

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, AND SENIOR
EXECUTIVES AND DEPARTMENT LIAISON OFFICERS IN 2023**

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Monday 8 April 2024

The Committee met at 9:15.

PRESENT

Ms Abigail Boyd (Chair)

The Hon. Mark Buttigieg
The Hon. Scott Farlow (Deputy Chair)
The Hon. Dr Sarah Kaine
The Hon. Peter Primrose
The Hon. Natalie Ward

The CHAIR: Welcome to the third hearing of the 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, and senior executives and department liaison officers in 2023. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today or watching the livestream.

My name is Abigail Boyd and I am the chair of the Committee. I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses may say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures.

Ms KATHRINA LO, NSW Public Service Commissioner, Public Service Commission, affirmed and examined

The CHAIR: Is there an opening statement that you'd like to make?

KATHRINA LO: Yes, I do have an opening statement. Thank you for the opportunity to make an opening statement and to assist the Committee with its inquiry. I would like to take this opportunity to briefly summarise the legislative provisions that apply to secretary appointments. These are set out in section 23 of the Government Sector Employment Act and rule 52 of the Government Sector Employment Rules. Under the GSE Act, the Premier has the power to appoint secretaries and may delegate this function to the Secretary of the Premier's Department. There is discretion to make a direct appointment to a secretary role or to undertake a merit process. If it is decided not to make a direct appointment, this does not trigger the requirement in GSE rule 17 to conduct a comparative assessment. GSE rule 52 (4) provides that part 3 of the rules, within which rule 17 sits, does not apply to secretaries. There is therefore significant latitude in how any recruitment process for a secretary role is conducted, given there is no prescribed process.

Before appointing a person as a secretary, GSE rule 52 requires the secretary of the Premier's Department to consult with the Public Service Commissioner and the senior responsible Minister and to provide a report to the Premier on the proposed appointment. In relation to the appointment to the transport secretary role, which is the subject of this inquiry, it was decided to not make a direct appointment and to instead undertake an open merit selection process. The role was publicly advertised, an executive search firm was engaged to conduct a local and international search, an assessment panel shortlisted candidates for interview and an evaluation panel interviewed the shortlisted candidates. While a comparative assessment is not required under the GSE rules, the evaluation panel did use three capability-based assessments, namely an interview, a scenario presentation and a psychometric assessment. Referee checks were also undertaken.

Neither the Minister nor her office gave a direction, or made any suggestion, to me about who the evaluation panel should interview or what our recommendations should be. To my knowledge, no such direction or suggestion was made to any other member of the evaluation panel. The evaluation panel acted impartially, objectively and in good faith in assessing the suitability of the candidates for appointment. The panel's report reflects our unanimous view regarding the candidates. The GSE rules do not require a panel to rank candidates for a secretary role, nor do they prescribe the descriptors to be used in a panel report to compare candidates. In this case, the evaluation panel considered that two candidates were appointable. The secretary of the Premier's Department arranged for the Minister to meet with both candidates. The Secretary of the Premier's Department was the ultimate decision-maker on which candidate to appoint.

In relation to other elements of the inquiry's terms of reference, I note, firstly, that I was not involved in the appointment of the NSW Cross-Border Assistant Commissioner. Secondly, I do not have a role in the appointment of departmental liaison officers. This is a matter for each department. My involvement in relation to the Transport portfolio DLOs was limited to receiving several verbal updates from the chief people officer about the progress of an investigation into the actions of a particular DLO. Lastly, my involvement in relation to the creation of the Transition Office in Transport for NSW was limited to providing verbal advice to the chief people officer on the practical application of section 26 (4) of the GSE Act. This section provides that in exercising their employer functions, a secretary is not under the direction or control of a Minister. Thank you.

The CHAIR: Thank you very much. It was very useful for you to set out the applicable legislation in relation to the appointment of the secretary. Can you explain for the Committee where the boundary is in terms of what a Minister can and can't do in relation to the appointment of departmental staff?

KATHRINA LO: Do you mean in relation to the recruitment of departmental staff or generally?

The CHAIR: The recruitment in particular.

KATHRINA LO: In relation to recruitment, for secretaries the position is different than other senior executives and non-executive staff. I think it's useful if I could ask the Committee to turn its attention to section 25 of the GSE Act. It provides some useful context and background in relation to that relationship between the secretary and the Minister. I think recruitment then needs to be seen in that context. Section 25 of the GSE Act starts by saying that the secretary is responsible to the Minister. It goes on to say that the secretary works closely with the Minister to ensure the delivery of the Government's policies and programs. The secretary is responsible for assisting the Minister to fulfil their ministerial accountability obligations to Parliament by providing factual information.

The section also talks about the secretary being the principal official policy adviser to the Minister. The section also talks about secretaries providing frank and fearless advice to the Minister. The point I'm trying to make is that under the GSE Act the secretary has a unique role. To be able to perform effectively in that role, the

Minister would have to have a high degree of confidence and trust in whoever holds that role. We then see the sections relating to secretary appointments in that context and hence the requirement to consult with the Minister.

The CHAIR: To clarify, my question is in relation to the other parts of the terms of reference of the inquiry and, in particular, the appointment, by the secretary as employer of department staff, as I understand it. What are the limits on ministerial involvement—not just the Minister but the ministerial office—in that appointment? Can they suggest people for employment? Can they direct employment? That's what I'm trying to understand the legal restrictions on.

KATHRINA LO: Sure, I understand that. As I said during my opening statement, section 26 (4) of the GSE Act provides that when secretaries exercise their employer functions, a secretary is not under the direction or control of a Minister. It's a little hard for me to comment in the abstract or to comment on hypotheticals but, to be prudent, what I would say is that Ministers and Minister's offices should allow secretaries and departments to undertake recruitment processes and that process should be at arm's length.

The CHAIR: Thank you. That's very useful.

The Hon. NATALIE WARD: Thank you, Ms Lo, for coming today. You are one of the people that is assisting the Committee and is coming to the inquiry so we appreciate that and appreciate you being here today. Ms Lo, have you familiarised yourself with the terms of reference for the inquiry?

KATHRINA LO: Yes, I have.

The Hon. NATALIE WARD: It's about the circumstances leading up to the appointments, the process undertaken to make the appointments and the probity and integrity measures undertaken as part of the appointments, among other things, which are there for everyone to see. Ms Lo, you'd be aware of the critical roles that integrity and transparency play in the recruitment and appointment of people to positions in the public service?

KATHRINA LO: Yes.

The Hon. NATALIE WARD: Based on your understanding of the process for this appointment—that is, in relation to the appointment of Josh Murray as secretary; we'll get to the DLOs later—do you agree that Ms Haylen participated, in some form, in the decision-making process?

KATHRINA LO: She was consulted during the process. Whether that fits your definition, I'm not sure, but she is required to be consulted under the GSE rules.

The Hon. NATALIE WARD: And she made her view known after that consultation. That's correct, isn't it?

KATHRINA LO: Yes. The Secretary of the Premier's Department sought her views on two candidates after meeting with those candidates and she provided a view.

The Hon. NATALIE WARD: It's not a trick question. She participated, in some form, in the process, whatever form you want that to be—

KATHRINA LO: Yes, as required to.

The Hon. NATALIE WARD: —and had some input into that decision-making in expressing a preference about one candidate over and above another.

KATHRINA LO: Yes.

The Hon. NATALIE WARD: How do you, as Public Service Commissioner, define a conflict of interest?

KATHRINA LO: I think it would very much depend on the circumstances but, in broad terms, it's about when your personal interests might conflict with your public duties.

The Hon. NATALIE WARD: And that's set out in a number of documents and, obviously, precedent. But in your role you'd be very familiar with that, I would've thought.

KATHRINA LO: Yes. It's set out in the code of conduct, for example, for public servants.

The Hon. NATALIE WARD: Do you agree that above any formal conflict of interest framework there sit ethical considerations that senior public servants are required to comply with or conform to?

KATHRINA LO: Yes. In the GSE Act there is an ethical framework. It sets out the core government sector values of integrity, trust, service and accountability, and beneath each of those there are some principles about how you would bring those core values to life.

The Hon. NATALIE WARD: And you would deal with those, I would have thought, very regularly and have those top of mind in your role and expect those in other public servants, would you not?

KATHRINA LO: Yes. The Public Service Commission obviously has a code of conduct, which then applies across the government sector. Through various mechanisms we bring that code of conduct to life and work with other agencies to promote integrity and the other values.

The Hon. NATALIE WARD: That would be, in a sense, that public servants have a higher duty beyond the legislation. We've seen what's in the legislation but there are also the requirements of the ethical framework.

KATHRINA LO: To act ethically, yes.

The Hon. NATALIE WARD: As a matter of policy, the ICAC says in regard to conflicts of interest and managing them in the New South Wales public sector:

Personal interests that could conflict with public duties [include] ... People who are more than acquaintances [and] ... Connections to people ... who have given benefits or favours ...

You would be familiar with that, would you not?

KATHRINA LO: Yes, and our code of conduct talks about conflicts of interest.

The Hon. NATALIE WARD: As the agency with some moral and legislative responsibility framework—you've talked about both this morning and acknowledged both—in place for public sector recruitment, do you agree or disagree with the ICAC definition?

KATHRINA LO: I'm not disagreeing with the definition.

The Hon. NATALIE WARD: So you're clear that the ICAC definition would work alongside or with the code of conduct? It's something that you would have to have regard to?

KATHRINA LO: Yes. It's not inconsistent.

The Hon. NATALIE WARD: Was it your understanding throughout the recruitment process that candidates would be put to the Minister for her view prior to appointment?

KATHRINA LO: Yes.

The Hon. NATALIE WARD: That was your view throughout?

KATHRINA LO: Yes.

The Hon. NATALIE WARD: And you were made aware of that?

KATHRINA LO: Yes, and it's consistent with the process that was run previously to fill the Transport secretary role a few years ago.

The Hon. NATALIE WARD: I'm interested in this one for the purposes of today. We can come back to others comparatively.

KATHRINA LO: That's right, but I'm just saying it's consistent with what's happened with other open-merit processes for secretary appointments.

The Hon. NATALIE WARD: As a statement of fact, was it ever raised with you, prior to your involvement in the recruitment process, that Mr Murray had donated to Minister Haylen's personal political campaign?

KATHRINA LO: No, it had not.

The Hon. Dr SARAH KAINE: Point of order: I'm not sure that that's the evidence that's been adduced from previous hearings, that he donated to her personal political campaign.

The Hon. NATALIE WARD: It's been acknowledged publicly.

The Hon. Dr SARAH KAINE: To her personal—

The Hon. NATALIE WARD: It's been acknowledged in this hearing.

The CHAIR: Order!

The Hon. Dr SARAH KAINE: Sorry, Chair. There were acknowledgements of small donations but, as I recall, they were not to Ms Haylen's personal political campaign. I would like that corrected if that's the case, or at least withdrawn until that's checked.

The Hon. NATALIE WARD: Chair, I don't think that's in contention. It's been in the public sector.

The Hon. Dr SARAH KAINE: No, that's not correct.

The Hon. NATALIE WARD: The Minister has had the chance to respond to that. She's very clear that donations were made.

The Hon. SCOTT FARLOW: He went to a Jo Haylen fundraiser.

The Hon. NATALIE WARD: He went to a fundraiser.

The CHAIR: Order!

The Hon. NATALIE WARD: It's clear that Mr Murray went to a Jo Haylen fundraiser, let's put it that way.

The CHAIR: There is no point of order but that clarification, if it is a clarification, is on the record.

The Hon. NATALIE WARD: If I may, Chair.

The CHAIR: Please continue.

The Hon. NATALIE WARD: It was donation made to the Summer Hill election campaign, so that's a very clear donation to the Minister's campaign for re-election in the seat of Summer Hill. I will put the question again: As a statement of fact, was it ever raised with you, prior to your involvement in the recruitment process, that Mr Murray had donated to Minister Haylen's Summer Hill election campaign?

KATHRINA LO: No, it was not. But what I would say would be that there is no requirement for candidates for government sector roles to declare any donation to a political party. In fact, requiring or considering such information would be contrary to the merit principles and the apolitical nature of the government sector.

The Hon. NATALIE WARD: But this is about the Minister and connections to people and entities who have given benefits or favours, according to the ICAC definition. I'm not concerned about what Mr Murray did; I'm concerned about the requirement to take into consideration, according to the ICAC definition, connections to people and entities who have given benefits or favours.

KATHRINA LO: What I would say to that is I don't have remit over Ministers, so I think it really is beyond my remit to comment on what's required of Ministers.

The Hon. NATALIE WARD: Sure.

KATHRINA LO: That would be for others.

The Hon. NATALIE WARD: Can I clarify?

KATHRINA LO: I understand that would be regulated under the ministerial code of conduct and possibly the Electoral Funding Act.

The Hon. NATALIE WARD: Which is why my question was confined to you and your role. As a statement of fact, was it raised with you prior to your involvement in the recruitment process?

KATHRINA LO: No, it wasn't. And, if it had, I would have to set aside that piece of information.

The Hon. NATALIE WARD: So it was not brought to your attention? You weren't aware of the donation?

KATHRINA LO: No.

The Hon. NATALIE WARD: And no-one told you about that?

KATHRINA LO: No. I wouldn't expect to be told either because it's not relevant to a merit process.

The Hon. NATALIE WARD: What would you have done if you were aware that a donation had been made?

KATHRINA LO: I would have to set aside that information under merit recruitment. What we are doing under merit recruitment is to compare or assess candidates against each other—so we're looking at relative merits against each other—and we're assessing their skills and experience against the capabilities set out in the role description.

The Hon. NATALIE WARD: I understand the merit process. I'm asking about the donation, given that there is a flag, or a very clear statement—much more than a flag—in the ICAC statement about managing

conflicts. The existence of a conflict—as a matter of fact it's true that no-one brought that to your attention. Is that factually correct?

KATHRINA LO: That's right. If I could answer further, if that had been brought to my attention—and this is purely hypothetical at this point—

The Hon. NATALIE WARD: Sure.

KATHRINA LO: —I would've had to disregard it for the purposes of the recruitment process, and then I would seek some advice from those that have remit over this as to whether there's anything additional that's needed.

The Hon. SCOTT FARLOW: To that point, who would those people be that would have remit?

The Hon. Dr SARAH KAINE: Point of order—

The Hon. NATALIE WARD: Stop running cover.

The Hon. Dr SARAH KAINE: We have entered into deeply hypothetical territory with regard to what could potentially happen if something else had happened, if maybe another thing had happened. I request that the question is moved away from the hypothetical.

The Hon. NATALIE WARD: Chair, the witness has indicated what she would have to do and has opened the door and begun answering. I think it's fair. It's a factual question in the remit of this inquiry in relation to existing documents and a framework that we have in place. The witness has indicated what she would have done in those circumstances, so I don't think it's "deeply hypothetical". I think it's clearly saying, "What would you do?"

The CHAIR: There is no point of order. But I will remind everyone that we are free flowing, so if the Government members would like to step in at some point.

The Hon. MARK BUTTIGIEG: Oh, we are free flowing. I thought we were blocking!

The CHAIR: We are free flowing. We will go to Mr Farlow and then perhaps Dr Kaine, if you wanted to ask a question, then we could come back to you and then go back to Ms Ward after that. Go ahead, Mr Farlow.

The Hon. SCOTT FARLOW: Ms Lo, for clarification, who would that person be who would've had remit that you would've sought clarification or advice from?

KATHRINA LO: My first port of call when technical issues like this come up would be I would speak to my own general counsel and they would advise me of who else I might need to speak to.

The Hon. SCOTT FARLOW: That's similar to the evidence that Peter Duncan has given in the past as well, that in that case he would've sought legal advice if he had been made aware of there being political donations. You would've chosen a similar path?

KATHRINA LO: Yes, I did read his evidence and I think he gave evidence along similar lines.

The Hon. PETER PRIMROSE: Can I go back to the real world just for a moment—

The Hon. NATALIE WARD: You just referred—no, sorry.

The Hon. PETER PRIMROSE: —on the same point?

The Hon. NATALIE WARD: You just referred in your answer to technical issues.

The CHAIR: Order!

The Hon. NATALIE WARD: It's just on that sentence.

The Hon. PETER PRIMROSE: It's free-flowing. It may help clarify things. In the real world, in interview that was conducted for Mr Murray, the panel determined, based on the process as per the rules and the Act, that he was highly suitable; no-one directed you to reach that conclusion.

KATHRINA LO: Correct.

The Hon. PETER PRIMROSE: That's correct, isn't it?

KATHRINA LO: Yes. That's what I said in my opening statement.

The Hon. PETER PRIMROSE: I want to go back and touch base with reality before we go down rabbit holes.

The Hon. NATALIE WARD: That's your take on it.

The Hon. MARK BUTTIGIEG: Can I ask—

The Hon. NATALIE WARD: You referred in your answer to technical issues.

The Hon. PETER PRIMROSE: It's not my take on it. I'm asking the witness a question. The witness has responded.

The Hon. NATALIE WARD: Three of you are running cover. I just have a question about the sentence that was given.

The CHAIR: Order!

The Hon. MARK BUTTIGIEG: Am I able to ask a question, or is this—

The CHAIR: Order! I will allow Ms Ward to just finish off on that one question she's about to ask and then I'll come to you, Mr Buttigieg.

The Hon. PETER PRIMROSE: Back to "Alice in Wonderland".

The Hon. NATALIE WARD: It's just timely. In the answer you gave, you referred to a technical issue that you would have to get that advice on. Can I just follow through: What was that technical issue?

KATHRINA LO: I'm saying there's potentially a legal issue or an issue that relates to legislation or some other sort of instrument. Those two instruments that I mentioned, the ministerial code of conduct and the Electoral Funding Act, they're within the purview of others, so I would need to seek advice on that.

The Hon. NATALIE WARD: I'm happy to go back. What was the potential legal issue that you may have had to seek advice on?

KATHRINA LO: I think this is hypothetical now.

The Hon. NATALIE WARD: Sure.

KATHRINA LO: Look, it didn't arise.

The Hon. NATALIE WARD: But you've referred to that in your answer. I'm just wanting you to elaborate on what that might have been. You said there might have been a technical issue. It might have been a potential legal issue.

KATHRINA LO: The issue would be whether any further action is required by me. That would be the issue.

The CHAIR: Mr Buttigieg?

The Hon. MARK BUTTIGIEG: Thank you, Chair. You mentioned before, Ms Lo, about the GSE Act requiring consultation with the Minister regarding appointments. Why do you think that would be put in there? What's the utility of that provision?

KATHRINA LO: It's what I referred to before about the nature of the relationship between a secretary and a Minister. I outlined some of that context in legislation, in section 25 of the legislation. It is a very close working relationship, and it would not work effectively if a Minister did not have a high degree of confidence and trust in the person filling the secretary role.

The Hon. MARK BUTTIGIEG: It would be highly unremarkable, wouldn't it, that the Minister would have a preference in the context of those KPIs, if you like—trust, political confidence? We're living in a world where you would imagine that that provision is in there because the Minister should have some say over the senior person that's going to affect his or her ability to run a department, correct?

KATHRINA LO: That's right, and that's why the requirement for consultation is in the rules.

The Hon. MARK BUTTIGIEG: This sort of implied world where everything is at arm's length, in the sense that the Minister has zero control and shouldn't have control, just doesn't exist in practice, does it?

KATHRINA LO: I think what's telling is that secretaries or recruitment for secretaries is treated very differently to recruitment for other senior executives and non-executives, and that's in recognition of the unique role that secretaries play under the GSE Act.

The Hon. NATALIE WARD: Ms Lo, I do appreciate you are trying to be helpful here for the extent to which you were involved, so let's come back to that. You referred to whether there was a potential technical issue, whether there was a potential legal issue that, in those circumstances, you may have sought legal advice on in

relation to whether further action was required by you. Can I ask you to elaborate on that? What potential further action that might have been in those circumstances?

KATHRINA LO: You are now asking me to guess what my general counsel may have advised me and I'm just not in a position to do that.

The Hon. NATALIE WARD: No, I'm certainly not. I'm just asking, in your experience, in your position, what further action, potentially, those avenues might have been? We're not asking you to second-guess if there was something.

KATHRINA LO: Look, I'm not going to speculate on what advice I would have been given about any action that I may have needed to take.

The Hon. NATALIE WARD: We may come back to that then. Based on Mr Duncan's evidence and your evidence, are you aware of any assessment, declaration or risk management process that was put in place regarding the possibility of Minister Haylen's potential conflict of interest regarding the political donation during the recruitment process that led to Mr Murray's appointment?

KATHRINA LO: The panel that I was on declared that we were each familiar with some of the candidates but there was nothing other than a professional, I suppose, crossing of paths. There was no process that I'm aware of in relation to the Minister. But I would say that, if there is a conflict, it would be for others to declare their own conflicts.

The Hon. NATALIE WARD: In relation to the potential—

The CHAIR: I just want to clarify that. As I understand it, Mr Murray attended—was it tickets? Was that what the donation was? Have you ever had a situation before where a secretary has been questioned over whether or not they're suitable for a role because they may have attended a political event?

KATHRINA LO: No, never. If I could give you a little bit more context around secretary recruitment, I can only speak to the last nearly four years when I've been in this role. The vast majority of appointments to secretaries during that period have been direct appointments. There is only one other secretary appointment that I'm aware of that was preceded by an open merit process and only one that was preceded by a closed merit process. A closed merit process is where the role isn't publicly advertised, and potential candidates are identified and invited to apply. The vast majority are direct appointments.

The CHAIR: Dr Kaine.

The Hon. NATALIE WARD: I was halfway through my question.

The Hon. Dr SARAH KAINE: Ms Lo, could I ask you about other appointments. I don't know if the PSC has remit, but, for example, a Ministerial Advisory Council for Ageing, appointments to that type of board, is that something that PSC would look at, at people's connections and political donations, or is that some other body that would have remit?

KATHRINA LO: The PSC is generally not involved in appointments to ministerial advisory committees. I get involved in assisting with managing recruitment to statutory offices when I'm asked to do so by Ministers, so that would be, I guess, the bulk of the recruitment that I'm involved in, statutory officer recruitment.

The Hon. Dr SARAH KAINE: If a party operative or elected official was appointed to a ministerial board, that would be someone else's to look at? That would be ICAC or—

KATHRINA LO: Yes. I don't vet people before they're appointed. I would not see the names that are recommended to Cabinet, so I don't have involvement in that.

The Hon. NATALIE WARD: Chair, if I can just finish off the paragraph that I was on, if you've finished? I think that's outside the remit, but ministerial appointments are direct ministerial appointments to advisory boards, are they not?

The Hon. Dr SARAH KAINE: So they could be Liberal Party operatives.

The Hon. NATALIE WARD: Are they not?

KATHRINA LO: Yes. It's for the Minister to make recommendations and to institute any process in the lead-up to those recommendations.

The Hon. NATALIE WARD: Thank you. Can I come back to my question, which was based on Mr Duncan's evidence and your evidence. You're saying there was no assessment, declaration or risk management

put in place regarding a possibility of Ms Haylen's potential conflict of interest regarding a political donation. There was no assessment that you're aware of, no step taken?

KATHRINA LO: The obligation would be if you have the conflict, the obligation is on you to declare it.

The Hon. NATALIE WARD: To your awareness, were you aware of anything put around that, potentially?

KATHRINA LO: Not that I'm aware.

The Hon. NATALIE WARD: Do you think that putting forward candidates when they have made a donation and haven't declared it is a concern?

The Hon. Dr SARAH KAINE: Point or order—

The CHAIR: I will hear the point of order.

The Hon. Dr SARAH KAINE: That was clearly asking for opinion, "Do you think".

The Hon. NATALIE WARD: To the point of order—

The CHAIR: I'm not sure that's the point of order but I was also a bit concerned that we keep talking about something as though it's fact. Your questions keep asserting that there was a potential conflict of interest. I'm not sure that that's appropriate to just keep stating without it having been proven in any way.

The Hon. NATALIE WARD: I take your point, Chair. To that point, I did establish that the ICAC referral specifically states in managing conflicts of interest that potential—which is why I've phrased it as a potential conflict. It arises specifically out of what the ICAC has said. The Public Service Commissioner has acknowledged—

The CHAIR: But it's your assertion that this set of circumstances would be a potential conflict of interest, as though everything could be a potential conflict of interest. By stating it that way, you are making out as though there is actually a potential conflict of interest. I caution you to be careful about that because that is quite an assertion, in the circumstances.

The Hon. NATALIE WARD: Certainly, Chair. I'll take that on board. But it arises out of the ICAC's published conflict of interest document talking about this.

The CHAIR: That has nothing to do with these particular circumstances.

The Hon. NATALIE WARD: This is an inquiry into transparency, accountability, public expectations and integrity measures. I would have thought that the ICAC publication on potential conflicts is something that this Committee should be guided by, but if you are telling me we should ignore the ICAC—

The CHAIR: We are. That's the point that I'm making. Dr Kaine, did you want to pop in?

The Hon. Dr SARAH KAINE: Yes, I did have a question.

The Hon. NATALIE WARD: Can I just move on, Chair? You keep running cover on my questions.

The Hon. Dr SARAH KAINE: Excuse me?

The Hon. NATALIE WARD: I hadn't even started my question.

The Hon. MARK BUTTIGIEG: Point of order—

The CHAIR: Order! Do we want to go to blocks of time?

The Hon. SCOTT FARLOW: To be fair, a point of order was taken on Mrs Ward's question. Therefore, she should be able to continue with the question.

The CHAIR: I uphold the point of order. But, Mrs Ward, we need to be a bit careful because you have had quite a lot of time already in this session. We could go to blocks of time, if that's preferred.

The Hon. MARK BUTTIGIEG: We're heading down that path, Chair.

The CHAIR: I will allow you to finish your question.

The Hon. NATALIE WARD: We may need to. My questions are being interrupted halfway through. I'm happy to finish the question on that topic and move on, Chair. I think that's only fair to the witness, if no-one else. Why were there two different rankings for the candidates in this process?

KATHRINA LO: I think Mr Tudehope asked me that question in budget estimates in October last year. As I responded at the time, we didn't rank the candidates. We didn't use the word "rank" or "ranking". We didn't place numbers next to the candidates. The executive search firm prepared the report after listening to the panel deliberate. We were broadly satisfied with how that report was drafted and I think those descriptors reflect the different experiences that both candidates bring to the table.

The Hon. NATALIE WARD: So there was not a ranking—

The CHAIR: Sorry, Mrs Ward—

The Hon. Dr SARAH KAINE: That was the end of that question.

The CHAIR: Dr Kaine?

The Hon. Dr SARAH KAINE: Thank you, Ms Lo. I wanted to—

The Hon. NATALIE WARD: Chair, I need to be able to finish my line of questioning. This is just interrupting for the sake of interrupting.

The Hon. Dr SARAH KAINE: It's not. We decided—

The Hon. NATALIE WARD: Three of you are running cover. This is farcical.

The Hon. MARK BUTTIGIEG: Point of order: I think we need to come to a decision about whether or not we are going to have block times because the concept of free flowing implies some sort of equal distribution of time. The member opposite probably has had about 70 per cent of the time today, so we need to come to a decision.

The Hon. NATALIE WARD: With your interruptions.

The CHAIR: Let's set a timer.

The Hon. NATALIE WARD: I'm happy to give them time, Chair, if it makes them happy.

The Hon. Dr SARAH KAINE: It's fair. It's not about being happy. It's just due process.

The Hon. SCOTT FARLOW: But it's about getting the flow of questions. Free flow does not mean everyone asks one question.

The Hon. NATALIE WARD: Three of you are running cover. I can't even finish my question, then a point of order is taken and then you take over.

The CHAIR: Order! In line with our previous resolution, if it's not working, we will go to time. We are going to have 10 minutes each. Go ahead, Mrs Ward.

The Hon. NATALIE WARD: No, you go ahead.

The Hon. Dr SARAH KAINE: No, that's fine. Thank you, Mrs Ward.

The Hon. NATALIE WARD: You have pressing questions. Go ahead.

The CHAIR: No. The decision has been made. Go ahead.

The Hon. NATALIE WARD: You said in relation to the ranking—

KATHRINA LO: I said there wasn't a ranking.

The Hon. NATALIE WARD: There was no ranking.

The Hon. SCOTT FARLOW: When was the term "very suitable" determined to be a term that could be attributed to Mr Murray? When in that process did that term come about?

KATHRINA LO: At the conclusion of the interviews, the panel deliberated and then the executive search firm had the task of bringing that deliberation together and reflecting it in a report. That is when that terminology was used but, as I said in my opening statement, the GSE rules do not prescribe terminology to be used or whether a ranking is to be used. It's completely open.

The Hon. SCOTT FARLOW: So that was the terminology that was come up with by the executive recruitment firm?

The Hon. Dr SARAH KAINE: As per her evidence.

KATHRINA LO: Yes, and the panel was comfortable to unanimously sign off on the report.

The Hon. PETER PRIMROSE: Unanimously.

The Hon. NATALIE WARD: I'm sorry. I'm not sure, Chair, that we have running commentary from members. I ask members to restrain themselves. Mr Primrose is very experienced in committee conduct and I ask that you ask him to restrain his commentary.

The Hon. PETER PRIMROSE: I haven't heard that term, "unanimously". I thought that was worthwhile.

The CHAIR: Order! I agree. Interjections are disorderly at all times.

The Hon. NATALIE WARD: If you want to attend as a witness, we can call you. We've called many people who can't show up.

The CHAIR: Order! We are not talking across the table at each other. Your time is running out. Go ahead, please, Mrs Ward.

The Hon. NATALIE WARD: Ms Lo, during the final recruitment panel of you, Mr Duncan and Mr Betts, did Mr Duncan declare that he had previously served as deputy director general of the Premier's Department while Mr Murray was Morris Iemma's chief of staff?

KATHRINA LO: I knew where Mr Duncan had worked previously. As I said before, we spoke about conflicts and no-one declared a conflict, although people talked about being familiar with some of the candidates. I think simply working with somebody in a professional context doesn't mean you've got a conflict.

The Hon. NATALIE WARD: Can I just go back on that? You said no-one declared any conflict of interest at all?

KATHRINA LO: That's right. What we declared was that each of us was familiar with at least some of the candidates.

The Hon. NATALIE WARD: Did Mr Duncan declare that he had served as deputy director general of the Premier's Department while Mr Murray was Mr Iemma's chief of staff? That's a yes or no question.

KATHRINA LO: I can't recall. He did talk about knowing or having crossed paths with him in a professional context.

The Hon. NATALIE WARD: Did he declare specifically that they had worked together in those capacities?

KATHRINA LO: I don't know how you are using the word "declare". The obligation is to declare any conflicts of interest, but what we did say was that none of us had any specific conflicts of interest but we had crossed paths professionally with at least some of these people before.

The Hon. NATALIE WARD: But there was no clarification as to the circumstances in which you had crossed paths?

KATHRINA LO: I think that there was discussion of how we knew different people.

The Hon. NATALIE WARD: Did Mr Duncan elaborate about how he knew people and specifically how he knew Mr Murray?

KATHRINA LO: We each talked about different contexts. Mr Duncan talked about the previous roles he had held and I spoke about that I knew Howard Collins. That's the context in which it happened.

The Hon. NATALIE WARD: But, specifically in relation to Mr Duncan, he didn't specifically declare the circumstances in which he knew Mr Murray?

KATHRINA LO: He said he knew him and had crossed paths with him. The rest of the panel knew that he had worked at RMS and the department of commerce before.

The Hon. NATALIE WARD: So Mr Duncan somehow declared some form of crossing paths without any specificity.

KATHRINA LO: All of us declared that we had no conflicts of interest but that we were familiar with some of the candidates in a professional context. Being familiar with candidates in a professional context does not necessarily mean you've got a conflict.

The Hon. NATALIE WARD: If you do have a conflict, would you have declared it?

KATHRINA LO: Yes.

The Hon. SCOTT FARLOW: Ms Lo, Mr Murray originally was deemed to be unsuitable—and this is from the same executive search firm—and a high-risk candidate, and then the terminology of "very suitable" was created, while you had other candidates who were named as "highly suitable". How did that process emerge, where that ranking of Mr Murray was changed to be "very suitable" when previously he had been seen to be "unsuitable" and a risk?

KATHRINA LO: I think others have given evidence on this point. During an executive search, it is an iterative process. An executive search firm will be speaking to sources and potential candidates. Applications will be received and the search firm might form views based on what's on the papers and what might be available publicly, such as on LinkedIn. But, as they meet candidates, views may change. Somebody may have looked a certain way on paper but, when they were interviewed through a screening interview done by the executive search firm, the view might change. And then when it goes through an assessment process and the evaluation panel, I would say that each of those panels needs to make up their own mind about the candidates. The reports of the executive search firm are just one input into that. The panels really need to interrogate information around the candidates and apply the assessments.

The Hon. SCOTT FARLOW: Ms Lo, to that point, in your opening statement you discussed and I noted that, due to the unique responsibilities of the secretary, it is required that the Minister has a high degree of confidence and trust in whoever holds that role. Was that a key determinant for yourself and the panel in making the assessments with respect to Mr Murray and other candidates?

KATHRINA LO: We assessed against the capabilities in the role description. I'm not sure if you have the role description, but the role description has a section on key relationships. One of the key relationships called out is the relationship with the Ministers in the portfolio, given that there is more than one.

The Hon. SCOTT FARLOW: Did you prioritise any of those Ministers, for instance? I think all the evidence we've heard is that it was Minister Haylen that was the determinant on the secretary. Mr Graham has said that previously in the House. I don't think Minister Aitchison had anything to do with the appointment either. Was there any discussion about the prioritisation with the key Ministers?

KATHRINA LO: Just to reiterate, what the evaluation panel was doing was assessing the candidates we interviewed against each other and against the capabilities in the role. Then it was a matter for the employer—in this case the secretary of the Premier's Department—to take into account various factors before making a decision and one of those factors would have been consultation with the Minister.

The Hon. SCOTT FARLOW: Was that only consideration from the meeting that the Minister had with the two potential candidates or was there information that was put into the process prior to that point?

KATHRINA LO: I really think that that is a question you would need to ask Mr Duncan and I think he addressed it in his evidence. He did respond to questions about what he took into account in making his decision. But, in our deliberations, we were looking at the capabilities and the relative merits of each of the candidates.

The Hon. NATALIE WARD: We are, however, asking you. I appreciate others have given evidence, but today we are interested in your view. Thank you for that referral, but can I just come back to this process specifically. You have talked about other processes and what you might do and how it is iterative, but I am interested in how this process changed. When in the process was it decided to create the new ranking of "very suitable" for Mr Murray?

KATHRINA LO: Once again, there was no ranking and, as I said before, after we conducted the interviews, the panel spent time deliberating on what we'd heard, looking at scenario presentations and the like. We had a pretty in-depth discussion and then the executive search firm went away and prepared a report based on what they had heard. They came back with the report, those were the descriptors that were used, and the panel was happy enough generally to sign off on it.

The Hon. NATALIE WARD: My question was when—whether it's a ranking or a category or a description—the "very suitable" title was given? When in the process was that decided?

KATHRINA LO: I just said that it was decided when the report was drafted and when we were presented with the report—

The Hon. NATALIE WARD: So a new category.

KATHRINA LO: —the panel members were comfortable. I don't know if I would call it a new category. There are no prescribed categories. We could have used any number of terminology—

The Hon. NATALIE WARD: But there were some words, "very suitable", whatever we want to call them.

KATHRINA LO: Yes.

The Hon. NATALIE WARD: In the public service, is it appropriate for decision-makers to be communicating with candidates about the recruitment process that they are involved in?

KATHRINA LO: Yes. When there's a job advertisement there is usually a contact officer. In this case it was the executive search firm.

The Hon. NATALIE WARD: Yes, but for the recruitment panel to be communicating with those candidates about that recruitment process?

KATHRINA LO: With the individual candidates?

The Hon. NATALIE WARD: It's a yes or no.

KATHRINA LO: It would depend on whether anyone on the panel was the contact officer.

The Hon. NATALIE WARD: Texting them through the process or calling them through the process—is that appropriate?

KATHRINA LO: It would depend on the nature of the text and it would depend on whether a member of a panel was nominated as the contact officer to answer questions in relation to the job.

The Hon. NATALIE WARD: If they were not, as you weren't; if they were just part of the process?

The Hon. Dr SARAH KAINE: Thank you, Chair—

The Hon. NATALIE WARD: Sorry, I was just following on on the example. I wanted to finish that off, if I may?

The CHAIR: Just one final question.

KATHRINA LO: Sorry, can you repeat—

The Hon. NATALIE WARD: If they were not the contact officer, if they were on the recruitment panel, is it appropriate, in your view, as the Public Service Commissioner, for them to be texting or communicating with candidates about the recruitment process?

KATHRINA LO: If I was a panel member and a potential candidate contacted me, I would say, "Go and speak to the contact officer."

The Hon. NATALIE WARD: And you wouldn't have any further communications about the recruitment process?

KATHRINA LO: No.

The Hon. NATALIE WARD: Is that yes?

KATHRINA LO: Yes.

The CHAIR: When we had our last hearing in relation to this issue it became very clear that part of the problem is the muddying between whether it is a direct appointment or a merit-based selection process. But when we come back to the secretary's role under the GSE Act and the fact that the Minister can directly appoint a secretary, how important is it that the Minister is happy with the choice made by the selection panel?

KATHRINA LO: I'll go back a step. The Minister is not the employer, so it is not their choice if it's a direct appointment. The employer would either be the Premier or the secretary of the Premier's Department acting under delegation. The Minister's opinion, I think, matters. The degree of weight put on that would depend. For direct appointments there's always consultation with the Minister and for merit-based, whether it is an open merit or a closed merit process, the Minister's views are also required to be sought. But ultimately the decision-maker will make up their mind about how much weight they put on that because the Act is silent on weighting or a formula.

The CHAIR: Have you ever had a situation where you have seen a secretary appointed where the Minister wasn't happy with that appointment?

KATHRINA LO: Yes, I remember a closed merit process where a Minister had suggested a couple of names. Those people were interviewed, together with other people that had been identified, and the panel did not recommend the people that had been put into the process by the Minister. But I don't want to speak specifically about that instance.

The CHAIR: That was a secretary appointment?

KATHRINA LO: Yes.

The CHAIR: That is really interesting. Coming back to the other parts of the terms of reference, if a Minister was to establish a particular new office, so they just sort of direct the establishment of an entire new office, would that be seen as being involved in the recruitment of people in that office or would they have to be directly involved in the individual recruitment decisions for that to be problematic?

KATHRINA LO: To me, that's quite hypothetical. I would need to know more facts of the case. I mean it's not unusual for departments to set up transition offices, particularly when there is a change in government. I don't know the full detail of what happened with the transport Transition Office, I only had one element in that, which was providing advice. But what a Minister couldn't do is say, "I want this person to head up the Transition Office" or "I want somebody from my office to sit on the panel." I think both of those things would not be appropriate or consistent with secretaries running their own show, so to speak.

The CHAIR: That is very useful. On the other example you had a moment ago about the situation where a secretary might be appointed who is not the chosen or the favourite of a particular Minister, in that situation was the secretary responsible to a number of Ministers?

KATHRINA LO: Yes, I think so.

The CHAIR: Were the other Ministers who were consulted happy with the situation?

KATHRINA LO: I don't recall whether other Ministers were consulted. I think the dealings were primarily with the senior Minister. This was several years ago now.

The Hon. Dr SARAH KAINE: We've spoken a bit about hypotheticals, so I just want to once again have you confirm the facts about the appointment of the secretary. According to your evidence so far, the Minister was appropriately consulted as per the obligations under the Act. Everyone on the panel agreed that Mr Murray was very suitable, noting that there is no ranking and noting that there is no set category, so whether the terminology was "very suitable" or anything else, and no direction was applied to the panel on the decision in the matter. Is that correct?

KATHRINA LO: Yes. I think you've asked me three questions there.

The Hon. Dr SARAH KAINE: Yes.

KATHRINA LO: The first was around Ministerial consultation. I would confirm that the rules require consultation with the Minister. It does not preclude more than one conversation with the Minister. Could you please remind me of your second question?

The Hon. Dr SARAH KAINE: Yes, that everyone on the panel agreed that Mr Murray was—and the terminology has been up for discussion—very suitable?

KATHRINA LO: Yes, we all signed the report with that description.

The Hon. Dr SARAH KAINE: And no direction was applied to the panel about the decision that you ultimately—

KATHRINA LO: None whatsoever.

The Hon. Dr SARAH KAINE: Just to confirm for me, the final decision-maker on the appointment is indeed the secretary?

KATHRINA LO: Secretary of the Premier's Department.

The Hon. Dr SARAH KAINE: I wondered, Ms Lo, if you could tell us a bit about how many times—or your experience in participating in senior appointments such as the one we've been talking about.

KATHRINA LO: How many times?

The Hon. Dr SARAH KAINE: How many times—what's the breadth of your experience?

KATHRINA LO: I guess many; I couldn't put a number on it. But over my years as a senior executive in the sector, which would be more than 15 years, many times. But as I said before, there have been very few secretaries appointed following an open merit or closed merit process.

The Hon. Dr SARAH KAINE: Thank you, I appreciate that. The role of a secretary is a big one. It's large and complex, and you've spoken about looking at the criteria and looking at the different candidates against the criteria. Would it be fair to say that different candidates would be better at some than others? Some would pose more of a risk on one thing and others on another.

KATHRINA LO: That's right, and I think that's why it's important for the panel to have the discussion about the relative merits of candidates, because different people have different strengths and different areas for development.

The Hon. Dr SARAH KAINE: I appreciate that.

The Hon. MARK BUTTIGIEG: Just on this, just to get straight to the point, there's clearly an implication from the Opposition that—

The Hon. NATALIE WARD: Point of order—

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

The Hon. MARK BUTTIGIEG: I haven't even finished. I got two words out.

The CHAIR: You haven't heard what the implication is.

The Hon. NATALIE WARD: I ask you to withdraw that "there's clearly an implication from the Opposition".

The Hon. Dr SARAH KAINE: There's potentially—

The Hon. NATALIE WARD: Can I finish my point of order?

The Hon. Dr SARAH KAINE: Don't talk to me like a schoolteacher, Natalie.

The Hon. NATALIE WARD: I don't think it's for you to summarise what the Opposition is entitled to ask, within the terms of reference of this inquiry, and I ask you to rephrase your question. You can ask a question to this witness without the commentary about me doing my job and the Opposition doing our job.

The CHAIR: Order! You could just rephrase the beginning of that question, perhaps, Mr Buttigieg.

The Hon. MARK BUTTIGIEG: Ms Lo, if there was an implication, an assertion or a perception that there was political interference applied during the process, would it not be a fair assessment, given the evidence we've heard, that if the candidate was marked "very suitable"—and I note that other candidates were marked "highly suitable"—then the ministerial discretion, via the consultation that you outlined to my previous question, means that it would be more than fair to accept that the Minister has a right to express an opinion about the most appropriate person, given the trust and confidence factors that you outlined before, bolted onto the "very suitable" assessment, and that that person gets the job? It's highly uncontroversial that that outcome was achieved, isn't it?

KATHRINA LO: I'm not quite sure if I understood the question correctly, but what I will do is go back to the legislation, and the rules require consultation with a Minister. Mr Duncan did that. The Minister met with two candidates and then expressed a view as part of that, and Mr Duncan gave evidence about how that inputted into his decision-making.

The Hon. MARK BUTTIGIEG: I'll just rephrase it in another context. If a candidate was marked "unsuitable" and a Minister insisted that that person got taken on, that would be of concern, wouldn't it?

KATHRINA LO: The Minister can express their view in a consultation, and then it's up to a decision-maker the amount of weight to place on that view. If the Minister's view was that an unsuitable candidate was the right candidate for them, the Secretary of the Premier's Department would just have to weigh that up however they saw fit.

The Hon. MARK BUTTIGIEG: But surely in a situation like this—where the candidate is marked "very suitable", the Minister is consulted and the candidate is taken on—if you had an issue with that appointment, you would have raised a concern with the Minister, wouldn't you?

KATHRINA LO: Are you talking about me personally?

The Hon. MARK BUTTIGIEG: No, the panel.

KATHRINA LO: Let me just talk about the process. The panel's work is done once it completes its report, and then the next step is for the Secretary of the Premier's Department to make a decision, taking into account consultation with the Minister.

The Hon. Dr SARAH KAINE: Could I ask a question? A hypothetical was posed to you about if you'd been presented with information about someone making a political donation, and I think you said you would have set that information aside during the process.

KATHRINA LO: For the purposes of comparing the relative merits of candidates and comparing candidates to the capabilities for the role. That information you just mentioned would not be relevant for a merit assessment.

The Hon. Dr SARAH KAINE: Okay, so it's not relevant to whether someone is going to perform the job well.

KATHRINA LO: Yes, a merit assessment is based on comparing somebody's skills and experience against the capabilities required for the role.

The Hon. Dr SARAH KAINE: At the end of day, we're discussing the appointment of someone who was determined by a group of senior public servants, yourself and others. We're discussing now the appointment of someone who was considered by a very experienced group to be a suitable candidate for this role. Is that correct?

KATHRINA LO: That's right.

The Hon. PETER PRIMROSE: Just for an abundance of clarity, if we look at the provisions of the Government Sector Employment Act, the rules and the practice, would it be fair to say that they all recognise the importance of the Minister's perspective in the appointment of the most senior public servant they will be working with?

KATHRINA LO: Yes, I would say the GSE Act does recognise that, and hence the different recruitment rules applying to secretaries.

The Hon. Dr SARAH KAINE: I've got another one about the GSE Act. It's quite new, isn't it? It came into effect at the start of 2023, is that correct?

KATHRINA LO: The GSE Act was enacted in 2013, but there were particular amendments that came into effect then. That might be what you're referring to.

The Hon. Dr SARAH KAINE: Thank you, I appreciate you helping me out there. Given that there were amendments, it would be appropriate, particularly with a change in government and people taking up new roles, for yourself and other agencies that have an oversight role to be consulted on processes, appointments and those kinds of things.

KATHRINA LO: If you're referring to some of the amendments that came in in 2013, I have seen the evidence of the Chief People Officer of Transport for NSW in budget estimates as to why she sought my advice. That would seem appropriate to me. I think it's better to seek advice than to proceed down a path if you're not completely sure.

The Hon. NATALIE WARD: Chair, I have a question if there's time.

The CHAIR: I'll just ask one more question and then I will hand over to you for the last two minutes, Mrs Ward. Ms Lo, you played a key role in the appointment of Mr Murray. You have heard the testimony of other witnesses in this hearing, and you've also heard, I'm sure, these issues being well ventilated through budget estimates and in other places. After hearing all of that, do you have any concerns about the manner in which Josh Murray was appointed as secretary?

KATHRINA LO: No, I don't. Based on listening to the evidence of, I think, two of the four assessment panel members and listening to the evidence of Mr Duncan, the Secretary of the Premier's Department, and based on what I have visibility of from my involvement, there were no alarm bells ringing. Could I say that I was on the panel when that appointment was made of the Senior Trade and Investment Commissioner to the Americas.

The Hon. NATALIE WARD: That's outside the remit of this hearing.

KATHRINA LO: And I had no problems calling out issues with that process. So if I thought there were issues with the process in this instance, I wouldn't have a problem saying so, even though I was involved in it myself.

The CHAIR: Thank you. That's very relevant.

The Hon. NATALIE WARD: Ms Lo, were you aware of any request or information or commentary of names being provided for the Transition Office, or requests for certain people to sit on the recruitment panel for the Transition Office?

KATHRINA LO: When the chief people officer rang me she didn't mention any names. She put a couple of questions to me about the practical application of section 26 (4) of the GSE Act. She didn't say that there'd been a direction; it was more along the lines of a question was asked or a request was made.

The Hon. NATALIE WARD: I'm not asking about a direction; that's not what I asked you. What I'm asking is if any—

KATHRINA LO: No names were mentioned to me.

The Hon. NATALIE WARD: No names were mentioned by the chief people officer to you?

KATHRINA LO: No.

The Hon. NATALIE WARD: What about requests for certain people to sit on the recruitment panel?

KATHRINA LO: I was asked whether it would be okay, or consistent with the legislation, for somebody from the Minister's office to sit on the recruitment panel and my answer was that it would not be consistent.

The Hon. NATALIE WARD: And why is that?

KATHRINA LO: It's not consistent with having an apolitical public service.

The Hon. NATALIE WARD: Can you elaborate on that? How is it not consistent for them to be—

KATHRINA LO: The secretary is the employer of staff within their agency, including senior executives, and in this instance the question was in relation to a proposed executive director role to head up the Transition Office.

The Hon. NATALIE WARD: And a suggestion for someone to sit on the panel for that recruitment for that executive?

KATHRINA LO: Yes, I think it was a request or a question asked. That's how it was put to me.

The Hon. NATALIE WARD: A suggested name?

KATHRINA LO: No, no name was suggested. I was asked a question whether it would be consistent.

The Hon. NATALIE WARD: Can the Minister put someone on the recruitment panel?

KATHRINA LO: Yes.

The Hon. Dr SARAH KAINE: Let's put words—

The Hon. MARK BUTTIGIEG: We're out of time, I think.

The CHAIR: Order! That does bring us to the end of our session. Thank you so much for your time today and for your very succinct opening statement that you've provided us for Hansard.

(The witness withdrew.)

(Short adjournment)

Ms SUSAN CARROLL, Chief of Staff, Transport for NSW, affirmed and examined

Ms TRACEY TAYLOR, Chief People Officer, Transport for NSW, affirmed and examined

The CHAIR: I welcome our next panel of witnesses. Do you have an opening statement that he wanted to give?

TRACEY TAYLOR: No, thank you.

The Hon. NATALIE WARD: Thank you, Ms Taylor and Ms Carroll for coming along today and assisting the Committee and for your ongoing commitment and the work that you do. Can I clarify that you have both familiarised yourselves with the terms of reference for this committee inquiry?

TRACEY TAYLOR: Yes.

The Hon. NATALIE WARD: Ms Taylor, I might start with you. Given we have you together I might go between you at times but if you feel you have something to add, please feel free to jump in to clarify or assist the Committee. Ms Taylor, you'd be aware there's a number of documents that have been provided to the Parliament in this inquiry. I saw in those documents concerning Mr Ash's conduct—and it's a fact that the secretary of Transport referred Mr Ash's conduct to you and to David Britton for investigation. That's correct, isn't it?

TRACEY TAYLOR: Yes, it is.

The Hon. NATALIE WARD: This is not a trick question—they're all very straightforward and factual—but is that the typical process when it concerns legal issues around employment?

TRACEY TAYLOR: It would depend on the matter in front of the secretary. It'll also depend on which channel it came into but it wouldn't be abnormal for myself or the chief legal officer to be engaged to provide advice on an employment matter.

The Hon. NATALIE WARD: When the former secretary requested legal advice on their request to appoint people to the Transition Office by the Minister's office, did that request come to you as well?

TRACEY TAYLOR: No, it didn't.

The Hon. NATALIE WARD: Where did that go?

TRACEY TAYLOR: I'll need to refer you to Ms Carroll, who was involved in the process.

SUSAN CARROLL: The secretary raised that issue with me and I requested legal advice from our general counsel at the time, at his request.

The Hon. NATALIE WARD: And that's Mr Britton?

SUSAN CARROLL: No, it was our previous general counsel.

The Hon. NATALIE WARD: Who was that?

SUSAN CARROLL: Ms Sally Webb.

The Hon. NATALIE WARD: Thank you. In the documents provided to the Parliament under Standing Order 52, it's my understanding that the legal advice and any correspondence concerning that advice has not been provided to the Parliament. Are you aware if it has been?

SUSAN CARROLL: The legal advice that Ms Webb prepared has been disclosed under Standing Order 52.

The Hon. NATALIE WARD: All right. Perhaps you could provide the document index number where that has been provided.

SUSAN CARROLL: We can certainly look at that but because it was legal advice, a claim for privilege has been made over that document.

The Hon. NATALIE WARD: That's right, but certainly in relation to that there would have been a number of surrounding emails going with the request for that advice and the provision of that advice.

SUSAN CARROLL: No, the events happened quite quickly. The secretary came back from a meeting with the Minister's office and raised the issue. The advice was sought that day. The advice was provided and communicated back to the secretary.

The Hon. NATALIE WARD: So there were no emails or correspondence formally requesting that advice. It was just verbal?

SUSAN CARROLL: It was verbal. We were working quite quickly. The call was made by me to the general counsel. She was very responsive and prepared that written legal advice and then she subsequently joined me to provide the secretary with a briefing on that legal advice.

The Hon. NATALIE WARD: Okay, so there were no other emails or correspondence saying "Can we get together", or "The advice will be ready in this amount of time", or "I have it ready for you now" or "This is the advice"?

SUSAN CARROLL: There was no need for it. The advice was provided fairly swiftly, I think, within that day.

The Hon. NATALIE WARD: How many times, Ms Taylor or Ms Carroll, has legal advice been sought on recruitment processes, in your experience?

TRACEY TAYLOR: I wouldn't be able to say a specific number. It would depend on the matter that we were referring—sorry, could you just clarify that you're asking about recruitment?

The Hon. NATALIE WARD: Yes. In your experience—just in your experience; it's factual—how many times has legal advice been sought on recruitment processes?

TRACEY TAYLOR: On occasion we would seek legal advice from either our executive director of employment and safety or our chief legal officer, depending on the seniority of the role that we're recruiting for. So it does happen. It wouldn't happen as an everyday occurrence, but on occasion we would reach out for that employment advice.

The Hon. NATALIE WARD: And there was something to motivate or to spur the request for this legal advice. Obviously there was some alarm bell going off of some or some alert to say, "We need advice on this" and that prompted this request.

TRACEY TAYLOR: I wouldn't particularise it as necessarily an alarm bell. It could be that the person involved in the recruitment process wanted to check the application of the GSE Rules or of the Transport Administration Act to ensure that the decision-making was sound.

The Hon. NATALIE WARD: What are the typical concerns that would prompt the request for legal advice?

TRACEY TAYLOR: It could be the different mechanism that we are going to use to deploy the recruitment—so whether we were looking at mobilising someone at level ongoing through the GSE Act or the corresponding section in the Transport Administration Act and relying on their contract to mobilise or directly assign. It could be that the secretary wanted to exercise his employment powers and directly appoint, or he wanted to use other mechanisms to actually make the appointment. We might seek legal advice to particularise how we would go about those mechanisms.

The Hon. NATALIE WARD: And in this case it was to essentially not go to the third one, which I think you mentioned, where there's not a process. It's an atypical process.

TRACEY TAYLOR: For the Transition Office?

The Hon. NATALIE WARD: Yes.

TRACEY TAYLOR: I didn't ask for the legal advice. I would have to refer you to Ms Carroll on what was asked for in relation to that particular legal advice.

The Hon. NATALIE WARD: Ms Carroll?

SUSAN CARROLL: As I've previously given evidence on this issue, the secretary had a meeting with the Minister's office and understood that there was a request to stand up a transition office and understood that there would be a request made from the Minister's office around the appointment, and basically put that to us. We were not familiar with the concept of a transition office, and on that basis the secretary requested legal advice. He was very alive to the change in the GSE legislation.

The Hon. NATALIE WARD: You mentioned that a request was made from the Minister's office about that appointment. Can you elaborate on that?

SUSAN CARROLL: As I've given evidence previously, there were two meetings with the Minister's office. The first one I did not attend; only the secretary attended that. The second one I did attend with him. He

provided a debrief following that first meeting regarding the interaction he'd had with them regarding the establishment of the Transition Office. At the second meeting that I was at, the Minister's then chief of staff—

The Hon. NATALIE WARD: Mr Gartrell.

SUSAN CARROLL: —specifically made that request in relation to the creation of the ED role and the provision of a name for the ED role.

The Hon. NATALIE WARD: So Mr Gartrell was the chief of staff at the time.

SUSAN CARROLL: Correct.

The Hon. NATALIE WARD: That's not an issue.

SUSAN CARROLL: Correct.

The Hon. NATALIE WARD: He was making that request on behalf of the Minister's office, or having some communication as her chief of staff in relation to that, and that prompted the need, or the question mark, for legal advice, given that it had come from the Minister's office.

SUSAN CARROLL: Correct.

The Hon. NATALIE WARD: Is that fair?

SUSAN CARROLL: Correct.

The Hon. NATALIE WARD: At that debriefing after the first meeting you mentioned with the former secretary, Mr Sharpe, what did he say?

SUSAN CARROLL: He basically shared that there had been communication regarding the intent to establish a transition office. There had been some suggestion regarding the nature of the appointment and that was it.

The Hon. NATALIE WARD: What do you mean by "the nature of the appointment"?

SUSAN CARROLL: It was the former secretary's understanding that there may have been a request made for an appointment that may have been from a ministerial office.

The Hon. NATALIE WARD: It was a suggestion made?

SUSAN CARROLL: That's my understanding. I wasn't at that meeting; I can't comment beyond that.

The Hon. NATALIE WARD: Certainly. But your understanding from the debrief provided to you was that a suggestion was made to you by the Minister's office in relation to the Transition Office that prompted the communication with you and the subsequent request for legal advice to clarify that request from the Minister's office?

SUSAN CARROLL: That's correct.

The Hon. NATALIE WARD: That suggestion was for a specific person?

SUSAN CARROLL: Not to my knowledge. That was not communicated to me by the secretary.

The Hon. NATALIE WARD: What was communicated to you?

SUSAN CARROLL: Simply what I've just provided.

The Hon. NATALIE WARD: That?

SUSAN CARROLL: That that appointment may be somebody from a ministerial office. That was his understanding. I should clarify that. That was his understanding that was communicated.

The Hon. SCOTT FARLOW: In saying "ministerial office"—Minister Haylen's office or any other Minister?

SUSAN CARROLL: No.

The Hon. SCOTT FARLOW: Just nondescript?

SUSAN CARROLL: Nondescript.

The Hon. NATALIE WARD: Such to prompt the request, though. Were there ever concerns of Labor-linked identities being linked to this job?

The Hon. Dr SARAH KAINE: Point of order: The term "Labor-linked identities" is asking for an opinion on a very amorphous term. What is a "Labor-linked identity"?

The CHAIR: If the witness is unclear about that term, they could ask the questioner for some clarification. I will allow the question.

SUSAN CARROLL: Can you repeat the question, please?

The Hon. NATALIE WARD: In your interpretation, were there concerns about the suggestion of a Labor-linked identity for this job?

SUSAN CARROLL: I didn't really have a view on that.

The Hon. NATALIE WARD: In your interpretation, was there an issue raised about a Labor-linked identity being suggested for the job?

SUSAN CARROLL: No information was provided regarding an identity for the appointment. The information that was shared with me by the former secretary is just as I've said. The secretary was alive to considerations and advice was requested.

The Hon. NATALIE WARD: There were concerns, though. We can put it at least at that level. There were some concerns raised.

SUSAN CARROLL: I think the secretary wanted to ensure that he was well informed in providing a response to that request.

The Hon. NATALIE WARD: Ms Taylor, you've previously said regarding asking the Public Service Commissioner about putting two candidates to the Minister for her selection for the Transition Office that it was "testing the boundaries". Is it common practice for recruitment in Transport for NSW to test the boundaries of legislation?

TRACEY TAYLOR: The GSE amendments had been made earlier that year. I think it was January 2023 when the amendments were made. I did not have intimate knowledge of how those amendments came to be. I was aware that it was a direct result of a previous inquiry and I knew Ms Lo had been involved. Given her involvement in that situation, I thought it was prudent to seek her input into the interpretation of the boundaries of that legislation so that I could appropriately advise the secretary.

The Hon. NATALIE WARD: You thought it was appropriate to ask the Minister, did you say?

TRACEY TAYLOR: No. I thought it was appropriate to speak to Ms Lo.

The Hon. NATALIE WARD: Ms Lo?

TRACEY TAYLOR: Yes.

The Hon. NATALIE WARD: But in relation specifically to the Transition Office, you have said in your words—I'm not trying to trick you—that it was "testing the boundaries". On how many other occasions have you sought advice to test the boundaries of the legislation before recruitment?

TRACEY TAYLOR: As I've said, on occasion I have sought my own legal advice from our chief legal officer or our executive director of employment and safety. In this instance, as I've said, the GSE amendments were relatively new. They talked about not directing the secretary in his employer powers. What I wanted to test was: What does that mean in interpreting can someone be involved in it as long as he's making the decision? They were the kinds of questions I put to Ms Lo to ensure that I could provide the fullest advice to the secretary.

The Hon. NATALIE WARD: Prompted by the Minister wanting to have some involvement in the Transition Office establishment?

TRACEY TAYLOR: I wouldn't particularise it as that. I was advised, through Ms Carroll, that the Minister had said, through I think the chief of staff, that they would like us to establish a transition office. I was asked for advice on the placement approaches. In doing that, that's what prompted me to have the conversation with Ms Lo.

The Hon. NATALIE WARD: Surely, though, someone had the idea to include the ministerial office, and it wasn't the department's idea to include the ministerial office. That came from Minister Haylen's office. That's correct, isn't it?

TRACEY TAYLOR: What's correct, Ms Ward, is that the Minister's office had indicated to the secretary, as I was advised by Ms Carroll, that they would like us to establish a transition office. I was advised by Ms Carroll that a suggestion of an individual within the department could be considered for this role. In seeking to provide

advice to the secretary on the placement approach, I wanted to understand the GSE amendments and how far that would extend to, as I said, testing the boundaries of that legislation.

The Hon. NATALIE WARD: And the Minister, their request or indication that they wanted to put someone on the recruitment panel for that Transition Office, that was testing the boundaries, wasn't it?

TRACEY TAYLOR: There was no suggestion to me by the Minister's office that they wanted to be involved. It was simply me asking questions of Ms Lo on the interpretation of that legislation.

The Hon. NATALIE WARD: But, just to be clear, perhaps I might ask you, Ms Carroll, the suggestion didn't come from the department to include the Minister's office on the recruitment panel; that came from the Minister's office. That's correct, isn't it?

SUSAN CARROLL: That wasn't raised with me. I wasn't aware of that inquiry being made. It was certainly nothing that had been raised directly with me or indeed, to my knowledge, with the secretary at the time.

The Hon. NATALIE WARD: But where did it come from then? If it wasn't suggested by the department that the Minister should have someone on the recruitment panel, where would that suggestion have come from?

TRACEY TAYLOR: As I said Ms Ward, it was me testing the boundaries with Ms Lo on the interpretation of what does "directing the secretary in his powers" mean?

The Hon. NATALIE WARD: Can I go back a step? I understand that and accept that, but can I go back a step. Where did it come from?

TRACEY TAYLOR: It came from me.

The Hon. NATALIE WARD: No, but to prompt you to ask for that advice. Where did the suggestion come from to you? It wasn't the department.

TRACEY TAYLOR: There was suggestion outside of—Ms Carroll had advised me that the Minister's office had indicated to the secretary that they wanted to establish a transition office. I was also made aware that there was an internal employee suggested, who could be considered for the role. I took that information and simply had a conversation with Ms Lo on how does the establishment of a transition office, the suggestion of a candidate, mean in relation to the legislation. As well, would that mean that a Minister's office could be involved or couldn't be involved? There was no direct suggestion made to me. I was just trying to define the legislation and its meaning to directing the secretary in its powers.

The Hon. NATALIE WARD: It wasn't your idea to include ministerial staff on the recruitment panel, was it?

TRACEY TAYLOR: No, it wasn't.

The Hon. NATALIE WARD: Can I just ask whose idea it was, then, to test the two names put forward, one of which—well, whose idea was it to test the two names?

TRACEY TAYLOR: I didn't put two names to Ms Lo to test. I didn't say I was testing two names with Ms Lo. The scenario that I played out with Ms Lo was in the practical application of the GSE amendment, where the Minister's office was not able to direct the secretary, would that mean that if we were to select, say, two preferred candidates to put to the Minister as our preference, would that be testing the boundaries, or that would be considered interpreting the direction of the secretary in his powers?

The Hon. NATALIE WARD: Who specifically asked you? Whose idea was it to test the two names?

TRACEY TAYLOR: I didn't test two names, Ms Ward. I was using it as a scenario to say, yes, you go through a recruitment process. You can start with an open pool of candidates and you can whittle it down to two preferential candidates.

The Hon. NATALIE WARD: Yes.

TRACEY TAYLOR: It is not abnormal that, through a recruitment process, we would go through and come out with two potential preferred candidates. We may then add an additional step—another interview with other stakeholders who may then be involved to give their view on those two candidates. That was the scenario I was stepping through with Ms Lo. It wasn't a real scenario. It was an example scenario.

The Hon. NATALIE WARD: A hypothetical.

TRACEY TAYLOR: It was a hypothetical that I was using.

The Hon. NATALIE WARD: For a senior public service role, a new office—in the appointment of a new office—that we would test those names and we would involve the Minister's office in that public service appointment?

TRACEY TAYLOR: Again, Ms Ward, I wasn't suggesting that the Minister's office asked me to do this. There was no two names that I put to Ms Lo. It was simply an example, or a scenario that I was walking through, to test the boundaries of that legislation.

The Hon. NATALIE WARD: Names were suggested by the Minister's office, potentially, for consideration for that new public service appointment?

TRACEY TAYLOR: As Ms Carroll has previously given testimony, as I have, I was made aware that there was one internal name put to the secretary as a potential candidate to be considered for the role.

The Hon. NATALIE WARD: That was part of what prompted you to seek the further advice?

TRACEY TAYLOR: I sought the advice to make sure that I could provide the secretary with the right approach to placing this position and working within the boundaries of the GSE legislation.

The Hon. NATALIE WARD: In your experience as a public servant, then, on how many occasions have two names been put to a Minister for a senior executive appointment at Transport for NSW?

TRACEY TAYLOR: I'm not usually involved in recruitment where the Minister's office is involved, so I couldn't say that I've had any experience of that.

The Hon. NATALIE WARD: You've never experienced that previously?

TRACEY TAYLOR: No. But, again, I just want to reiterate that was a practical scenario.

The Hon. NATALIE WARD: Sure.

TRACEY TAYLOR: It was not the reality and it wasn't suggested to me that there would be two candidates put to the Minister's office.

The Hon. NATALIE WARD: Ms Carroll, in your experience as a public servant, on how many occasions have two names been put to a Minister? Have you ever seen that, where two names have been put to a Minister for a senior executive appointment at Transport for NSW?

SUSAN CARROLL: I haven't been involved in a scenario like that.

The Hon. NATALIE WARD: You've never in your experience seen that?

SUSAN CARROLL: No.

The Hon. NATALIE WARD: I notice that a DLO started in the Minister's office at the beginning of her appointment. Was that person selected via a process or chosen by the Minister?

SUSAN CARROLL: Sorry, Ms Ward, can I just clarify? DLOs are an exception to what I've just said, where we go through an EOI process and we will ordinarily put a few candidates—

The Hon. NATALIE WARD: This is separate. I'm not trying to blur them.

SUSAN CARROLL: Sure.

The Hon. NATALIE WARD: I understand that; that's fine.

SUSAN CARROLL: I just want to be clear.

TRACEY TAYLOR: Sorry, and I should also clarify—

The Hon. NATALIE WARD: Sorry, can I just go back? I've got very limited time. Ms Carroll, that DLO started. Were they selected via a process or suggested by the Minister?

SUSAN CARROLL: Sorry, the DLO?

The Hon. NATALIE WARD: Yes.

SUSAN CARROLL: Which DLO are you referring to?

The Hon. NATALIE WARD: I can name them, if you like.

SUSAN CARROLL: I think it's better that you—yes, please.

The Hon. NATALIE WARD: Yes. Melanie Stewart.

SUSAN CARROLL: And again the question?

The Hon. NATALIE WARD: Melanie Stewart started at the Minister's office at the beginning of her appointment.

SUSAN CARROLL: Yes.

The Hon. NATALIE WARD: Was she selected via a process or hand-picked or chosen or nominated by the Minister?

SUSAN CARROLL: She was nominated by the Minister's office, is my understanding.

The Hon. NATALIE WARD: Thank you. I will come back to that.

The CHAIR: Ms Taylor, you've been in this role since the end of 2021. Is that correct?

TRACEY TAYLOR: Correct.

The CHAIR: Those changes that came in in relation to the direct control from the Minister to the secretary, that issue came in at the end of 2022, was it? When did that take effect?

TRACEY TAYLOR: I believe it was the end of 2022 or the beginning of 2023.

The CHAIR: You had a period of time when you were working under the old Act and then you had this sort of new situation with the new Act. Had you had cause before between when you were seeking out the advice at this time in this context, and from when the legislation first came in to test that definition? Were there any other recruitment processes where that would have been relevant?

TRACEY TAYLOR: Through the period of 2021 to 2023?

The CHAIR: From when the amendment came in. You were working under the new provision. Were there any other recruitment processes that were undertaken under that new legislation where you could have gone and got that sort of definition advice?

TRACEY TAYLOR: There was the placement of the coordinator general and I did seek advice from our own chief legal officer at the time for that. I didn't feel it necessary to go to Ms Lo as she'd already given me a fairly succinct definition of the interpretation of that legislation in relation to the Minister's office's involvement, so I was comfortable with that. What I sought from the chief legal officer was more around—in the coordinator general—was the different mechanisms, given he was acting in the secretary role at the time and the resulting recommendation that was coming out of the bus task force was a report, and the Minister's ability to direct us in relation to the establishment—sorry, responding to one of the recommendations within that report.

The CHAIR: One of the main issues that has been teased out in relation to the Transition Office then is how much of suggesting—I guess where the boundary is between suggesting and directing. What did that legal advice—both sets tell you—that can help us to understand where that line should be?

TRACEY TAYLOR: In the coordinator general's situation—and I believe Kate Boyd has given testimony of this before—the Minister is well within her right to be able to direct the agency in its structure and its operation. With the coordinator general, for example, the advice I provided was that we could effectively establish that role and change reporting lines at the Minister's discretion. However, if a new role was to be established specific to that coordinator general, then that decision on who would be placed in that role would absolutely need to be the decision of the secretary. I provided that advice at the time around the coordinator general and that was very clear to me coming through the Transition Office as well. Whilst the Minister absolutely can direct us in the operation so we can either establish the Transition Office role or we can establish the coordinator general role, if we are to place someone in those roles, then that is an employment decision and therefore it is the decision of the secretary. That should not be interfered with.

The CHAIR: How much of a suggestion for a candidate is taken to be direction? Where is that line?

TRACEY TAYLOR: Again, I believe that Kate Boyd has also provided testimony on this. There's nothing wrong with the Minister providing suggestions of candidates, as long as the decision is taken by the secretary for who goes into that position. As I said, he has multiple powers under the Transport Administration Act so he can directly assign someone or directly appoint someone or he can do open recruitment processes. In the Transition Office, the former secretary made a decision after speaking to the candidate that was suggested. He decided that he would temporarily assign that person into the role but wanted to do an open recruitment process, and that is what we then undertook.

The CHAIR: That's really useful. So there's nothing stopping the Minister from saying, "I want to set up this transition office. By the way, there's somebody who I think might be good for one of the roles," as long as

they are not then making that decision. To what extent do you take into account the power imbalance between a Minister and a secretary? Maybe there is not as much imbalance as there would be between the Minister and other public officials. But is there consideration given to making the Minister unhappy? When we are considering whether a suggestion is more of a direction, do we consider that power dynamic as well? Is that part of it?

TRACEY TAYLOR: I think you would need to put that question to the secretary, Ms Boyd. To give assurance, the former secretary, via Ms Carroll, did actually ask for me to provide advice on other people, so for the executive director, Transition Office, were there other candidates across the organisation that he could consider as well as this individual. In my view, he was seeking his own assurances that this person did stack up against other people. We did actually put at least one person forward for consideration.

The CHAIR: To clarify for the record, I'm not for a moment suggesting that the current or former secretaries are in any way led in their duties by the Minister. I was just curious as to how that got interpreted in practice.

The Hon. Dr SARAH KAINE: Thank you both very much for appearing again before one of our committees. Ms Taylor, you have noted a couple of times Ms Boyd's previous evidence to us on the function of the GSE Act. I want to go to that evidence where Ms Boyd is talking about the GSE Act. She said, in Hansard:

While you can't direct or tell a secretary what to do in terms of hiring or firing somebody, Ministers are, under our Westminster system, responsible to Parliament for the way that departments operate and the actions of their departments. In that context it would be reasonable and appropriate for a Minister to have conversations with a secretary about the structure of the department, the performance of the department and individuals within that department.

She goes on:

I think the second reading speech for the recent GSE Act amendments explains that and says that it is reasonable for a Minister—while they can't direct a secretary on employment, they can certainly give feedback on performance and make suggestions. They're certainly not able to direct.

It appears to me that your understanding is consistent with that, but I don't want to assume. Is your understanding of the GSE Act and what it allows consistent with Ms Boyd's testimony?

TRACEY TAYLOR: That is my understanding and that was reinforced when I sought advice from the chief legal officer in Transport for NSW on the coordinator general position. That was echoed through his advice.

The Hon. Dr SARAH KAINE: So you sought advice on that for a different matter but it was general advice about how the Act operates?

TRACEY TAYLOR: That's right.

The Hon. Dr SARAH KAINE: Ms Carroll, is that your understanding as well, consistent with Ms Boyd?

SUSAN CARROLL: Yes.

The Hon. Dr SARAH KAINE: Ms Taylor, I want to ask about the interaction with Ms Lo. It seems to me that it would be—actually, let's take it away from Ms Lo. You are in people and you are in recruitment. It would seem to me to be good practice to seek advice when there are changes in environment and context about the operation of anything new, like a system or rules or personnel. Isn't that just consistent with good practice?

TRACEY TAYLOR: Yes, and that was exactly my intent in seeking Ms Lo's advice. As I said in my previous testimony, I didn't have intimate knowledge of what had occurred in the previous inquiry and what steps had taken to lead to the change in the amendments. The amendments were very specific in saying that they couldn't direct them, but how you interpret that was what I wanted to test, hence my comment about testing the boundaries.

The Hon. Dr SARAH KAINE: Again, I just want to confirm my understanding of what you have already provided us. In wanting to be consistent with good practice, you were deciding to, in your terms, test the boundaries by having an interaction with Ms Lo. It wasn't seeking legal advice from Ms Lo, was it?

TRACEY TAYLOR: No, it was not.

The Hon. Dr SARAH KAINE: What was it, then?

TRACEY TAYLOR: As I said previously, I knew Ms Lo had been involved in that previous inquiry so I had intimate knowledge of what had occurred to lead to those amendments. Additionally, Ms Lo is the Public Service Commissioner so she is someone I have high respect for. I respect her opinion so I wanted to play out that scenario with her. It purely was a scenario to say, "If we did this, would that be in contravention to what the amendment is designed to achieve?" They are the scenarios I put forward to her, which Ms Ward has asked me today.

The Hon. Dr SARAH KAINE: So it was a hypothetical discussion. There was no direction from any office, whether it be the department or the Minister's office, for you to seek that information. It was you doing your due diligence.

TRACEY TAYLOR: It was me doing my due diligence. To be clear, I had no discussions with the Minister's office or the chief of staff around the Transition Office. All of my dialogue had been with Ms Carroll. Through that, she had asked me to advise the secretary on the placement approaches. It was with that intent that I spoke to Ms Lo.

The Hon. Dr SARAH KAINE: The creation of a transition office is consistent with the GSE Act. There is not a suggestion that there has been a breach in how the Transition Office has been set up?

TRACEY TAYLOR: That's definitely not a suggestion by me, no.

The Hon. PETER PRIMROSE: I will briefly ask a question probably to Ms Taylor but, please, either of you answer. In relation to the appointment of DLOs, to your knowledge, have any previous Ministers requested DLOs by name, without naming them?

TRACEY TAYLOR: I will refer you to Ms Carroll. I haven't had a lot of involvement in the DLOs.

SUSAN CARROLL: My knowledge is limited to the period that I have been with Transport. I would say that, in my experience, there has been one instance where a Minister did request a DLO be retained. It was a DLO that had been serving in that office and, for continuity purposes, the Minister requested that that DLO continue. I understand there may have been circumstances prior to that, but I was not in the chief of staff role at that time so it wouldn't be appropriate for me to comment on the specifics of that.

The Hon. PETER PRIMROSE: Would you regard that as having been a breach of process in any way?

SUSAN CARROLL: Not really. That officer, in that instance that I've mentioned, went through a process by the department. The rationale for that request was continuity and mitigation of disruption of circumstances. Ultimately, it was a matter for us to consider and we declined the request in that instance.

The Hon. PETER PRIMROSE: Ms Taylor, just going back and confirming what we have heard, there have been imputations that seeking legal advice is indicative of alarm bells ringing. In your view, it is the case, isn't it, that seeking legal advice was just doing due diligence as opposed to alarm bells ringing and needing to go and seek outside legal counsel?

TRACEY TAYLOR: Yes. As in my previous testimony, on occasion we will absolutely seek legal advice and it's for due diligence. It's to ensure that we are advising correctly based on the circumstances in front of us, whether that be a recruitment process or a matter of conduct that we are working into, so it is just due diligence.

The Hon. MARK BUTTIGIEG: That advice wouldn't necessarily relate to the veracity or the ability to set up a transition office, per se, because that is the GSE Act. It is, like you said, recruitment processes, the logistics of setting it up and all that sort of thing.

TRACEY TAYLOR: As I said, I didn't seek the legal advice in relation to the establishment of the Transition Office—I wasn't involved in that—but in general terms, yes, it could be on recruitment practices. With the Coordinator General, I did seek advice, but more so, because Mr Collins was acting as the secretary, I felt that I needed to speak to the chief legal officer for due diligence to ensure that I could appropriately advise the Minister's office.

The Hon. MARK BUTTIGIEG: In earlier evidence I think there was a line of questioning about the Minister making a suggestion on a member of the panel, though the final appointment was a decision of the secretary. There is no check back then with the Minister, is there? The names are put up and the decision is made. There is no check back with the Minister to say, "This is what we're thinking of doing"?

TRACEY TAYLOR: I think it is important to differentiate. What Ms Lo was talking about was the appointment of a secretary. The secretary process is very different to what we're required to follow as appointments for senior executives. It is not our practice that we would normally check back on a senior executive appointment with the Minister. No doubt the secretary would inform the Minister if he was making a senior appointment to one of his direct reports to say that he was making that decision, but that would be more informing than seeking decision or input.

The Hon. Dr SARAH KAINE: Could I ask a follow-up? I want to go back to the candidates. Just confirming, there were other internal candidates put to the secretary on his request in order to ensure that an appropriate group of people was considered. Is that correct?

TRACEY TAYLOR: That's correct. Ms Carroll sought my advice. Again, I'm generally sought out for advice when we are looking at senior appointments across the organisation, around the individual performance and talent information to evidence, why you might make a move or a selection process. Ms Carroll sought my advice, mentioning the name that the Minister's office had suggested, and was there any other candidate that I could think of that I would suggest that Mr Sharpe consider in relation to the appointment? I provided I think at least two names—I think one we progressed with—but that was for the temporary assignment. Once we went into an open recruitment process, the role was advertised both internally and externally, there was a range of applications put forward, and a short list was agreed by the panel and then interviewed. Through that process the individual who had been temporarily assigned was successful in that placement.

The Hon. Dr SARAH KAINE: Consistent with temporary roles in the public service, it is my understanding that there is a view to fill those roles internally with suitable candidates and that there is a period of time in which that person can stay in the role, but once that time lapses it does go to external—is that correct? The original temporary appointment was consistent with normal practice in this.

TRACEY TAYLOR: Absolutely. If we have a priority to respond to—the secretary has a myriad of powers under the Transport Administration Act, which is basically echoed through the GSE, that he can exercise his employment powers to temporarily assign people, especially at level. In this case the employee was at level, so we established the role and we put the person in as acting. But Mr Sharpe at the time did instruct me that he would like to go to an open recruitment process for the role. That was then concurred with by Mr Collins who then took over not long after in the acting capacity.

The Hon. Dr SARAH KAINE: Just confirming, the Transition Office was going to be stood up. There was a need to have someone heading that office. That was seen as something that needed to be done in a timely manner. Consistent with public service practice, that position was considered from internal candidates, one that we're hearing had been suggested but others which had been considered by the department—

The Hon. NATALIE WARD: Point of order: The member is giving evidence. She should put a question to the witness as opposed to setting out what her view is and I ask that you direct her to direct a question to the witness rather than giving a commentary.

The Hon. Dr SARAH KAINE: To the point of order, Chair: Context is allowed in the asking of a question and the practice that we have seen today has been that questions putting statements to a witness have been allowed throughout the morning, so I would request that I finish.

The CHAIR: I think there is a balance here, if we could come to the question.

The Hon. Dr SARAH KAINE: Certainly. So we have a temporary appointment, consistent with policy and practice, and appropriate desire, also fitting with policy and practice, to then go through the full external, after which time the person who had been temporarily appointed won competitively the job. Is that correct?

The Hon. NATALIE WARD: Point of order: The phrase "consistent with policy and practice" is an interpretation by the member; it is not necessarily supported by the facts. I ask that that particular part of the question be rephrased. It is an assumption and a conclusion about the evidence which this Committee has not reached.

The Hon. Dr SARAH KAINE: To the point of order: I am asking the witness whether she agrees that it is consistent with policy and practice.

The Hon. NATALIE WARD: Then ask that.

The Hon. Dr SARAH KAINE: I did ask that.

The Hon. NATALIE WARD: You made a statement.

The Hon. Dr SARAH KAINE: I did ask that, Ms Ward.

The CHAIR: Order! If the witnesses are at any time unclear about the question, they can ask for a rephrasing, but otherwise please go ahead.

TRACEY TAYLOR: To answer the first question, the secretary can, under his employment powers and policy and practice, temporarily assign someone to a role, which he chose to do. He then, as I said, made a decision that he would also like to go through an open recruitment process, and that was concurred with once Mr Collins took over the acting secretary role, so there was a change at that time. Through that process a comparative assessment took place through an interview panel and the selected candidate was the same person who was temporarily assigned but had gone through the process.

The Hon. Dr SARAH KAINE: Mr Collins, who took over acting as secretary—

TRACEY TAYLOR: Correct.

The Hon. Dr SARAH KAINE: —agreed with and continued that process as established by Mr Sharpe?

TRACEY TAYLOR: Yes, he did.

The Hon. PETER PRIMROSE: Just to finish on the points I was making earlier, it is the case, isn't it, that requesting a DLO by name is not actually a breach of any of the rules? That's correct?

SUSAN CARROLL: I think that really goes to the questions that we have sought advice around. I won't go into the legal advice, but certainly suggestions can be made, but a direction should not be made in that respect.

The Hon. PETER PRIMROSE: But in terms of a request.

TRACEY TAYLOR: In relation to policy, absolutely, and, as Ms Boyd's evidence provided, there is nothing wrong with the suggestion being made. The decision, however, still sits with the secretary and that would still apply in the DLO matter. The secretary, if comfortable to make the decision to have that person conduct that role—there's nothing wrong with that.

The Hon. MARK BUTTIGIEG: Can I just ask a follow-up: Further to my colleague's question about Mr Collins making the final appointment and, on evidence in estimates, not being directed, you're not aware of any other direction being made, are you?

TRACEY TAYLOR: In relation to the Transition Office?

The Hon. MARK BUTTIGIEG: Yes.

TRACEY TAYLOR: As I said, I was not involved in any of the conversations with the Minister's office or the chiefs of staff, so I wouldn't be able to comment on that, but no, I was not made aware of any direction.

The Hon. PETER PRIMROSE: The only other point was who was actually on the panel for the Transition Office?

TRACEY TAYLOR: The panel was made up of four individuals. I believe these papers have been made available. Usually the recruitment process is confidential, but they were three deputy secretaries, including myself—sorry, apologies, two deputy secretaries, including myself, Ms Carroll and Mr Collins.

The Hon. Dr SARAH KAINE: Just to confirm, because I didn't hear from Ms Carroll, both of you were on the panel and neither of you received a direction with regard to who would be successful?

TRACEY TAYLOR: I did not.

SUSAN CARROLL: No, we went through a recruitment process.

The CHAIR: We have 15 minutes left, so we'll do three lots of five. We'll go back to the Opposition.

The Hon. NATALIE WARD: In relation to Mr Primrose's question that it's not a breach to request a policy person, DLO appointments are not policy roles; they're nonpartisan roles that can't carry out policy work. That's correct, isn't it?

SUSAN CARROLL: No, DLO roles can conduct policy work, but they must—

The Hon. NATALIE WARD: Sorry, they should be nonpartisan in doing so.

SUSAN CARROLL: They must be nonpartisan appointments.

The Hon. NATALIE WARD: I think there was a suggestion of a request of one person by name but, in fact, Ms Haylen's office requested five people: She requested for the nonpartisan roles the head of the Balmain Labor campaign; a former Young Labor president; a person who has known the Minister for years from former staffing days; a former Labor candidate; and Labor head office staffer. That's five requests for specific people for DLOs in her office. That's correct, isn't it?

SUSAN CARROLL: I'm not aware of the backgrounds that you have mentioned, Mrs Ward, but if you would like to put the names to me then I'm happy to respond to that.

The Hon. NATALIE WARD: All right, I'll come back and do that. Just before I go to the next question, I'll just clarify that you're coming back with that index number of that document on the legal advice.

SUSAN CARROLL: Yes.

The Hon. NATALIE WARD: Thank you. Those names are Mr Ash, Ms Stewart, Gilchrist, Purcell and Wise. They're the five that were requested that have those partisan—

SUSAN CARROLL: Yes, Ms Wise was not suggested for a DLO role, though.

The Hon. NATALIE WARD: Are you sure about that?

SUSAN CARROLL: She was never suggested for a DLO role.

The Hon. NATALIE WARD: We might want to clarify that.

SUSAN CARROLL: I'm happy to clarify that now. Her name only arose in the context of the Transition Office.

The Hon. NATALIE WARD: But there were the five requests, so is it your understanding that Ms Wise was identified by the Minister's office for the 2IC position in the office? That's correct, isn't it?

SUSAN CARROLL: That's correct.

The Hon. NATALIE WARD: The Minister's office called out and said, "We want Barbara Wise for the 2IC position in the Transition Office"?

SUSAN CARROLL: That was put to me by the then deputy chief of staff.

The Hon. NATALIE WARD: And who did they say they wanted for the top job?

SUSAN CARROLL: No name was provided.

The Hon. NATALIE WARD: Can I go back to Melanie Stewart? That was a DLO that was requested. Was there a process for that, or was that a request from the Minister?

SUSAN CARROLL: That was a request.

The Hon. NATALIE WARD: From the Minister—a named person.

SUSAN CARROLL: We did not go through a process for that appointment.

The Hon. NATALIE WARD: Why, then, did she need to complete a future conflict of interest statement when she was summonsed to come back to the Minister's office?

SUSAN CARROLL: All of our officers under the code of conduct are required to prepare a conflict of interest declaration as the circumstances present. I certainly did not make that request. I was not aware at the time of the matters that were contained in that declaration.

The Hon. NATALIE WARD: But she was requested, named and spent her time. What is the future conflict that she had to declare?

SUSAN CARROLL: As I said, the onus in making a conflict of interest declaration rests with each officer in accordance with the code of conduct, so she would have made that judgement call at the time.

The Hon. NATALIE WARD: Can you take on notice to provide clarification to the Committee of what that future conflict was, to be clear about what she had to declare when she was requested to come back to the Minister's office? I'm asking you what the conflict is.

SUSAN CARROLL: My understanding is that that document has been produced and is the subject of a claim.

The Hon. NATALIE WARD: Do you know what the conflict is?

SUSAN CARROLL: That was subsequently drawn to my attention.

The Hon. NATALIE WARD: What is the conflict?

SUSAN CARROLL: I'm not in a position to speak to that because I understand that a claim of privilege has been made with respect to that document.

The Hon. NATALIE WARD: I think they've been dealt with by the arbiter.

SUSAN CARROLL: I'm not aware of that, Mrs Ward.

The Hon. NATALIE WARD: It was your previous evidence that a meeting occurred between the chief of staff and the former secretary regarding the Transition Office and that Ms Wise was identified for the 2IC position by Mr Gartrell. That's correct, isn't it?

SUSAN CARROLL: No, that's not correct. Mrs Wise was put to me by the Minister's then deputy chief of staff, subsequent to the meetings with Mr Gartrell.

The Hon. NATALIE WARD: Okay, so the Minister's office suggested it. Why was an individual who broke their employment obligations given an opportunity to resign prior to the findings being issued, Ms Taylor?

TRACEY TAYLOR: The employee in question was not given an opportunity. The employee took a decision to resign from his employment, which he has every right to do under his contract.

The Hon. NATALIE WARD: Did you share your findings, or have you made final findings from that investigation?

TRACEY TAYLOR: The investigation is now closed and we have made recommendations of improvements to the DLO process.

The Hon. NATALIE WARD: I should think so.

The CHAIR: That brings me to the question I was about to ask you. Following all of that media attention and controversy over the DLO appointments and the type of work that they may or may not be doing, what has changed in terms of appointments of DLOs?

TRACEY TAYLOR: We've made several recommendations to the way that DLOs are managed across the organisation. I recently wrote a letter to the Premier's Department to outline what those recommendations are. I'm happy to give a copy of this as well.

The CHAIR: Thank you, that would be very useful.

TRACEY TAYLOR: We have made a number of recommendations, including the managerial contact during the time that they are DLOs—that it's far more regular and that there is actually a dual reporting line, so that it's very clear who they report to in Transport for NSW, as well as taking day-to-day direction from the Minister's office, so that they have a senior person in Transport to liaise with; that all DLOs be provided with a copy of the updated DLO handbook, because there have been updates made to the DLO handbook and we're making sure that we're providing that to them; and before they do commence as a DLO, if they are a member of a political party, that they do disclose that up-front.

The CHAIR: That's great. If you wouldn't mind tabling that, that would be fantastic. What's the date of those recommendations? When were those recommendations made?

TRACEY TAYLOR: The recommendations were made at the end of the investigation process. I'd have to take on notice when we actually closed it, but I recently sent this letter to the Premier's Department. I had had a conversation with Ms Dobbins to say that we had identified some recommendations that the Premier's Department may want to consider in relation to their management of the DLO circular.

The CHAIR: When will the findings of that investigation that Mrs Ward was talking about be made public?

TRACEY TAYLOR: It's not Transport for NSW's position that we would be making that report public, as it goes to the conduct of an employee that we still have a requirement to protect the privacy and confidentiality of.

The Hon. Dr SARAH KAINE: I'm not sure which of you to ask, or both of you. There seem to be different processes that might apply to the appointment of DLOs. Could you go through, step by step, what those processes might be?

TRACEY TAYLOR: I'll refer you to Ms Carroll.

SUSAN CARROLL: DLO appointments are made from existing staff. We don't go externally for DLO appointments because the circular provides that the DLO appointment is a source of knowledge and skills to support the Minister's office by being on the ground in the Minister's office. We would ordinarily undertake an EOI process—that may be a formal or an informal EOI process—to make the appointments to that role. A number of candidates are usually considered, depending on the level of interest, and we would ordinarily provide a small shortlist to the Minister's office of candidates that we would have confidence are able to do that role.

The Hon. Dr SARAH KAINE: So there's essentially an internal pool that you're drawing from of people who have experience with Transport.

SUSAN CARROLL: Indeed.

The Hon. Dr SARAH KAINE: So they need to have that as a prerequisite?

SUSAN CARROLL: They need to have experience in Transport to be able to support the Minister's office with the—I mean, their role is there as a liaison point with the department.

The Hon. Dr SARAH KAINE: Maybe for you again, Ms Carroll: Would you expect all Transport staff who were former government staff to put in a conflict of interest form? Is that required?

SUSAN CARROLL: What do you mean by former government staff?

The Hon. Dr SARAH KAINE: I think we were talking about someone—I don't know that the name was mentioned; I'd prefer not to, but I think there were questions about a conflict of interest.

The Hon. NATALIE WARD: Melanie Stewart.

The Hon. Dr SARAH KAINE: I'd prefer not to name.

The Hon. PETER PRIMROSE: The Minister's staff.

The Hon. Dr SARAH KAINE: I wondered if it was a requirement for those staff to put in a conflict of interest form.

SUSAN CARROLL: It's not a requirement. The code of conduct places an onus on each public servant officer to consider the circumstances and, if there is an actual or perceived conflict, to lodge a conflict of interest declaration form.

TRACEY TAYLOR: If I could just add to that, as the circumstances may change around that officer, they have the obligation to update their conflicts of interest that they've disclosed at the time that the circumstances have changed. It's not a static document; it's a requirement to continually update on conflicts of interest should they be realised.

The Hon. Dr SARAH KAINE: Again, that's a common provision across the public service, isn't it? That's not specific to these kinds of roles.

TRACEY TAYLOR: Yes, that's correct. If their circumstances change, they're required under the code of conduct to lodge a new or update their current conflicts of interest.

The Hon. PETER PRIMROSE: Can I just clarify: Are public servants entitled to have private political lives, be they Labor, Liberal, Independent, Greens—doesn't matter? Is that the case or not?

TRACEY TAYLOR: Under policy we would not typically ask about association to political parties. That is of the employee's personal interest. The only time that we would want to consider that is if, in the role that they are playing in the organisation, it becomes a perceived or real conflict of interest that the organisation then needs to consider and appropriately manage.

The Hon. NATALIE WARD: Can they carry out political work while they're in the DLO role?

TRACEY TAYLOR: I believe Ms Carroll has given you evidence on that before, Ms Ward.

The Hon. NATALIE WARD: I'm asking you.

TRACEY TAYLOR: No, they're not able to.

The Hon. NATALIE WARD: That's very clear, isn't it?

TRACEY TAYLOR: I believe so, yes.

The Hon. NATALIE WARD: Hence the conflict of interest declaration.

The Hon. Dr SARAH KAINE: Ms Boyd, I had another question.

The CHAIR: Order! What happened in terms of timing?

The Hon. NATALIE WARD: They'd finished.

The Hon. Dr SARAH KAINE: No, we had a pause and Ms Ward jumped in.

The CHAIR: Please go ahead, Dr Kaine.

The Hon. Dr SARAH KAINE: Ms Carroll, were you involved in the update of the DLO handbook?

SUSAN CARROLL: Yes, I was.

The Hon. Dr SARAH KAINE: Could you explain to us what were the key changes?

SUSAN CARROLL: There were a raft of changes made throughout that document. First and foremost I should note that the DLO handbook is a document, to my understanding—I'm not aware of any other department having such a document; it's a guidance document. Ordinarily our DLOs are in a support role where they are facilitating ministerial executive correspondence-type matters. The DLO handbook sets out a raft of process flows

with relation to things like supporting Ministers' officers with ministerial correspondence briefings, cabinet matters et cetera.

That document was updated in its entirety last year, firstly to reflect the change of government and the change of Ministers—so all of that was updated. Also, the department's processes had changed throughout the course of time since the last document was issued so we quite rigorously went through and consulted with each of those line areas responsible for ministerial briefings, cabinet et cetera to make sure that the process flows included in the document were current. We also turned our mind to whether or not the settings in that document were reflective of what we, as a leadership, expected of our DLOs, so some changes were made. For example, as I've previously given evidence on, there were some things in that DLO handbook that we didn't agree with and were inconsistent with DLO practices across the board, such as DLOs previously, under the handbook, could not undertake policy work. That is common practice for DLOs across the government sector and so we made sure that the handbook was updated to reflect that.

The CHAIR: One last question, Mrs Ward.

The Hon. NATALIE WARD: Thank you. Do you consider Minister Haylen's use of DLOs unusual considering you said it's typically for administration or administrative roles and given there were five requests for specific Labor-affiliated people?

SUSAN CARROLL: We went through, last year, a change of government after a very long period of time. In anticipation of the possibilities following the election, as a leadership group at Transport, we made a decision to change the DLO settings to uplift the capability that we would be offering each of our Ministers' officers. Previously we had more junior officers that were responsible for all of that administrative work. We changed that setting ahead of the election to ensure that we had Transport officers of sufficient seniority and experience that would be able to provide guidance to the office in that establishment phase, and that has carried through.

The Hon. NATALIE WARD: So nothing to do with Kieren Ash?

SUSAN CARROLL: I don't have anything more to add on that one.

The Hon. NATALIE WARD: Did Rob Sharp sign off on that?

The CHAIR: Order! That does bring to the end of our session. Thank you so much for spending this time with us. To the extent that there are questions taken on notice or supplementary questions, the Committee secretariat will be in touch. That concludes this panel.

(The witnesses withdrew.)

Ms BARBARA WISE, Head of Transition Office, Transport for NSW, affirmed and examined

The CHAIR: I welcome our next witness. Do you want to make a short opening statement?

BARBARA WISE: No, thanks.

The Hon. NATALIE WARD: Thank you, Ms Wise, for coming along today and for your work. I am going to ask some questions in relation to how you fit into the terms of reference. They're not an accusation and they're not a slur on you; they're an attempt to factually put some matters for context. I say that at the outset. You're here to assist and we appreciate that. I want to understand how you fit into the picture of the terms of reference for the inquiry. Factually, it's correct that you previously worked in the Gillard Government around the same time Minister Haylen was a staffer for then infrastructure Minister, Anthony Albanese. It's correct, isn't it?

BARBARA WISE: Yes, that's correct.

The Hon. NATALIE WARD: Was Mr Gartrell working for the Federal Government around the same time that you were?

BARBARA WISE: The first time I met Mr Gartrell was sometime in early April 2023 so I have no idea where Mr Gartrell was working at that time.

The Hon. NATALIE WARD: I think factually he was, but that's fine. How long have you known him for? Just since April? You've never met him prior to April?

BARBARA WISE: I had never met Mr Gartrell prior to being asked to go up to the Minister's office.

The Hon. NATALIE WARD: Can I confirm that prior to working in the New South Wales public service, you worked for then Deputy Premier John Watkins.

BARBARA WISE: I actually started in the public service prior to working for Minister Watkins. I started in the public service in 2000 at the Cabinet Office.

The Hon. NATALIE WARD: But the documents produced to Parliament show that, so I wanted to clarify that you did then work for Deputy Premier John Watkins.

BARBARA WISE: I did, yes.

The Hon. NATALIE WARD: Is it correct that the current secretary, Josh Murray, was Mr Watkins' chief of staff during that period?

BARBARA WISE: No.

The Hon. NATALIE WARD: No? Who was?

BARBARA WISE: A woman called Emma was. I never worked with Mr Murray.

The Hon. NATALIE WARD: But Mr Murray did hold the position of Mr Watkins' chief of staff for a time, did he not?

BARBARA WISE: I understand he did but it was before I worked for Mr Watkins.

The Hon. NATALIE WARD: So it's fair to say that you've known some of those people for some time and others for a longer time. For example, Minister Haylen you've known for a longer period. That's correct, isn't it?

BARBARA WISE: No, it's not. If you could be clear about which people you're thinking that I should know or not know. I don't know Minister Haylen.

The Hon. NATALIE WARD: But prior to April you've never met Mr Gartrell. You'd had no association with him, no interaction?

BARBARA WISE: Yes, that's correct.

The Hon. SCOTT FARLOW: To that point, when did you first meet Minister Haylen?

BARBARA WISE: I met Minister Haylen at a BusNSW function as part of my role as the executive director of transport partnerships. In late 2022 she was the guest speaker at a function hosted by BusNSW.

The Hon. SCOTT FARLOW: That was your first meeting with Minister Haylen?

BARBARA WISE: Yes.

The Hon. NATALIE WARD: So both working in Federal offices, didn't come across each other—never crossed each other at any of those?

BARBARA WISE: Not to my awareness. We may have been in the same room, but I never knew her.

The Hon. NATALIE WARD: If you'd never met Mr Gartrell, how did your name come up for the Transition Office?

BARBARA WISE: I couldn't possibly answer that question. I'm sorry, I don't know.

The Hon. NATALIE WARD: Leaving out Mr Gartrell, how did your name get put forward? How did you become aware that you were being put forward for the Transition Office? Obviously, there must have been some communication with you.

BARBARA WISE: I became aware when I got a phone call on Friday 30 March. I got a phone call from Susan Carroll and she asked me to go and attend the Minister's office the following Monday.

The Hon. NATALIE WARD: You had no discussions with anyone prior to that?

BARBARA WISE: No.

The Hon. NATALIE WARD: It was a complete surprise to you that your name was being put forward.

BARBARA WISE: Correct.

The Hon. NATALIE WARD: Is that fair?

BARBARA WISE: Yes, that is fair.

The Hon. NATALIE WARD: Documents provided to Parliament show that you had a meeting with the Minister's office fairly early on when they came to office. Who initiated that meeting?

BARBARA WISE: I was asked by Susan Carroll to attend that meeting. I'm not sure beyond that how it was initiated.

The Hon. NATALIE WARD: You were just simply contacted by Ms Carroll—

BARBARA WISE: Correct.

The Hon. NATALIE WARD: —who said what to you? You've been asked to come along to a meeting with no context?

BARBARA WISE: No. It was more than a year ago, but she did imply that they did want to set up some kind of transition office. It was about that and could I go to the Minister's office on the Monday and talk to them about that.

The Hon. NATALIE WARD: What did she say the purpose of that Transition Office was?

BARBARA WISE: That wasn't clear to me. I figured I would find out when I got there.

The Hon. NATALIE WARD: These are not trick questions; they're just factual, setting out what the process was, in accordance with the terms. It was "you come along to a meeting on the Monday and we want to talk about this Transition Office." Did you ask questions of her at that time about what they are thinking or what is the process?

BARBARA WISE: It was a fairly brief conversation because it was apparent that Ms Carroll didn't have a lot of detail.

The Hon. SCOTT FARLOW: This must have been a huge shock to you. You're called up to go into an office that hadn't existed before. You didn't ask further questions of Ms Carroll at the time?

BARBARA WISE: Certainly I asked where I should be showing up, because I understand they were still operating out of offices at Parliament House rather than at 52 Martin Place. It became apparent in my conversation with Ms Carroll that she did not have any detail that would be helpful to me about what was required.

The Hon. NATALIE WARD: Had you set up a transition office before?

The Hon. Dr SARAH KAINE: Well, who had?

BARBARA WISE: I had not set up a transition office before.

The Hon. Dr SARAH KAINE: No-one had for 12 years.

The Hon. NATALIE WARD: Can we stop with the commentary, please?

BARBARA WISE: I had done a lot of work that is relevant to what I'm doing now, in terms of running reviews and inquiries and things. That is certainly very relevant experience I've had.

The Hon. NATALIE WARD: No doubt, but you had not set up a transition office in any previous role such that they would say, "This person has done it before. We'd like to get her in to do that." What was your thinking then on why you were being asked to do this?

BARBARA WISE: I had no idea, and I couldn't speculate on why was asked.

The Hon. NATALIE WARD: But it wasn't in relation to any experience in relation to setting up a transition office. Is that what you're saying?

BARBARA WISE: As I said, I couldn't tell you what the reasoning was. I cannot speculate on what was on the chief of staff's mind, or anyone's mind.

The Hon. SCOTT FARLOW: After you had got that call from Ms Carroll, did you make any other inquiries of anyone else about the Transition Office or what was going on or the like?

BARBARA WISE: No, I did not.

The Hon. NATALIE WARD: You didn't ask any questions of Ms Carroll and you didn't ask anyone else?

BARBARA WISE: I did ask questions of Ms Carroll; she just didn't have any detail to give me.

The Hon. NATALIE WARD: That's very interesting. The ministerial office identified you to work in the office and then you had to relay what they wanted for the Transition Office to the secretary. That's correct, isn't it? The documents show that.

BARBARA WISE: I'm not sure that I had to relay it, but they did talk me through what they had in mind and then they did send me an email afterwards, which I forwarded fairly immediately to the secretary at the time.

The Hon. NATALIE WARD: You went to meet with them in office, presumably with the chief of staff, Mr Gartrell, and with the Minister. They set out to you what they wanted.

BARBARA WISE: The Minister was not present.

The Hon. NATALIE WARD: Okay. Mr Gartrell was telling you what they wanted?

BARBARA WISE: Yes. Mr Gartrell and the former deputy chief of staff as well was there.

The Hon. NATALIE WARD: They convey to you, "This is what we want to do. Can you go and tell the secretary of DPC what we want to set up?"

BARBARA WISE: No, that is not how I would characterise that conversation.

The Hon. NATALIE WARD: Okay. You tell us then.

BARBARA WISE: They were talking through a number of inquiries and reviews that they wanted to establish, and that they needed something to facilitate that. They described, as you've seen in the documents, what ended up in that email, then I just took that and went to speak to the secretary. It was not my decision to do any of those things. It was a call that he needed to be able to make, so I forwarded that information to him.

The Hon. NATALIE WARD: The documents show that they briefed you. You summarised what it was that they were looking to achieve with it and what the new Transition Office would be and how it would work. Did the discussion include what role you would play in that?

BARBARA WISE: No.

The Hon. NATALIE WARD: What was your understanding of what role you'd play having come from that meeting?

BARBARA WISE: They asked me to go and talk to the secretary about it, which is what I did. At no time did they talk to me about me being in a role.

The Hon. NATALIE WARD: That seems unusual, though, doesn't it? You go into a meeting to talk about setting up a transition office. They've asked for you but they're not telling you what role you would play.

BARBARA WISE: I can't comment. We just didn't have that conversation.

The Hon. NATALIE WARD: The vernacular was just, "We might be setting up an office and you might be part of it. Can you go to the secretary but you have no role?" or, "We're not going to tell you what the role is"? You were just taking notes of the meeting?

BARBARA WISE: It's not that they described that I would have no role; they just didn't tell me I would have a role. They identified me as someone who knew a lot about the agency—I have been at Transport for 15 years now—and that I would know where to find the right people in Transport that could help facilitate it.

The Hon. NATALIE WARD: Sure. But you go to the meeting and you take some notes and you leave?

BARBARA WISE: Well, I didn't take notes. They wrote that up afterwards.

The Hon. NATALIE WARD: And there was no discussion whatsoever about any role that you would play—either no role, a role or anything in between?

BARBARA WISE: No, there was not.

The Hon. NATALIE WARD: What was the point of the meeting?

BARBARA WISE: I can't really speculate what they might have wanted to get out of it, but my interpretation was that they wanted to set this up and that I was somehow to be involved in making that happen.

The Hon. NATALIE WARD: In your own words, can you summarise what actually occurred at the meeting?

BARBARA WISE: As I have already described, Mr Gartrell and the former deputy chief of staff identified the different reviews they wished to run. They identified that they thought that this team should have representation from across the agency and that there would be someone in charge and a 2IC.

The Hon. NATALIE WARD: What was the discussion around the 2IC?

BARBARA WISE: That there would be one. That was sort of it.

The Hon. SCOTT FARLOW: Did you come away from that meeting with the view that you would either be in charge of the Transition Office or the 2IC? Did you get an indicator of that during that meeting?

BARBARA WISE: I got an indication that I was to help establish it. I didn't have a sense of what any kind of recruitment process would be from that meeting—or, in fact, who should head it. I was just to be involved in the establishment.

The Hon. SCOTT FARLOW: You didn't think at that stage that you'd necessarily have an ongoing role in that transition unit?

BARBARA WISE: No.

The Hon. SCOTT FARLOW: You thought your role was coming in to provide advice to set it up?

BARBARA WISE: To help—correct, yes.

The Hon. NATALIE WARD: Ultimately, though, you were suggested for the 2IC role. That's correct, isn't it? The documents show that.

BARBARA WISE: I actually haven't seen those documents, so I take your word for it.

The Hon. NATALIE WARD: You are telling this Committee under oath that you had no awareness of your name being put forward to have any role whatsoever?

BARBARA WISE: Only other than what I've heard in estimates and in other evidence today. I've not seen any documentation around that or had any conversations with anyone about it.

The Hon. NATALIE WARD: What's the Transition Office currently working on?

BARBARA WISE: The bus task force is happening. There is a final report of that due in May. Also, the secretary asked the Transition Office to oversee the TAHE transition and perform the secretariat functions for the steering committee that is being run by Carolyn Walsh in terms of TAHE transition. We also have a role in monitoring the implementation of some of the reviews, in particular the Sydney Trains review and the bus task force recommendations.

The Hon. NATALIE WARD: Is the rail review finished?

BARBARA WISE: The rail review has given its final report to the Minister and, yes, it has.

The Hon. NATALIE WARD: That's finished?

BARBARA WISE: Yes.

The Hon. NATALIE WARD: When did it provide it to the Minister?

BARBARA WISE: As per its terms of reference, sometime late last year.

The Hon. NATALIE WARD: When late last year? December, November?

BARBARA WISE: I would have to take that on notice, sorry. I don't remember the date exactly.

The Hon. NATALIE WARD: If you would. The Government hasn't published that yet?

The Hon. Dr SARAH KAINE: Point of order—

The Hon. NATALIE WARD: I'm just trying to establish what the work is that's being conducted.

The CHAIR: I will hear the point of order.

The Hon. Dr SARAH KAINE: The point of order is that the question is about a specific report. The timing of when the Government is going to reply is well out of the terms of reference for this inquiry.

The Hon. NATALIE WARD: This is the work that's being undertaken by the Transition Office. I'm trying to establish what it is that they're—

The Hon. Dr SARAH KAINE: Which is not in question.

The Hon. NATALIE WARD: Can I finish my sentence without you talking over me.

The CHAIR: Order!

The Hon. NATALIE WARD: And the running commentary is quite disrespectful, Ms Kaine.

The CHAIR: Order!

The Hon. Dr SARAH KAINE: Don't talk to me like a schoolteacher, Natalie. It is very tiresome.

The Hon. NATALIE WARD: I don't speak over you.

The CHAIR: Order!

The Hon. Dr SARAH KAINE: All the time.

The Hon. NATALIE WARD: I don't interrupt you.

The CHAIR: Order! Can we stop talking at each other and direct your comments to me. To the point of order?

The Hon. NATALIE WARD: I'm trying to establish what the Transition Office did and is currently working on.

The CHAIR: I do accept the point of order to the extent that it is related to this particular witness and their role in the office. I will allow it.

The Hon. NATALIE WARD: Thank you. Is the Transition Office taking on new work? Given it's a Transition Office, is there something that is going to continue managing the transition after a year in government, or is there new work that you anticipate might be taken on by it?

BARBARA WISE: The roles are temporary roles and people in those roles are currently there until the end of June 2024.

The Hon. NATALIE WARD: Do you anticipate that the workload will require that to continue, given we're in April?

BARBARA WISE: The work will need to be managed in some way. Whether or not it's via a transition office or some other method would be a matter for the secretary.

The Hon. NATALIE WARD: In your opinion, given your role in the Transition Office, do you anticipate that that would need to continue, given the workload that you presently have, or that it should be finished by June?

BARBARA WISE: Sorry, which workload?

The Hon. NATALIE WARD: The workload in the Transition Office. Do you expect that that work—TAHE, the rail review that's being provided—that will be sufficiently finished to close the office by June, or do you think that there's ongoing work that would be required to continue the existence of the Transition Office?

BARBARA WISE: What will need to occur is that there will need to be some kind of oversight over implementation. Who manages that is not a call for me to make.

The Hon. NATALIE WARD: Do you have a view?

BARBARA WISE: I could provide advice to the secretary, but it's going to be his call.

The Hon. NATALIE WARD: Sure.

BARBARA WISE: The TAHE transition will take a bit longer to do. The Treasurer committed to having legislation by June of this year, but obviously there's a lot more to do in setting up an entity than just getting a bill through the Parliament.

The Hon. NATALIE WARD: You are the head of the Transition Office, so it's fair that the question is asked about your perception of the workload and whether you think you have capacity to complete that by June. Do you have capacity to complete the current workload by June or do you anticipate that will have to continue beyond June?

BARBARA WISE: The work will need to continue beyond June but whether or not it's the Transition Office is not for me to decide.

The Hon. NATALIE WARD: Who else would take that on if not the Transition Office?

BARBARA WISE: Transport is going through a rework of its operating model. I'm probably not the best person to ask about the detail of all of that, but it's certainly under active consideration by the chief people officer and the secretary around how that workload will be managed.

The Hon. NATALIE WARD: You would have a role to play, surely, in putting forward a view, given that you are the head of the Transition Office.

BARBARA WISE: It's fair to say my advice would probably be sought as part of that.

The Hon. NATALIE WARD: You talk about the TAHE. The rail review has been provided. Do you have a copy of the TAHE terms of reference?

BARBARA WISE: Not at hand, no.

The Hon. NATALIE WARD: Can you provide that on notice?

BARBARA WISE: There is a terms of reference for the steering committee. I would have to ask. I would have to check whether I can provide that.

The Hon. Dr SARAH KAINE: Point of order—

The Hon. NATALIE WARD: Thank you.

The CHAIR: I will hear the point of order.

The Hon. Dr SARAH KAINE: I'm not sure that the TAHE is in the terms of reference of the Committee. Again, I make the previous point that that is well outside the scope of this particular inquiry. There are other forums in which to request that.

The Hon. NATALIE WARD: The scope of this inquiry refers to "any other related matters". This witness is the head of the Transition Office. We're establishing, given it's a transition office, whether the workload is sufficient to continue and what is required. I've put that squarely to the witness. I think it's absolutely reasonable to ask in relation to the TAHE issue, which she has raised in her evidence, that we follow that through. It's not a trick.

The CHAIR: Can I just clarify which point of the terms of reference are you claiming this is related to?

The Hon. NATALIE WARD: The term "any other related matters", because it states "the creation of transition offices in the Government" and "any other related matters."

The CHAIR: Yes, "the creation of", not the ongoing work of. If you could bring it back to a question that's actually directed to the terms of reference.

The Hon. NATALIE WARD: Certainly. In relation to "any other related matters" to the Transition Office—

The CHAIR: Just to clarify, that's not what the terms of reference say. They state:

(g) the creation of transition offices in the Government

The Hon. NATALIE WARD: Yes, and a separate point is (i), which is "any other related matters", that is separate.

The CHAIR: Related to the creation.

The Hon. NATALIE WARD: No. We'll separate out "the creation". I'm happy to just submit that this question goes to "any other related matters", given this is an inquiry into—

The Hon. Dr SARAH KAINE: It could be anything.

The Hon. PETER PRIMROSE: Anything in the known universe.

The Hon. NATALIE WARD: Fine. I'll move on. There's a clear campaign being run to cover up.

The CHAIR: Order!

The Hon. NATALIE WARD: That's fine. I'll move on.

The CHAIR: Order!

The Hon. Dr SARAH KAINE: To actually stick to the terms of reference would be great.

The CHAIR: Order!

The Hon. NATALIE WARD: I have one minute left, Chair. I seek that you stop the clock.

The CHAIR: You shouldn't criticise the Chair's ruling.

The Hon. NATALIE WARD: I have said I will move on, Chair.

The Hon. Dr SARAH KAINE: The smile swings it.

The Hon. NATALIE WARD: Ms Wise, did the Transition Office write the independent reports or did external experts write those review reports?

BARBARA WISE: Different reviewers have different practices, so it would depend on the individual reviewer as to how much input they would seek from staff.

The Hon. NATALIE WARD: What's the total expenditure on staffing costs for the Transition Office, given it's been established?

BARBARA WISE: That's probably best answered by the chief people officer, but I can take it on notice. I understand this has been provided.

The Hon. NATALIE WARD: Can you take that on notice? You are the head of the Transition Office. Will you take that on notice to provide the expenditure?

BARBARA WISE: I'll take it on notice, yes. Sure.

The CHAIR: Thank you, Ms Wise, for attending. Just recapping: I've never been in Government—and I've never really been in the Opposition, either—so this is all very new and interesting to me. We have 12 years of the Coalition being in Government. We then have Labor coming in and they take office. How big is Transport? Transport's one of the biggest departments, presumably.

BARBARA WISE: I understand we've got about 30,000 employees.

The CHAIR: There's a bunch of stuff that the new Government wants to get done. It's already identified a bunch of reviews by that point before it sets up the Transition Office. Is that correct?

BARBARA WISE: That's my understanding.

The CHAIR: Presumably, they had some ideas. They'd certainly been saying it during the election. They decide to set up a transition office and, given that it's not already set up, they need somebody to help to actually set it up. I understand that you were previously the Point to Point Transport Commissioner.

BARBARA WISE: Yes.

The CHAIR: You have 15 years in the service. You were an executive director of Transport Partnerships immediately prior to this position. Is that right?

BARBARA WISE: Yes, that's correct.

The CHAIR: You also won the Public Service Medal. You were given a public service medal for your work. Is that correct?

BARBARA WISE: Yes, in relation to the point to point transport reforms.

The CHAIR: You were identified as a competent and capable public servant—

BARBARA WISE: That's very nice of you to say, thank you.

The CHAIR: —who could advise this incoming Government on how it should transition and basically get a hold on this behemoth that is Transport for NSW. Is that correct?

BARBARA WISE: I couldn't comment on what was behind my being asked, but what you've said before that is all factually correct, yes.

The CHAIR: You struck me as being a little humble, so I wanted to put that on record. After that first initial meeting, you speak with the secretary. You report back to the secretary. What happens between then and you actually being appointed? Are you immediately put to work to set up that office? What are the next steps?

BARBARA WISE: Yes, I was. The secretary did ask me to go about working with the People and Culture team to establish some temporary positions to scope out what it is we would need in order to support all of the reviews. I can't recall exactly when it was in those following days, but he did ask me to act in the role and that there would be a recruitment process that would also be an external process.

The CHAIR: So you are put in the role temporarily, pending the official recruitment process?

BARBARA WISE: Yes.

The CHAIR: Taking the line of questioning from Mrs Ward, when we look then at the Transition Office being temporary, by its nature, your role as head of the Transition Office will come to an end as well. Is the understanding that you will then go back to another executive director position?

BARBARA WISE: When I was appointed, the appointment letter indicated that I would go back to my role as executive director of transport partnerships.

The CHAIR: So there wasn't a risk taken on with you taking on this role and it only being a temporary thing. You know that you are going back.

BARBARA WISE: Yes.

The Hon. Dr SARAH KAINE: Thank you, Ms Wise, for coming today. I wondered if we could draw out a little bit more the extent of your experience in Transport. You mentioned that you had been working in the area for 15 years. In that time, were you aware of last time there was a transition office?

BARBARA WISE: I was at Transport when the last change of government happened. I was in the executive, but not as senior as I am now. I did have a role in helping with, for example, the creation of Transport for NSW in terms of helping to decide where functions would go and those kinds of things. I did, at that time, in that formation of the new agency—obviously, everything got thrown up in the air and I applied for roles elsewhere and so on.

The Hon. Dr SARAH KAINE: Despite there being so few transition offices and so infrequently, you still were around and tangentially involved in the changes that arose from the change in government last time.

BARBARA WISE: Definitely. Absolutely. Yes.

The Hon. Dr SARAH KAINE: Drawing on the questions from the Chair, could you perhaps describe a bit more the range of roles that you have performed within Transport over that time?

BARBARA WISE: Sure. I arrived at Transport for NSW in 2009. I would say that, even when I started my career in the Cabinet Office, transport was the first area of policy that I worked in. I have a long and deep connection and enjoyment of my work with transport. My first role at Transport for NSW was working with the bus service planning team. There was a set of bus reforms done by the former Labor Government in the mid-2000s and there were changes to bus networks as a result of that. I worked with the bus planners on those changes.

From there, I was asked to go and work as part of a restructure—it wasn't the one that created Transport for NSW—into an area and lead a team that had a few different functions. The first was the scheme, so the School Student Transport Scheme, the Taxi Transport Subsidy Scheme and what is now called the School Drive Subsidy. The other team I had under me there was the regulatory staff that did the Passenger Transport Act, so they regulated buses, taxis, hire cars and so forth. The third area that I had under me in that role was community transport. They were more operational and administrative rather than policy roles.

When Transport was created, I applied for a role in the policy team and worked in transport policy for a few years. I was asked to go and run the secretariat for the point-to-point transport taskforce and we worked with

Professor Sturgess and Professor Parry on those reforms for the former Government. I then worked on the implementation of those reforms and then Minister Constance appointed me as the Point to Point Transport Commissioner. After that, with the 2019 election, Mr Staples was the secretary and that was when the RMS and Transport for NSW was brought together. I was then asked to go and work in the establishment of the regional and outer metropolitan division, bringing together the functions of transport and roads. I ran the public transport side of that for the regional and outer metropolitan division.

The Hon. Dr SARAH KAINE: That's extensive. Thank you. You mentioned a former Minister. How many Ministers do you think you would have worked for or under in that time?

BARBARA WISE: I haven't counted, but basically every Minister since 2000 I've had something to do with—sorry, transport Minister or any Minister? For transport Ministers, as many as there have been since 2009. For Ministers generally, it would be dozens.

The Hon. Dr SARAH KAINE: You spoke about the point-to-point role and you said you were appointed. How were you appointed? What was the process?

BARBARA WISE: That's a statutory office. I believe the Public Service Commissioner may have spoken to processes around that this morning. It was a Cabinet appointment but there was no merit selection appointment. The Minister just appointed me.

The Hon. Dr SARAH KAINE: Noting your point-to-point experience that we've just touched on, was that relevant to this current role, do you think?

BARBARA WISE: Certainly, the work in supporting the secretariat for the point-to-point transport taskforce was directly relevant to the work in the secretariat for the reviews I've been working on now. They are very similar—knowing what questions the reviewers might want to ask, knowing where in the department to get that information, helping them to formulate the policy advice back to government, doing the community consultation, getting inputs from experts, external stakeholder engagement and those kinds of things. They are all directly relevant to what I'm doing now.

The Hon. Dr SARAH KAINE: I note the Chair's observation that you do seem quite humble and so I don't want to make you uncomfortable, but could you explain a bit what your Public Service Medal was awarded for? It seemed that it might have been around the point-to-point work we were talking about.

BARBARA WISE: Yes, it was. I don't have the citation here, but it was related to the work on the secretariat for the point-to-point transport taskforce and then the subsequent implementation of the reforms and how they were carried out and how I engaged with stakeholders in that process, because it was a very difficult time for a lot of people.

The Hon. Dr SARAH KAINE: Relatedly, when you finished in that role, were you aware of how your time had been assessed by the then Ministers and government?

BARBARA WISE: No, I don't think so.

The Hon. MARK BUTTIGIEG: Can I just remind you of some of them? Let me know if these ring a bell:

Barbara Wise has ensured safety is a key priority for all providers and that riders feel safe as they utilise point to point transport options.

Do you remember who said that?

BARBARA WISE: No.

The Hon. MARK BUTTIGIEG: It was Minister Constance, actually. And Minister Toole thanked Ms Wise for her contribution to the transport sector throughout New South Wales, including in regional New South Wales. He said:

Barbara has made an exceptional contribution to the modernisation of transport service delivery in NSW. Through her leadership, the NSW Government has been supporting the transition of the industry into the 21st century.

I would have thought that, if you've got praise from former Coalition Ministers like that, when they asked you to take on that role in the transition authority, you wouldn't have lacked the confidence to do it, presumably.

BARBARA WISE: I thought it was going to be a big job, but I thought I would have had the ability if I were given the opportunity.

The CHAIR: Thank you very much for your attendance. To the extent that questions were taken on notice or there are any supplementary questions, the Committee secretariat will be in touch. That brings us to our lunch break. We will be back at two o'clock.

(The witness withdrew.)

(Luncheon adjournment)

Mr JOSH MURRAY, Secretary, Transport for NSW, on former affirmation

The CHAIR: Welcome, Mr Murray. As you have been sworn in at an earlier hearing of this inquiry, you do not need to be sworn in again. Would you like to make a short opening statement?

JOSH MURRAY: No, thank you, Chair, I'll go with what I said last time.

The CHAIR: Excellent. We will keep with the timed blocks between us.

The Hon. NATALIE WARD: Thank you, Mr Murray, for making yourself available today to assist the Committee. We appreciate it. Mr Murray, do you know where Kieren Ash is at the moment?

JOSH MURRAY: No, I don't, Mrs Ward.

The Hon. NATALIE WARD: Do you know where Scott Gartrell is at the moment?

JOSH MURRAY: No.

The Hon. NATALIE WARD: No idea?

JOSH MURRAY: No.

The Hon. MARK BUTTIGIEG: I think he's in the cafe across the road.

The Hon. NATALIE WARD: Probably.

The Hon. SCOTT FARLOW: Maybe you can assist the Committee with the whereabouts—

The Hon. NATALIE WARD: Yes.

The Hon. MARK BUTTIGIEG: I'm being facetious.

The Hon. NATALIE WARD: Mr Murray, have you familiarised yourself with the terms of reference for the inquiry?

JOSH MURRAY: Yes, I'm aware.

The Hon. NATALIE WARD: Have you been watching this morning so that you are familiar with what has been said if we refer to that?

JOSH MURRAY: I have had other things to do, but I've kept an eye on some of the proceedings, yes.

The Hon. NATALIE WARD: Thank you, that's great. In relation to Kieren Ash and Scott Gartrell, they've obviously been the subject of questions pertinent to this inquiry. Why didn't Transport provide their contact details to assist the inquiry?

JOSH MURRAY: That is not something that I was involved in, Mrs Ward, but they are not employees of Transport. Therefore, I can't answer any more about the arrangements for today's Committee.

The Hon. NATALIE WARD: You are obviously the secretary. You're able to provide that information through the Committee to assist it. Is there a reason, or were you part of the decision-making to not provide contact details for them so that the Committee could try to get their assistance with this inquiry?

JOSH MURRAY: Again, it's not something that I am privy to or am responsible for in terms of the contact details of private individuals.

The Hon. NATALIE WARD: Who do you say is responsible?

JOSH MURRAY: I couldn't answer that question. It is surely a matter for the Committee.

The Hon. NATALIE WARD: But you are the secretary of the department. Obviously, this is something that is important to the Parliament such that the upper House has moved that we conduct this inquiry. Is it something you'd consider obtaining their information to assist?

JOSH MURRAY: It's not something that I have been aware of in terms of who is appearing in front of this Committee. I received an email from the clerk to this Committee asking me to appear and, despite the fact that I have appeared before and have appeared in estimates hearings with yourself where we have discussed these issues, I thought it was important to appear today. That has been the length of my involvement as the Transport secretary in determining witnesses for this Committee. I can't help you any further on that.

The Hon. NATALIE WARD: The Committee has been in touch with Transport for NSW and has sought assistance from the department to get in touch with them. You're the secretary of that department and we've been told that the department won't provide their details.

The Hon. Dr SARAH KAINE: Point of order—

The Hon. NATALIE WARD: You were across that decision?

The CHAIR: I will hear the point of order.

The Hon. NATALIE WARD: I haven't even finished the question.

The CHAIR: Order! I will hear the point of order.

The Hon. Dr SARAH KAINE: I didn't think we had to wait until the question is finished.

The CHAIR: No, we don't.

The Hon. Dr SARAH KAINE: As I understand it, we were advised that an obligation around privacy of former employees was the reasoning. We were provided with that detail from Transport. I think this line of questioning is not appropriate given that Mr Murray has already said that it was not in his remit. We've been told why.

The CHAIR: It is helpful information, but it is not a point of order. Mr Murray, if you want to provide information of the kind specified by Dr Kaine, go ahead. Back to you, Mrs Ward.

The Hon. NATALIE WARD: Mr Murray, you are the Secretary of Transport for NSW. It is within your remit, I respectfully put to you. The information has been that Transport will not provide that information to us. What do you say about that?

JOSH MURRAY: Mrs Ward, all I would say is you've seen from today's appearances at the Committee that Transport has been very willing to help. The staff members of Transport, myself included, have given up their day to come and assist the inquiry. I can't comment any further on the availability of private citizens, but I would suggest my own personal feeling, which is that it is not Transport's role to give out contact details of people that don't work for Transport.

The Hon. NATALIE WARD: Whose role is it, then? Is it DPC's role to obtain contact details for former public servants in relation to an inquiry about their time in the public service? Whose role do you see that as being?

JOSH MURRAY: I couldn't answer that question.

The Hon. NATALIE WARD: Why not?

JOSH MURRAY: They are matters for the Committee, which I am sure have been taken into consideration during deliberatives. This Committee has been running since August last year. Therefore, those decisions would be taken during that time. I can't comment on the processes behind who the Committee wishes to call.

The Hon. NATALIE WARD: Mr Murray, I put it to you that it doesn't matter about the length of time this Committee has been running. It doesn't matter how many times people have or haven't appeared. I appreciate you are busy, but this is a parliamentary inquiry. We do appreciate your assistance, but it is also an order of the House that we do inquire into this information. I am asking not about privacy and not about other departments, but about your role as secretary of the department to assist the Committee—or for DPC. I think your initial answer was you don't know, but I think the answer from the department is it won't provide them. What is your position, as secretary?

JOSH MURRAY: The position from the department I haven't seen. I'm happy to have a look at that and discuss it with my colleagues that were in contact with the Committee. I, myself, emailed the Committee back to say that I would be available, but I know more broadly the organisation responded to the request. If I just consider, though, Mr Gartrell, he has never to my knowledge been an employee of Transport. Therefore, providing contact details I don't think would be appropriate, but again I am speculating because I wasn't involved.

The Hon. NATALIE WARD: I just want to be clear on your position as secretary. That is all I am trying to ascertain. Will you assist the Committee to provide that information, or is it your evidence that you won't take any further steps to provide information about the contact details for those witnesses?

JOSH MURRAY: No, I think they are matters for the Committee. That doesn't seem something that I would be involved in.

The Hon. NATALIE WARD: Upon the DLO scandal becoming a media matter, did you familiarise yourself with what had occurred prior to beginning your appointment?

JOSH MURRAY: We're casting our minds back to the third quarter of last year?

The Hon. NATALIE WARD: Yes.

JOSH MURRAY: Certainly I was aware of how those matters came into the media and discussed it with my Transport colleagues. As to the awareness that they had, you'd need to be more specific in terms of the question.

The Hon. NATALIE WARD: Did you familiarise yourself with what had occurred before your appointment so that you were aware of what was going on? In this role, it was obviously pertinent that you be across it. I'm asking you to elaborate for the Committee whether you familiarised yourself. Can you give us some detail of what steps you took?

JOSH MURRAY: Sure. The matters were well canvassed as they played out through estimates hearings, which was one place, and obviously through media inquiries and in discussions with my colleagues who had been involved at the time or were more aware of the scenarios because they'd occurred before my time in Transport.

The Hon. NATALIE WARD: What were you told by your colleagues?

JOSH MURRAY: Just as has been reported, that matters were raised and discussed, and that was the antecedents of those issues. Again, you'd have to be specific in terms of what question you would like me to answer.

The Hon. NATALIE WARD: I will be specific: What were you told by your colleagues? Can you be more specific about what you were told about the DLO issues and this inquiry?

JOSH MURRAY: I don't think I can be more specific. I'm aware of the DLO inquiries that came in, the DLO media inquiries and then the issues that led to Mr Gartrell referring documents that were received under Standing Order 52 back to the department to be investigated.

The Hon. NATALIE WARD: What else were you told by your colleagues about the inquiry and the DLO issues, specifically as it pertains to your role as secretary?

JOSH MURRAY: We had discussed the past elements in terms of how Mr Collins—who's given evidence on this before—had discussions with Mr Gartrell at the time, what led to those comments and then how it was dealt with. They were the main issues pertinent, but I'd have to again go back over that time frame to look at exactly what you were asking for.

The Hon. NATALIE WARD: If you could take that on notice, that would be helpful, to assist the Committee about what steps you took to familiarise yourself and what you were told. You've raised that you were told issues by your colleagues that would help to confine that information to a more specific—sorry, to elaborate, to make it more specific for the Committee to understand what steps you took and what you were told at the time in your role as secretary.

JOSH MURRAY: Sure, and I think I have been clear in previous hearings as to some of those discussions. In terms of the estimates hearings of last year, we canvassed that issue in quite a lot of detail.

The Hon. NATALIE WARD: In the limited time that we had. We have some more specific questions about that today, so I appreciate your assistance. Do you know how many DLOs were requested or approved without a recruitment process for Minister Haylen's office?

JOSH MURRAY: No, I don't.

The Hon. NATALIE WARD: Can you take that on notice?

JOSH MURRAY: Yes.

The Hon. NATALIE WARD: Thank you. I think that it's important to put some matters to you. It's not a gotcha moment; this is just to forensically assist the report to make sure that we've tied up some loose ends, given that it seems that we don't have another—is there something funny, Ms Kaine?

The Hon. Dr SARAH KAINE: I had a small cough.

The CHAIR: Order!

The Hon. NATALIE WARD: Sorry, I thought you were laughing. This is a serious matter and it's important that we tie up some of these loose ends.

The Hon. Dr SARAH KAINE: Thank you for letting me know that, Mrs Ward.

The Hon. NATALIE WARD: We don't have another hearing date.

The Hon. PETER PRIMROSE: We're just trying to work out where you're going with this.

The Hon. NATALIE WARD: The report of this Committee could potentially make a finding about the conduct of DLOs in Transport from the information we've obtained. To assist in that, could you take on notice, as you said, the exact number of DLOs that were requested and joined the Minister's office in your capacity as Secretary for Transport?

JOSH MURRAY: Yes, I will take that on notice. I believe that number itself has been tabled previously, which I'll clarify. The only reason I don't have that to hand is, obviously, this was several months before I started at Transport, and I was focused after coming on board on the issues that stemmed from that point forward, rather than going back over the two previous secretaries' time in the role.

The Hon. NATALIE WARD: All right, but a number have been requested and/or placed since your time.

JOSH MURRAY: Yes.

The Hon. NATALIE WARD: I think it would assist the Committee to be clear about those. I've raised some but, for the sake of clarity, it would be good to have an exact number.

JOSH MURRAY: Happy to provide that.

The Hon. NATALIE WARD: It's transparent and it's public's money, so I think that would be helpful. I think you said you had seen the evidence this morning.

JOSH MURRAY: Yes.

The Hon. NATALIE WARD: We had some information about a letter that has been sent. Whose idea was it to send to the Premier's Department advice to update the DLO requirements?

JOSH MURRAY: When the investigation began, that was referred to me by Mr Gartrell. One of the first items that I undertook to do was to alert the Secretary of the Premier's Department of the course of action that I intended to take.

The Hon. NATALIE WARD: Was that Mr Duncan at that time, or was that—

JOSH MURRAY: No, it was the current Secretary of the Premier's Department, and then I also alerted the secretary of the Public Service Commission—or the commissioner, rather—

The Hon. NATALIE WARD: Ms Lo, yes.

JOSH MURRAY: —who you've heard from earlier today, that these matters were under investigation. During the course of the investigation itself, which was handled by our chief people officer and chief legal officer, the items were updated to Ms Lo on a semi-regular basis is my advice. At the culmination of that inquiry, the chief people officer and the chief legal officer alerted me to the findings, or rather to the outcome, which was that the DLO in question had resigned during the course of the investigation. My question at that time was: Have we updated the other stakeholders in government who we had committed to keeping involved and informed during that process? I believe that's where that letter has then stemmed from, in terms of ensuring that that circle is closed. When I spoke to Mr Draper at the initiation of the investigation, I said that I would ensure that any materials that we felt were relevant across government would be referred on to the PSC and to the Premier's Department.

The Hon. NATALIE WARD: That's helpful, thank you. The letter doesn't have a date. Are you able to take on notice the date of this letter?

JOSH MURRAY: Sure.

The Hon. NATALIE WARD: Thank you. So that was updated. Did you say there's been continuous updating, or there was one round and that's now completed?

JOSH MURRAY: No, my advice is that during the investigation Ms Lo was updated a number of times by the chief people officer.

The Hon. NATALIE WARD: Were you involved in that updating?

JOSH MURRAY: I was not.

The Hon. NATALIE WARD: What involvement did you have? What was your input into the updating of the DLO requirements?

JOSH MURRAY: I've had no involvement with the updating of the DLO requirements except to be advised of those outcomes that we are now considering. We've worked on a number of them and referred them to central government to see if there is a broader uptake that is desired.

The Hon. NATALIE WARD: Why was there a need for a letter? If there was no issue with the recruitment or appointment or request for DLOs in Minister Haylen's office, what fuelled the need for this revision and this letter? If there was no problem with those five or so that were recruited, or were obtained or requested specifically, what brings about the necessity for this letter?

JOSH MURRAY: I think everyone on this Committee would accept that Transport has been under scrutiny in terms of its supervision of DLOs over the period. That naturally raises a question for staff or for stakeholders or for Ministers: Is everything being managed and supervised in the way that it should be? I think we have got to demonstrate that that's the case. We have to show current DLOs or those aspiring to be DLOs that they'll be well supported when they put their hand up to support a government and take on additional duties, as a DLO is required to do. As a result, I think these are helpful in terms of how we provide extra support to our DLOs.

As you heard from previous witnesses, the DLO handbook that is provided in Transport—and has been in Transport, from my understanding, for some time—is a measure that goes above and beyond the Premier Department's circular, which is the main bible, if you like, for DLOs. Ours is an additional document that then supports the administration of DLOs. These extra findings are again to bolster that administration and mostly relate to supervision while in the ministerial offices.

The Hon. NATALIE WARD: Do you think that perhaps Transport didn't live up to its duty or failed somehow, or that there were some gaps in its duty throughout the process and the matters raised in this inquiry? Specifically in relation to Mr Ash, we haven't seen the outcome of that investigation. He's now left so we don't have answers about that. Do you think that perhaps there were some shortfalls in that recruitment process, which has perhaps informed this change?

JOSH MURRAY: From my point of view on coming into this role on 14 August last year, what I've seen is our DLOs, who are a hardworking group of individuals, have been subject to a huge amount of scrutiny. Those matters have played out publicly and in the Parliament, and an investigation has been held inside Transport. At the end of that, a young person has lost their employment through—

The Hon. NATALIE WARD: I think he resigned, actually. I don't think he lost his employment; he resigned.

JOSH MURRAY: The matter is still that he is no longer in that employment.

The Hon. NATALIE WARD: Yes.

JOSH MURRAY: What I'm saying is, even from that base understanding of the time line that I saw upon coming into the secretary's role, I think it's important that we take whatever steps are required to have the most robust process. I think the biggest take-out for us as Transport on that, and conveyed in that letter, is just providing that real lifeline back into the organisation. When you're working in either Parliament House or a ministerial office—

The Hon. NATALIE WARD: Sorry, I do have limited time. I've got two minutes, so I'm just going to move on.

JOSH MURRAY: Understood.

The Hon. NATALIE WARD: Does Transport take accountability for the failures of Mr Ash's conduct?

JOSH MURRAY: I take accountability that it was a difficult time for Transport and that we could do better to make sure that the administration of all of our DLOs is not called into question. I want to make sure that anyone putting their hand up to be a DLO feels extremely supported.

The Hon. NATALIE WARD: Did Mr Ash choose to leave, or was he asked to leave the position?

JOSH MURRAY: I wasn't privy to that investigation. Mr Ash resigned is what I've been advised.

The Hon. NATALIE WARD: So there was a failing in the process. Do you agree with that?

JOSH MURRAY: I didn't say there was a failing in the process. I said that, by any standard, having this played out publicly with questions asked in the Parliament and the press is not a place where a public service employer would want to be and, therefore, steps have to be taken.

The Hon. NATALIE WARD: But this is the House of review. It's our job to conduct inquiries, particularly into transparency and accountability. Are you questioning the veracity of what we're doing, or this

role, or the time spent or the ability to inquire into public moneys being spent on public service roles and their compliance with requirements and guidelines?

JOSH MURRAY: No, Mrs Ward. I wouldn't have spent the number of days that I have in this chair if I felt that that was the case. The elements are—I want to make sure that, as a representative of the public service and as a large employer, I have the best processes available to me. Other government departments may feel that their current processes are suitable—

The Hon. NATALIE WARD: Sure, we can talk about those.

JOSH MURRAY: —and the Premier's Department may have a view on applying them.

The Hon. NATALIE WARD: I've just got a few seconds so I'm going to cut in there. Did Transport live up to acceptable standards, in your view, with Mr Ash and with questions around DLOs or do you think you could do better?

JOSH MURRAY: Transport acted in all times in relation to the Premier's circular and conducted an investigation immediately when claims were raised that it hadn't lived up to standards. That investigation was followed through. That's all I can really comment on today.

The CHAIR: Thank you for coming in again in front this inquiry on this topic. I will refer to Kieren Ash because he's the DLO that kicked all of this off—I think even the Premier ended up saying that Ash had overstepped the mark. There are reasons why a person may act outside the scope of their employment or their role. In this particular case, are we to take it from the response of now putting in additional procedures or updating the handbook for DLOs that a view was raised internally that this was a matter of not understanding the role?

JOSH MURRAY: I wouldn't characterise it that way, Chair. I understand that there's been a lot of comment made about conduct or actions. A lot of it has been very unclear and I think that's where Transport would like to make sure that this is not a grey area going forward. You heard commentary earlier from my colleagues about whether policy was in or out of the guidebook. In a previous hearing Mrs Ward commented about whether media is in or out of DLO requirements. What we've sought to do as a result of the last eight months is to ensure that we've put out of the grey zone any of those elements as much as we possibly can.

Asking a departmental staffer to come and work in a Minister's office comes with it different duties and a different supervisory regime. It's a split supervisory regime between the chief of staff and the employer back at Transport. So we have to make sure that that is as clear as we can possibly make it but there will always be some level of, if not conflict, questioning about "I now need to do this but I also have these responsibilities for the department." At the same time we have departmental staff who are providing that same support through legislation, through policy making—or through media even—from the department to the Minister's office but doing it in a remote capacity, often through the DLO.

So there are lots of areas here where we need to make sure that we have the right systems in place. If we can provide additional help through the DLO handbook, then I believe that's a good place to have it. It's one of the actions that is in place to make sure that each staff member leaving Transport for Parliament House or Martin Place does so with a copy of that guidebook and has had the opportunity to ask questions about what's in it. If any questions or concerns arise, it establishes that link back to the department to say, "If there is any question that you have, you can come straight back to this senior staff member." These are all elements that are in place and that are being focused on so that we don't have a question where the public or the Parliament asks the question and says, "Was this adequately handled?".

The CHAIR: Presumably then if we get another situation in a year's time where we have someone who has overstepped the mark, as put by the Premier, then the response from Transport cannot be that they didn't understand that role, so that's putting extra expectations on DLOs going forward.

JOSH MURRAY: That's right. I do believe that's actually what we will be left with, which is that someone has been provided with the handbook and they have had the opportunity to ask questions. Certainly the arrangements that we have in place with the Ministers' offices have all been repeated and reinforced as a result of these recent months of inquiries in terms of not leaving things unsaid or questioned. It's a busy time for both the organisation and the Minister's office. There's always a free flow of information so making sure that things don't get left behind or lost in the translation is very important and that's been clarified over recent months.

The CHAIR: That's good news in terms of the way that things happen and the way that we then respond to it is, in many ways, more important than the thing that caused it, although I share some of the frustrations of Mrs Ward on not getting to the bottom of what has happened in this particular case. However, it's positive to see reforms going forward to clarify the role. Has anything been done in terms of clarifying the appointment process,

particularly this issue around sensitivities when someone has been really involved in a party or with a particular Minister. Have there been any reforms to that process?

JOSH MURRAY: Certainly, and I think Minister Haylen has spoken about this previously either in the Chamber or in estimates. The view taken by the Minister's office is that, following on from these inquiries, they would not request any individual DLOs—even though that was not mentioned in the Premier's circular—and that instead they would ask for particular skill sets or policy areas, and that the department would respond with nominations. That was clarified by the Minister's chief of staff to me and that's what's been in place with any subsequent appointments.

The CHAIR: My colleague Mrs Ward was talking about the value of this Committee as being a Committee responsible for holding the Government and the public sector to account. I share the view that it's important that we do this work and I think that this has been a good issue to investigate. Would you say that this, as painful as it may have been in terms of media coverage and all the rest of it, has been a useful focus in terms of building a better way of doing things going forward?

JOSH MURRAY: Yes, I do. I see a scenario where, upon coming into the role, people were not sure about how they raised—we heard it referred to in this room as concerns or questions, and discussions were held but they weren't bottomed out at the time. I think we've put in place the infrastructure and the review processes that mean that we do need to support staff taking on these roles where they do have to operate with a level of ambiguity occasionally about who their line manager is. That always creates concern in any organisation. It's an area where questions can come up, so I do think that, certainly at Transport, we understand the scenario more and we have a clear structure as to who is supervising any of the DLOs across our three ministerial offices.

The Hon. Dr SARAH KAINE: Thank you, Mr Murray. You've appeared before this and other committees quite extensively since your last appearance at this inquiry, haven't you?

JOSH MURRAY: I have, yes.

The Hon. Dr SARAH KAINE: How many opportunities have members of this Committee had to ask you questions about the matters that we hearing about today?

JOSH MURRAY: Thank you for the question. I do feel, in my relatively short time in the secretary's chair, as though I have been in this room a number of times. I'll state for the record that I'm very happy to do so and I do absolutely believe in the review processes that Mrs Ward referred to. I think it's also important that I stress my responsibility to the 30,000 Transport staff members and workforce that are currently out there today in the wake of that extreme weather event across the weekend trying to restore services across the State. We have had some particularly difficult elements. Our Transport teams have responded to a direction from the SES and the police, but are now getting materials and services back online as quickly as possible. I'm sure there has been plenty of coverage playing out today, but I would want to add my thanks and support to all of those who dug in across the weekend, when they were probably looking for some downtime with their families.

In regard to my role, in between being available to the Parliament, I have also ensured that I have travelled the State. I have visited every one of our 173 Sydney Trains stations. I've travelled on every light rail service and ferry service. I haven't quite made it to every bus stop, but I'll add that to the list. I find that is important for me to understand when we talk in this room and others about the services required by the people of New South Wales and the improvements that they require that I can talk with some firsthand knowledge of having seen the circumstances in which they access transport services.

The Hon. Dr SARAH KAINE: I want to go back to when you came into the role, which was a little way into the DLO discussion. On coming into the role, you actively sought to make sure roles and responsibilities were going to be clear going forward with regard to DLOs.

JOSH MURRAY: Actually, more broadly throughout the organisation, from my background as a senior HR practitioner across a global business, I think role clarity is one of the most important things that we can give staff members and leaders. One of the elements that I've spoken about in here before about the funding of Transport was that there was some level of confusion or duplication, particularly in leadership. It was referred to as Transport's operating model and some lack of accountability or clarity as to where leaders needed to hand off from each other.

At a staff level, individuals said they often felt as though they were doing business with themselves or being reviewed by the person in the cubicle three or four over, once they felt they had appropriate sign-off on the piece of work they were undertaking. Absolutely, upon coming into the role I set about looking at role accountability, clarity of organisational structure and the operating model. On my third-month anniversary in the role, on target, I announced that we would be going to a statewide operating model rather than a split-geographies

model that had been in place, and on my six-month anniversary in the role, in February this year, I unveiled the top-line structure, which is now being put into place.

The Hon. Dr SARAH KAINE: With that desire for improvement in clarity, I want to confirm what I think I heard in answer to one of Ms Ward's questions. You undertook with the DLO developments and reconsiderations to provide any learnings to Premier's and the Public Service Commission. Is that correct?

JOSH MURRAY: Yes, that's correct. It was done in the context of me wanting to ensure that the Premier's Department in particular, through Mr Draper, and latterly the Public Service Commissioner, also had confidence in the work that we were doing at Transport to investigate the matter. Obviously, I received the communications from the Minister's former chief of staff asking for Transport to review a certain set of documents, and I brought in the chief people officer and the chief legal officer to undertake that work. Given the sensitivity of the matters, I wanted that dealt with directly by senior staff and carried out as quickly as possible. At the time I then contacted Mr Draper and Ms Lo and advised that we would keep them informed throughout the process.

The Hon. NATALIE WARD: I want to clarify a couple of things. In relation to the statement that you've spent extensive time dealing with this Committee, that's literally your job, isn't it? It's literally your job to turn up to budget estimates and it is your job to be accountable to this Parliament. We're not querying that, are we?

JOSH MURRAY: No, not at all.

The Hon. NATALIE WARD: I want to give you the opportunity to clarify your evidence, just to be clear. In terms of the investigation into Mr Ash and the timing, it's not correct to say that you instigated an investigation as soon as that was raised. That's not correct, is it?

JOSH MURRAY: As soon I received the materials from Mr Gartrell, the following morning I brought in Ms Taylor and Mr Britton for a meeting to instigate the investigation.

The Hon. NATALIE WARD: But it was not correct to say as soon the issues were raised. It was only after the Standing Order 52 to the Minister's office and the Minister had to produce documents to the House that the investigation commenced. In terms of the timing, that's correct, isn't it?

JOSH MURRAY: Yes, I've been clear about when I took that action with the chief people officer.

The Hon. NATALIE WARD: Because there were media reports weeks before that and the investigation hadn't commenced at that time. The investigation commenced and steps were taken following the production of documents and the Standing Order 52 to the House. That's clear from the time line.

JOSH MURRAY: Yes, and I've been clear on that.

The Hon. NATALIE WARD: *The Daily Telegraph* were raising concerns some weeks earlier and the investigation was not instigated at that time. That's correct, isn't it?

JOSH MURRAY: Yes. I instigated the investigation upon receiving the material from Mr Gartrell, which emanated from the Standing Order 52.

The Hon. NATALIE WARD: Did you ask about Mr Ash's conduct prior to the Standing Order 52?

JOSH MURRAY: The matters were being handled at that time through the processes within Transport. I did not personally ask about those issues of conduct.

The Hon. NATALIE WARD: What does that mean? What are the processes through Transport?

JOSH MURRAY: Questions were being asked. The Parliament was being asked and the Minister was responding to a number of those questions. Again, I'd have to go back over the exact time line to look at what you are referring to. As you said, there were multiple media articles about different elements of this case.

The Hon. NATALIE WARD: Why didn't you ask earlier than then when there are media reports around? Why weren't you asking questions prior to the documents being ordered through the House?

JOSH MURRAY: I'd have to check on what was being done at the time. This is now quite a long time ago in terms of the daily life of the administration of Transport for NSW.

The Hon. NATALIE WARD: There's a media report about a DLO doing political work. With your extensive HR background, you would be picking up the phone to Mr Gartrell and saying, "What's going on with my DLO doing political work? Is that correct? Is there something we need to do?"

JOSH MURRAY: Certainly I had discussions with Ms Carroll and Mr Collins at the time about what the history of this case had been.

The Hon. NATALIE WARD: What were those discussions?

JOSH MURRAY: I asked them what the history of this case had been.

The Hon. NATALIE WARD: Given that there can't have been a very long history, because it was only raised in the media at that time, was that immediately upon the first Daily Telegraph report, was it some time after or was it after the documents? Why didn't you ask Mr Gartrell, "My staff member is in your office. There are allegations of him doing political work. What's the story?"

JOSH MURRAY: Again, I'd have to check the time line. I don't believe Mr Ash was in the office at that time.

The Hon. NATALIE WARD: Am I clear that you didn't ask the Minister's office or her chief of staff at that time what was the case with the allegations raised in the media?

JOSH MURRAY: As I say, these were historical matters, from my recollection, of my time joining Transport, where I discussed them with Ms Carroll and Mr Collins.

The Hon. NATALIE WARD: Why didn't you ask Mr Gartrell?

JOSH MURRAY: I don't recall having that discussion with Mr Gartrell.

The Hon. NATALIE WARD: That's what I'm asking: Why didn't you?

JOSH MURRAY: Because Mr Ash wasn't employed in the Minister's office at that time.

The Hon. NATALIE WARD: I think you made a statement earlier—I think actually Mr Gartrell was employed at the office at the time. Do you want to take that on notice and check the timing on that to make sure?

JOSH MURRAY: Mr Gartrell was? Yes.

The Hon. NATALIE WARD: And Mr Ash?

JOSH MURRAY: I'd have to check the timing on Mr Ash's employment.

The Hon. NATALIE WARD: He was employed in the Minister's office at that time. That's what the media articles were about.

JOSH MURRAY: Again, I'd have to double-check the time line.

The Hon. NATALIE WARD: You were the secretary. There are media reports about a DLO—

The Hon. Dr SARAH KAINE: Point of order—

The Hon. NATALIE WARD: Can I just get the time lines?

The CHAIR: Order! I will hear the point of order.

The Hon. Dr SARAH KAINE: Mr Murray has said that he will check and come back with dates and times et cetera. It's now verging on badgering by Ms Ward when he's already said he'll take it on notice.

The CHAIR: I will encourage Ms Ward to ask questions that are different from previous ones, but it is up to the witness to repeat.

JOSH MURRAY: I'm certainly happy to clarify the time line. If there was a crossover between my joining Transport and Mr Ash being in the Minister's office, it would be quite a slim one because by the time these matters were being discussed it was certainly a historical issue that we were dealing with.

The Hon. NATALIE WARD: It was a very concerning issue, wasn't it? If a DLO was doing political work on these media articles, you would be surely picking up the phone and asking a question at some time. We'd like to understand that timing, if you can come back to us on that. I'll move on. Can I take you back to your appointment, Mr Murray. I've got a couple of questions that just need clarification for the purpose of the report. I want to take you to the night of the election when you attended the election victory party, which is a matter of public record. There's no question around that. After the official function, it's been brought to my attention that there was a private victory party of close associates of the Premier, I believe at a private residence, and Minister Haylen attended that. Were you at that function?

JOSH MURRAY: I dropped my wife off at that event, after the event, when I was helping my family members get home.

The Hon. NATALIE WARD: You didn't go in at all to the private event on election night?

JOSH MURRAY: I think to say hello in the drop-off of my wife and then moved on from that point.

The Hon. NATALIE WARD: You got out of the car and went and said hello? I just want to be clear on this.

JOSH MURRAY: I think so. It was a pretty late night by that stage, and I was in the duty of taxi driver for my family members.

The Hon. NATALIE WARD: Sure. It's an exciting night, obviously, with the election wins—a pretty exciting night for you.

The Hon. MARK BUTTIGIEG: Not for you.

The Hon. NATALIE WARD: I just want to be clear. Did you go inside, which could be taken to be attending the function? You may well have been dropping people off, but either you stayed in the car and you said goodbye to your wife or you went inside. Which is it?

JOSH MURRAY: I went to the door and inside the house to farewell my wife and moved on from there.

The Hon. NATALIE WARD: Say, "Congratulations. Well done, Chris. Good job"?

JOSH MURRAY: It would have been a bit strange to pull up in the driveway and drive off, so yes.

The Hon. NATALIE WARD: So you attended the function.

JOSH MURRAY: Yes. Well, as I've said—

The Hon. SCOTT FARLOW: Even if it was brief, you attended.

The Hon. NATALIE WARD: Even briefly. It's an exciting night. You popped in. Did you have a beer?

JOSH MURRAY: No.

The Hon. NATALIE WARD: The Premier stated, following your statements, that you two have never had a beer together and provided, frankly, an odd definition of friendship. How do you account for the differing versions of your relationship with Mr Minns?

JOSH MURRAY: Sorry, how is that different?

The Hon. NATALIE WARD: He said you've never had a beer. You have differing accounts of the definition of "relationship". I'm just wanting your comments about how the two stories differ.

JOSH MURRAY: Sorry, I'm not trying to be difficult, but why is my account different?

The Hon. NATALIE WARD: Because I'm asking—he said that—

JOSH MURRAY: I agree that I've never had a beer with—I think he said, "We've never gone out for a beer."

The Hon. NATALIE WARD: Yes.

JOSH MURRAY: While that was somewhat chilling to read when you see that played out about yourself—

The Hon. NATALIE WARD: Yes. I have five seconds.

JOSH MURRAY: No, I've never gone for a beer or a coffee with Mr Minns.

The Hon. NATALIE WARD: I'm just going to ask you this because he said you are not a friend. You said you were friends for 20 years. He said you weren't a friend, and you hadn't had a beer. It's incumbent on us to ask what's the difference in the two views?

JOSH MURRAY: I'm very happy—

The Hon. NATALIE WARD: Either you've had a beer and you're friends for 20 years, or you haven't. It seems they're quite apart. How do you account for that?

JOSH MURRAY: I was asked in this very room if I was friends with him. I said I had known him, I think, if you want to go back over the transcript.

The Hon. NATALIE WARD: I think you said, "a friendship of 20 years".

JOSH MURRAY: That's right, and then, when he was asked, he said we had been friendly and qualified that we'd never had a beer, and I would add we've never gone for a coffee either. But I have known him—

The Hon. NATALIE WARD: Minns said you're not a friend. They're very different versions.

The CHAIR: Order!

JOSH MURRAY: I have known him for that period. That's all I was saying.

The CHAIR: Have you had a Top Shelf tequila, maybe?

JOSH MURRAY: Unfortunately not.

The CHAIR: Excellent. Could I just ask one thing coming off the conversation we were having with Ms Taylor and Ms Carroll around where that line sits between suggestions and directions? We know under the Act that we can't have the Minister directing you in your duties, but what we heard today was that it was possible to make suggestions. For instance, you could put a candidate up for suggestion. Can you give us any more? Do you have any thoughts around when something would become a direction? I ask this because one of the questions I asked the panel before was: Is there a bit of a power dynamic there where you might feel obliged in some circumstances to do what was being suggested? How do you guard against that? What are your thoughts around that?

JOSH MURRAY: Thanks for the question. It's a very real consideration in terms of the changes to the GSE Act and ensuring that everyone can feel comfortable with the way that they're administered. It's a conversation I've had with other secretaries during my time in the role. Certainly the way other secretaries have played it out with me is that it is possible to ask for written confirmation—if a direction is being given, then simply asking: Is that a direction? Could I have it in writing? Could I have more information? Does this now do for the purposes of direction? Being able to compare something that comes in writing much more easily than something that is said in a meeting or issued offhand, and then being able to confer with colleagues.

The previous witnesses today talked about that process of legal advice. I don't so much see it as legal advice. We have a general counsel who is well versed in the Acts that we administer. I speak to him on a daily basis in regard to elements of the role, elements of our duties as an employer, elements of our engagement with the trade unions, elements of our contracts with third parties. That dynamic is that it's always playing out in terms of seeking references against the Acts based on the legal interpretation of that. I think that, if getting into a grey area, is where that element would come out. Certainly, speaking to secretaries, State and Federal, who've had to deal with elements of ministerial direction and clarify "Is this a direction?" and how does that then work against the Acts that the secretary is solely responsible to deploy, that's how that then gets clarified.

The CHAIR: Once you've got that in writing, I guess you can then say, "Well, actually, no. On this particular issue, I'm not permitted to take your direction. I will make my own decision." Then I guess that will then result in something more needing to be recorded to ensure that you are seen to be making the decision yourself.

JOSH MURRAY: That's right, and that can be uncomfortable if it's elements where the Minister does not have the ability to make directions. In an element like the Transition Office, which was explored earlier today, the ability to direct the organisation to do certain things, to carry out certain activities, is very much within the Government's purview in terms of enforcing Government policy. In terms of who can be hired into the roles that I'm responsible for, that is very much the secretary's purview.

The CHAIR: If a Minister was suggesting to a secretary that they do a particular thing that they're not permitted to direct them on and the secretary responded with, "Is that a direction?", a smart Minister would say, "No, that's not a direction; it's just a strong suggestion." It must put you in a difficult position. We are talking hypotheticals, but I just—

JOSH MURRAY: I think that very hypothetical is the foundation of the Westminster system, which is the challenge and the tension that secretaries need to be able to sustain and to ensure that the right decisions are being taken under the Acts which they're responsible for and that they can seek appropriate advice. Central government exists to also provide that advice through, say, the Cabinet Office, so there is an ongoing cycle of information there if there were uncomfortable requests being made. But there have, throughout Australia's history, been occasions where secretaries have asked for that documented evidence and been very forceful in terms of how that needs to be recommended or referred back to government, which is usually—yes, there may be a debate, but that's what the process is for.

The Hon. Dr SARAH KAINE: Thank you again, Mr Murray. We've canvassed here times that you've encountered Labor politicians. In fact, a lot has been made of that over the different hearings. Have you also encountered politicians of other parties in your time in the private sector?

JOSH MURRAY: Thank you for the question. I guess a lot has been made in the last eight months about my history in terms of—it's not something I've ever sought to hide—my time with the Carr and Iemma governments. Clearly, I met a lot of people during that period—people who've continued to work in fields like

government or infrastructure, the same areas that I have worked—but I certainly left here in 2008 and for the next 15 years occupied a pretty low-profile approach to a role that had nothing to do with government services.

I didn't go, based on my government experience, to do the following role. It was something where I joined a business that had only just really started in Australia and was trying to bring its international reputation to the Australian market and was looking for a diverse group of people to come on board to start that up. But, certainly, over that period, just based upon governments that had come to power and were governing during that period, my engagement then was more often with conservative governments here and in the UK than it was any other persuasion.

So, yes, I have met with politicians from both sides of the House all the way through that time period. As I say, most of that was probably in the UK. I attended 10 Downing Street for a meeting with then Prime Minister Theresa May about housing supply and the ability for the construction industry to move faster into providing housing supply. Here in Australia, I met with Minister Henskens around skills and in fact showed him around Central Station when it was just an excavation and when it didn't look like it certainly looks now in terms of the metro. Mr Farlow and I have also had a very pleasant coffee many years ago in The Rocks just to—

The Hon. Dr SARAH KAINE: Not a beer?

JOSH MURRAY: Not a beer and not a tequila, no.

The Hon. SCOTT FARLOW: Not a beer.

The Hon. PETER PRIMROSE: That doesn't count then.

The Hon. NATALIE WARD: It's literally your job.

The Hon. SCOTT FARLOW: It was prior to my entering Parliament.

JOSH MURRAY: So, yes, I have met with many people. I have not sought to have a political career after leaving here in 2008, but I was very privileged to be able to put my hand up in May last year when this job was advertised. I feel very lucky to be doing it.

The Hon. Dr SARAH KAINE: Could I ask about legal advice? You referenced it and many people throughout the day have. Would you say that the act of seeking advice does not necessarily suggest a problem, only that an official is wanting to do a good job and to do their diligence and ensure that the right processes and procedures et cetera are followed?

JOSH MURRAY: I wouldn't want it to be misconstrued that seeking advice, be it from our legal department or our chief counsel or any of the other technical specialists, for example, or policy specialists throughout Transport, was anything other than absolutely par for the course as a daily action. I mentioned before that I am constantly in dialogue with the chief legal officer about a range of issues, including operational, not just related to court cases or dispute matters but also in relation to the administration of the Acts that relate to the Transport portfolio and how the organisation needs to be set up to fulfil those requirements.

In regards to policy expertise or safety expertise, they are also people who I am regularly calling on for advice in terms of the elements that we are constantly delivering in the public transport marketplace, making sure that all of those elements have been considered and that, when I do appear before estimates or the Parliament in terms of review sessions like this one, that can be justified. I know that the Committee has certainly been keen to point out if those elements haven't been fulfilled and I would certainly continue to chase those up.

The Hon. Dr SARAH KAINE: Following on from questions from Ms Boyd, do you feel you would be comfortable telling a Minister if you could not follow a direction if you didn't think it was appropriate?

JOSH MURRAY: Yes, absolutely. In my last role I worked side by side with the owner of a \$6 billion company who had created that with his own hands from scratch by being a labourer on the Victoria line in London, pushing carts of spoil up a hill. He created his entire global company out of that one piece. If you want to talk about speaking truth to power, having a conversation with him about something that he couldn't do or wouldn't do was a fairly robust occasion. I think I used that exact reference during my job interview when asked the same question.

The Hon. MARK BUTTIGIEG: Can I just elaborate on that, Mr Murray? You went over the mechanics of getting it in writing. Presumably, the utility of that is, "If you are directing me to do this, I need you to take responsibility for it by putting it in writing and then I may or may not do it, but you are on the hook. If you're not going to put it in writing, then I reserve the right to assert myself as the secretary to make the decision in accordance with my responsibilities." That would be the case regardless of the political persuasion of the Minister at the time, wouldn't it?

JOSH MURRAY: That's correct. Ministers do put directions in writing all the time, particularly when it comes to the expenditure of funds or signing a briefing note. That is putting a direction in writing. If it comes at a time where there is a conflict between what the secretary believes needs to be done and the Minister, then you may seek that further written evidence so it can be tested as to what other elements under law might be at play.

The Hon. NATALIE WARD: Mr Murray, earlier today there was a document that we were going to be provided with—the index number. I am just wondering how we are going on that legal advice that was supposed to be produced.

JOSH MURRAY: I don't have the index number, but I am advised that the document that you've queried is in fact in the return.

The Hon. NATALIE WARD: Yes, but an undertaking was provided that the document number in the index would be provided to assist us to clarify that.

JOSH MURRAY: Again, sorry, I do not have that on hand.

The Hon. NATALIE WARD: Yes, but the undertaken was given that it would be produced today so that we could assist the Committee. I don't want to have to recall anybody or come back through. Can we get that information today?

JOSH MURRAY: I don't have the number.

The Hon. NATALIE WARD: Are you able to get it?

JOSH MURRAY: If it comes to me before the end of these hearings, I will absolutely share it with you. It wasn't my action.

The Hon. NATALIE WARD: Could you ask, perhaps, if we can get that document number? If it's been produced, there's no issue there. We just want the index number of the document.

JOSH MURRAY: Sure.

The Hon. NATALIE WARD: In relation to the DLOs, is the current Sydney Metro head of communications still a DLO in the transport Minister's office?

JOSH MURRAY: No.

The Hon. NATALIE WARD: Where is that person now?

JOSH MURRAY: That person has resumed their substantive position.

The Hon. NATALIE WARD: Back as the head of comms for Sydney Metro?

JOSH MURRAY: That's my understanding.

The Hon. NATALIE WARD: Is that the fact or you don't doubt that?

JOSH MURRAY: I don't doubt that.

The Hon. NATALIE WARD: You say it's your understanding that it's the case?

JOSH MURRAY: That's right, but the person doesn't report to me. Therefore, I would have to check it. But I have no evidence that that person is not doing that role.

The Hon. NATALIE WARD: Given that Sydney Metro is going to be opening, I would have thought they need their head of comms back doing that, so that's probably a good thing.

JOSH MURRAY: Absolutely.

The Hon. SCOTT FARLOW: When did that occur, Mr Murray?

JOSH MURRAY: I believe that happened in December last year.

The Hon. NATALIE WARD: What are the New South Wales Government's core values, Mr Murray?

JOSH MURRAY: I would have to take that on notice, Ms Ward, in terms of the New South Wales Government's core values.

The Hon. NATALIE WARD: I might be able to help. The answer is integrity, trust, accountability and service. How do you think the conduct and process surrounding the DLO appointments compares to these core values?

The Hon. PETER PRIMROSE: Point of order—

The Hon. NATALIE WARD: I've got two minutes.

The CHAIR: Order!

The Hon. PETER PRIMROSE: I've got three minutes too. Can I just ask you to please clarify whether or not these questions come within our terms of reference?

The Hon. NATALIE WARD: It's a public accountability committee.

The Hon. SCOTT FARLOW: And it's asking a question on the DLO appointments.

The Hon. NATALIE WARD: It's the principles, public expectations and requirements. It's not a trick question.

The CHAIR: To the extent it's related to DLOs, it's permitted.

The Hon. NATALIE WARD: How do you think the conduct and process surrounding the DLO appointments compares to these core values?

JOSH MURRAY: As I have said in this session today and previously, I think that there are areas where we can tighten up the administration. They are the actions that I have put in place through my colleagues since coming into the role in Transport.

The Hon. NATALIE WARD: Do you think they accord with those core values? I don't want to paraphrase your words, but are you saying they may not have and there is work to be done, which you have undertaken, to accord with those values? Is that how we should understand it?

JOSH MURRAY: I think we should be careful that an investigation was conducted by Transport based on a referral that was received from the Minister's office and that was followed through to the conclusion that we've discussed here today. In terms of other appointments and other DLOs, of which there have been many, and other arrangements that have been queried by this Committee, while I think the questions have been appropriate, there has been no other allegation or finding that would warrant this broad concern about values that you've put forward. Certainly the people that I have met since joining Transport have absolutely blown me away with the quality of the character across the organisation.

The Hon. NATALIE WARD: I will redirect in relation to that specific one. I don't think it's accurate to say there's been an outcome. Findings of the investigation into Mr Ash were not made public and they haven't been discussed and Mr Ash has since been afforded the opportunity to resign, so it hasn't really resulted in something that accords with those values. That's what I'm trying to get to. Nonetheless, I'll move on.

JOSH MURRAY: Sorry, if I could just clarify: Transport has very clear processes which accord with the public sector codes of conduct and the requirements of investigating individuals if there are allegations outside of those. That has absolutely been followed through in the way it would be done for any other employee that was facing similar investigations.

The Hon. NATALIE WARD: Prior to your appointment, the Minister's office requested to be appointed to the nonpartisan DLO roles in her office the head of the Balmain Labor campaign, a former Young Labor president, a former Labor candidate and Labor head office staffer, and you, who donated to her campaign.

The Hon. Dr SARAH KAINE: Do you want the list of Liberal appointees?

The Hon. NATALIE WARD: What confidence can you provide this Committee that this potential conflict or potential abuse will not continue?

JOSH MURRAY: Certainly in relation to my appointment, as you've just characterised it, the witnesses even today have said that a full merit process with no interference was run for that role, and that was my experience. The other appointments predate my time in the role.

The Hon. NATALIE WARD: So you don't provide any confidence to this Committee that that wouldn't occur again?

JOSH MURRAY: I have spoken already to this Committee about the steps that I have personally put in place and reinforced with my team the changes I've made to my team about accountability that relate to all of these areas and the oversight for DLO appointments to ministerial offices.

The CHAIR: Order! It is three o'clock. I understand Dr Kaine is seeking the call, but I need to ask you, Mr Murray, if you would be open to staying—how long do you think you need?

The Hon. NATALIE WARD: Ten or 15 minutes.

The CHAIR: A maximum of 15 minutes?

JOSH MURRAY: Chair, as I said the last time I appeared, I am willing. I will stay today, if it pleases the Committee.

The CHAIR: Thank you. We'll try to be as quick as we can. I will go to Dr Kaine quickly and then come back to Mrs Ward.

The Hon. Dr SARAH KAINE: Mr Murray, are you aware that across Ministers' offices during the previous Government there were DLOs working with connections to the Liberal Party?

The Hon. NATALIE WARD: Point of order: That is not within the remit of this witness and also not within the remit of the terms of reference.

The Hon. Dr SARAH KAINE: You went back to before Mr Murray started, so I thought we were allowed to ask for an opinion on what happened.

The Hon. NATALIE WARD: I'm not sure where it goes in relation to these terms of reference.

The Hon. Dr SARAH KAINE: I have said at this hearing previously, in my first appearance here, that in my relatively short time of being back in government I have met people who have got history with both sides of politics—with all sides of politics, rather—and I have enormous respect for anyone who puts their hand up to serve in a public sector position. I do find that they are among the most committed to driving for public services. I would take every person on their merits, but I'm certainly aware that people do often work in a political context and get a taste for public service. It's exactly how I found myself applying for this role last year.

The Hon. NATALIE WARD: I find it curious that there is some lack of clarity around certain elements of what happened last year and clarity around others. Nonetheless, I just want to be clear on your time since you have been secretary and your role. In regard to public sector recruitment, how do you define "public duty"?

JOSH MURRAY: In regard to public sector recruitment, we have a very set-out, systemised process around role descriptions, the values of Transport and the requirements of the role, Mrs Ward, and that is what I rely on in the advice from my team in terms of taking those elements on board in public sector recruitment. It is not the secretary's role to recruit for roles that don't report to the secretary. I have to ensure that there is a machine that takes care of our public sector recruitment and that is set up to deliver on all of those elements, but I can only talk to the processes that I've been involved in where it has been very clear about the role, the capabilities and capacities that sit against the role requirements, and the Transport-led codes that sit as part of that, which are all documented in those processes.

The Hon. NATALIE WARD: Going to those processes or your potential for appointment of DLOs, on reflection, if in future cases like the one raised through this inquiry and media reports surrounding DLO appointments—this is potentially following on from the Chair's question. If there were questions around that or potential conflicts, what steps would you take?

JOSH MURRAY: As I've detailed today, we have greater infrastructure in terms of the people and culture or HR processes that are in place; the supervision, which I think is the main element here that we needed to reinforce; and being able to talk clearly to any DLO candidates that they always had the ability to raise a concern and flag if there was ever any of these grey or ambiguous elements in terms of the administration of their role. I think, by clarifying that throughout the team and the senior manager that looks after DLO appointments and the way that they are now referred through, there is a higher awareness of those areas of ambiguity and ensuring that that doesn't happen.

The Hon. NATALIE WARD: We spoke earlier about a lack of clarity and about your intention to put more accountability into roles—I'm paraphrasing—but DLOs have always had to be apolitical, haven't they? There's never been any lack of clarity around being apolitical. The role is very clear that you're not there as a partisan political appointment. That's correct, isn't it?

JOSH MURRAY: That's right.

The Hon. NATALIE WARD: Did you want to clarify that that doesn't apply or hasn't been unclear in the past? The role of a DLO is very clearly to be apolitical, isn't it?

JOSH MURRAY: That's right.

The Hon. NATALIE WARD: And that has not changed over time.

JOSH MURRAY: No.

The Hon. NATALIE WARD: Thank you.

The Hon. MARK BUTTIGIEG: Can I just ask a follow-up question to that? We're in joint time, aren't we?

The CHAIR: We are in joint time.

The Hon. MARK BUTTIGIEG: Just on that, Mr Murray, as secretary, where do you draw the line with this? Presumably, everyone's got a political view and a political stance right throughout society. Is it not the case that, at some point in time, a decision has to be made about someone's ability to divorce themselves from their political views and carry out their public service duty? How do you draw the line practically on this stuff?

JOSH MURRAY: It is very difficult, and I believe that's probably why the Premier's circular has remained the central administration document for the appointment of DLOs. You will have seen from the elements that Ms Taylor discussed this morning that we have sought to go a little bit further than that in asking people if there are political elements of their personal life or their background that they wish to declare in terms of a conflict of interest.

You've also heard from Ms Lo, and previously from Mr Draper and Mr Duncan, that it would be improper to ask people to declare political backgrounds as part of any kind of shortlisting process or review of their ability to do the job—that that would be against the public sector principles. So we do have to walk a fine line between assisting people with consideration of conflict of interest and making sure that everyone has the ability to work in the New South Wales public sector, providing that they understand the rules and follow those through.

The Hon. MARK BUTTIGIEG: Declaration and transparency being the keys.

JOSH MURRAY: That's right.

The Hon. NATALIE WARD: Can I follow on from that? That's helpful, but in the role itself it's very clear that political work in a Minister's office is not to be carried out by a DLO. That's not in any way unclear, is it?

JOSH MURRAY: No, that's on the second page text of the handbook. It's in the opening segment of the handbook.

The Hon. NATALIE WARD: Don't do political work when you're a DLO on secondment to a Minister's office. That's not in any way unclear, is it?

JOSH MURRAY: That's right.

The Hon. NATALIE WARD: That hasn't changed over time? It's always been the way?

JOSH MURRAY: That's right.

The Hon. NATALIE WARD: Correct. How are we going with the document number?

JOSH MURRAY: Mrs Ward, I'm sorry, I don't have that to hand. I'm here answering the questions; I can't also administer this at the same time.

The Hon. NATALIE WARD: Mr Murray, are you avoiding providing the document number? Your staff have already undertaken to provide that document.

The Hon. Dr SARAH KAINE: Point of order: Both Mr Murray and previous witnesses have rightly said they didn't have the information to hand but will provide it on notice. I didn't think it was customary to then badger subsequent witnesses to provide something that has already been taken on notice, although we may have an update.

The Hon. NATALIE WARD: I think the undertaking was to provide it today. I'm just following up to see where that is, and Mr Murray's motivation.

JOSH MURRAY: I'm advised we don't have the number as yet because of the volume of documents that has been provided, and we're working towards that. I'm sorry, I don't have that for you right now.

The Hon. NATALIE WARD: When do you think that might be able to be provided to the Committee, Mr Murray?

JOSH MURRAY: We will provide it as soon as we have it.

The Hon. NATALIE WARD: Could you provide it by the end of business today, if we are to let you go? We're not having a hearing tomorrow, so you've got the day freed up tomorrow. Are you able to provide that by five o'clock today?

JOSH MURRAY: I can only assure you that we will provide it as soon as we have it. My understanding is 60,000 documents have been provided by Transport in the last eight months.

The Hon. NATALIE WARD: I know, and I've been through most of them, but not all are privileged. This is very clearly a legal advice document that Mr Britton or others could identify fairly quickly with the resources that you have. A lot of claims of privilege were made but not over that. I don't think it's hard to identify the legal advice.

JOSH MURRAY: I assure you there's no attempt to delay or hide this. I will personally ensure that it's provided to you as soon as we have the number. I'm not personally aware of the number or the document, as it was covered in an earlier session.

The Hon. NATALIE WARD: We'd appreciate you providing that to the Committee at your earliest opportunity. Some documents have been very delayed. A number of claims have been made over them. We have persisted in obtaining those and we thank you for your assistance with those. It would be helpful to find this last one.

JOSH MURRAY: I want to assure the House, because this has been raised in estimates as well, that Transport has no interest in holding back documents when the House has asked for those to be put through public interest. What we have been concerned about is just the personal information of staff being caught up in those processes. Where there have been delays, I assure the House it is 60,000 documents and the personal information of phone numbers and email addresses and other things that are usually covered by that personal interest privilege.

The Hon. NATALIE WARD: You would be aware, though, that a number of those claims have been knocked out by the independent arbiter, who said they are not valid claims, and a number of the privilege claims were also knocked out. You would also be aware, Mr Murray, that a number of the documents were produced very late in the piece, up to a month later than the time required for production to the House. Will you endeavour to do better in relation to future Standing Order 52s and timely production?

JOSH MURRAY: I'm happy to take the question. Absolutely we want to do better. This is not core business, producing 60,000 documents over such a short period. I agree with you there have been some delays. Some documents were missed. That has happened under previous governments as well; I've been assured of that. I'm aware of the arbiter's rulings, and that is absolutely the role of the arbiter in this case. We will abide by all of those measures.

The Hon. NATALIE WARD: Thank you. That's why I'm following up that document, in the vein of us both trying to get there.

The CHAIR: I will just clarify on behalf of the Committee that we did vacate tomorrow's hearing date because we did not have witnesses and were able to accommodate you today. That was the reason for that. That concludes our hearing for today. Thank you very much for staying later as well, Mr Murray. To the extent that questions were taken on notice, the answers to those are to be provided within seven days. The Committee secretariat will be in touch, but that's all for today.

(The witness withdrew.)

The Committee adjourned at 15:15.