us in their worst days, not because government or people in government don't want to help, but it's hard to help.

The Hon. SCOTT FARLOW: So we've established how you came to the role and what you've done in the role. Now, the reason you're here of course is because you are a member—actually, I should ask this question: Are you a member of the National Party?

EMMA WATTS: I am.

The Hon. SCOTT FARLOW: And you've been a member of the National Party for some time?

EMMA WATTS: The passage of time suggests I won't be able to remember exactly when I became a member of the National Party.

The Hon. SCOTT FARLOW: It wasn't something you did while you came to the role.

EMMA WATTS: It has been—yes.

The Hon. SCOTT FARLOW: In terms of your membership, did you make your employer aware of your membership of the National Party when you applied for the role?

EMMA WATTS: Absolutely.

The Hon. SCOTT FARLOW: At any point in time have you felt that your volunteer roles within the National Party have prejudiced you towards the members of parliaments or constituents that you deal with in your role as the Cross-Border Assistant Commissioner?

EMMA WATTS: Absolutely not, and I've been in this role for 3½ years. I have never hidden—I mean, it's public knowledge. You only have to google me to find out. It's public knowledge. We meet regularly with cross-border MPs of all persuasions. I'm well known to most of them. I think most of them would suggest that, in very difficult times, I have done my very best to support all of them regardless of who they are or where they come from, and I have really valued collegial and respectful relationships with them and their staff.

The Hon. SCOTT FARLOW: And cross-border MPs aren't only members of the National Party; you've got Liberals, you've got Independents, you've got Labor members.

EMMA WATTS: I think it's pretty evenly split between Labor, Independent or crossbench, and Liberal and National MPs.

The Hon. SCOTT FARLOW: In terms of that role, what sort of relations have you had with MPs across the board and what are some of the things you've done in those roles?

EMMA WATTS: I'm trying to be careful, because some of the issues that we deal with are people's lives. So on our northern border, school buses—just making sure there's a bus. It sounds like a small thing, but if you're a family in a regional community and you need to go to work, your kids still need to catch the bus to school. So I have worked with Labor members on those issues. All members, regardless of who they were during border closures—and in particular, say, for example if you're thinking about the electorate of Barwon, it had to deal with the Queensland, South Australian and Victorian border closures. So I had a very respectful and collegial working relationship with particularly those in Broken Hill, which I really value, and I think we came to a group, particularly with MPs' staff of all persuasions—they knew they could come to me when they needed help, and I hope they felt that way. I still, to the best of our ability, try and do that.

The Hon. SCOTT FARLOW: Ms Watts, in terms of the advertised role that you applied for in about March 2021, who were your referees for that role?

EMMA WATTS: I believe—I would like to be able to check with two of them.

The Hon. SCOTT FARLOW: You can take it on notice.

EMMA WATTS: Yes. I'm happy to provide that. I can confirm that one of them is—none of them have a relationship with the National Party, and they're all executives of some standing.

The Hon. SCOTT FARLOW: Ms Watts, your role as the Cross-Border Assistant Commissioner—what would that rank be in a public service sense?

EMMA WATTS: I'm an SES band 1, which is as low as you can get as an SES.

The Hon. SCOTT FARLOW: And it's a director level across the public service. Is that effectively right?

EMMA WATTS: Yes.

The Hon. BRONNIE TAYLOR: Thank you very much, Ms Watts. Great to see you, as always. Have you had any contact with the Minister's office—that would be your Minister—as a welfare check after what appeared in *The Daily Telegraph* in the article on 23 August?

EMMA WATTS: To the best of my knowledge, I've never met the Minister, and I've had no contact from the Minister.

The Hon. BRONNIE TAYLOR: Right. You've had no contact from your Minister in your department after a derogatory article appeared about you in *The Daily Telegraph* on 23 August. That's correct?

EMMA WATTS: That's right.

The Hon. BRONNIE TAYLOR: Thank you, Ms Watts. As a very long-serving public servant who worked all during COVID-19 for members on all sides of politics, how did it make you feel seeing those articles in *The Daily Telegraph* on 23 August that contained personal information? How did that make you feel? Could you share that with the Committee, please?

The Hon. Dr SARAH KAINE: Point of order, Chair.

The CHAIR: I'll hear the point of order.

The Hon. BRONNIE TAYLOR: This will be good.

The Hon. WES FANG: What's your point of order?

The Hon. Dr SARAH KAINE: The point of order is we're looking as I thought in the terms of reference about the appointment—

The Hon. WES FANG: "Any other related matter." Move on; you're wasting our time.

The Hon. Dr SARAH KAINE: —of Ms Watts to the position—

The Hon. WES FANG: You want to dig up—

The CHAIR: Order!

The Hon. Dr SARAH KAINE: —not subsequent commentary—

The Hon. WES FANG: Don't waste our time.

The Hon. Dr SARAH KAINE: —in who knows where.

The Hon. WES FANG: Don't waste our time.

The Hon. Dr SARAH KAINE: I don't think it's a sensible line of questioning.

The Hon. BRONNIE TAYLOR: To the point of order, if I may, Chair: This is directly relevant to why we are here. The Government knows that. It's really important that when they're going to call committees like this and call people that those things are here. This has never been seen before with a Minister leaking on a public servant. It's directly relevant.

The CHAIR: I think I've heard enough on the point of order, and your time is running out. I will allow the—

The Hon. WES FANG: And it's interesting coming from the member who wasn't a public servant.

The CHAIR: Okay.

The Hon. Dr SARAH KAINE: It's the member who suggested that the public servants don't appear, and you didn't support that, Wes.

The CHAIR: Order!

The Hon. WES FANG: I've got your donations.

The Hon. Dr SARAH KAINE: You didn't support it.

The Hon. WES FANG: I've got your ALP donations as a public servant, so be careful.

The Hon. Dr SARAH KAINE: You go there.

The Hon. BRONNIE TAYLOR: We will, unfortunately.

The Hon. WES FANG: We will.

The Hon. Dr SARAH KAINE: Yes, I know you will.

The CHAIR: Members, if we carry on like this, I'm going to be a lot less generous.

The Hon. Dr SARAH KAINE: My apologies, Chair.

The Hon. BRONNIE TAYLOR: May I please seek an answer to my question?

The CHAIR: You may. Please go ahead.

The Hon. BRONNIE TAYLOR: Ms Watts, again, may I say to you: How did that make you feel, seeing an article in *The Daily Telegraph* about you and subsequently on the Minister's Facebook page?

EMMA WATTS: As I've sort of indicated to everyone, to the best of my ability I've worked on behalf of a group of vulnerable people for over 3½ years. Whilst I can't possibly know how information got out, and as a public servant I'm not able to address what's said about me, it does feel at times like a poor reward for public service. But I accept that transparency about how an agency might operate is valuable things to ask. It's challenging as an individual to be subject to that. I have really valuable, important work to do for people. I think any reasonable person would say that focusing on that is difficult in those moments. I'm disappointed on the impact it's had on others around me. I've very much valued the support I have received from people. I'm disappointed that people I largely respect have been brought into something that is not of our making, I guess. It's a difficult question. I'm a human being sitting in front of you as well as a public servant. I'm trying to be respectful of this process as well as be honest in my answer.

The Hon. BRONNIE TAYLOR: Thank you.

The Hon. WES FANG: I think you've been clear that you've—

The Hon. MARK BUTTIGIEG: With all due respect, Chair, this is ridiculous now.

The CHAIR: Order!

The Hon. MARK BUTTIGIEG: We've eaten into our time—

The CHAIR: Order! We're moving on.

The Hon. MARK BUTTIGIEG: —and the participating member wishes to extend the time again. It's a clear tactic. I ask that you extend our time.

The Hon. BRONNIE TAYLOR: There's no tactic.

The CHAIR: Order! It's actually my time. If we could just take a breath and retain our respectability in this Committee, that would be great. It's early on in the day. Ms Watts, thank you. For the record, I have not heard a bad thing said about you by anybody who I know who has worked with you, and I'm certainly not interested in looking at your performance in the role. I am interested, though, in the appointment process and getting a better understanding of that. Can you talk me through then—29 January was when you commenced in that temporary role.

EMMA WATTS: Yes.

The CHAIR: Can you just clarify how that role came to your attention and what the process for that was?

EMMA WATTS: Since questions have started to be asked, I have really struggled to remember how it came to my attention. I know that I was at the time having a lot of conversations—I had worked for about 15 or 16 years in energy and climate change policy, and you can imagine that anybody who's done that in this country was a bit tired in 2018. I had done some really incredible work. I wanted to do purposeful work. I was having a range of conversations with my networks across the energy sector, government, a range of other not-for-profit organisations and I was handing my CV—I was doing consulting work for not-for-profits and some contracting work as I took a rest, and I was talking to a range of people about opportunities.

I was handing my CV out a fair bit and exploring those things. I had had some conversations. I knew of people that I highly regarded who were doing valuable work in government. I thought that might be an opportunity, and I had some conversations with people. I was connected with Mr McTavish—he was a busy man—and I had a conversation with him about a role around September 2019. It wasn't available. Then we subsequently reconnected in about November 2019 and I did an interview with him and another person in December 2019.

The CHAIR: When you were handing your CV around, presumably it ended up in the hands of some Nationals MPs.

EMMA WATTS: Yes.

The CHAIR: Which Nationals MPs did you give it to? Do you recall?

EMMA WATTS: I don't know that I gave my CV to Nationals MPs. Because, to be perfectly honest, I don't think they—you know, they're busy people. I think I gave it to people in my networks who were ministerial staff. I didn't give it to—I don't believe I gave it to MPs. I may have, but I don't recall giving it to MPs.

The CHAIR: Can you recall then which ministerial staff or staff of Nationals MPs that you gave it to?

EMMA WATTS: I couldn't give you a complete list. It's now a matter of public record that the former Deputy Premier's chief of staff had it and the former water Minister's chief of staff had it.

The CHAIR: It's been reported, yes, that they had it and they handed it on.

EMMA WATTS: Yes.

The CHAIR: Did they let you know when they handed it on?

EMMA WATTS: I don't recall. I don't think so.

The CHAIR: I'm going to pause there because I'd like to hear from Government members before I ask more questions. We'll close my time off and then we'll go to the Government's time.

The Hon. Dr SARAH KAINE: Thank you, Ms Watts, for appearing today. I have a couple of follow-up questions. You've said that you were put in connection with Mr McTavish. Who made that connection?

EMMA WATTS: I think I got a phone number from another person in the department.

The Hon. Dr SARAH KAINE: You initiated that, did you?

EMMA WATTS: I called Mr McTavish—well, I sent him a text message. It was hard to get him on the phone.

The Hon. Dr SARAH KAINE: And that was in?

EMMA WATTS: September 2019.

The Hon. Dr SARAH KAINE: But in July and August we now know that the chiefs of staff of two Nationals Ministers sent your CV to Mr McTavish—or at least to his department?

EMMA WATTS: That's what I understand to be the case now.

The Hon. Dr SARAH KAINE: So he's had, potentially, some contact about you prior to you being in contact with him?

EMMA WATTS: You'll have to ask Mr McTavish that.

The Hon. Dr SARAH KAINE: I will. How did you become aware of the role of Cross-Border Assistant Commissioner?

EMMA WATTS: It is really four years ago. I knew from my networks—so I was aware of the commissioner. I was aware of the regard in which he was held in lots of quarters. I was aware that he was doing this role of—

The Hon. Dr SARAH KAINE: Sorry, Ms Watts, if I could just direct you. I am asking about the Cross-Border Assistant Commissioner role.

The Hon. WES FANG: Point of order—

EMMA WATTS: It is relevant, I'm sorry.

The CHAIR: I will hear the point of order.

The Hon. WES FANG: Ms Kaine may be new, but she should well know that when a member is answering a question—

The Hon. Dr SARAH KAINE: Wes, did you watch yesterday?

The CHAIR: Order!

The Hon. WES FANG: You should know better than that.

The CHAIR: Order! Direct your questions and comments through me. In relation to the point of order—let's get this one out of the way nice and early—we will allow time for witnesses to answer questions.

EMMA WATTS: I was aware that the commissioner had a heavy workload due to his role as town water security coordinator and that there were probably opportunities to work with him. I didn't know it was as Cross-Border Assistant Commissioner; I had no idea about that. When I spoke to him in September I talked to him about what the opportunity was, which is what you would ordinarily do.

The Hon. Dr SARAH KAINE: Because there wasn't a Cross-Border Assistant Commissioner then, was there?

EMMA WATTS: No, there wasn't.

The Hon. Dr SARAH KAINE: So how did you apply for a role that didn't exist yet?

The Hon. BRONNIE TAYLOR: It was a contract.

EMMA WATTS: How did I apply for a role?

The Hon. Dr SARAH KAINE: How did you apply? What was the process?

EMMA WATTS: I spoke to the commissioner about what opportunities were in his office. He had my CV. It was a contract role; it was a temporary contract role. I went through the process. I can't speak to the process that internally happens because I'm the person outside. I spoke to the commissioner about what the opportunity was and what process I had to go through. He invited me to go to an interview; I attended an interview.

The Hon. Dr SARAH KAINE: So the commissioner invited you to an interview.

The Hon. MARK BUTTIGIEG: Can I just wind back a little bit in terms of this CV?

EMMA WATTS: Yes.

The Hon. MARK BUTTIGIEG: So the CVs arrived at the Ministers' offices in July and August, respectively, of 2019. Does that sound correct?

EMMA WATTS: They would have had my CVs before that because I was doing work in Minister Pavey's office.

The Hon. MARK BUTTIGIEG: So what was the solicitation of the CV? How did you come to give the CV? Are you saying that the CV was pre-existing there by virtue of your original employment in Pavey's office?

EMMA WATTS: No, I was talking to people about whatever opportunities to serve. I live in Queanbeyan; I don't want to live in Sydney. I was doing a short-term contract in Sydney to provide some backfill as ministerial offices were—I'm a mature and experienced person and I had made it very clear that I wasn't interested in staying on, but I had indicated that I was interested in opportunities serving regional people.

The Hon. MARK BUTTIGIEG: So it was an open-ended proposition at that stage. There were no direct conversations about a potential role?

EMMA WATTS: No.

The Hon. Dr SARAH KAINE: Sorry, could I just ask—speaking of the Minister's office—what was your role in Minister Pavey's office?

EMMA WATTS: I was an adviser who was filling any number of roles as a ministerial team was being staffed up.

The Hon. Dr SARAH KAINE: And had you also worked for John Barilaro?

EMMA WATTS: No.

The Hon. Dr SARAH KAINE: Had you been campaign manager for John Barilaro?

EMMA WATTS: I had; in 2011.

The Hon. WES FANG: Pretty successfully.

The Hon. Dr SARAH KAINE: Ms Watts, you mentioned—

The Hon. SCOTT FARLOW: Was that a paid or voluntary position?

EMMA WATTS: Voluntary.

The Hon. WES FANG: Smashed Whan.

The Hon. Dr SARAH KAINE: Excuse me, is this our question time?

The CHAIR: Yes. Order!

The Hon. Dr SARAH KAINE: Ms Watts, you mentioned that you're a member of The Nationals. That's not really all of it, is it? I mean, you're not just your normal card-carrying member of the National Party. Currently—

The Hon. WES FANG: We are all pretty talented.

The Hon. Dr SARAH KAINE: So if you could describe the level of involvement you have with the National Party and perhaps your—

The Hon. BRONNIE TAYLOR: Point of order—

The Hon. WES FANG: You want to talk about involvement with political parties?

The CHAIR: I will hear the point of order.

The Hon. BRONNIE TAYLOR: Chair, I understand the line of questioning, but I don't know what a normal National Party—

The Hon. Dr SARAH KAINE: No, I don't either.

The CHAIR: Order!

The Hon. Dr SARAH KAINE: I withdraw that.

The Hon. BRONNIE TAYLOR: Set the tone.

The CHAIR: Order! Please go ahead.

The Hon. Dr SARAH KAINE: Ms Watts, what is your role in the National Party, what positions have you held and what positions did you hold prior to your appointment—so your current positions and your former positions?

EMMA WATTS: I am presently the secretary of the Federal Nationals. For the clarity of the Committee, secretary of the Federal Nationals is not like national secretary of the ALP. It's voluntary, it's unpaid and it largely deals with matters of governance. I call the roll at Federal conference and I sit on the Federal management committee. For the benefit of everyone, the Federal party has no power to direct the State party. There is quite a delineation there. It is a voluntary role. I appreciate that it looks good. And it is also, for the benefit of everyone, a role that I'm retiring from in a week's time for reasons that are unrelated to this.

The Hon. MARK BUTTIGIEG: Is it an elected role?

EMMA WATTS: Yes.

The Hon. MARK BUTTIGIEG: The National Party is not a small party. It's not as big as the Liberal Party or the Labor Party, but it's not a small party. It is quite a competitive process. It's a sought-after position, right?

EMMA WATTS: I had a competitive—

The Hon. BRONNIE TAYLOR: You'd be surprised.

The Hon. SCOTT FARLOW: Not many people put their hand up for secretary, in my experience.

EMMA WATTS: It's not the role that everyone wants. My first election as secretary was contested. It has been uncontested since.

The Hon. Dr SARAH KAINE: Thank you for the characterisation of the role. You're very connected to many past and current members of the National Party, aren't you? You've been mentioned in dispatches on multiple occasions as being pivotal to the careers of many of the people who are currently here or have recently retired, including Melinda Pavey and John Barilaro.

EMMA WATTS: Nobody knows me in this room—well, a few people do—but I'm connected with people of all parties because that's the kind of person I am. However—and I'll answer the question—the National Party is actually a small party, so we do know each other, but I am also mentioned in dispatches by former agriculture Minister Amery for my work on the Water Management Bill 2000, which is about 1,000 years ago for all of us. So, yes, I am.

The Hon. Dr SARAH KAINE: Have you made donations to the National Party?

EMMA WATTS: I have. Just by virtue of being a member of the National Party you make donations, because your membership fee is a donation.

The Hon. BRONNIE TAYLOR: You should understand that, Sarah.

The Hon. Dr SARAH KAINE: Do you recall how much money you gave to the National Party in 2018, leading into the 2019 election?

EMMA WATTS: I think it was in the order of—for everybody's benefit, I was travelling yesterday when it became apparent that these questions might get answered. But it's just under \$4,000, I believe. I'm happy to provide—

The Hon. MARK BUTTIGIEG: Surely, that's not membership fees—\$4,000. Jeez, no-one would join!

EMMA WATTS: No, it's not. It's dinners and other things.

The Hon. MARK BUTTIGIEG: That's a significant amount of money, given the evidence we heard yesterday from the other inquiry.

EMMA WATTS: Sure.

The Hon. BRONNIE TAYLOR: So is the rate of the position.

The Hon. SCOTT FARLOW: Exactly. It's about a third of the pay.

The Hon. MARK BUTTIGIEG: So \$4,000. Any other donations on top of that?

EMMA WATTS: I'm confident there are. I'm happy to provide that information on notice.

The Hon. Dr SARAH KAINE: Given that you are politically involved and politically active and aware, and given that you would've been aware of what happened yesterday, doesn't the \$4,000 and other donations that you would've made create a potential conflict when Ministers are sending your CV out—Ministers like John Barilaro, who has been notorious for putting pressure on public servants to create positions?

The Hon. WES FANG: Point of order: The member did not indicate that John Barilaro sent—putting questions like that and putting words in the member's mouth is pretty low in this instance. I would ask you to rephrase the question.

The CHAIR: Points of order are not to be used for editorialising and commenting on what is going on. If we could all be a bit more restrained and allow the questions and answers to flow, that would be much appreciated. Please go ahead.

EMMA WATTS: Do you mind repeating the question, please?

The Hon. Dr SARAH KAINE: Given yesterday, and given that you would be aware of the goings-on and controversies around political donation and the prosecution of the argument of conflicts of interest, aren't the donations in excess of \$4,000 relatively soon before your CV is sent around the place by National Party Ministers—isn't there some conflict there that needs to be considered?

EMMA WATTS: So I don't believe that past 2018 I have done anything in excess of \$4,000.

The Hon. WES FANG: Point of order—

The Hon. Dr SARAH KAINE: Sorry, could just I ask a follow-up question? So there would be amounts less than \$4,000.

The CHAIR: Order! Dr Kaine, unfortunately, a point of order has been called and I need to listen to it.

The Hon. WES FANG: It's just the same point of order I made last time, which is that Ms Watts was trying to answer the question. She had literally started halfway through about five words and then was interrupted.

The CHAIR: I uphold the point of order.

EMMA WATTS: I made those donations as a private citizen and I can't speak for that line of questioning.

The Hon. Dr SARAH KAINE: As did Josh Murray.

The Hon. WES FANG: We're not talking about Josh Murray. Otherwise we'll start talking about your donations—\$13,050 as a DPC member.

The CHAIR: Order! Mr Fang. We're going back to questions from the Opposition.

The Hon. SCOTT FARLOW: I'll pick up on that line of inquiry there. Ms Watts, earlier you told us that your role is at the SES 1 level, the director level.

EMMA WATTS: That's right.

The Hon. SCOTT FARLOW: Your employment—your hiring manager was Mr McTavish.

EMMA WATTS: Yes.

The Hon. SCOTT FARLOW: And the final determinant on your position was the executive director of economics. Is that correct?

EMMA WATTS: I would have to take that on notice.

The Hon. SCOTT FARLOW: But somebody of the equivalent band within the department.

EMMA WATTS: Yes.

The Hon. SCOTT FARLOW: I take it you made no donations to Mr McTavish?

EMMA WATTS: No.

The Hon. SCOTT FARLOW: I take it you made no donations to the executive director of economics?

EMMA WATTS: No.

The Hon. SCOTT FARLOW: I take it that this is an appointment which was made via the public service?

EMMA WATTS: Yes.

The Hon. SCOTT FARLOW: You had no political stakeholders that made a decision on your appointment.

EMMA WATTS: No.

The Hon. SCOTT FARLOW: No member of the National Party made a decision on your employment.

EMMA WATTS: I don't know the membership of any of the people of the panel.

The Hon. SCOTT FARLOW: So unlike a secretary role which, of course, we've heard is the gift, effectively, of a Minister, to be able to choose their secretary and to be able to choose somebody that they believe will suit them, there is no such case with Mr McTavish, where a donation was made, and there is no such case with the executive director role who made the final determination on your appointment.

EMMA WATTS: No. Let me be clear: The executive director did not appoint me. He put me in a talent pool as part of a comparative recruitment process.

The Hon. BRONNIE TAYLOR: Ms Watts, I just want to go back to something that I read in the article in *The Daily Telegraph*. It is that there's a review of the Office of the Cross-Border Commissioner that's occurring. Are you aware of that review?

EMMA WATTS: I'm aware that across government there are lots of discussions being held about programs.

The Hon. BRONNIE TAYLOR: Can I clarify that? Has the Office of the Cross-Border Commissioner been told that the Minister is doing a review into them, as was said in *The Daily Telegraph* on 23 August?

The Hon. PETER PRIMROSE: Point of order: I think that it may be the case that the member as a public servant is being asked to give information that probably is inappropriate in that role and certainly outside the standing orders relating to the terms of reference for this inquiry.

The Hon. BRONNIE TAYLOR: To the point of order: It is one for me to argue with the Hon. Peter Primrose, who has been here a lot longer than me, but this is directly relevant to the terms of reference and the line of questioning because it establishes whether this was something that we will conclude to later today. But it is directly relevant because it relates to the fact that there's obviously been leaking against a public servant by a Minister, and that's why we're sitting here today.

The Hon. PETER PRIMROSE: Further to the point of order: May I say that my argument—and I'll finish up on this, I won't take the member's time—I think it's inappropriate for us to be asking questions of a public servant that relate to current matters occurring within that portfolio.

The Hon. BRONNIE TAYLOR: Well, if we felt like that, we—

The CHAIR: I will rule on the point of order. I don't need to hear anymore. I will remind the witness that to the extent that you feel it is inappropriate or you're unable to answer the question, please just say so. The questioning does appear to be slightly outside of the terms of reference, but I will allow it to continue.

The Hon. BRONNIE TAYLOR: Just a simple yes or no, Ms Watts: Do you formally know that there is a review, as was publicly stated in *The Daily Telegraph*?

EMMA WATTS: I'll have to take that on notice, and I'll provide some information later.

The Hon. BRONNIE TAYLOR: That's fine. Ms Watts, recently in the Chamber in Parliament the Minister for Regional New South Wales, who you sit under, said that they were going to check on the welfare of a public servant who was named in the Chamber. That was done, as I understand, on the day, according to the *Hansard*. Again, for the Committee, you have never been contacted by the Minister's office on your welfare after this appeared in the newspaper?

EMMA WATTS: Not personally, no.

The Hon. WES FANG: Anybody from the Minister's office?

EMMA WATTS: No.

The Hon. WES FANG: Not the chief of staff?

EMMA WATTS: No.

The Hon. WES FANG: No member from the Minister or the Minister's office has inquired as to your welfare after those articles were published?

EMMA WATTS: I can't speak to if they've asked others about my welfare.

The Hon. BRONNIE TAYLOR: Ms Watts, just further on that, have you been contacted by the media to comment on those articles?

EMMA WATTS: I have been.

The Hon. BRONNIE TAYLOR: And have you commented?

EMMA WATTS: I can't, as a member of the public service under the Code of Ethics and Conduct.

The Hon. WES FANG: So you're not actually able to mount a defence of yourself, are you?

EMMA WATTS: No. But I don't know how useful that would be.

The Hon. WES FANG: In effect, not only have there been these articles published about you but also there is a power imbalance. Where there has been information that's been put forward, you're really bound by the public service restraints to not comment or not defend yourself in relation to what's been given to the media.

EMMA WATTS: I think that will have to be the assessment of others. I don't think I can comment on that.

The Hon. BRONNIE TAYLOR: Ms Watts, could you tell us, for the benefit of the Committee and just to get the context: Have you enjoyed your job as the Cross-Border Assistant Commissioner? Do you feel valued within your workplace?

EMMA WATTS: I love my job. This is the best thing I've ever done, really. I could not have imagined what it would've been like, to be honest. Anyone in different roles like this—and I know there's lots of people who do really valuable work in New South Wales government, and people in this building who do really valuable work and they love their job because they get to serve others. That is the value for me. This literally is the best thing I have ever done. Do I feel valued? I feel valued by the people who have contacted me in the past four weeks to tell me how much they've valued what I've done for them. I feel valued by the people I work with who understood what I did and have shown me so many kindnesses over the past four weeks. It's really up to others to determine. I kind of work on the theory that I define myself; I don't get defined by others.

The Hon. BRONNIE TAYLOR: Ms Watts, would you be able to share with the Committee—and I completely understand if you don't—whether there has ever been a complaint raised against you for your conduct, your work or your professionalism within your role as the Cross-Border Assistant Commissioner in New South Wales?

EMMA WATTS: To the best of my knowledge, no.

The CHAIR: Reflecting on your position as the—is it the national secretary of the Federal Nationals?

EMMA WATTS: It's the secretary of the Federal Nationals.

The CHAIR: Right. Your position sounds very similar to a position I held in The Greens: not very well contested because it's a lot of work for not a lot of—well, for no financial reward, but you do it because that's your way of giving back to your party. It's interesting to hear that similarity. Our office bearers are much loved—and I'm sure that yours probably are as well—and we would do a lot of things to help, whether it's giving an office bearer in our party somewhere to stay when they're travelling or whatever it is. Is it a similar sort of vibe in your party?

EMMA WATTS: In terms of being a supportive, collegial environment?

The CHAIR: Yes.

EMMA WATTS: Yes—most days! You're all members of political parties here. You know how it is.

The CHAIR: Yes. And although you're not getting paid, you do build contacts. For example, when I was national secretary, I got to have the mobile numbers of all of the MPs and things like that. You would acknowledge there is a level of contact and social capital that you build in that role?

EMMA WATTS: Yes. However, I would suspect I've got—I use the phone numbers more of normal members rather than MPs.

The CHAIR: Yes.

EMMA WATTS: Normal members are really valuable and I really enjoy their company, and I spend a lot of time with them rather than MPs, to be honest.

The CHAIR: Maybe that's a key difference because we put our MPs lower than our members. Sorry, I'm going on a slight tangent, but I'm trying to just understand—

The Hon. BRONNIE TAYLOR: I'll have to take a point of order, Chair.

The Hon. SCOTT FARLOW: She ruled against herself the other day.

The CHAIR: I guess the accusation that's being built, from my understanding of the questions that have been put by the Government members and what I have read, is that effectively your position was created for you. It was a role that was created with you in mind, that you were then brought in to fill. Can you just directly address that?

EMMA WATTS: I had nothing to do with the creation of the role. I couldn't have possibly known what was going on within the department at that time.

The CHAIR: You said earlier that you had spoken with Mr McTavish about a potential role.

EMMA WATTS: Yes, but I didn't know what that role was.

The CHAIR: Did this role of Cross-Border Assistant Commissioner exist at the time that you were having those discussions?

EMMA WATTS: I don't believe so.

The CHAIR: From everything that you observed, is it possible that you were identified as a good person to have on board, somebody who could do the job well and then a role was created with you in mind?

EMMA WATTS: I don't think so.

The CHAIR: Okay. I'm still not quite sure where we're going with this, so I will pass back to Government members.

The Hon. MARK BUTTIGIEG: Thanks, Chair. I just want to explore, Ms Watts, the donation business again.

EMMA WATTS: Sure.

The Hon. MARK BUTTIGIEG: So, definitely, the \$4,000 you recall?

EMMA WATTS: It wasn't \$4,000. It was under \$4,000—it was \$3,945.

The Hon. WES FANG: Look at you, with your accurate numbers.

The Hon. MARK BUTTIGIEG: That's pretty close—55 bucks off. Beyond that, do you have any recollection of further donations? I just want to get this on the record.

EMMA WATTS: Since 2018?

The Hon. MARK BUTTIGIEG: Yes.

EMMA WATTS: There are bound to be and, I am sorry, I haven't been able to get my records—

The Hon. MARK BUTTIGIEG: Do you think it would run into the thousands? So if this was a \$4,000 base level—

EMMA WATTS: In the past four years?

The Hon. MARK BUTTIGIEG: Yes.

EMMA WATTS: I don't know. I'll have to take that on notice.

The Hon. MARK BUTTIGIEG: Okay. In terms of this subsequent appointment with the Cross-Border Commissioner, did you declare those donations?

EMMA WATTS: It wouldn't have even occurred to me. I had declared that I was a member of the National Party.

The Hon. MARK BUTTIGIEG: Sorry, Ms Watts, does that strike you as a little bit unusual, having been involved in politics, the national secretary of a party responsible for governance and administration—

EMMA WATTS: Sure.

The Hon. MARK BUTTIGIEG: —and yet you don't declare significant donations that could be perceived as a conflict for employment?

EMMA WATTS: I've gone for a lot of jobs over a 25-year career and never disclosed my financial information.

The Hon. Dr SARAH KAINE: Have they been in the public sector?

EMMA WATTS: No.

The Hon. Dr SARAH KAINE: Okay. So you haven't been in a senior executive role in the public sector?

EMMA WATTS: It was a contract that I was applying for; it was kind of being discussed. It, seriously, would never have occurred to me to disclose financial information in an interview.

The Hon. MARK BUTTIGIEG: I don't mean to sound condescending—it's not meant to be like that—but it sounds a little bit naive?

EMMA WATTS: On reflection, it is.

The Hon. MARK BUTTIGIEG: Yes.

EMMA WATTS: On reflection, I—but it wouldn't have occurred to me.

The Hon. MARK BUTTIGIEG: Would it be fair to say that, in hindsight, it would have been better to declare it? You just said, "on reflection"?

EMMA WATTS: Yes, on reflection, it feels naive. I guess, notwithstanding me personally, I do wonder about asking public servants, whoever they are, to declare that information in an interview that is a conversation in the first instance and what we're trying—I mean, I would value understanding what we're trying to achieve by making that declaration.

The Hon. MARK BUTTIGIEG: Well, you see, there's a requirement to declare both actual and perceived conflicts of interest.

EMMA WATTS: Of course, but not in the interview process.

The Hon. MARK BUTTIGIEG: In fact, this was the subject matter of a lot of yesterday's hearing, and we're talking about bigger sums of money now. Can I ask you, Ms Watts—

The Hon. BRONNIE TAYLOR: That's talking about a different position—secretary—for goodness sake.

The Hon. SCOTT FARLOW: We're talking about a much lower role, appointed in a different way.

The Hon. MARK BUTTIGIEG: Well, whilst we're on those interjections, Ms Watts, what remuneration does the role pay?

EMMA WATTS: Look, I'll have to confirm that, but it's—I'm a band 1.

The Hon. MARK BUTTIGIEG: You don't know what you get paid?

EMMA WATTS: I do. It's in the order of \$218,000 a year. I'll have to confirm the exact number.

The Hon. MARK BUTTIGIEG: That's more than most people in society get remunerated, isn't it?

The Hon. SCOTT FARLOW: It's a third of Josh Murray.

The Hon. MARK BUTTIGIEG: Do you agree with the interjection that it is an insignificant amount of money?

The Hon. SCOTT FARLOW: No. It's more than what I get paid, too.

The Hon. WES FANG: That's not the interjection. Now you're putting words in—

The CHAIR: Order!

The Hon. MARK BUTTIGIEG: No. I'm just trying to elicit whether or not you think it—

EMMA WATTS: I think it's a—

The Hon. BRONNIE TAYLOR: You're trying to compare it to Josh Murray. It's outrageous. You guys, really, you have no morals.

The CHAIR: Order!

The Hon. MARK BUTTIGIEG: All right. Let's just move on and let's just accept—

The Hon. WES FANG: I pity you guys being stuck doing this.

The Hon. MARK BUTTIGIEG: —that \$218,000 is not bad coin. When did you first meet Mr Barilaro?

EMMA WATTS: I think it may have been in 2009 or 2010.

The Hon. MARK BUTTIGIEG: So you've known him for a long time.

EMMA WATTS: Yes.

The Hon. MARK BUTTIGIEG: And his chief of staff, Mark Connell?

EMMA WATTS: I would have met the former chief of staff perhaps in 2018.

The Hon. Dr SARAH KAINE: John Barilaro was one of the ones who gave you a shout-out in his valedictory, so how would you describe the nature of that relationship? Are you friends?

EMMA WATTS: How is it described? We are more than acquaintances. I consider my friends to be people I call every day and seek counsel from.

The Hon. Dr SARAH KAINE: How often would you speak with John Barilaro and how often have you spoken with him, say, in the past year? In fact, actually, let's narrow that question down. Did you speak with him in the lead-up to the appointment as assistant commissioner?

EMMA WATTS: I was working, in 2019—I live in Queanbeyan, so—I couldn't tell you. I would have spoken to him but I don't know that I particularly engaged on that conversation.

The Hon. MARK BUTTIGIEG: You don't know, or you—

EMMA WATTS: I couldn't tell you. It's 2019.

The Hon. MARK BUTTIGIEG: So you don't have any recollection of conversations about subsequent appointments with Mr Barilaro or his COS?

EMMA WATTS: Sorry, what's the question?

The Hon. MARK BUTTIGIEG: The question is very straightforward: Do you have any recollection about conversations for potential employment, with either Mr Barilaro or his chief of staff?

EMMA WATTS: I had conversations about what opportunities might be around and how to go about the process.

The Hon. BRONNIE TAYLOR: Normal conversations.

The Hon. MARK BUTTIGIEG: So there were conversations. What about Minister Pavey? What's your relationship with her?

EMMA WATTS: I worked for Minister Pavey when she first became a member of Parliament in the upper House in, I'm going to say, 2001, but I may be wrong.

The Hon. MARK BUTTIGIEG: And what about the chief of staff McCormack?

EMMA WATTS: I've known Mr McCormack since 2011.

The Hon. Dr SARAH KAINE: In preparing for being here today, did you speak with any current or former Opposition members of Parliament about the inquiry?

EMMA WATTS: I have had phone calls as to my wellbeing. I haven't spoken to them about my testimony or anything.

The Hon. Dr SARAH KAINE: Sorry, when you say "them", who have you spoken with?

EMMA WATTS: Current and former MPs?

The Hon. Dr SARAH KAINE: Yes. Could you list them, please?

EMMA WATTS: I'll have to give you a list.

The Hon. PETER PRIMROSE: Can you recall any that you've spoken to?

EMMA WATTS: Well, Mr Barilaro called me last week inquiring as to my wellbeing. Mr Barilaro and I had not spoken to each other for at least 18 months until there was some engagement within some, let's call us old-timers, in the Queanbeyan branch about the death of a stalwart in our party, and that was two weeks ago.

The Hon. Dr SARAH KAINE: And any current MPs?

EMMA WATTS: Yes.

The Hon. Dr SARAH KAINE: Could you name any of them?

EMMA WATTS: I think I'm uncomfortable naming them in—

The Hon. WES FANG: That's fine.

EMMA WATTS: I'm happy to provide that list but—

The Hon. PETER PRIMROSE: You're not comfortable naming them?

EMMA WATTS: Well—

The Hon. Dr SARAH KAINE: Why aren't you comfortable naming them?

EMMA WATTS: Well, I am naming a bunch of people and I'm going to probably get the list wrong.

The Hon. MARK BUTTIGIEG: Were you coached by anyone for today?

EMMA WATTS: No.

The Hon. MARK BUTTIGIEG: What's your relationship with Bronnie Taylor?

EMMA WATTS: Bronnie and I have known each other for 13 years and we have a good personal relationship.

The Hon. BRONNIE TAYLOR: Emma is a professional woman in a professional role and you're trying to diminish her.

The Hon. WES FANG: Unlike your Minister, we reach out to make sure that our people's welfare is—

The CHAIR: Order! Mr Fang.

The Hon. MARK BUTTIGIEG: Can I just explore the line of questioning? So you did put on evidence that you had had discussions with Barilaro and the office about job prospects. What about Minister Pavey?

EMMA WATTS: I've known Minister Pavey for—

The Hon. MARK BUTTIGIEG: Sorry, you have established that you've known her since 2001.

EMMA WATTS: I've known her for some time, so I would've—like I talk to a lot of people who I've known for some time about things I was interested in, what I was curious about. That's the nature of—

The Hon. MARK BUTTIGIEG: I'll put this last question to you just quickly. Can you see in the context of the milieu of the debate we've been having over the last few days that this looks like a National Party person who is well connected, who has received preferential treatment, who has donated significant amounts of money to the party—can you see the comparative standards? In a lot of ways, you're a by-product of the debate that's been going on, but can you see how that perception would be created?

The Hon. WES FANG: Just admit that you've dragged her in here as revenge. That is effectively what he's just done.

The Hon. SCOTT FARLOW: Tit for tat.

The Hon. WES FANG: Tit for tat. That's disgraceful.

The Hon. MARK BUTTIGIEG: I've just asked a straight question. Can you—

EMMA WATTS: And I'm letting everybody have their conversation.

The Hon. MARK BUTTIGIEG: Your job is to answer the question, not to listen to interjections.

EMMA WATTS: Yes. Neither of the Ministers had any say over my recruitment. I undertook an interview in good faith as part of a process. They had no decision-making role over my appointment. I had nothing—like I was the candidate. I shouldn't know what the back end of the process was.

The Hon. Dr SARAH KAINE: It's just he's got form on it, hasn't he, Barilaro?

The CHAIR: Order!

The Hon. WES FANG: I'm going to take a point of order on that.

The Hon. MARK BUTTIGIEG: So it beggars belief that there would be any intervention? It's just inconceivable?

EMMA WATTS: I can't speak for that.

The CHAIR: I will hear the point of order.

The Hon. WES FANG: The point of order was the interjection from Dr Sarah Kaine, which was just unhelpful.

The CHAIR: It's not a point of order. Just straight out, are you aware of any Minister, former or current, being involved in ensuring that you got the job?

EMMA WATTS: No.

The Hon. WES FANG: I wanted to address two things that were put to you by the members of the Government. In the first round of questioning they said to you that—and they alluded to, "This is just like Josh Murray," referring to the inquiry that happened yesterday. The donations that you've made to the National Party have all been effectively declared on your declarations, haven't they, as in your declaration to the EC and whatnot?

EMMA WATTS: The ones that needed to be declared, yes.

The Hon. WES FANG: Unlike the donations that were identified yesterday from Josh Murray and co., which weren't declared, yours have all been declared, that's correct? As in ones that they've identified—

EMMA WATTS: I can't speak for anyone else's declarations, nor should I. The declarations I have made—all the declarations I need to under the New South Wales electoral laws.

The Hon. WES FANG: Which was unlike Josh Murray.

The Hon. Dr SARAH KAINE: No, Josh had declared.

The CHAIR: Order!

The Hon. WES FANG: The other point that I wanted to raise is that Mr Buttigieg, in his question to you just earlier, effectively admitted that your being called here was—

The Hon. MARK BUTTIGIEG: Point of order—

The CHAIR: I will hear the point of order.

The Hon. MARK BUTTIGIEG: —I will not be verballied or interpreted by an Opposition member.

The Hon. WES FANG: Okay, then let me rephrase the question.

The Hon. MARK BUTTIGIEG: That is not the inference I made.

The CHAIR: I think that's fair. I uphold the point of order.

The Hon. WES FANG: I'll rephrase the question. Mr Buttigieg, in his question to you, indicated that you were brought into this inquiry because of the issues that were raised around Josh Murray.

The Hon. MARK BUTTIGIEG: Madam Chair, I'm sorry, again, this is a misinterpretation of the question.

The Hon. WES FANG: We'll pull up *Hansard*.

The CHAIR: I uphold the point of order. Could you instead please just ask a direct question?

The Hon. WES FANG: Given the question that was put to you by Mr Buttigieg around the reasons why you're here and the comparison, does it impact you as a human being, as you spoke about earlier, not as a public servant, to have been drawn into a political—

The Hon. MARK BUTTIGIEG: Are you saying public servants are inhuman?

The Hon. WES FANG: I wouldn't joke about this, mate. Seriously, what you've done to her is disgraceful.

The CHAIR: Order! Let's allow the witness to answer the questions.

The Hon. Dr SARAH KAINE: You know it's true, really.

The Hon. BRONNIE TAYLOR: Well, you weren't here yesterday.

The CHAIR: Order!

The Hon. WES FANG: Effectively, you've been drawn into this in retaliation for Josh Murray. How does that make you feel?

The Hon. BRONNIE TAYLOR: Don't point at me, Sarah.

The Hon. Dr SARAH KAINE: Don't lecture me, Bronnie.

The CHAIR: Order!

EMMA WATTS: I have found it unhelpful to speculate on this why is happening, for my own wellbeing. I think you can do your head in by wondering why you become the subject of this after you have done your best for 3½ years to serve a group of people. I would have to leave it to others to reflect on how they might feel.

The Hon. WES FANG: Has it impacted on you?

EMMA WATTS: Yes.

The CHAIR: Thank you. That finishes this session off.

The Hon. PETER PRIMROSE: Why did they get another go?

The CHAIR: You had one extra question; I had one extra question; they had one extra question. That's what just happened. Thank you very much for your attendance. To the extent there were questions taken on notice or there are supplementary questions, the Committee secretariat will be in touch and there are 21 days to respond to those, but that is all we require from you today. Thank you.

(The witness withdrew.)

Mr JAMES McTAVISH, NSW Cross-Border Commissioner, sworn and examined

The CHAIR: We now welcome our next witness. Would you like to commence by making a short opening statement?

JAMES McTAVISH: Yes, please.

The CHAIR: Please go ahead.

JAMES McTAVISH: Good morning, all. Since I enlisted in the Australian Army over 35 years ago, I have had the privilege and honour of continuous public service in various guises: as an infantry officer in the regular army, as an emergency services worker and as a public servant helping support better outcomes for people in regional New South Wales. Through most of this period I've been a people manager and leader responsible for the recruitment, training, retention, development and separation of a significant number of people in various roles: from soldiers commencing their recruit training at Kapooka, to volunteers serving their communities in the State Emergency Service, to public servants helping people navigate the complexities of the multi-jurisdictional environment in border communities.

I've been really lucky in my various careers to have hired, managed and led some extraordinary people, who are committed, capable and professional; who are focused on delivering better outcomes for the nation, the State and the communities that they serve; who are comfortable in complexity; who are able to interpret and apply legislation, regulation and policy to achieve the right outcomes for citizens; and who serve the government of the day in the best traditions of the Australian interpretation of the Westminster system. I welcome the opportunity to be here today and to answer the questions of the Committee.

The Hon. BRONNIE TAYLOR: Thank you so much for your time here, Mr McTavish. It's really great to see you again and to have the opportunity to thank you very much for what you do and, I suppose, to apologise for bringing you away from your important work to be here at this Committee today. Mr McTavish, how many years have you held the role of Cross-Border Commissioner?

JAMES McTAVISH: I commenced the role of Cross-Border Commissioner in July 2014, so a little over nine years.

The Hon. BRONNIE TAYLOR: In that time, what has your job entailed?

JAMES McTAVISH: The job has certainly evolved in the intervening period. When I took the role on, I was a part-time executive. I had one member of staff as a non-executive member of staff. There was identification of a substantial number of inter-jurisdictional and cross-border issues that were impacting people every day. Over the ensuing nine years we've really been able to build a case for change. We have been able to demonstrate value in a number of ways, and probably the most apposite example for this Committee is what happened during COVID, when our office was the single part of government that was advocating for people in those border communities who were being impacted by the decisions of State and Territory governments.

As Ms Watts indicated in her evidence previously, we are interested in everything that impacts negatively on people in border communities, whether that's the kids getting to school on the bus, whether it's people accessing services in the health system or whether it's people needing support on the worst day of their lives. If they can't get the service they need and if the policies, regulation and legislation don't support a better outcome, we're interested and we want to do something about it.

The Hon. BRONNIE TAYLOR: I might embarrass you now, Mr McTavish, but can you tell the Committee what that medal or pin you are wearing on your jacket is?

JAMES McTAVISH: I have been very fortunate in my various careers to have been given various accolades. I was in the army and I was very fortunate to be awarded a Conspicuous Service Cross in 2010 for my service, particularly as chief of staff at Kapooka. In 2013 I was awarded the Emergency Services Medal for my service in the State Emergency Service, and then, this year, I was quite embarrassed to be a recipient of the Public Service Medal in the January honours announcements this year.

The Hon. BRONNIE TAYLOR: It's a high accolade.

JAMES McTAVISH: And all of those rewards are a reflection. I'm the bloke who's wearing the award, but every one of those awards, and this Public Service Medal that I wear the pin of today, is a reflection of the fantastic work of the people that I have been able to work with and lead. I'm the bloke who gets the award, but the real engine room is the people that I work with.

The Hon. BRONNIE TAYLOR: Yes. Good people, doing good work.

JAMES McTAVISH: Absolutely.

The Hon. BRONNIE TAYLOR: Mr McTavish, did you appoint Emma Watts to the role of assistant border commissioner?

JAMES McTAVISH: I am the hiring manager and, as the hiring manager, I'm the person who manages the recruitment process, who makes a recommendation to the secretary and, at the end of the day, it is the secretary's determination as to whether that senior executive is hired or not. But as the hiring manager, I'm the person who makes that recommendation, and it's a recommendation that I was very comfortable in making.

The Hon. BRONNIE TAYLOR: Were you ever told, at any point, to appoint Ms Watts to the position?

JAMES McTAVISH: No.

The Hon. BRONNIE TAYLOR: You were never told by anyone to appoint Ms Watts to that position. That was a decision that you made based on the merits of the application and the context of what the position needed to be filled?

JAMES McTAVISH: I have never been influenced by others in the decision-making when I make appointments. As I indicated in my opening statement, I have hired and separated heaps of people in my 35 years in the public service, from soldiers in infantry battalions to public servants in recent years. I don't shy away from my decision. The recommendation that I made to hire Ms Watts was based on what I saw presented to me in that application process, and it's one of the best hiring decisions I have ever made.

The Hon. BRONNIE TAYLOR: Thank you, Mr McTavish. I do know you, because I live in a regional cross-border community, and I know your standards. I'm sorry about having to ask you this but, because of the situation we are in, we need this all on record. I really appreciate your honesty and your ability to be so candid when you should be out helping people in New South Wales and not here at a committee. Mr McTavish, I need to ask you these questions too, but have you felt, at any point in time, that Ms Watts has conducted herself differently because of a volunteer role in the National Party?

JAMES McTAVISH: No, and I was fully aware of Ms Watts' role in The Nationals when she was originally going through the interview and selection process. It was openly declared on her CV. It is not something, though, that was discussed through that recruitment process. Her voluntary activities, her political affiliation, her activities in her own time during that recruitment process, while they're a curiosity, shouldn't have influenced my decision at all. In the intervening period since appointment, we've dealt with conflicts of interest in the appropriate manner. I've never had cause to reprimand or counsel Ms Watts, in a negative fashion, around conflicts of interest.

The Hon. BRONNIE TAYLOR: Has Ms Watts ever been the subject of any complaints or issues about her performance in her work or professionalism?

JAMES McTAVISH: No. In fact, I'd characterise Ms Watts as somebody who is highly regarded right across the communities that we serve and right across the stakeholder group that we deal with. In politics I think she's really highly regarded right across the spectrum.

The Hon. WES FANG: Would that include the members of Parliament who are not National Party-affiliated? There's obviously Independents, Labor, Greens and Liberals. There are any number of cross-border MPs that aren't National Party. Would you characterise Ms Watts as having been relatively respected amongst all those cohorts of MPs?

JAMES McTAVISH: I'd characterise it as more than respected. I think she's very highly regarded. She has an enviable work ethic. She's got extraordinary strategic acumen and I think when you are in a tight spot, everybody would love to have somebody like Emma Watts in their team. We were under the pump pretty hard during COVID and the success that we had and the accolades that our team has secured are almost on the back of the work that Ms Watts has done. As I said before, my recommendation around her hiring is one of the best recommendations I've ever made.

The Hon. BRONNIE TAYLOR: So you stand by that appointment of Emma Watts into the position of Cross-Border Assistant Commissioner, Mr McTavish?

JAMES McTAVISH: Absolutely.

The Hon. SCOTT FARLOW: In terms of the appointment, there were a few different stages. There was the contract stage and then there was the final role of Cross-Border Assistant Commissioner. Can you outline to the Committee how the contract stage came about, why that was extended and how you came to determine that you needed to appoint a Cross-Border Assistant Commissioner?

JAMES McTAVISH: That's a very good question. I think the issue of how that played out will probably be subject to further conversation this afternoon—seeing the witness list last night—but during 2019 I had the very distinct honour of being the Regional Town Water Supply Coordinator, which was a pretty important role in the drought when I was first appointed in late January or early February 2019. There were a handful of towns that were on the brink of running out of water and over 2019 that circumstance got considerably worse with a substantial number of communities—some small, some big but all of them needing support for the security, the availability and the quality of the water supply in that community. Due to that role, I was not able to pay appropriate attention to my substantive role as New South Wales Cross-Border Commissioner because I was on the road pretty well every day in 2019. It was an extraordinarily busy period. As a result that work was largely put to one side and given to my offsider in Wagga, who was having to carry an enormous burden without that day-to-day executive input that they usually need.

We sought additional resourcing mid year. It took some time for DPIE internally to make decisions around that resourcing. In November the resourcing for labour expense and for operational expenditure was finally secured between the two different parts of the department. We could then recruit into an expanded team to carry that functionality that I needed with the Regional Town Water Supply Coordinator because at that time it was me. I was the guy and so I was doing everything myself with the support of my colleagues in the different parts of the department. It meant that there would be somebody could do that work in the cross-border space. We didn't go down the path of actually looking to recruit anybody until such time as those resources were secured.

The extension—for the six-month appointment, we'd envisaged there would be a change in conditions with the drought easing. There were indications that there would be changes to those weather conditions and the water availability in early 2020. Ms Watts came on in early 2020. We'd anticipated that there would be a blending of the two roles over that first six-month period. We did some planning around the cross-border space and then COVID commenced, hence the need for us to extend for an additional six months. Borders closed, or started closing, in March 2020; they didn't fully reopen until December 2021. For the period of time that we were managing COVID, we needed every person we could to support those 2.1 million people who were impacted by exclusions from access to services, inability to get to work, inability to get access to their workers and the impacts that were being felt every day and for months on end.

The CHAIR: Can we go back to the temporary contract then, the very first time that Ms Watts was appointed? What was the process for that? You identified that a role was required. Was the role advertised?

JAMES McTAVISH: No. At the time, the roles that were being envisaged were included in essentially a resourcing brief application that was being negotiated with other senior executives within the department. To be frank, when the circumstances around the drought became much more extreme, we were looking for somebody who could effectively take the roles and functions of the Cross-Border Commissioner while I was doing the work or being assigned the work of the regional town water supply coordinator. So I was looking for somebody who had suitable skills, knowledge and attributes around that role—effectively, a quasi Cross-Border Commissioner—while I was doing that other work. As COVID started to gain pace, we actually needed—and that role did, in actuality, change; the role description may not have, but the actuality of it did. I came back into being the Cross-Border Commissioner. We needed somebody to run the engine room of the office while I did a lot of that external stuff, and Ms Watts was re-roled in that functionality.

The CHAIR: Okay, but how? I'm just trying to understand the point at which Ms Watts was appointed. You said there was no advertising for that, so how were you aware of her? Were other people considered for that role?

JAMES McTAVISH: We, as with all non-ongoing roles, don't have a requirement to advertise externally for the position. I know that there have been some observations around that in a number of quarters, but that is probably a matter for the Public Service Commission to discuss. The second thing is that I had been furnished with a copy of Ms Watts' CV. I had not acted on that until such time as we had some surety around resourcing. As Ms Watts indicated in her evidence, we had a brief conversation in September about the possibilities of opportunities into the future, but at no time was there a guarantee of a position being developed for Ms Watts, nor was the position created specifically for her.

The CHAIR: Understood. Who gave you the CV?

JAMES McTAVISH: From my checking of my emails, I was sent an email by Mark Connell, as Mr Barilaro's chief of staff, and I was also sent a copy of Ms Watts' CV via the coordinator general of resources—RIAR in DPIE.

The CHAIR: You had her CV, you were aware of her, and there was a need for a person to fill that role. Was anyone else considered for that role at that time? Did you interview anyone else?

JAMES McTAVISH: Look, to the best of my recollection, no.

The CHAIR: Did you interview Ms Watts at that time?

JAMES McTAVISH: Yes.

The CHAIR: Was it a formal interview process?

JAMES McTAVISH: Yes, we did interview Ms Watts in early December in Wagga. She, as a private citizen, paid her own way over from Queanbeyan. We interviewed her in an office in Wagga. It was myself and another senior executive from the public service. She was, what, eight weeks later or seven weeks later appointed into the position.

The CHAIR: So nobody else was considered for the role?

JAMES McTAVISH: No.

The CHAIR: Who then signs off from a process perspective, once you've made that decision to appoint a person into a contract role? Who then signs off on that? Is it purely your decision or did you need to then get someone else to sign?

JAMES McTAVISH: As the hiring manager, I make a recommendation, and it is the secretary of the department who appoints senior executives.

The CHAIR: Even for a contract?

JAMES McTAVISH: Yes, that's correct.

The CHAIR: Okay. Then the decision was made to extend the contract for a further six months. Again, presumably that was signed off at the secretary level when you did the extension—or did that not need to be?

JAMES McTAVISH: I would have to defer to somebody with greater knowledge around this. It's my understanding that all senior executive contracts are required to be signed by the departmental head. I certainly did not. I am not the decision authority or the delegate in relation to signing public service contracts, including extensions.

The CHAIR: So then it was decided to make it into a permanent position and at that point we end up with a more traditional recruitment process. Is that correct?

JAMES McTAVISH: Yes, that's right.

The CHAIR: How many applicants were considered in that part of the process?

JAMES McTAVISH: Ms Watts was selected from a talent pool and the talent pool was created by another part of the department.

The CHAIR: How many people were in that talent pool?

JAMES McTAVISH: I don't know.

The CHAIR: Can you estimate? Are we talking 20 or 10?

JAMES McTAVISH: I can't estimate. I was not on the panel and I was not the hiring manager.

The CHAIR: Are you aware of whether any other applicants were interviewed for the role?

JAMES McTAVISH: For the role that Ms Watts applied for as the director?

The CHAIR: In the permanent role, yes.

JAMES McTAVISH: No, I wasn't involved in the recruitment process at all.

The CHAIR: Okay. I think that is all from me for now. I will hand over to the Government for questions.

The Hon. Dr SARAH KAINE: First of all, thank you, Mr McTavish, for coming along and for what seems to be a career of public service. Can I just confirm, when did you first get Ms Watts' CV?

JAMES McTAVISH: I believe it was July 2019. I would have to check my email records, but it's about that time—midyear 2019.

The Hon. Dr SARAH KAINE: Did you meet with Ms Watts before the creation of or the thought that there might be an assistant commissioner position?

JAMES McTAVISH: I can't ever recall meeting Ms Watts prior to interviewing her in December. However, as Ms Watts was a member of staff of Minister Pavey's office, it is likely that I had some interaction with her during that period of time when she was establishing Minister Pavey's office and I was the regional town water supply coordinator. I can't actually recall any of those interactions, but it is likely that they occurred.

The Hon. Dr SARAH KAINE: I think it was the evidence of Ms Watts that she made contact with you in September.

JAMES McTAVISH: Made contact, yes, didn't meet with.

The Hon. Dr SARAH KAINE: You didn't meet with her at all until you interviewed for the position.

JAMES McTAVISH: That's the best of my recollection, yes.

The Hon. Dr SARAH KAINE: Okay. Interesting.

The Hon. MARK BUTTIGIEG: When this CV arrives from Mr Connell—the chief of staff—in your mind, what questions did it raise or what significance was it? It's one thing coming unsolicited from an applicant; it's another thing coming from the Minister's office, isn't it?

JAMES McTAVISH: It's not something that I paid an enormous amount of attention to, to be frank. I had no position available. I had no intention of employing anybody at that stage. We had no resourcing to allow the recruitment of any person, so I paid it little attention.

The Hon. MARK BUTTIGIEG: So the CV drops on your desk from the Minister's office and there's no, "Oh, that's interesting."? It was just a neutral reaction?

JAMES McTAVISH: At the time, as the regional town water supply coordinator, I was actively working with Minister Pavey's office.

The Hon. PETER PRIMROSE: In relation to the CV, it arrived obviously unsolicited but what was the context? Was it, "Hi, how are you going? Thought this might be of interest."?

JAMES McTAVISH: Mr Connell put in his email something like, "Dear James, as discussed." To be frank, I can't ever recall discussing this with Mr Connell. I think I probably spoke with Mr Connell on three or four occasions throughout that period and I cannot recall having a discussion with Mr Connell at all.

The Hon. PETER PRIMROSE: But in terms of the actual document or the email when it arrived with the attachment, was there—

JAMES McTAVISH: That's what it said.

The Hon. PETER PRIMROSE: Can you tell us again?

JAMES McTAVISH: It was "Dear James" or "Hi James, as discussed," and the CV attached.

The Hon. PETER PRIMROSE: As discussed?

The Hon. BRONNIE TAYLOR: Unlike Mr Murray, "Well, you better employ me."

JAMES McTAVISH: I cannot recall ever having a conversation with Mr Connell. During that period, as I was working directly for Minister Pavey's office as the regional town water supply coordinator, I certainly did not discuss Ms Watts' employment prospects with Mr Connell.

The Hon. Dr SARAH KAINE: Can we go back to when you met or spoke with Ms Watts? Sorry, the time line is not quite clear in my head. You said you had dealt with her when she was in Minister Pavey's office.

JAMES McTAVISH: No, that's not what I said. I said that Ms Watts was working in Minister Pavey's office so it is likely that I had some interaction with her, but I cannot recall the nature of that interaction.

The Hon. Dr SARAH KAINE: What time frame are you talking about?

JAMES McTAVISH: The period when Ms Watts was in Ms Pavey's office was early 2019. I was the town water supply coordinator from late January. There'd been a ministerial change from Minister Blair to Minister Pavey. It is likely that I came into contact with Ms Watts but I cannot recall any conversation with her at all.

The Hon. Dr SARAH KAINE: Sorry, this has not been clear to me at all. Ms Watts, directly prior to her CV—during the time her CV was being sent out and directly prior to her engagement in that role, actually worked for Minister Pavey.

The Hon. BRONNIE TAYLOR: Ms Watts said that in her evidence. Were you not listening?

The Hon. Dr SARAH KAINE: I'm just being clear about it.

The CHAIR: Order!

The Hon. Dr SARAH KAINE: Thanks for that. I'm just getting that clear. It might be clear to everyone else in the room, but I need to make sure I understand as well.

JAMES McTAVISH: In early—

The Hon. WES FANG: We'll put the crayons out for you.

The CHAIR: Order!

The Hon. Dr SARAH KAINE: Excuse me, Chair. There are some really inappropriate—

The CHAIR: Yes. Order!

JAMES McTAVISH: In early 2019, when I was the regional town water supply coordinator, Ms Watts was employed in the establishment of Minister Pavey's office. In the intervening period, between when she ceased that employment and when she commenced employment in my office in early 2020, she was working in a private role in a consultancy.

The Hon. Dr SARAH KAINE: Thank you. Can I ask about the role itself. I know you're talking about the resourcing around it, but it was your idea to create the Cross-Border Assistant Commissioner.

JAMES McTAVISH: It was my idea to get more resourcing in to do the work that needed to be done in the cross-border space. We needed somebody who could carry the functionality of the Cross-Border Commissioner, because I was so deeply enmeshed in that drought work. As a result, we determined—and it was an iterative process from a resourcing point of view, between mid 2019 to when the resourcing was finalised, in late November, I think it would have been. As part of that conversation, as things got worse, as I got busier with the town water stuff, it was necessary to have somebody who was an executive to have the level of authority that was needed in that conversation.

The Hon. Dr SARAH KAINE: You said, "We decided." Who's the "we"?

JAMES McTAVISH: Within our department, so the coordinator-general and his office, and DPIE Water—the CEO of the water sector and his office—worked out a resourcing plan to cover both functionalities at the same time.

The Hon. MARK BUTTIGIEG: Do you think at the stage of the interview the \$4,000 donation should've been declared to you?

JAMES McTAVISH: During an interview process I don't think it's necessarily appropriate to be determining what the financial position of any applicant is. I think that matters that have occurred previously, while they're of interest to some, are not necessarily relevant in my decision to make a recommendation around her employment.

The Hon. MARK BUTTIGIEG: So the fact that a senior National Party person, secretary of the National Party has given \$4,000 to that party, unsolicited CVs land on your desk—"as discussed", I think, were the words. By the way, can you table that email from Connell?

The Hon. WES FANG: Can you stop jumping around and just ask the question?

The CHAIR: Order!

The Hon. MARK BUTTIGIEG: If you could table that email as evidence, that would be handy. Then no advertisement, no competitive process—

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

The CHAIR: Order!

The Hon. MARK BUTTIGIEG: You could see how this would look a little bit like a set-up for a person, couldn't you?

JAMES McTAVISH: I think the implication there is that I've acted improperly. That is certainly not the case.

The Hon. MARK BUTTIGIEG: No, no, no. I'm not suggesting you've acted—what I'm saying is that, given the thread: The CV lands in your inbox, there's no competitive process, it's a temporary position, Ms Watts

is appointed and there's a \$4,000 donation, but you're saying that that shouldn't have been declared at any point in time, it's not material. Is that your evidence?

JAMES McTAVISH: The time at which any conflicts of interest are declared is on somebody commencing employment, not prior. If we're to ask people to make declarations around donations, political or otherwise, or activity outside of work, if we're to do that during an interview process then I'd suggest that's probably something that the Public Service Commission may wish to provide advice on.

The Hon. MARK BUTTIGIEG: Mr McTavish, I'll put this to you: How many people does the Cross-Border Commissioner employ?

JAMES McTAVISH: Nineteen.

The Hon. MARK BUTTIGIEG: So if I'm one of those 19 people looking at this, I'm thinking, "Why didn't I get a look-in?" Can you understand? It's the fairness prospect. If there's a position that's up for grabs, shouldn't there be a competitive process for people to be able to apply?

The Hon. BRONNIE TAYLOR: Point of order: I think we need to pose the question, not try—

The Hon. MARK BUTTIGIEG: It's a question.

The CHAIR: Order!

The Hon. BRONNIE TAYLOR: I'll take the point of order. I'm trying to be really reasonable here, but you want a certain answer, so you keep going and doing that. Mr McTavish is—look at his lapel. He is answering your question. Let him answer the question and stop putting things into his mouth.

The CHAIR: Order! If members could address their comments to me and not to each other across the table, that would be much appreciated. In relation to the point of order, I don't uphold it. Please continue.

The Hon. MARK BUTTIGIEG: Mr McTavish, the question is very, very simple. If you're one of those 19 employees now seeing all this evidence, do you think that it could create the perception of, "I didn't get a look-in"?

JAMES McTAVISH: There's a couple of things in relation to that. Firstly, I can't control what other people think. Secondly, I applied the policies that were in place at the time. The third thing is that around about 90 per cent of the employees that we have in the Office of the Cross-Border Commissioner have come on after Ms Watts' appointment, and I'd suggest that their opinions in relation to Ms Watts are very strongly positive.

The Hon. MARK BUTTIGIEG: So no-one would have been upset by the process. Okay.

The Hon. SCOTT FARLOW: Mr McTavish, are you a member of the National Party?

JAMES McTAVISH: No, I am not a member of any political party and never have been.

The Hon. SCOTT FARLOW: So there was no interest you had in terms of making the appointment of Ms Watts in terms of her donations with the National Party? That, of course, was nothing that was relevant to you in terms of her appointment?

JAMES McTAVISH: No. I'm very much an adherent of the Australian interpretation of the Westminster system of an apolitical public service.

The Hon. SCOTT FARLOW: With respect to your decision to meet with Ms Watts for that interview, you said that you had received her CV from two sources, one being Mr Connell and the other one being from somebody within the department. Who was that?

JAMES McTAVISH: Yes. The coordinator-general of RIAR.

The Hon. SCOTT FARLOW: We've explored Mr Connell's email. What did the coordinator-general say in terms of sending her CV across to you?

JAMES McTAVISH: I think he said, "For discussion". That's it.

The Hon. SCOTT FARLOW: And you have no recollection about the circumstances around that at all?

JAMES McTAVISH: At the time that that came through, we were having a conversation about future resourcing. We had made no decision, and I think that when that email was sent to me it was along the lines of "This is a strong CV and we may look to have some conversations around this person in the future." It had no sway on me at that time. It was in September, I think, and we didn't get resourcing until November.

The Hon. SCOTT FARLOW: Just with respect to Mr Connell, did Mr Connell at any stage indicate to you that you needed to interview her for the role?

JAMES McTAVISH: No.

The Hon. BRONNIE TAYLOR: Mr McTavish, are you aware of a review into your department that was stated in *The Daily Telegraph* on 23 August?

JAMES McTAVISH: We've participated in the reviews that are going on across government around resourcing and around different programs. We've been asked in the last week or so to provide some additional information.

The Hon. BRONNIE TAYLOR: I see. Sorry, just to clarify that—I understand there's multiple reviews and committees. We feel it here going on at the moment with the new Government. But what I want to clarify here is, were you aware before the article appeared in *The Daily Telegraph* on the 23rd that the Office of the Cross-Border Commissioner was being reviewed?

JAMES McTAVISH: Not separately to the work that is going on across government.

The Hon. BRONNIE TAYLOR: Post that article in *The Daily Telegraph* on the 23rd, were you informed that there would be a review into your department?

JAMES McTAVISH: There's been an iterative process around gathering information to support government's review of programs and projects and expenditure.

The Hon. BRONNIE TAYLOR: But not programs and expenditure, your office?

JAMES McTAVISH: I'm unaware of anything which is outside of that broader review. I understand—and we have provided particular information around it.

The Hon. Dr SARAH KAINE: Point of order—

The Hon. BRONNIE TAYLOR: I'm done with that line. I have another question.

The CHAIR: I'll hear the point of order.

The Hon. Dr SARAH KAINE: I'm struggling to see how this relates to the—

The Hon. WES FANG: You often do.

The Hon. Dr SARAH KAINE: I beg your pardon, Mr Fang.

The Hon. BRONNIE TAYLOR: I'm moving onto the next question now; I'm done.

The CHAIR: Order! Can you apologise for that comment please, Mr Fang?

The Hon. WES FANG: I withdraw.

The Hon. Dr SARAH KAINE: You're being incredibly disrespectful.

The CHAIR: I will allow the questioning to continue. I appreciate that it is not directly within the terms of reference but it's not well outside of them so please continue.

The Hon. BRONNIE TAYLOR: Mr McTavish, it is clearly evident that there is information coming out of the department of a private nature about Ms Watts' employment. Are you aware of or have you been asked to provide information about Ms Watts to the Minister's office?

JAMES McTAVISH: We've been asked to provide information around the recruitment process, and that was following the initial articles that appeared in *The Daily Telegraph*. The brief—I've not seen the information that's been furnished in relation to that inquiry and I'm unsure as to where that information was sent within government.

The Hon. BRONNIE TAYLOR: Have you ever seen information—

The Hon. MARK BUTTIGIEG: Time's up.

The Hon. Dr SARAH KAINE: Time's up.

The Hon. BRONNIE TAYLOR: —leaked by an employee the way it has been leaked about Ms Watts to the media?

The Hon. MARK BUTTIGIEG: Gratuitous.

The Hon. Dr SARAH KAINE: That's really not a question about the—that's not an appropriate question.

JAMES McTAVISH: I'm unsure of the source of the information that is at the centre of the articles in *The Daily Telegraph*, and it's probably not useful for me to speculate on that in this Committee.

The Hon. WES FANG: Can—

The CHAIR: I'll come back to you if we have time. So you received the CV from two different sources. Is that a regular practice? How many CVs would you get sent to you?

JAMES McTAVISH: Shortly after we appointed Ms Watts, we appointed a number of people on non-ongoing contracts, including some former senior members of the Federal Labor Party. It is not unusual for people to be hanging their shingle out, so to speak, and distributing their CV as widely as they can to get work which is interesting. It is not contrary to the policy that is available.

The CHAIR: My question, though, was around just how often this happens. I'll make it more specific. Were any other CVs sent to you, during the duration of your appointment, from a Minister's office? Have you received any other CVs?

JAMES McTAVISH: Not that I can recall.

The CHAIR: So on that basis, it's relatively unusual to receive a CV.

JAMES McTAVISH: It's not unusual to receive CVs.

The CHAIR: No, but from a Minister's office?

JAMES McTAVISH: But from a Minister's office? I can't comment on the regularity of that. In my experience, that's the only occasion on which it has occurred.

The CHAIR: You have given evidence today that Ms Watts—and this appears to be supported by all of the evidence we've received so far—is very good at her job and a very valuable hire. Given that she'd already been in the role for 12 months at the time that the permanent appointment was made, was there ever going to be a situation, do you think, where she was not going to get that permanent role? Was that a bit of a sham recruitment process?

JAMES McTAVISH: No, I wouldn't describe it as a sham recruitment process. It was conducted in accordance with the guidelines for recruitment that were in place. She was assessed by people other than me for eligibility for another job and she was hired from a talent pool, which is an appropriate mechanism which is well established in the public service. And I think any observations around that process or any inquiries around that process are probably best directed to the Public Service Commission because they're the policy owners.

The CHAIR: Understood. Just to clarify around this donations issue, I'm just trying to imagine a situation where somebody rocks up to an interview and says, "By the way, I've donated \$4,000 to The Nationals." How would you have viewed that if they had done? Would that be a normal thing for someone to disclose in an interview?

JAMES McTAVISH: As I indicated in my preamble, I've hired many, many people and I have never had anybody disclose a political donation during a recruitment process ever.

The Hon. MARK BUTTIGIEG: I want to clarify something about this email. I think the words you said were "to be discussed" or "as discussed".

JAMES McTAVISH: Something along that nature.

The Hon. MARK BUTTIGIEG: Yes. So was there any discussion then after that?

JAMES McTAVISH: No.

The Hon. MARK BUTTIGIEG: What did you take to imply from those words "as discussed" or "to be discussed"? Was there a previous discussion about it?

JAMES McTAVISH: Not that I can recall.

The Hon. MARK BUTTIGIEG: Why would the words say "as discussed"?

JAMES McTAVISH: I don't know. That's not a question that I can answer, and it's probably something that Mr Connell may be able to answer.

The Hon. PETER PRIMROSE: Taking up your evidence in relation to your support for a Westminster-style system of public service, would you expect someone who took up a role in the senior executive service to actually stand down from senior roles in relation to any political party if that was the case?

JAMES McTAVISH: That's something that is—in New South Wales the code of ethics and conduct for the public service is silent on holding office in political parties. The APS, so the Federal public service's code of conduct, actually specifically, or explicitly, allows it. When that instrument is silent, then it is permissible. Whether that policy needs to be changed, or whether there needs to be greater specificity around that in our own code of ethics and conduct, is probably something that the Public Service Commission can provide some guidance on.

The issue of managing conflicts of interest, though, is something which is valid. When people are active members of political parties, regardless of their affiliation, those conflicts of interest need to be actively managed. In my experience with Ms Watts, there was never any reason to counsel her negatively around—or reprimand her—around conflicts of interest at all. At all times when she was doing business for The Nationals she did it in her own time, taking personal leave. I've not heard any person in any of the intervening 3½ years of Ms Watts' service make any observations around her impartiality or objectivity in relation to her political affiliation.

The Hon. Dr SARAH KAINÉ: I take as given your evidence about Ms Watts' performance in the role but I want to go back to the appointment. You were given a CV. You were creating a new role. How did you match Ms Watts' experience—which seems to be, while interesting, quite unrelated to the role that you say is to step in for you. How did you manage what might be perceived as a risk of appointing someone without a competitive process who hadn't actually performed the type of work that you were going to require of her?

JAMES McTAVISH: The job of Cross-Border Commissioner—and the Assistant Cross-Border Commissioner subsequently—is one which is largely around advocacy and strategic engagement. Ms Watts has got substantial professional experience, including in the energy sector, around strategic engagement, around strategic planning and around dealing with complex issues and complex stakeholders. Her professional CV—the professional elements of her CV—outside of the political interests, are substantial. Her referees are not in The Nationals. They are not people who are connected with the previous Government in New South Wales—and who can substantiate her professionalism and capability.

The Hon. Dr SARAH KAINÉ: So what we're saying is you were looking at the capabilities as per the public sector framework. You were looking at capabilities for someone to perform a role, rather than ticking off the exact tasks that they would be performing?

JAMES McTAVISH: It's pretty clear when it comes to the capability assessment process that we follow that we need to look at those capabilities objectively. I'll be honest, somebody's political affiliation, while we deal with it in the conflict of interest process, is a matter for them.

The Hon. Dr SARAH KAINÉ: That's not what I was asking but thank you.

The Hon. WES FANG: Mr McTavish, you indicated that you were a people manager for quite a number of years. I know when I asked the question of Ms Watts about the impact on her in relation to the media that has been generated around her position, her answer wasn't so much about how it impacted her; it was about how it impacted the people around her and the team. Can you talk to the impact it had on the Office of the Cross-Border Commissioner? Also, given that Ms Watts declined to speak about herself, has it impacted on Ms Watts?

JAMES McTAVISH: There are a couple of points to that. Firstly, we've been extraordinarily fortunate to recruit some outstanding people and retain some outstanding people in our team who are getting on with the job now. There is complexity in what we do. There is value in what they do every day. They see value in that work and they are deeply embedded in that work, but they are not immune to the narrative that is circulating, particularly in the media. For Ms Watts, I think that she has found it tough. It has been pretty difficult to be the person who is the lightning rod for a couple of things. I find that she is somewhat negatively impacted by this, but she's a strong woman, she is extraordinarily capable and I know that through this she is being well supported by the senior leadership, particularly in our department.

The Hon. WES FANG: So stoic and continuing her work is fair.

The CHAIR: Order! Mr Fang, that is time. That brings us to our morning tea break, so will have to conclude this session with you. To the extent that there were questions taken on notice or supplementary questions, the Committee secretariat will be in touch. You have 21 days to respond.

(The witness withdrew.)

(Short adjournment)

Ms KATE BOYD, Deputy Secretary, General Counsel, Cabinet Office, on former affirmation

The CHAIR: Welcome back. Ms Boyd, as you have already been sworn as a witness in this inquiry, you do not need to do so again, but I will give you the opportunity to make a short statement, should you wish.

KATE BOYD : I will just make a couple of comments about the Cabinet Office's role in relation to the matters that the Committee is looking at. The Cabinet Office provides support to the Premier, as the Minister responsible for the administration of the Government Sector Employment Act, and we work closely with the Public Service Commission on the development of the government sector employment rules, which set the rules for merit-based employment in the sector. Those rules are issued by the independent Public Service Commissioner under the Act. I have a working knowledge of the rules that govern public sector employment, as a hiring manager, but I don't have any direct knowledge of and didn't have any involvement in the recruitment to the positions that are the subject of the Committee's inquiry today. I am, however, well placed to answer questions and have discussions about the ethical and policy issues that are raised by the inquiry, including the constitutional principles at play. I'm happy to answer any questions on that.

The CHAIR: Thank you. We will start with questions from the Opposition.

The Hon. BRONNIE TAYLOR: My apologies, Ms Boyd. The Government was happy to recuse you but I needed to ask you a few questions. I am going to fess up right away. I understand from yesterday's evidence that you were very specific about the fact that you do not answer hypotheticals. I don't have a law degree, but I am going to give this my best shot. If I'm out of order, I'm sure the Chair will tell me. I want to refer to the ministerial code, which you give advice on in your role. I want to talk about an actual event that happened so that it's not hypothetical. On 23 August there appeared in the media information that could only have come from inside a department. When I look at number 6 and (1), (2) and (3) of number 10 of the ministerial code, it's fairly clear to me what it says. If indeed the information was generated at the request of a Minister or someone in their office and then that information subsequently landed up in the media—which is not hypothetical because it actually did happen—would that be a breach of the ministerial code?

KATE BOYD : I don't think so. I think that you need to look at the release of government information in the context of the Government Information (Public Access) Act. There is a presumption in favour of the disclosure of government information in that Act, subject to any overriding public interest against disclosure. The provision of information to the public about government administration is promoted under the regime in New South Wales, so I don't think I could say that that was inconsistent with the ministerial code, depending on the circumstances, of course.

The Hon. BRONNIE TAYLOR: That being personal information?

KATE BOYD : There is a protection of personal information under New South Wales legislation. I'm not sure what the details were of what information was published, but the name and position of a public official is not generally considered to be personal information under that regime.

The Hon. BRONNIE TAYLOR: Thank you for that, but my question is that if that information was requested to be generated in the pursuit of diminishing or—

The Hon. Dr SARAH KAINE: Point of order: I'm struggling a bit to see how this line of questioning—I've just got the terms of reference here—fits within that.

The Hon. SCOTT FARLOW: Any other related matter.

The Hon. Dr SARAH KAINE: I thought the point of bringing Ms Boyd back was to actually allow us to canvass issues that we couldn't canvass yesterday, and Ms Taylor wasn't here yesterday.

The Hon. BRONNIE TAYLOR: That's why I'm asking them, Ms Kaine.

The Hon. Dr SARAH KAINE: I'm struggling to see how it fits.

The Hon. MARK BUTTIGIEG: Or how it is related is the question.

The CHAIR: In relation to the terms of reference, they are talking about the process for appointments and they're very clearly directed that way. So when we're looking at "any other related matter", we do need to think about it in that light. I think to the extent that these questions are relatively benign and not talking about any particular other individual, I think it's fine to let them proceed, but I would caution the member to try to keep it relevant to this inquiry.

The Hon. BRONNIE TAYLOR: Understood. My point was that, if it is indeed proven that that information came with a pursuit of trying to bring a negative light on someone, that is a serious change of tack.

KATE BOYD : The ethical obligations of Ministers and their obligation to act in the public interest are well canvassed in the ministerial code, so I think that's my answer to that.

The Hon. BRONNIE TAYLOR: Thank you for clarifying that about the ministerial code. It's something I will be pursuing. What I also wanted to know was the difference in employment between a secretary and an executive-grade employee.

KATE BOYD : This was canvassed yesterday, I think, in the hearing. The main difference—

The Hon. BRONNIE TAYLOR: My apologies, I wasn't here yesterday.

KATE BOYD : That's all right. It's good to clarify. The secretaries are a unique position in the public sector. They're obviously required to work very closely with the Ministers and the Act reflects that by requiring Ministers to be consulted before a report is provided to the Premier on the appointment of a secretary. In contrast, senior executives are to be hired by secretaries of departments. So secretaries of departments exercise the employer functions of the Government in relation to the senior executive service. Ministers are not to direct secretaries in relation to those decisions. So there's a clear demarcation, if you like, between the secretary and the Minister there, in terms of the selection and recruitment of people to roles in the public service. And the reason for that is to protect the integrity of the public service and to maintain an apolitical and professional public service.

The Hon. BRONNIE TAYLOR: So trying to compare, not from anything else but from an absolute procedural point of view, the employment and recruitment of a secretary of a department—and you don't get any more senior than that—to someone who is at the level of Ms Watts, who this inquiry is about, is very difficult then. Sorry if I'm not getting this right, but one can be appointed and then one cannot. There has to be a process. So how can you compare those?

KATE BOYD : I think where they overlap—they are different processes and different decision-makers. Senior executives must be employed in accordance with the merit-based rules in part 3 of the GSE rules; for secretaries, those rules don't apply. The decision-maker for a secretary is different to the decision-maker for a senior executive. What they do share is that decision-makers under that regime have to comply with the core government sector values that are prescribed in the GSE Act. So where, for example, the Secretary of the Premier's Department is employing a secretary, they have to comply with those core sector values and that requires employment decisions to be based on merit. So there's a general principle that has to apply to those decisions and that is the same whether it's a senior executive or a secretary. So that's what they share in common, I would say. But otherwise, yes, the process is different and the decision-maker is different, and that reflects the different nature of the role.

The Hon. BRONNIE TAYLOR: So not comparable on that point, but here we are. Thank you, Ms Boyd, and, again, I'm really sorry for calling you back when you're so busy.

The Hon. SCOTT FARLOW: If I can just pick up on that point, Ms Boyd—sorry, I will defer to Mr Fang.

The Hon. WES FANG: No, you go.

The Hon. SCOTT FARLOW: In terms of this process, there were a few different junctures in terms of the employment. The first was a six-month contract, which was undertaken directly by Mr McTavish with consultation. That is allowable under public service rules?

KATE BOYD : I'm not aware of the details so I wouldn't be able to comment on whether that complied with the rules. But there is a process for short-term employment on a suitability assessment, which is not a comparative assessment that requires an assessment of the candidate against other candidates. That is a model or a mechanism that's available to hiring managers in the sector. But I can't comment on whether this particular appointment complied with that.

The Hon. SCOTT FARLOW: And then the provision for an extension for six months is something that is also available to the hiring manager in that instance?

KATE BOYD : Yes.

The Hon. SCOTT FARLOW: The next process was a talent pool process. Can you give us some information about that, potentially, and how that operates? I think Mr McTavish deferred that that should be answered by the Public Service Commission. I know we don't have them before us, but you might be the next best person to ask on that front.

KATE BOYD : Sure. I can give you my reflections on it as a hiring manager. It's basically, to save cost and time, a mechanism whereby if you run a recruitment process in the sector and you identify someone who is suitable for appointment at that level—say, for example, band 1—you can offer the job to a suitable candidate.

If there are other suitable candidates who are equally well placed to perform at that level, you can place them on what's described as a talent pool so that other hiring managers across the sector don't have to duplicate recruitment processes and can select people from that pool. The pools are temporary. They only last for 12 months, I think, is the current expiry under the rules. But it is a mechanism for efficiency, really, to make sure that duplication of time and effort is not occurring across the sector, and that if someone goes to the time and effort of running a recruitment process and they identify someone who has the capabilities required of a band 1, band 2 or band 3 senior executive, other hiring managers get the benefit of that and can select people directly from the pool.

The Hon. SCOTT FARLOW: Thank you, Ms Boyd. I'll hand over to Mr Fang.

The Hon. WES FANG: Ms Boyd, I've just got a couple of questions for you. Ministers of the Crown are not just responsible to the Ministers' code of conduct; they're responsible to other Acts in relation to work health and safety and any number of other requirements that are put by the rules of the day. That would be correct to say, is that right?

KATE BOYD : Yes, and it's reflected in the ministerial code, which requires that Ministers must not knowingly breach the law.

The Hon. WES FANG: In circumstances where perhaps the ministerial code and release of information may not have itself—or it could be arguable around the rules in relation to releasing information, whether it was in the public interest or not, et cetera, there's still a requirement on a Minister that they maintain a safe workplace and the people who work underneath them are, in effect, protected via workplace health and safety. Would that be a fair thing to say?

KATE BOYD : Yes.

The Hon. WES FANG: In the circumstance where you've got a director level appointment, it's not just the responsibility of the Minister; would it also be the responsibility of, say, their hiring manager all the way up to the secretary, I guess, in the public service regime?

KATE BOYD : I think the way work health and safety legislation works is that people that have an ability to direct and control what happens in a workplace generally have a commensurate responsibility to ensure the safety of employees within that workplace.

The Hon. WES FANG: Where you've got a ministerial office and you've got a Minister—

The Hon. Dr SARAH KAINE: Point of order: I understand the ruling that we had earlier about Ms Taylor's questions, and the ones we had yesterday, with a certain amount of latitude. I know we've got the scope of other related matters, but we are veering into work health and safety and processes for ensuring that—I think we are going into territory which is clearly a long bow to draw in terms of other related matters. I ask the Chair to consider that.

The CHAIR: In relation to the point of order, I can see where you're going with this, Mr Fang. I think we do need to be careful about adverse reflections and adverse inferences at this point, so if you could tread very carefully—

The Hon. WES FANG: At the moment, I'm only just trying to establish what members of the public service versus ministerial officers versus secretary levels are responsive to in relation to their duties. I've not named anybody. I am merely asking questions of the General Counsel around these points, and I don't see how there is—

The CHAIR: I will allow you to continue the questions, but if you could just be very careful.

The Hon. WES FANG: I think I've been extremely careful to this point, and that's why I didn't understand the point of order. But thank you, Chair, for your guidance. Ms Boyd, where you've got a ministerial office, you've got the Minister who is a Minister of the Crown and so responsive to, as we've indicated, the ministerial code of conduct and also the other Acts which might influence their sphere, like workplace health and safety. But a chief of staff to a Minister is not, obviously, a Minister. What's their predominant, overriding document which would outline their conduct, their ethics, in that role?

KATE BOYD : The Members of Parliament Staff Act 2013 and the office holders staff code of conduct.

The Hon. WES FANG: Okay. So if there was information that was generated and released by an office, the chief of staff has a separate document he or she would be responsive to, as opposed to the Minister?

KATE BOYD : Yes, different conduct regimes apply to both of those individuals.

The Hon. MARK BUTTIGIEG: Ms Boyd, could I walk you through the time line of events and things that have happened here and just get your view on the appropriateness of the process from a governance and legal perspective? We have this situation where CVs were unsolicited, sent from ministerial departments in July and August 2019, and the evidence from Mr McTavish earlier was that the accompanying email said words to the effect of, "As discussed" or "To be discussed"—we didn't actually clarify the precise formulation of the words, but we'll get that in evidence tendered. Then, subsequently, a temporary role for Cross-Border Assistant Commissioner was filled on 29 January 2020, I have written down here—no internal advertisement, no external advertisement, no competitive process.

It was then extended for a six-month period and then another extension of six months and then, if I'm correct, December 2020, there was another 12-month extension which brought it up to the permanency in December 2021. Pre that mix was a \$4,000 undeclared donation to the National Party. Ms Watts, in evidence earlier today, also stated that there would be more, but she was uncertain about the quantum of those donations. Do you have any commentary on the probity and transparency of that process vis-a-vis policies that are required to be followed?

KATE BOYD : I'm not sure my commentary is going to be that useful to you, but what I can say is that all hiring managers in government have a responsibility to maintain the reputation of the New South Wales public service as a professional, apolitical and merit-based institution. The circumstances that you've described to me, I think, do raise questions about whether or not that reputation of the agency had been fully considered, especially in circumstances where the candidate is an office bearer in a political party. There is certainly no prohibition on that in New South Wales. People are entitled to reasonable participation in public affairs, and in political life. That is an implied freedom under the Commonwealth Constitution. But, as public officials who are responsible for making recruitment decisions, you also have a duty to ensure that the reputation of the public service as an apolitical and professional merit-based institution is upheld. I think that puts the candidate in a very difficult position, frankly, and we can see the outcome of that through this inquiry. So regard has to be had in every case and the facts of the case are really important to each of these decisions.

I don't think it's helpful to be making general statements about it. You need to consider it's a question of nature and degree in each case and the seniority of the role, the public profile of the role, the nature and extent of the political activities that the participant, the candidate, has engaged in. The fact that the Minister has suggested or facilitated consideration of the candidate is also a factor here that tends to suggest that the impartiality and the apolitical nature of the public service was not front of mind when this recruitment occurred, and I think we all pay a price for that as the public service.

The Hon. MARK BUTTIGIEG: Thank you for that. Just on that observation and to your earlier evidence in response to the Hon. Bronwyn Taylor's questioning about the differentiation between the discretionary component for a Minister for a secretary of the department and the distinct difference for roles further down the hierarchy and, in this case, Cross-Border Assistant Commissioner, the fact that the Minister could be seen to have been intervening in this is problematic, isn't it, given it supposed to be a merit appointment process?

KATE BOYD : Again, the law provides that secretaries and others in a department cannot be directed in relation to their employer functions by a Minister. I don't think providing a CV constitutes a direction but, again, it raises a perception that the hiring of people into the public service may not be merit based. So I think every hiring manager needs to consider that and the balance of those factors—that people are entitled to participate in public affairs.

The Hon. MARK BUTTIGIEG: Of course.

KATE BOYD : They're entitled to have worked in ministerial offices.

The Hon. MARK BUTTIGIEG: Yes.

KATE BOYD : Some of the best and finest public servants that we have working in the sector today have in fact worked in political offices. By no means should they be disqualified from contributing as a member of the public service. But I think when you are recruiting to senior roles in a department, you need to be considering the balance of those factors and whether or not a person's political affiliations and participations are consistent with the reputation of your department as an apolitical and professional one.

The Hon. MARK BUTTIGIEG: Also, in terms of the \$4,000 donation and the sort of nebulous nature of the subsequent donations which we are not availed of yet, can you give us any commentary on the legality of that non-declaration?

KATE BOYD : No. I don't have enough detail about that to provide any commentary about that. What I can say is that there is—in New South Wales if you make a donation the disclosure threshold is \$1,000. But the

timing of the donation, the entity to which it was made, if it was made under the Commonwealth regime—all those factors that would need to be considered carefully.

The Hon. MARK BUTTIGIEG: Would it be fair to say, given your evidence just prior, in terms of perception, that it would have been prudent to declare that donation when you were up for a public sector job, a senior executive service role?

KATE BOYD : That is a difficult question. I think people are entitled to privacy and they are entitled to participate in public affairs, as I said. There is a legislated disclosure regime for political donations in New South Wales that ensures transparency around the making of donations. So on balance I would not think that that was an appropriate question in a recruitment process. It certainly isn't the practice of employers in New South Wales to ask candidates whether they have. In fact, on one view it could create a perception of partiality if you're asking, "Have you made a donation either to the government of the day or another party?" So I would not ask that question, no.

The Hon. MARK BUTTIGIEG: Of course, that standard would apply to yesterday's framework as well.

The Hon. Dr SARAH KAINE: Going back to the processes for appointment at the senior exec level—I'm not sure about the ministerial. You alluded to a couple of ways it can be done, but I'm taking from it that the overarching principles are that it's merit based and that there are different ways of determining that. Is there an ideal process?

KATE BOYD : I think that depends on the circumstances. The rules give you options, because it is recognised that it's not always possible to do a full comparative assessment, which I'd say would be the gold standard in terms of merit-based employment.

The Hon. Dr SARAH KAINE: Can you just explain what a comparative assessment is?

KATE BOYD : Yes. Under part 3, a comparative assessment would involve external advertising of the role and an assessment of each applicant for the role against other applicants and a decision about who gets the role based on who has the best skills, capability and expertise for the role, including other types of assessment, including an interview, potentially psychometric testing and references—a comprehensive examination of candidates and candidates being tested against other candidates for the role. That would be the ideal if you were looking at it from a merit-based employment objective.

The Hon. Dr SARAH KAINE: Given that that's the gold standard and that's what the public service is aiming for in terms of merit, what's a sound basis for not going through that process?

KATE BOYD : There are short time frames where suitability assessment can be used to recruit someone for a short-term appointment. The way the rules work is that ultimately, if the person is to stay in long-term employment, there will need to have been some sort of comparative assessment at the end of a six- or 12-month period. My understanding is that that did occur in this case and that the relevant person was talent-pooled. So there was a merit-based assessment process at some point and then the candidate was appointed following that.

The Hon. Dr SARAH KAINE: I appreciate that, thank you, and I understand the talent pool process. In terms of, though, the short time frames, is there any requirement that going for the suitability assessment rather than the full gold-standard comparative assessment—who approves the less ideal process?

KATE BOYD : I'd have to take that on notice. It's a question of detail that I'm not across off the top of my head, but the Public Service Commissioner would be pretty well placed to answer that as well if you're asking them supplementary questions.

The Hon. Dr SARAH KAINE: Okay, so we can find that out somewhere else. Thank you very much for that.

The Hon. PETER PRIMROSE: In terms of a perception of a conflict of interest that you were talking about before, do you see a distinction between someone who is exercising their rights as a citizen as a member of a political party or not, as opposed to someone who is an office holder within a political party?

KATE BOYD : Again, it's a question of nature and degree. I think you'd be considering things like the nature of the role, whether the issues that they were involved in politically crossed over with the issues that they'd be advising on or administering in the public service. That is a clear point at which you would say it's not tenable for that person to be in that role. The level of seniority and their public prominence as well are other factors that you would consider. I think you would also consider whether they're involved—which jurisdiction the involvement occurred in and factor like that.

So it is very case specific and it just requires a very high degree of judgement by people that are exercising employer functions in government and that concept of the reputation of the service being front of mind when those employment decisions are made. You may have someone who is an excellent candidate and would be very good in the role, but you need to consider whether or not their appointment to that role is consistent with your agency's reputation as an apolitical, professional agency and how that might be regarded, for example, in the event of a change of government. Would the incoming government have confidence that your agency is acting in an apolitical and impartial way and is capable of implementing the decisions of the government of the day in that matter?

That's the question that I, as a hiring manager, would be asking myself.

The Hon. WES FANG: Before I return to the theme that I was asking about previously, which I want to close off in a second, I have a question about that last answer that you gave to Mr Primrose. Would that also then translate to somebody who is already in the public service who might have a political affiliation, who then seeks to expand that political affiliation? For example, there is somebody who's in the public service who is a member of a political party, who then seeks election through that political party. That reputational issue would translate as well, wouldn't it?

KATE BOYD: Yes, so the way that that would manifest is through the code of conduct for the employee. Once they're employed, they're subject to their agency's code of conduct. For example, the Cabinet Office code of conduct states that you're entitled as an employee to reasonable participation in political affairs but you've got to consider whether that's consistent with your duties at all times and consistent with the reputation of the department as an apolitical agency.

The Hon. WES FANG: If you were making donations as an apolitical staffer and then seeking election afterwards, do you think there's a requirement to disclose those donations?

KATE BOYD: There is a requirement under the Electoral Funding Act to disclose those donations, so I would say that that is the regime that covers the field there. I'm not sure that—

The Hon. WES FANG: How would it be managed within somewhere like DPC?

KATE BOYD: Well, the question you've raised about that person seeking election—there is a Premier's memorandum and circular that governs what employees are required to do if they're seeking election. That differs depending on whether it's a Commonwealth or a State election.

The Hon. WES FANG: But that's not publicised by DPC, is it?

KATE BOYD: No, they're public.

The Hon. WES FANG: It's public, but say somebody does declare. It's unlikely that you'll see a media story being promoted by DPC about that—a press release, for example, being—

KATE BOYD: No, I've not seen that.

The Hon. WES FANG: No. So you wouldn't expect a direct feed to the media about any employee within DPC being a member of a political party and having made a political donation and then seeking political office in a future election.

KATE BOYD: I'm not sure. It's very difficult to answer that hypothetical.

The Hon. WES FANG: No, I appreciate that. I thought I would just check with you. In relation to the questions I was asking previously, you have a Minister who is responsive to a number of codes of conduct and Acts, you have a chief of staff who is under a different employment contract through the Parliament, and you have the secretary and the public service. But they're all effectively responsive to workplace health and safety. Is that correct?

KATE BOYD: Yes.

The Hon. WES FANG: So when a piece of information makes its way to the media from somewhere within that cohort of either the department or the Minister's office—through either the chief of staff, the staff below them or the Minister—regardless of where it has come from, the employee who is impacted would be protected by workplace health and safety, wouldn't they, if the information being published was damaging to them?

KATE BOYD: I don't think I can answer that based on the—it's too hypothetical. I'm not sure.

The Hon. WES FANG: Okay, let me take the hypotheticals out of it. Ms Watts was the subject of an article in *The Daily Telegraph*. That information could only have come from the department or from the Minister's

office. So either the department, the Minister's chief of staff or somebody below them, or the Minister herself could have given that information to the paper. Regardless of whether a code of conduct is responsive to the provision of information about a public servant or the like, they are responsive to workplace health and safety if the release of the information damages that person.

The Hon. PETER PRIMROSE: Point of order: Why have we got this free-flowing commentary over there? Can I ask what this has to do with the terms of reference?

The CHAIR: I was wondering when the question was coming, and I felt we were just getting there.

The Hon. WES FANG: Well, I was.

The CHAIR: I again caution you, because I think you are very close to passing adverse reflections on a Minister who is not here and has not been named in the terms of reference. It is tangentially relevant to the terms of reference. Could you come to the point?

The Hon. WES FANG: Knowing that that information would cause damage or reputational harm to that member of the public service, it is likely that that has broken workplace health and safety rules. Is that a fair assessment?

KATE BOYD : No, that is not my view. Again, I don't think I can answer that hypothetical question, but my general comments are that, yes, Ministers, as employers, are bound by work health and safety requirements. Chiefs of staff play a role there and, of course, secretaries of departments, and people are entitled to a safe workplace. But that is all I can say on that. I don't think I can follow the hypothetical—give an answer on that.

The Hon. BRONNIE TAYLOR: Ms Boyd, in the interests of what is going on here and has been going on in the use of committees for a time now, I think that it would be fair to say there are probably a lot of people in this building, on all sides of politics, who are very concerned with what they are seeing. I think that is everybody, if they're staff members. I was never a staffer myself, but there are a lot of young people in this building who want to go on to careers. Is there anything that we can do or that can be recommended by the department of cabinet? Is that what it's called?

KATE BOYD : The Cabinet Office.

The Hon. BRONNIE TAYLOR: Is there anything The Cabinet Office can suggest to this Committee, going forward, so that people who decide to work, don't work, go on to other jobs or come back have some type of framework so these things cannot be called into question and there's more clarity? I just think that it is something that we all probably, underneath, would be seeking, and it would be nice if there could be a recommendation. Is that possible? As I said, I am not a career politician. I do not know. But Mr McTavish alluded to something in the Federal standard or their code of whatever it is, so that we do not have—I don't want to say, because I don't want to offend—this siege mentality on people.

KATE BOYD : I acknowledge what you're saying, and I do think that these types of inquiries, where they target individuals as opposed to general matters of policy, do have a chilling effect, if you like, on people's willingness to work in the sector at a time when we have critical labour shortages in a lot of fields. So it does concern me that public servants are subject to this kind of scrutiny from time to time. I mean, of course, scrutiny is part and parcel of being in the public service, but, when it goes to individuals, it does concern me. As to whether or not our codes of conduct or guidance could be improved in this space, I think that is valid, and the Australian Public Service guidance on their code of conduct does stipulate that people are free to be office bearers in political parties, provided that that role does not conflict with their official duties. So that might be something that is worth looking at in New South Wales, and the Public Service Commissioner would be the person to raise that with.

The Hon. WES FANG: In relation to Ministers seeking informational briefs about members of the public service or prior members of the previous government, for example, when there's been a change of government, what are the policies and procedures around that?

KATE BOYD : The access to State papers of a former government—that issue is dealt with under the Premier's memorandum that deals with the caretaker conventions. So, generally speaking, incoming governments of a different political party are not able to access the State papers of a former government. But that does not extend to things that are matters of public record, and I would imagine that the appointment of a senior person to a public-facing role, such as the assistant border commissioner, would be a matter of public record. So I wouldn't think that that would be covered by those conventions.

The Hon. WES FANG: Okay. I note in your opening statement you said that you were happy to address matters of constitutional and ethical circumstances that relate to this inquiry. Ethically, what has been determined

to be best practice in relation to the seeking and releasing of personal employment information by departments or ministerial officers? Has it been an issue before? Is there a policy that might guide it?

KATE BOYD : Yes, the Privacy and Personal Information Protection Act is the statement of how you deal with personal information as a government agency. Again, I would question whether—it really comes down to whether or not what you're talking about is personal information. I don't think the name of a person or the position that they hold in the public service would constitute personal information.

The Hon. WES FANG: Any brief that's made up about them would similarly be releasable without any impact on that provision that you referenced earlier?

KATE BOYD : I think would depend on the content of the brief and whether it did indeed contain personal information, but just their name and the fact they're employed is not personal information.

The Hon. WES FANG: In relation to the ministerial code of conduct—or any other workplace health and safety rules that might apply to that—if you have a Minister who has identified a single public servant in their social media or their commentary where they have a photo and are seeking to negatively portray them—or that would be a view—it's likely that that would be the subject of a breach of the ministerial code of conduct, would it not?

KATE BOYD : I'm not going there, sorry.

The Hon. WES FANG: No? Do I need to be more specific? I'm happy to be, depending on the Chair's ruling.

KATE BOYD : I think they're better questions for the Minister.

The Hon. WES FANG: We asked the Minister. Or her chief of staff anyway, but he didn't show. That was disappointing.

KATE BOYD : Ministers, of course, have to act in the public interest. That is a question for the Minister as to whether or not—

The Hon. BRONNIE TAYLOR: Is acting in the public interest, then, sharing things on your personal social media account about an individual employee?

The CHAIR: Order! We've now gone way beyond the terms of reference. Are there any more questions within the terms of reference for Ms Boyd at this point?

The Hon. WES FANG: I reckon that was still covered under "any other".

The CHAIR: It's not "any other thing that ever existed".

The Hon. BRONNIE TAYLOR: It does go to the treatment of the—

The Hon. SCOTT FARLOW: It goes to the appointment.

The CHAIR: It does not go to the appointment.

The Hon. BRONNIE TAYLOR: Anyway, I accept your ruling, Chair.

The CHAIR: On that basis, I think we can probably conclude this session early, given that Ms Boyd has been so kind to come twice in quick succession. Thank you very much for your expertise and giving us the benefit of all of that evidence. To the extent there are supplementary questions, or questions taken on notice, you have 21 days, and the Committee secretariat will be in touch.

(The witness withdrew.)

Dr JULIE-ANNE TOOTH, Chief People Officer, Department of Regional NSW, affirmed and examined

Mr STEVE ORR, Acting Secretary, Department of Regional NSW, affirmed and examined

The CHAIR: I now welcome our final witnesses for today's hearing. Would you like to begin by making a short opening statement?

STEVE ORR: A couple of things, Chair. Firstly, I'm here as the acting secretary. Ms Fox, for personal reasons, is not here; she will be returning next week. The second point I would make is that in terms of the inquiry and the matters before the Committee, the decision-makers in many respects have moved on from the public service and the information which we will be talking about is drawn from documents which we have been able to find and recover from various systems. That is going to be the basis of our responses to the Committee outside of any other matters that the Committee wants to ask us.

The CHAIR: Thank you very much. We will begin with questions from the Opposition.

The Hon. SCOTT FARLOW: Thank you very much, Mr Orr, and thank you for that very helpful context in terms of what we can expect from your answers today. I will just turn to the process. Of course, we first had an appointment of a contractual role for six months. What was the department's involvement in the provision of that contract?

STEVE ORR: In terms of the decision to appoint Ms Watts?

The Hon. SCOTT FARLOW: I'd say in a sense, firstly, in terms of that position actually becoming available, the funding for that position becoming available, which I think we heard evidence that it was determined around November of 2019, and then subsequent to that the appointment of Ms Watts and what role the department had in that appointment.

STEVE ORR: Firstly, the Department of Regional NSW didn't even exist back then. It was the Department of Planning, Industry and Environment.

The Hon. SCOTT FARLOW: DPIE, yes.

STEVE ORR: Yes, DPIE, as it was known. The role of the department was, firstly, to run the process—and we provide some commentary about the process to the committee—and then it's overseeing the process, the decision-making associated with the process and, ultimately, the appointment of Ms Watts to the role.

The Hon. SCOTT FARLOW: With respect to that original position and the funding for that position, what communication is there that exists? I understand that you weren't there at the time. What communication exists from your search as to how that position came to be?

STEVE ORR: I think the evidence of Mr McTavish is the most pertinent in relation to that.

The Hon. SCOTT FARLOW: With respect to that, in terms of the documentary evidence that you've looked at, was there any involvement from the Minister for Regional NSW and Deputy Premier at the time?

STEVE ORR: Not that I can tell.

The Hon. BRONNIE TAYLOR: Hello, Mr Orr and Dr Tooth. It's my turn now. How are you? Thank you very much for coming. I would like to ask about a brief or information that was requested on the employment of Ms Watts. Was that requested from the department?

STEVE ORR: Yes. This sort of transacts the time when Ms Fox was in the secretary role and I was in the acting role. Information was requested of the department about the process of recruitment, and that information was provided.

The Hon. BRONNIE TAYLOR: Who requested that information, Mr Orr?

STEVE ORR: I don't know who specifically requested the information.

The Hon. BRONNIE TAYLOR: Can you please take that on notice for the Committee?

STEVE ORR: I'll take it on notice.

The Hon. BRONNIE TAYLOR: Are you acting secretary at the moment?

STEVE ORR: Today is my last day, yes.

The Hon. BRONNIE TAYLOR: Good on you. I'm sure it's in very safe hands.

The Hon. SCOTT FARLOW: Great way to end it.

The Hon. BRONNIE TAYLOR: Are you aware of requests being made for information about individual employees and emails going back years on their employment?

STEVE ORR: I think it was triggered by the fact that there were matters raised in the media with respect to the appointment process. My understanding was that the Minister's office wanted to get a better understanding of what that process was.

The Hon. BRONNIE TAYLOR: Are you saying that was before or after the media article? If you would like to take that on notice, that's fine.

STEVE ORR: I can provide the information in terms of when those requests were made, but they were made during the week of 3 August.

The Hon. BRONNIE TAYLOR: I would like to know when the request was made for information about the employment of Ms Watts, please. I'm happy for you to take that on notice.

STEVE ORR: I will take that on notice.

The Hon. BRONNIE TAYLOR: Mr Orr, in terms of that process, are you aware, as the acting secretary at your level, of any complaints that have ever been lodged against Ms Watts or her performance in the role?

STEVE ORR: No, I'm not.

The Hon. BRONNIE TAYLOR: Mr Orr, could you please tell the Committee if, after this article appeared in *The Daily Telegraph*—both in *The Daily Telegraph* and on the Minister's Facebook page with a photo of Ms Watts—was any request made as to her welfare or wellbeing by the Minister's office?

STEVE ORR: I think the Minister expressed to me concerns about the impact of these matters on public servants.

The Hon. BRONNIE TAYLOR: Did she specifically ask you about Ms Watts? In the Chamber in Parliament when this happened and another employee was mentioned the Minister clearly said she would ring to see how they were but there was no inference to that happening for Ms Watts.

STEVE ORR: That is clearly a matter which you will need to address with the Minister. But in terms of our role and our responsibilities as a department—

The Hon. BRONNIE TAYLOR: Sorry, Mr Orr, I don't mean to be rude, but what I am asking is, after these things appeared about an employee—being Ms Watts—was there any there request from the Minister's office that her welfare was checked on? I understand that there are department processes and I understand that she was very well supported by the department. That was in her evidence today. But did anything come from the Minister's office to check on her mental health and wellbeing?

The Hon. Dr SARAH KAINÉ: Point of order: I actually genuinely care about the welfare of Ms Watts and anyone else over the past few days that's been involved or named in this inquiry; however, I don't think that that's what we're investigating here—going to points of who said what and when about the Minister's conduct, which has been addressed in the House by the Minister. While I do genuinely have sympathy for everyone who has been put in the media spotlight due to this inquiry, I ask that that be ruled out of order.

The Hon. BRONNIE TAYLOR: To the point of order: I am simply asking whether the department was contacted by the Minister, because I am trying to draw out what has happened here in this process. That is my question. The Minister is already on the record for saying that when a second person was named they would reach out. I just want to know if that happened for Ms Watts from the Minister's office. It's a simple yes or no.

The Hon. PETER PRIMROSE: Further to the point of order: It's is not an unreasonable question; it's just not lawful in terms of the terms of reference of this inquiry.

The CHAIR: We have allowed quite a lot of latitude here. I'm happy for this last question to be answered but then if we could move on to issues that are more directly within the terms of reference, please.

STEVE ORR: My answer is that, in the discussions with the Minister on the matter, I advised that the department was providing the necessary support. Whether that in itself was sufficient for the Minister to be satisfied that the support was being provided is something which you'll need to ask the Minister.

The Hon. BRONNIE TAYLOR: Thank you, Mr Orr—two different standards.

The Hon. WES FANG: Mr Orr, you would be aware of the circumstances that have been canvassed today relating to Ms Watts' appointment initially in a temporary position or a contract position, its extension and then

the more substantive role she's in now. In relation to any of those, do they seem at all unusual to you or have you been aware of previous other appointments over your time in the department that have had similar policies and procedures around their appointments?

STEVE ORR: As we'll say, Mr Fang, the processes themselves, the initial appointment whereby a suitability assessment was done regarding whether Ms Watts was suitable for the role—that appears to be a compliant process in the sense that there was an interview, there was psychometric testing and there were referee checks. The subsequent decisions to extend Ms Watts, which happened on a number of occasions—a further temporary extension of six months and then a further extension of 12 months, before Ms Watts was made ongoing—also appear to be compliant if the question is, "Were there compliance issues with respect to the process?" Just to clarify the final step of the process, which related to Ms Watts being appointed on an ongoing basis, that was through what was called a talent pool arrangement, which the Committee's probably pretty familiar with now, whereby she went for another role and was put on a talent pool as a consequence of going for that role. Then the GSE allows, where there is comparability with the roles, to appoint her then into a position on an ongoing basis.

The Hon. WES FANG: I imagine you've delved into all of these position appointments in detail in preparation for this hearing. Has anything struck you as inappropriate in relation to any of those employment steps that Ms Watts has gone through with the department?

STEVE ORR: I think the Committee's probably been well ventilated on the decisions associated with Mr McTavish and his decision to interview Ms Watts. I can't really comment on whether that was appropriate or not. That'll be a matter for the Committee. Secondly, in term of the timing of things, what did appear a little unusual to us was when Ms Watts commenced in her role compared to when the final documentation was actually signed off. That appeared a little unusual to us because it would appear that Ms Watts commenced in the role prior to all the paperwork actually being signed off. I do understand that Ms Watts wasn't paid until such time as all the paperwork had been signed off, but there was a gap, which in itself was unusual.

The Hon. SCOTT FARLOW: How large a gap?

STEVE ORR: About a month.

The Hon. WES FANG: In relation to the position itself, within the department, the secretary, in effect, is the overseer of all aspects within the department, but the Minister and their office have the ability to request that information flow between the two. Is it the case that the Minister's office was the one that requested those briefs around Ms Watts?

STEVE ORR: That's my understanding.

The Hon. WES FANG: That was the initial brief as well as subsequent briefs. Is that right?

STEVE ORR: That's my understanding, keeping in mind, Mr Fang, that I wasn't in this role at that particular point. But that's my understanding.

The Hon. WES FANG: Was the first request before the twenty-third of—

STEVE ORR: I'll come back to the Committee with the details, if that's all right, Chair.

The Hon. BRONNIE TAYLOR: Mr Orr, this is linked to the terms of reference. After this appeared in the media, about Ms Watts' employment, it was then said that the office of the Cross-Border was ordering a review. Are there terms of reference for that review?

STEVE ORR: You wouldn't say—

The Hon. BRONNIE TAYLOR: Specifically for the Cross-Border Commissioner, which was what was said in the media.

The Hon. Dr SARAH KAINE: Point of order: I know that the Hon. Bronnie Taylor has declared that this is within the terms of reference. I'm failing to see how it is.

The CHAIR: Yes.

The Hon. BRONNIE TAYLOR: It's directly relevant.

The Hon. Dr SARAH KAINE: To the appointment of the assistant—

The Hon. BRONNIE TAYLOR: Yes, because there is now a review after the appointment, the question's come up about the review. What's the problem?

The Hon. Dr SARAH KAINE: When was she appointed? She was appointed three years ago, so you're right, it's after the appointment.

The Hon. BRONNIE TAYLOR: I'm just asking for terms of reference; I'm not asking for anything secret.

The CHAIR: I have heard the point of order. I think it's not in the terms of reference. I think it's very clearly not in the terms of reference. I think the question has been asked now. To the extent it could be answered, I don't have a problem with that, but I would ask you not to push along the same lines for future questions.

The Hon. BRONNIE TAYLOR: Are there terms of reference for this review into the Cross-Border Commissioner?

STEVE ORR: To start off, there are a number of things going on throughout the public sector at the moment. Are there specific terms of reference for that component of it? The answer would be no, there are not specific terms of reference.

The Hon. BRONNIE TAYLOR: Thank you, Mr Orr.

STEVE ORR: If I can just add in, the department is looking at all manner of things at the moment given the priorities of the Government, and that includes looking at the Office of the Cross-Border Commissioner.

The Hon. BRONNIE TAYLOR: So tending to review things that aren't a priority?

STEVE ORR: No. We have an upcoming budget, Ms Taylor. We are minded of the Government's priorities, and many parts of the public sector are looking at the way in which they're aligned in relation to those priorities. That includes the Department of Regional NSW.

The CHAIR: Mr Orr, you said before about the unusual way in which Ms Watts had started. We heard before, she said that she started on 29 January 2020. Is that the date in which the papers were signed? Was it signed later than that? Effectively, was she working before that date?

STEVE ORR: Yes. So this is the issue which I raised before, Ms Boyd. Again, this is not a matter about Ms Watts, but she commenced in the role on 29 January is our understanding, but the brief and all the paperwork was not signed off until later in February.

The CHAIR: When was that signed off? Are you able to—

STEVE ORR: It was the 27th.

The CHAIR: Of February?

STEVE ORR: Correct.

The CHAIR: And between 29 January and 27 February, so a four-week period, did you say before she wasn't paid for that?

STEVE ORR: My understanding, and again we can take it on notice, is that payment to Ms Watts did not occur until such time as the brief had been signed. So what it appears like is that she commenced in the role but the actual payment of her wage did not occur until such time as the brief had been signed.

The Hon. SCOTT FARLOW: When you say payment, it's not like there was back pay. She was paid as a commencement date of 27 February. Is that correct?

STEVE ORR: No, that's not my understanding.

The Hon. SCOTT FARLOW: So there was back pay?

The CHAIR: It was back paid. I was concerned she had volunteered her time for four weeks in that role. That would be fairly extraordinary. So when you say that the paperwork—sorry, you referred to the brief, so that's coming to the department to be signed off, "We've appointed this person."

STEVE ORR: Correct.

The Hon. Dr SARAH KAINE: Mr Orr, you said it is quite unusual for someone to commence work for a month—just on a month—before their role has actually been approved.

STEVE ORR: Correct.

The Hon. Dr SARAH KAINE: To be able to work, having—as has been alluded to today—worked in the public sector myself, you're required to have access to systems, emails and information. Are we to presume that Ms Watts was given access to those systems prior to the brief actually approving her in that role?

STEVE ORR: I'd need to take that on notice.

The Hon. Dr SARAH KAINE: If you could take that on notice, that would be good. Are there implications? It does seem highly unusual. The public service has a lot of rules, and most are for very good reason. Are there other implications for having someone ostensibly working who's not in the employ of the public service? I'm thinking about liabilities that would come up because of that circumstance.

STEVE ORR: I think probably the other bit which I'd add in is that what I don't know and what we don't understand is whether there was any agreements reached between the secretary and the coordinator-general at the time to enable that to happen. The paperwork tells a certain story but it's unclear to us whether there was anything else which was reached by way of agreement between the two. But you're right, it is unusual, and the matters which you raised before I'll take on notice.

The Hon. MARK BUTTIGIEG: Does it mean, in effect, that there was no employment relationship genuinely created because the approval hadn't been signed off? Is that what it effectively means in a legal sense?

STEVE ORR: I'll probably need to take that one on notice in terms of what the legal implications actually would be in relation to the employment relationship.

The Hon. MARK BUTTIGIEG: And was there any indication that that haste, if you like, before the approval—in other words, "Come in and start"—was encouraged by any third parties?

STEVE ORR: No.

The Hon. MARK BUTTIGIEG: So it was just purely a cock-up, was it?

STEVE ORR: I'm not sure what it was. Again, as I said in my opening remarks, we're going off the paperwork which we have available to us. Three and a half years ago—people have moved on. I'm not familiar with all the circumstances and the decision-making. It was a very unusual time. We had the drought matters, which Mr McTavish alluded to, we had the Black Summer bushfires to deal with, so the circumstances and the context in which the public sector was operating at the time was highly unusual.

The Hon. MARK BUTTIGIEG: Can I take you to this talent pool business in I think July 2021. What were the circumstances surrounding that? Ms Watts applies for a job and then I think was unsuccessful. Is that correct? And then by virtue of being unsuccessful goes onto the talent pool?

STEVE ORR: Correct. So there are three outcomes which can happen—I'll just speak broadly—in relation to an interview process. One outcome would be someone is appointed into the role. The second outcome is someone is seen to be suitable and capable of fulfilling the role but they are not the person who will be appointed and those people are put in the talent pool. The third outcome is that people aren't put in a talent pool. In the case of Ms Watts, she was put in a talent pool to say that she was capable of performing the role but she wasn't the preferred candidate. What that means in terms of—

The Hon. MARK BUTTIGIEG: Can I ask you what that role was?

STEVE ORR: I might ask Dr Tooth just to explain what the role was.

The Hon. MARK BUTTIGIEG: Sure.

JULIE-ANNE TOOTH: The role was Director, Strategy and Reform, which was an equivalent band 1 role in the department.

The Hon. MARK BUTTIGIEG: Is that the same band that Ms Watts is on now?

STEVE ORR: Correct.

The Hon. Dr SARAH KAINE: Where was that based? Do we know where that was going to be based?

JULIE-ANNE TOOTH: I'll have to take that on notice.

STEVE ORR: That role, my understanding was, was advertised externally.

The Hon. Dr SARAH KAINE: Can I go back to this month, this kind of lost month. You've identified that gap by virtue of looking at what documents? The brief which finally came through?

STEVE ORR: Correct.

The Hon. Dr SARAH KAINE: We've had Ms Watts in here today saying that it was the 29th. I'm not disputing that's the date, but when did you become aware of that gap?

STEVE ORR: Just recently when we've been looking through the documentation.

The Hon. Dr SARAH KAINE: How did you identify 29 January?

STEVE ORR: January 29 I think was on the brief—that the appointment took effect from 29 January—but the brief itself was dated 27 February.

The Hon. Dr SARAH KAINE: I do appreciate that you're going off documents rather than being involved. Did you come across any emails, any other justification? Because it's one thing to do the retrospective brief at the end of February and explain that that's when they started, but someone had to have decided and put in place some kind of process for Ms Watts to start on 29 January. Have you come across any of those?

STEVE ORR: We haven't done that search.

The Hon. Dr SARAH KAINE: Could I ask that on notice you might see if there is any documentation or emails that relate to that?

STEVE ORR: Sure.

The CHAIR: Sorry, also on notice if you could provide the brief that you're referring to?

STEVE ORR: Sure.

The Hon. Dr SARAH KAINE: Thank you, Chair. I wanted to also ask about the suitability assessment, the initial one. Ms Boyd also spoke to us about the differences between your full gold standard—I think she called it—process of merit selection and the suitability assessment, and that suitability assessments are approved in particular circumstances. Are you aware of the particular circumstances that meant that it was decided that this role wasn't advertised externally and, apparently, it was only Ms Watts who was approached about this role? Are you aware of why that was the decision taken?

STEVE ORR: No, I'm not.

The Hon. Dr SARAH KAINE: Are you able to, again, take it on notice and see if there is any documentation? I understand that someone would've had to approve that. Dr Tooth, you might be able to answer this. Would there not have had to have been a brief justifying why there wasn't a full merit process?

JULIE-ANNE TOOTH: The decision to undertake a suitability assessment, as you've heard a lot about over the last couple of days, is often used in the case where a role is created on a temporary basis. So that may be the reason that this was created, but we'd have to take it on notice to see if there is any documentation available that articulates the reason why.

The Hon. Dr SARAH KAINE: Could I also ask, even though it was a suitability assessment rather than a full merit process, I'm presuming that, even though this was also a new role, there was a position description associated with the assistant commissioner role?

JULIE-ANNE TOOTH: That's correct. That's what we can see in the paperwork.

The Hon. MARK BUTTIGIEG: With this talent pool assessment, what was the role you described?

STEVE ORR: Strategy and reform. Director, strategy and reform.

The Hon. MARK BUTTIGIEG: Because of the equivalence of the band, was that then just ticked suitable? Or is there actually a match against a position description?

STEVE ORR: Generally, there's a view about the capabilities. It's not necessarily about the role per se but are the capabilities similar. What I suspect has happened here is a view's been formed that the capabilities are similar and, therefore, because Ms Watts was on the talent pool, she could be directly appointed into the role.

The Hon. MARK BUTTIGIEG: Suspect that's what's happened, but there's no hard-and-fast rule about that's the sort of filter it has to be put through?

STEVE ORR: Again, I wasn't involved in the decision-making, but that is the expectation.

The Hon. Dr SARAH KAINE: Could I ask on notice again for a copy of both the position description and the suitability assessment that was undertaken?

STEVE ORR: On notice.

The Hon. Dr SARAH KAINE: Thank you. I appreciate that.

The Hon. MARK BUTTIGIEG: Do you have any knowledge or oversight on the donation, the \$4,000 donation, that was made in 2018 to The Nationals? Was that ever raised with you?

STEVE ORR: The first I heard about it was yesterday. Just further to the point about suitability, I think probably bear in mind that the initial role was for a period of six months. When there are such short-term roles going out to, if you like, a full market or to the gold standard approach can take additional time and, given the urgency of filling some of the roles, the suitability assessment would have been the preferred approach because it's a quicker process.

The Hon. MARK BUTTIGIEG: But you could technically game the system, couldn't you? Because you could go for the talent pool, go for a job, get knocked back, be marked suitable—six months, six months—and then not advertised internally, externally you're the pea for the job. Bob's your uncle. Let's be honest. That's the perception that's been created.

The Hon. WES FANG: Point of order: You can't apply to go to the talent pool. You get talent pooled if you're—

The CHAIR: Order!

The Hon. MARK BUTTIGIEG: You go in the talent pool by virtue of an application, right?

The Hon. WES FANG: No.

The CHAIR: Order!

STEVE ORR: You go on the talent pool as a consequence of going through a full process.

The Hon. Dr SARAH Kaine: You don't get the job.

STEVE ORR: You don't just get put on the talent pool because you've put in a CV. You get put on the talent pool as a consequence of going through a full comparative process.

The Hon. WES FANG: It's not like the ETU, mate.

The CHAIR: Order! If we could let the witness answer the questions and not other members answer the questions, that would be really useful.

The Hon. WES FANG: Apologies, Chair. Mr Orr, you've taken the provision of some documents on notice. Could I ask you add to that list all the briefs that have been provided by the department to the Minister's office since the election in March 2023?

The Hon. Dr SARAH Kaine: Point of order, Chair—

The Hon. WES FANG: About Emma Watts—that's what I was going to ask. I was getting there.

The Hon. Dr SARAH Kaine: Excellent.

The Hon. WES FANG: All the briefs that have been created by the department and sent to the Minister's office in relation to Emma Watts since the election—if you could provide those as well, thank you.

STEVE ORR: On notice.

The Hon. WES FANG: Thank you—on notice. In relation to the provision of temporary employment, since 28 March have there been within the department, at that band 1 executive or executive director level, any temporary appointments or acting appointments that have occurred? Would that be pretty standard?

STEVE ORR: I am sure there have been, Mr Fang. But Dr Tooth may want to comment on that. But if you want specific numbers, we will need to take that on notice.

JULIE-ANNE TOOTH: We will take that on notice for numbers.

The Hon. WES FANG: Obviously you're in the office of the secretary at the moment in the acting role. In your office would there be somebody in an acting position at that director level or executive director level?

STEVE ORR: In the actual office itself?

The Hon. WES FANG: Yes.

STEVE ORR: Yes, there is an acting position—at least one I am aware of. There may be others.

The Hon. WES FANG: I'm not going to name the person, so everyone can be calm, but are you aware if that person has had political affiliations, or are you aware if they were perhaps a former staffer with political affiliations?

STEVE ORR: I guess it depends who the person is you are referring to, but if it's—

The Hon. WES FANG: Is there a number of people?

STEVE ORR: What's the question, Mr Fang?

The Hon. WES FANG: For those acting or temporary roles, where someone at a director level or executive director level has been put into the role on that basis, have you sought to find out their political affiliation or if they've made any donations at all to a political party?

STEVE ORR: I haven't been the decision-maker in relation to that role and—

The Hon. WES FANG: Has the office of the secretary, perhaps?

STEVE ORR: That's something you will need to talk to Ms Fox about. But wherever an appointment is made, there is a framework which gets applied, irrespective of who that person is and whatever their political affiliations actually are.

The Hon. WES FANG: Would that framework include their nominating or declaring if they've been a previous political staffer, if they've made political donations or if they are a member of a political party?

STEVE ORR: I think the Committee has probably had a fair amount of evidence to suggest that that is not a requirement. Ms Boyd is far more of an expert than I and she provided evidence to the Committee previously. But so far as "Does that come into the decision-making process?", it doesn't. But any conflicts which an individual does have in relation to their political affiliations are expected to be managed.

The Hon. WES FANG: Would it be fair then to have suggested that someone like Ms Watts be required to do that when it perhaps hasn't been requested of more recent appointments?

STEVE ORR: It's a general requirement of all staff.

The Hon. Dr SARAH KAINE: Dr Tooth, if I could go back again to the commencement of Ms Watts on 29 January, as the chief people officer—I think Mr Orr said that it was quite an unusual situation to have found that the commencement began before the paperwork was in. What's your experience of that? Is that unusual? And is that appropriate, to have people working before the paperwork has been through to appoint them to that role?

JULIE-ANNE TOOTH: I've been a chief people officer with the department since February of this year, so I have no information or context around the particular circumstances. As Mr Orr has articulated, we've collated the available information in relation to this matter. For me to make comment on that would be mere speculation, so I wouldn't comment on that.

The Hon. Dr SARAH KAINE: Could I ask a different question: As the current chief people officer, how would you view it if you understood that someone was appointed and was acting in a role before their paperwork, which actually approved it and set in train all of the official aspects of their employment—what would be your position on that?

JULIE-ANNE TOOTH: Whilst that's a hypothetical at the moment, I wouldn't be supportive of that activity, personally.

The Hon. BRONNIE TAYLOR: Further to that, if I may, Mr Orr, you said before that during that time—to be completely fair, you said it's not usual for this to happen, but that it was at an extraordinary time when there was a lot going on. There were droughts, there was COVID coming and all of those sorts of things that happened. So it's possible that you—

The Hon. SCOTT FARLOW: Worst bushfires on record.

The Hon. BRONNIE TAYLOR: Yes, I remember the fires very well, unfortunately. Contextualising that to a situation—respectfully, Ms Tooth, as you said, you only started in February and you find yourself here already. That was a very different time, and that was what your evidence was suggesting earlier on. Is that correct, Mr Orr?

STEVE ORR: That's correct. My recollection of that time was it was unparalleled in the public service, where the impacts of drought, then followed by the bushfires—and I was personally involved in the bushfires in my role at the time—followed then by COVID a few months later was highly unusual. Yes, the circumstances were quite unusual, and the public sector had to act and behave in a way to deal with the challenges which it was facing.

The Hon. WES FANG: I have just had a look. Just so I've got my time line clear, I think you said that Ms Watts' start date on the paperwork is 29 January. Is that correct?

STEVE ORR: Correct.

The Hon. WES FANG: Recalling that around 1 January there were bushfires, like at Dunns Road, and then we had the coastal bushfires, and the first case of COVID was 25 January 2020—just a couple of days before Ms Watts was due to start. Is that, perhaps, a likely reason as to why there might've been some delay, given that there were those COVID issues that were just coming into place and the cross-border issues with bushfires in Victoria and New South Wales? Obviously, Mr McTavish was indicating that he was doing the cross-border role whilst also doing the water security role and that he was seeking someone to take over those cross-border issues. Would he have the delegation to get someone into that role and send the paperwork, but it's likely that the paperwork could've been delayed through any other number of reasons with your department?

STEVE ORR: I wouldn't want to speculate, Mr Fang, as to what actually went on, apart from saying that the circumstances were pretty unusual.

The Hon. WES FANG: But it could be that the delay is explained by the—

The CHAIR: Perhaps we could ask a supplementary question of Mr McTavish.

The Hon. SCOTT FARLOW: Just one point of clarification—and I know you will do it in the questions on notice as well—in terms of that brief, was that brief you referred to from the Cross-Border Commissioner or was that from DPIE at the time?

STEVE ORR: No, the brief also pertained to the Cross-Border Commissioner's role, so the Cross-Border Commissioner wasn't a signatory to the brief.

The Hon. SCOTT FARLOW: It was a DPIE brief?

STEVE ORR: It was a brief which dealt with a number of things, one of which was the appointment of Ms Watts to the role.

The Hon. MARK BUTTIGIEG: Mr Orr, have you seen any correspondence associated with the receipt of the CV from McConnell?

STEVE ORR: No, I haven't seen the specific email.

The Hon. MARK BUTTIGIEG: What about the other one from a month later? There were two CVs that were transmitted to the department.

STEVE ORR: I can't recall, but I know that the two emails exist.

The Hon. Dr SARAH KAINE: Following on from that, I think we heard from the commissioner today that he received Ms Watts' CV from two sources. One was Mark McConnell and one was from your department. Are you able, on notice, to attempt to find who sent that CV and when?

STEVE ORR: Yes.

The Hon. BRONNIE TAYLOR: I'm sure your Minister has got it.

The CHAIR: Any other questions for the witnesses at this time?

The Hon. SCOTT FARLOW: Early mark.

The CHAIR: An early mark. We love that. Thank you so much for your time. To the extent there are questions on notice or supplementary questions, there will be 21 days to respond. The Committee secretariat will be in touch. That concludes our hearing for today.

(The witnesses withdrew.)

The Committee adjourned at 12:40.