

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY AND WORKS COMMITTEE

**INQUIRY INTO INTEGRITY, EFFICACY, AND VALUE FOR MONEY
OF THE LOCAL SMALL COMMITMENTS ALLOCATION PROCESS**

UNCORRECTED

At Macquarie Room, Parliament House, Sydney, on Monday 24 March 2025

The Committee met at 9:00.

PRESENT

Ms Abigail Boyd (Chair)
The Hon. Mark Buttigieg
The Hon. Sarah Mitchell
The Hon. Peter Primrose
The Hon. Chris Rath (Deputy Chair)
The Hon. Emily Suvaal

* Please note:

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

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

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

The CHAIR: Good morning. Welcome to the second hearing of the Committee's inquiry into the integrity, efficacy and value for money of the Local Small Commitments Allocation process. 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 us online. My name is Abigail Boyd and I am Chair of this 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 say outside of this 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 PHILIPPA SCOTT, 2023 Labor Candidate, Balmain, before the Committee via videoconference, affirmed and examined

Mr KIEREN ASH, 2023 Labor Campaign Manager, Balmain, before the Committee via videoconference, affirmed and examined

The CHAIR: I now welcome our first witnesses. Welcome, and thank you so much for giving the time today to give evidence. Would either of you like to commence with a short opening statement?

KIEREN ASH: Yes. You first, Philippa.

PHILIPPA SCOTT: Thank you, Chair, and members of this Committee, for the opportunity to appear before you today. I appreciate the importance of this inquiry in ensuring transparency, integrity and value for money in the Local Small Commitments Allocation process. In 2023, I was the Labor candidate for the seat of Balmain in the New South Wales State election. I understand I've been asked to provide evidence today about election commitments made during that campaign, which I'm happy to do. Specifically, I want to provide a clear and factual account regarding a request for an election commitment to a local public school for solar panels. Given the public discussion that has taken place, the unfortunate politicisation of that commitment request and subsequent media reporting, I believe it is essential to put certain facts on the record.

In February 2023, I held a public education forum as a candidate, where I discussed Labor's commitment to public education and invited local schools to attend. During that forum, a P&C president advised me about an unfunded solar project at their school for which they had great ambition to reduce their power bills and emissions and improve the school's sustainability. They asked the Labor campaign for a commitment to this project. The P&C president then initiated a brief discussion with me after the forum, which was warm and positive and resulted in interest from the campaign about making that commitment. She offered her contact details to follow up, as well as an invitation to attend the P&C meeting the following week to discuss my commitment to the project with the P&C.

I did not initiate this discussion or pressure them in any way. The request came directly from the P&C. I engaged in that conversation in good faith, just as candidates across all parties engage with community groups seeking support for their important local projects and make commitments to them. The current and former Greens members for Balmain have regularly made broad-ranging election promises in the millions or billions of dollars to my community, uncosted and largely never implemented. They regularly letterbox maps to my community, pinpointing their specific local funding commitments. I categorically refute any suggestion that the P&C was pressured into seeking or accepting a commitment from the Labor campaign. They asked me. At no point was there any suggestion that a photo or a speech would be quid pro quo or "in exchange" for this funding. That claim by The Greens member for Balmain is simply untrue, and I regret deeply that she has included this in her sworn evidence. The P&C meeting in question was already convened, and I was invited for the sole purpose of discussing the project itself. It was not arranged as a "meet the candidate" opportunity.

It is clear that the mood around this commitment in the days after that invitation shifted significantly after external intervention. This change occurred after contact with The Greens campaign for Balmain, a fact which has been entered into evidence, and inquiries by *The Sydney Morning Herald*, which subsequently reported on the requested commitment. What had been an open and positive engagement with the P&C became, sadly, politically charged, seemingly influenced by factors beyond their initial request and discussion. This shift is worth noting in the context of this inquiry.

It is my firm belief that communities should be able to engage with candidates transparently without undue political influence. My intention was, and remains, to ensure that local projects and good policy positions receive open support by those who seek to represent them. My overwhelming sentiment at this point is that I am sad and disappointed that The Greens campaign chose to interfere with, and politicise, a public school P&C in my community. As far as I'm aware, that school still does not have their solar panels, and The Greens have commenced an inquiry into whether this organisation and other organisations in my community, or in any of the other 93 seats across New South Wales, are worthy of support. While many community groups took up the opportunity to accept a commitment from the new Labor Government, this P&C did not. I've had no involvement in the administration of the post-election commitments, and I've had no contact with anyone in the New South Wales Government on this topic. At this point, I'm happy to answer any questions you might have. Thank you.

KIEREN ASH: Good morning, honourable members. Thank you for the invitation to attend this morning. Thank you also for your courtesy in permitting me to appear at the earliest possible opportunity. I'm very happy to attend today to assist the Committee with its inquiry into the Local Small Commitments Allocation. Really, what we're actually talking about is something quite uncontroversial: political parties making election

commitments. It's something that all parties and candidates do at election time. They seek their community's views and make commitments to them that reflect those priorities. Whether it's for a \$50 million sports facility in Holsworthy or a multibillion-dollar light rail for Parramatta Road, commitments and promises are at the heart of every election campaign. They are an essential part of the democratic process.

I was the volunteer campaign manager for Labor's campaign in Balmain in 2023. Where I think I can assist the Committee today is by providing information about the commitments process in Balmain in 2023. I would be pleased to provide the Committee with actual facts about this process, in contrast to the testimony you've heard from the member for Balmain. I'm proud of the commitments we took to that election. They are now being delivered by the Minns Labor Government irrespective of the local results. I'm also proud of our local small commitments. They supported worthy projects for local community organisations. Groups like these are always crying out for more help from government, and I believe everyone running for office or in office should help them however they can.

In 2023, the local Labor campaign made promises that reflected the Balmain electorate's priorities. Two key issues in Balmain at the last election were renewable energy and public education. In turn, these issues were central to Labor's Balmain campaign, so when a local public school P&C president, Zoe Gamble, approached the campaign at a public forum to discuss their project to put solar panels on a public school, we were eager to listen. When they asked for funding support from a potential Labor government, we were, of course, happy to assess that request. It was a great cause. Of course we wanted to fund it, and we were delighted to be invited by Ms Gamble to attend the P&C's next meeting to discuss the project and the commitment that they had asked for. When Ms Gamble asked for information about the program, I happily conveyed it to her in terms that she would likely be familiar with. She was so excited about the school P&C finally getting funding, she wanted to know how soon it could be made available.

Our conversations were positive until the local Greens campaign intervened. It is a matter of public record that Ms Gamble was known to the now member for Balmain, and that this is not Ms Gamble's only link to senior Greens figures in the inner west. It is also a matter of record that immediately after a conversation with the now member for Balmain and other local Greens, the P&C withdrew its request. Several days later, conversations between myself and Ms Gamble appeared in *The Sydney Morning Herald*. The aim of the article, among other things, was to paint a legitimate commitment in a poor light. I reject any suggestion that this constituted pork-barrelling or a quid pro quo. Nothing could be further from the truth. It's so disappointing that some in our community would put politics above putting solar panels on a public school. Even after three rounds of Community Building Partnership since 2023, the school community still does not have those solar panels it so desperately wants. They took a \$20,000 hit. The question I pose to the Committee is who benefited from that? I'm happy to take questions.

The Hon. CHRIS RATH: Thank you, Councillor Scott and Mr Ash, for appearing today. In the last hearing, we got a good understanding from the Premier's Department about the process from the election to date. But I suppose what we don't know particularly well yet is what the process for the Local Small Commitments Allocation was during the election campaign. Could you talk us through that process? How did you come up with the projects? Who were you in contact with in Labor head office? I assume they briefed you at some point and made you aware of the program. Could you run us through how it operated during the election campaign? Because we're not very certain about that process as yet.

PHILIPPA SCOTT: Could you be specific about who you're asking that question to please?

The Hon. CHRIS RATH: It's to either of you; whoever thinks they would be best to answer that. I don't know if it was Mr Ash who was in contact with Labor head office or Minns's Leader of the Opposition office or whether it was you, Councillor Scott. It's to whoever feels best to answer that question.

KIEREN ASH: I'm happy to answer it, Mr Rath. Campaigns regularly communicate policy positions and announcements to campaign directors, so I would have received information from party officials. It's a long time ago now, though. I don't recall specifically.

The Hon. CHRIS RATH: Was it run out of Labor head office or was it through the Leader of the Opposition's office?

KIEREN ASH: It was run by the Labor campaign is my recollection.

The Hon. CHRIS RATH: So it would have been an email or communication received from Labor head office about the commitments, or how you could put forward projects for funding?

KIEREN ASH: I'm not really sure. I don't recall.

The Hon. CHRIS RATH: Would you be able to take that on notice and—

KIEREN ASH: I'm happy to take that on notice.

The Hon. CHRIS RATH: —check through your emails or communications and come back to us? This is at the heart of what we're trying to understand. Who was the architect of the scheme? Who was administering the scheme? So far we don't really know the answer to that. When you're coming up with these different projects, what was the criteria that you were looking at?

KIEREN ASH: Well, it was always likened, by my recollection, to the CBP. So the sorts of projects that would normally be funded by CBP, I think.

The Hon. CHRIS RATH: Yes, but that was after the election, that scheme, and by elected members of Parliament. This was during an election campaign. So it wasn't—

KIEREN ASH: The CBP has existed since 2009, Mr Rath.

The Hon. CHRIS RATH: Yes. But the CBP is run through government departments. This scheme was run through as—well, we don't know. Was it run through Labor head office or the Leader of the Opposition's office? We don't know what the criteria was in the lead up to the election campaign. We know the process after the election campaign, but what we're trying to understand from the two of you today is what was the process in February and March 2023 when you were going around to community groups offering grants? What was that process?

KIEREN ASH: As I said, I'd have to take that on notice to see what written correspondence might have been received from the campaign, Mr Rath.

The Hon. CHRIS RATH: Sure. Councillor Scott, did you ever have to fill in a conflict of interest declaration before the election on projects that you offered grant funding to? This is prior to the State election.

PHILIPPA SCOTT: Prior to the State election I recall there being a process of probity checks. I do not recall what the specific process is. I recall there being a process of probity checks. I don't recall exactly what the process was. It was more than two years ago now.

The Hon. CHRIS RATH: Do you remember who was in charge of that probity process before the election?

PHILIPPA SCOTT: I do not recall.

The Hon. CHRIS RATH: Would you be able to take that on notice?

PHILIPPA SCOTT: Yes, I could take that on notice.

The Hon. CHRIS RATH: And what about after the State election? Did you have to fill in a conflict of interest declaration at any stage?

PHILIPPA SCOTT: Well, after the election you will recall that I was not elected, so I've had no involvement in the post-election administration of these election commitments and no contact with anyone in the Government about how those election commitments would be delivered by the New South Wales Government.

The Hon. CHRIS RATH: So at no point after the election was there any contact from the New South Wales Government about commitments you made during the election campaign that needed to be funded by the Government?

PHILIPPA SCOTT: No. Those were commitments of the Government and I wasn't part of the Government.

The Hon. CHRIS RATH: I'd just like to go into this issue of the solar panels. Putting to one side the merits of the project—and both of you mentioned this in your opening statement. First, to you, Councillor Scott, was the funding that you offered to the Leichhardt P&C ever in exchange for any campaign support? Was it in exchange for a photo op or an ability to speak to the P&C committee? Was there any suggestion of this funding in exchange for something that may have given you a benefit through the election campaign?

PHILIPPA SCOTT: Well, thanks for the opportunity, Mr Rath, to be really clear about this. I want to just start at the beginning of your statement there, which was about funding offered to this group. I want to be crystal clear that the P&C approached the campaign and they asked for funding. After a warm and positive engagement with them, where we talked about how important this was to their school community and to the views and values of the Balmain community at large, we were interested in supporting their request. At no point was there any suggestion that this potential commitment in response to their request would be in exchange for a photo or a meeting opportunity. They had already invited me to their P&C meeting, and we were in the process of making plans for me to attend, when—as is a matter of record—the P&C approached The Greens campaign for

Balmain. The mood changed, their invitation to me was withdrawn, and they made a decision that they no longer wanted to request that election commitment from the "Labor for Balmain" campaign.

The Hon. CHRIS RATH: Mr Ash, is that your recollection as well?

KIEREN ASH: Yes. You asked whether anything was offered in exchange. Is that correct, Mr Rath?

The Hon. CHRIS RATH: Yes. Was there any campaign support that was asked for, by you as the campaign manager, in exchange for the promise of grant funding to the Leichhardt P&C, whether it be a photo op or opportunity to speak at the P&C Committee, or any other type of support?

KIEREN ASH: No.

The Hon. CHRIS RATH: There is a statement from you, Mr Ash, in *The Sydney Morning Herald* at the time, during the election, that says:

... the information I have RE LCG is internal to the campaign, but I am happy to explain it over the phone.

This was what was reported. Why could this information only be explained over the phone?

KIEREN ASH: It's a very good question, Mr Rath. I'm averse to providing internal campaign documentation to third parties: people who are not part of the campaign. I think, on reflection, that might have been a wise decision.

The Hon. SARAH MITCHELL: You said before that you thought that this program was meant to be similar to Community Building Partnership. If that was the case, why couldn't you put that in writing? What was so different to this one that you had to keep it over the phone only and not in writing?

KIEREN ASH: I did put it in writing, Ms Mitchell.

The Hon. SARAH MITCHELL: But it says:

The information I have is internal to the campaign, but I'm happy to explain it over the phone.

Why couldn't you say "It's similar to Community Building Partnership. This is the criteria"? Why was that not provided?

KIEREN ASH: You might actually be quoting directly from an email that appeared in *The Sydney Morning Herald* that I sent. It said:

The P&C was told that the ... program was based on the existing government Community Building Partnership Grants scheme.

The Hon. SARAH MITCHELL: Why did you say you had to put more information over the phone?

KIEREN ASH: It's a preference for me where I've got to provide information to someone that it's easier to pick up the phone and describe it to them. I'm a busy person. I don't have time to sit there writing emails. It's just easier to get on the blower and sort it out.

The Hon. CHRIS RATH: What about the statement that:

The ... grant money is, of course, contingent on Labor forming government in NSW in March.

...

We can come back later this year if Philippa is elected to bolster this funding commitment.

What is the implication behind the statement "if Philippa is elected"? Isn't it a sort of statement that "Unless Labor wins the election and unless Philippa is elected, you're not going to get the money"?

KIEREN ASH: No, not at all. You asked me a couple of questions there, Mr Rath, and I am going to deal with them sequentially. The first is "The funding for the commitment is contingent on Labor forming government". It's an election commitment. Election commitments can only be delivered by a government. The second part of your question is "What was the inference of raising if Philippa was elected?" At this point, it was entirely hypothetical. We didn't know whether Labor would be elected. We didn't know whether Philippa—Ms Scott—would be elected. My experience of the CBP program is that CBP projects are assessed by an independent panel. The panel looks favourably upon programs which demonstrate a co-contribution from the community. Where a P&C might have some funding that they've raised through a sausage sizzle, and they can bring that forward as a co-contribution to the CBP, that obviously makes it more attractive for the independent panel to assess. That is my understanding. We're dealing entirely in hypotheticals about whether Labor would be elected and whether Ms Scott would be the member for Balmain. That's the answer.

The CHAIR: I wanted to talk about this process of this scheme coming to light. The first that many people had read about it was in that article in the SMH. That came out after it said that you had the discussion with the

P&C. When you say the P&C approached you for a commitment, or I think you said asked for funding, they didn't know about this scheme, did they? What do you think they were asking for?

KIEREN ASH: It's a good question, Chair. When I say they approached me, they physically approached me on the street outside the event and said, "We didn't get an opportunity to complete an answer in there. We ran out of time in the event. We really want to do this." If I recall, the question that was put to me on the street was, "Is there any way that an incoming Labor government might be able to support this project?" It was a very open-ended question. My answer was, "Yes, we could make an election commitment."

The CHAIR: Given that the community is generally familiar with the CBP scheme—as you say, it's been since 2009—and that is a grants program where the elected member puts forward to an independent panel projects that they're suggesting get assessed and then funded, and there's a whole process around that, is it possible that the P&C were envisaging any sort of grants you were suggesting would be through the CBP, rather than this community allocation grants scheme that hadn't been announced yet?

KIEREN ASH: You're asking me to comment on the thoughts of a third party. I don't know what Ms Gamble's thoughts were. Sorry, Ms Boyd.

The CHAIR: You've put forward that it was due to Greens interference as to why the P&C—I can't remember your words, but perhaps weren't as interested after that. Is it possible that really what happened here is that the P&C went, "Hang on. This isn't what we thought it was. This isn't the CBP. This is actually some internal Labor thing without the whole probity process and everything around it. We're actually not very interested in that"? Do you think that's an equally valid reason for them to have got cold feet?

KIEREN ASH: I guess that is a hypothetical possibility. If nothing had appeared in *The Sydney Morning Herald*, I would probably have decided that that's what I'd put it down to. The emails being provided to a third party made me think that there might have been something more at play here.

The CHAIR: If we can try not to blame the messenger but actually look at the nuts and bolts of what's gone on here, you or Ms Scott referred to this Committee as being a Greens Committee or something along those lines. This is a Committee that is made up of lots of different parties, and lots of different parties have expressed their concerns in relation to this particular scheme. Is it true that this is not a scheme that, in its form, has ever been in any other election? Has Labor ever done anything like this before?

KIEREN ASH: Has Labor ever made an election commitment prior to an election?

The CHAIR: No, that's not what I said. Obviously, there are election commitments. We're talking about this particular scheme, which I understand to be the first of its kind, where you have candidates saying, "I will allocate you," or, "I will put forward these particular programs, within this \$400,000 of money, that Labor are committing to you if Labor wins, but only the candidate can choose who that goes to." Is that a program that you've ever seen in any of the campaigns you've worked on before?

KIEREN ASH: I don't know what other programs have existed in other campaigns. As I said, Chair, at the beginning of this, I'm happy to provide the Committee with facts about the process in Balmain in 2023.

The CHAIR: As campaign manager, what date were you told about this \$400,000 envelope that you could assign to—

KIEREN ASH: I don't recall. Sorry.

The CHAIR: I've worked on a few campaigns myself, and I know that if I got a \$400,000 amount that suddenly I was told I could go to community groups and allocate, that would be quite a big campaigning tool. Are you honestly telling this Committee that you don't know when you were told about that?

KIEREN ASH: You've asked for a date. It would be sometime in early 2023. I just don't have a date. I'd have to take that on notice.

The CHAIR: Thank you. And also the process you went through as campaign manager, when presumably you would have sat down and talked about strategy around that money?

KIEREN ASH: I suppose. I can't recall.

The CHAIR: You can't recall? It's \$400,000. That's an incredible amount of money to be able to go and spruik around the electorate, isn't it?

KIEREN ASH: Not really, no. It's not a lot of money in the context of an election commitment. It's quite a small amount of money.

The CHAIR: Do you think \$400,000 to be distributed amongst community groups who are desperate for cash—as you say, some very, very worthy projects—do you think that's not going to have an impact on the vote in Balmain?

KIEREN ASH: I think Ms Shetty's evidence was that she didn't think it would have an impact on the vote in Balmain. These are State election commitments. They can range in the billions of dollars. \$400,000 is not a lot of money in the grand scheme of a State election commitment, is it, Chair?

The CHAIR: No. We have commitments, they're public, and we have them costed. This is not that, though. What we have here is a scheme where individual candidates were able to offer money to local groups, \$400,000, which is, as you've said, the same as the CBP. That's a significant amount of money. I'm confused as to why you don't think that was a core part of the campaign.

KIEREN ASH: I refer you to my previous answer, Chair.

The CHAIR: Do you see the difference between the normal statewide commitments, even when they're delivered to a particular area, we have an announcement and it's costed—do you see the difference between that sort of election commitment and what was happening with candidates on the ground during the campaign with this scheme?

KIEREN ASH: Chair, I think the Committee's heard evidence that this was a costed policy that went to the Parliamentary Budget Office.

The CHAIR: It was costed on 20 March, which is at least a good month after.

KIEREN ASH: So you agree it was a costed policy?

The CHAIR: It wasn't a costed policy when you were announcing it and when you were talking about it, no. So did that concern you that this wasn't really—and if it was, why wasn't it public, I guess? I mean, it was only made public when we had somebody actually throw light on it because of what had happened in Balmain. So why do you think that was? Why was it not made public and not costed until much longer down the track?

KIEREN ASH: Chair, I'll refer you to my opening statement. I was a volunteer campaign manager. I think these questions are well above my pay grade.

The CHAIR: I'm only asking you for the facts of what happened in your campaign as a volunteer campaign manager. A campaign manager would be in charge, I assume, of allocation of funding. So at what point did you sit down with the campaign team and with Ms Scott and work out strategically where that money was going to go?

KIEREN ASH: I mean, campaigns take place over many months. You're asking me to identify a date or a time, and I just can't recall.

The CHAIR: Do you have that written down somewhere, perhaps on a campaign meeting agenda?

KIEREN ASH: No. We didn't have time to sit around preparing agendas and minutes, Ms Boyd.

The CHAIR: No time for probity.

KIEREN ASH: No, that's not what I said.

The CHAIR: Perhaps if I could ask you, Ms Scott. A significant amount of the funding that did get allocated through you I understand ended up going to council. Is that correct?

PHILIPPA SCOTT: It's my understanding that, of the even \$400,000 that was allocated to every one of the 93 seats in New South Wales, any remainder that was not part of a specific political commitment would go to the local government council that covered the relevant seat, and that was the same in every seat across New South Wales.

The CHAIR: That is correct. Did you allocate any before that process, though, or was all of your allocations towards non-council projects?

PHILIPPA SCOTT: As far as I'm aware, no, they all went to individual groups. It is possible that some of those groups needed to work with their local council in order to make use of the grant money, but my recollection is that each one went to a group.

The CHAIR: As of the election date, \$345,500 had been allocated from Balmain, which leaves \$54,500, I think, unallocated. What was the reason for having that amount still outstanding?

PHILIPPA SCOTT: Ms Boyd, we took representations from groups across the community about what projects were important to them. It was really key to understanding the community's priorities. That was a really core part of the Labor for Balmain campaign. And so when we were able to identify a project or a good policy position that we could support, we were happy to do so, but we weren't looking to spend a specific amount of money. We were understanding what the community desired and needed from an incoming government and, when we were able to make a commitment, we were happy to do so, but we weren't looking to drain the account.

The Hon. MARK BUTTIGIEG: Thank you, Ms Scott and Mr Ash, for appearing. I just want to tease out some of the detail on Mr Rath's line of questioning in terms of the implication that there was some sort of grand scandal here in terms of making election commitments. In your email on 14 February, Mr Ash, you stated:

The LCG grant money is, of course—

and this is what Mr Rath raised—

contingent on Labor forming government in NSW in March. ... We can come back later this year if Philippa is elected to bolster this funding commitment.

Given that this was said when Labor was in opposition, and you were therefore in no position to guarantee a grant of public money at the time, are you surprised at being questioned on having stated what should be patently obvious to all, that is the money being promised is contingent on Labor forming government and, if Ms Scott were to be elected as a local member, she could advocate for more money. Hardly the sort of thing that's controversial given you're trying to get elected by doing things for the community, is it?

KIEREN ASH: Who was that a question to, sorry, Mr Buttigieg?

The Hon. MARK BUTTIGIEG: You in the first instance, Mr Ash.

KIEREN ASH: I mean, I think it is quite surprising to hear this line of questioning. On the one hand, we're being asked, "Have you ever made an election commitment before?" to which the answer is obviously yes. And, "Do you think that there's anything untoward about acknowledging that election commitments can only be delivered by governments?" I mean, these are simple statements of fact.

The Hon. MARK BUTTIGIEG: Even the idea that if Ms Scott was elected as the member, she would have the temerity to follow up to try and get more things for her community. It's quite a bizarre suggestion that she wouldn't do that if she were elected member, isn't it? Because that was the implication of the article, that there was somehow some sort of inducement to say that, "Look, if you vote for us, we'll follow it up and try and do more for you." I mean, it's almost like parallel universe stuff, this.

KIEREN ASH: Good local members fight for allocations for their community. I mean, that's just the job of a local member, to make representations to the Government and contend for projects and policies that will benefit their community. It's fairly straightforward stuff.

The CHAIR: Ms Scott, have you been a candidate before this?

PHILIPPA SCOTT: I have not been a State candidate before this time, no.

The CHAIR: And what about for council?

PHILIPPA SCOTT: Yes, I was a successful Labor candidate in 2021 and then again in 2024.

The Hon. MARK BUTTIGIEG: Would it be unusual in your experience to go around making promises of projects, which—fast-breaking news—need money attached to them to get elected? Have you ever heard of Liberal candidates doing this and Greens candidates doing this—and, God forbid, Labor candidates doing it?

PHILIPPA SCOTT: Every member of this Committee is an experienced campaigner whose experience I respect, and everyone in this room knows that every candidate in every election, at every level of government, makes election commitments. It's important to understand what the community's priorities are and then to say publicly what you will do to support them if you are so fortunate as to be elected. I've made election commitments before. The Greens in my community have certainly made election commitments before, as have the Liberals.

The Hon. MARK BUTTIGIEG: It's a matter of public record, and it's been reiterated in evidence this morning. After originally approaching you about the program that the P&C, represented by Zoe Flannery, subsequently rejected the funding after meeting with The Greens candidate—so the invitation to address the P&C meeting, I think, was withdrawn, and in the interim they had met with The Greens candidate. On evidence, the member for Balmain, Kobi Shetty, said that she couldn't give them advice because she didn't know about the program. So what do you think happened in that interim period to make them—it's a pretty big step, actually rejecting money to go to your own project and your own community.

KIEREN ASH: If I could just quibble with you on one point of that, Mr Buttigieg, they didn't reject anything; they withdrew. I think this is the important thing to point out. They withdrew the request, and they withdrew the invitation. In fact, if my memory serves me correctly, they withdrew the invitation then invited the Labor campaign to attend a meet-the-candidates forum at Leichhardt Town Hall the next week and suggested that perhaps they could have a meet-the-candidates P&C meeting at some future stage. Just going to the evidence that the Committee has heard, they approach us, they request some form of election commitment and they invite the campaign to attend the P&C meeting. They then speak to Ms Shetty on 15 February, I think her evidence said. Then almost immediately they withdraw both of their requests, and they suggest that maybe we could have a "meet the candidates" event—"You could go over the road to the Leichhardt Town Hall on 9 March for an election 'meet the candidates' forum." So forgive me for being a little bit curious about the events that followed their conversation with Ms Shetty, Mr Buttigieg. I just think it's curious.

The Hon. MARK BUTTIGIEG: In your evidence earlier you said that there was quite a high degree of excitement about the potential of \$20,000 for the solar panels. Then after the meeting with Ms Shetty they go cold on it, basically.

KIEREN ASH: Yes, I think that's a good formulation of it. If I go back to the Herald article from March 2023, they quote from an email that I sent her at the time. I don't have it anymore. "I expect the LGC funding would be made available to successful applicants during the 2023/24 financial year." If I recall correctly, this was in response to a request, "How soon could we get this in the 2023 financial year?" There was a great degree of excitement among the PNC that this long-held project that they'd been looking for funding for might be delivered in the next 12 or 18 months. Then all of a sudden, they have a conversation with a third party, and they lose their appetite.

The Hon. MARK BUTTIGIEG: Ms Scott, the Chair, Ms Abigail Boyd, mentioned that there was \$345,500 spent, and that was as a result of programs which were identified. That's obviously regardless of who was elected, and in the event it was Ms Shetty's—the member for Balmain—electorate that benefited from it. Have you seen any criticisms of those programs being allocated, in terms of the local member not supporting them or saying that it's a shame that we got this money because there's a cloud hanging over the program, or anything to that effect? Has she made any statements to that effect?

PHILIPPA SCOTT: I don't recall that Ms Shetty has been critical of any of these groups, or the fact that they've been funded. She's obviously been critical of the Labor campaign for Balmain, and continues to be so, and that's why we're here today. We were in a very tight political contest in Balmain. The Greens were seeking every advantage that they could. So they dragged a P&C into what was the political campaign at the time, but have dropped them now and are no longer quite as critical of that project. I'm not sure what the purpose of that was. As a P&C president, if it was my P&C I would find it very sad and worrying that I'm still involved in the conversation two years later. But, no, I don't believe she's made any statements critical of the projects themselves or the groups.

The CHAIR: The idea that somehow questioning of probity and the ethics of a program is conflated with criticism of an actual project, you do understand, don't you, Ms Scott, that the criticism has never been of the solar panels, or of any other of these amazing community projects? The criticism is in relation to there not being a grants process followed where everybody gets a chance to have the money. Do you understand that Ms Scott?

PHILIPPA SCOTT: Ms Boyd, you're asking me to comment on why Ms Shetty is critical of this program, and I simply don't know the answer to that.

The CHAIR: No, but you were very assertive with what you thought the reasons were. But if you were to actually look past the politics and look at the substance of what we're discussing here, it is just as likely that this P&C group weren't very impressed with the ethics and the structure of the scheme being presented to them, rather than it being some sort of nefarious political attack on you. Wouldn't you agree?

PHILIPPA SCOTT: Ms Boyd, you're asking me to comment again on the thoughts of third parties and I simply can't do that.

The CHAIR: But you just did make quite a lot of comments about what you thought was in the mind of Ms Shetty, so I'm just trying to get you to clarify why you've taken that interpretation, rather than the one that—again, this is not a committee brought on by Ms Shetty. This committee needs a majority of the upper House to agree to it. So I have Nationals and Liberal members here as well, and also One Nation, who are similarly concerned. Do you accept that this was an unusual program and people may have had questions about it?

PHILIPPA SCOTT: I think it's been really clear through the process of your inquiry that it is not at all unusual for parties seeking office to make election commitments.

The CHAIR: That wasn't my question, sorry, with respect. It wasn't about commitments; it was about this particular scheme, which is unusual, isn't it?

The Hon. MARK BUTTIGIEG: Chair, with all respect, time is up.

The Hon. EMILY SUVAAL: Time has expired.

The CHAIR: Thank you very much for coming to give evidence today. It's been incredibly interesting for us. The secretariat will contact you in relation to any questions taken on notice, and also supplementary questions.

(The witnesses withdrew.)

(Short adjournment)

Ms ASHVINI AMBIHAIPAHAR, 2023 Labor Candidate, Oatley, sworn and examined

Ms KATE McGRATH, 2023 Labor Candidate, Tamworth, affirmed and examined

Councillor JOSHUA BLACK, 2023 Labor Candidate, Dubbo, before the Committee via videoconference, sworn and examined

The CHAIR: Welcome back to the second hearing of the Committee's inquiry into the integrity, efficacy, and value for money of the Local Small Commitments Allocation process. Welcome to our next witnesses, and thank you so much for making the time to give evidence for us today. I'd like to invite each of you, if you wish, to make a short opening statement.

ASHVINI AMBIHAIPAHAR: Thank you, Chair, and members of the Committee, for the opportunity to address you all today. To give a little about my background, I'm currently an elected official as a councillor at Georges River Council and also a solicitor in New South Wales. I maintain my practising certificate. I understand the obligations and requirements in a work capacity, but also that does follow through to my personal ethos of being very honest and open with you today. My understanding, particularly with today's concerns around the program and my candidacy for the seat of Oatley, particularly around my commitment for Asian Women at Work—which is a wonderful organisation, I must say.

I've learnt more about that organisation as a candidate for Oatley. The work that they provide, particularly for migrant women in New South Wales—and it's not just the seat of Oatley, it's actually broader, across from inner west Sydney and across to south west Sydney. They provide amazing work, particularly around programs, education, seminars, training and leadership aspects. They do great work. I'm very proud that we gave a commitment to this organisation because of the great work that they do for my community. What's important to highlight here is that members of any organisation, if they volunteer to support any candidate or any representative in our local community, if they volunteer in their own capacity—for, in my case, the candidate for Oatley—that should not preclude an organisation that they're associated with from an opportunity of continuing to do good work, that we can also offer not only as candidates but also representatives in our community.

I need to make that very clear. This is not about the organisation Asian Women at Work. This is about people who are associated. Members who want to volunteer and support the campaign should not be put in a position where there is a question around integrity. I think I must be very clear. The conflict of interest declaration form clearly outlined that, particularly in circumstances that if there are key members—that's the language—of an organisation where they have indicated that they would be supporting any candidate, this should be disclosed. And I disclosed that. I think perceived and potential conflicts, which is my understanding of the declaration, should be provided. And that is what I did. This is not something that was found later on. This was part of a good process, I believe, around a probity assessment where a disclosure was provided—I was being very forthcoming around that. I thank you for the opportunity and am happy to take questions.

The CHAIR: On behalf of the Committee, could I just re-state again that we're all very grateful for the work of Asian Women at Work, and this inquiry is by no means casting any sort of shadow on the work that they do or anything that they have done as an organisation.

KATE McGRATH: Thank you, Chair and Committee members, for your invitation to appear today as a witness for this inquiry into the integrity, efficacy and value for money of the Local Small Commitments Allocation process. As we've established, I was the candidate for Tamworth in the 2023 State election and it was an immense privilege to be selected and advocate for the needs and priorities of my community, including the not-for-profit groups who contribute so much to connect, support and improve our electorate. I understand there are concerns about administrative aspects of the Local Small Commitments Allocation process, and, while I have no objection to ensuring that there is an appropriate level of scrutiny regarding the expenditure of any public funds, I wholeheartedly support the fundamental intent of the local commitments to ensure a consistent minimum level of investment in every electorate in New South Wales, regardless of whether or not the Labor candidate was ultimately successful in winning the seat.

I sincerely hope that the outcome of this inquiry encourages improvements for future implementation of this type of program, and not the abandonment of a more equitable and fair approach to campaign commitments. Regarding the evidence that I provide today, I wish to preface my responses by making it very clear to the Committee that, regarding the small commitments in the Tamworth electorate, my recollection is imperfect and my records are incomplete. So I thank you in advance for your patience if I'm unable to answer any questions with the level of detail that you might desire.

The CHAIR: Thank you very much, and I'll go to you now, Mr Black.

JOSHUA BLACK: No, I'm all right. Thanks.

The Hon. CHRIS RATH: Thank you to each of you for appearing today. I might go to each of you with the same question, just to kick off. When you were making commitments during the election campaign as part of this program, who approved those projects? Did you have to fill in or complete a conflict of interest declaration in the lead-up to the election, before the election date?

KATE McGRATH: I could not tell you with any certainty which individual approved the project that we nominated. As for the conflict of interest declarations, that, to my recollection, occurred after the election.

ASHVINI AMBIHAIPAHAR: Mr Rath, in respect of the question, my recollection is specifically around the completion of the conflict of interest forms after. Throughout the process, even as a candidate, there were no forms or anything. It's just discussions with community groups. So basically it's a similar response: It was after the election.

JOSHUA BLACK: I didn't actually announce either of the grants that were ultimately approved in my electorate, so if it was a pork-barrelling exercise, it was the world's worst. From my recollection, I think we just put in to one of our handlers or people at head office, and I thought there was a panel that looked at it, or some group who looked at it, and the conflict of interest form came later on from someone. The Premier's Department, was it? Someone emailed me a conflict of interest form to fill out later on, and I just declared it on that. I think it got probity-checked. I got an email back later on saying it had been probity-checked and it was okay. So I always over-declare any potential conflict.

The Hon. CHRIS RATH: Thank you for that declaration. What do you mean you didn't approve the projects during the election campaign?

JOSHUA BLACK: I just made suggestions. I wasn't the person who approved anything. It was just my suggestion of where funding might go. It was my understanding of how the process worked.

The Hon. CHRIS RATH: You put up suggestions for projects, and then someone at Labor head office would have approved those projects for funding, or for commitments of funding?

JOSHUA BLACK: I guess it was approved, I'm not—yes, but I didn't announce anything during the election campaign. So there was approval for u3a, University of the Third Age in Dubbo, to get I think it was \$4,000 for some computers or computer tuition—something to do with their IT set-up. I didn't announce that. That wasn't [audio malfunction]. One of the reasons was that Dugald had announced a week or two before that there was \$16,000 for u3a in Dubbo, so I'm hardly going to turn up and announce \$4,000 after Dugald announces \$16,000. Then the rest of it was unannounced to parks and gardens—which it ultimately went to—of \$396,000.

The Hon. SARAH MITCHELL: Can I just ask you about that breakdown? So the \$396,000 was to Dubbo Regional Council, which, no secret, you're the councillor and now the mayor of I believe, too.

JOSHUA BLACK: Yes.

The Hon. SARAH MITCHELL: I just wanted to get some clarity around that \$396,000 going only to Dubbo Regional Council. Was it communicated to you prior to the election that the \$396,000 had been allocated, from Labor head office, or whoever approved them? Did you know before election day that money had been allocated?

JOSHUA BLACK: I wasn't actually sure where it was all going. I knew there was \$396,000 that was going to go—my understanding was that it was going to go to parks and gardens, or something like that. So then we had to find a parks and gardens project for it, was my understanding. I wasn't involved in all of it.

The Hon. SARAH MITCHELL: Not a split amongst the other councils in the electorate as well? Obviously, there's more than one council in the Dubbo electorate.

JOSHUA BLACK: Yes, that's right. No, not before the election, no.

The Hon. CHRIS RATH: Who were you making the suggestions to in Labor head office? Who was the handler?

JOSHUA BLACK: It seemed to change all the time. I had numerous. I was working full time as a schoolteacher, then as a councillor as well, and running an election campaign in all the rest of the time. So they probably said, "Look, we're happy to pass him off to someone else." Who knows? I had numerous people as "the handler", as you called it, throughout the campaign.

The Hon. CHRIS RATH: Do you remember any of their names?

JOSHUA BLACK: The only one I remember was the young fellow named Rheece. That was about the only one I actually remember.

The Hon. CHRIS RATH: And Ms Ambihaipahar, who was your contact person in Labor head office that you were dealing with during the campaign, on the local small commitments projects specifically?

ASHVINI AMBIHAIPAHAHAR: I had a campaign team and a campaign manager for Oatley. My contact was only with my campaign manager. Any ideas or suggestions were through the campaign team.

The Hon. CHRIS RATH: So you made the suggestions to the campaign manager and the campaign manager made the suggestions to—

ASHVINI AMBIHAIPAHAHAR: Yes, I assume.

The Hon. CHRIS RATH: —Labor head office.

ASHVINI AMBIHAIPAHAHAR: I presume that would have been the case.

The Hon. SARAH MITCHELL: In the same vein, did you have your list approved with you prior to the election, so you knew which commitments you could be making?

ASHVINI AMBIHAIPAHAHAR: No. I don't think so, no.

The Hon. SARAH MITCHELL: The same to you, Ms McGrath. Did you have a list that was approved from head office, or somewhere else, that you could go out and announce prior to the election?

KATE McGRATH: According to my records, I was advised on 19 March that the projects that I'd nominated had been approved. That's the language that was used. On 21 March we announced one of those projects.

The Hon. SARAH MITCHELL: Which one was that?

KATE McGRATH: That was \$100,000 to the Gomeri Culture Academy.

The Hon. SARAH MITCHELL: Can I just ask one more? Just in relation to the Gunnedah Urban Landcare Group—and again I know they do great work, because I know of someone who lives in Gunnedah as well, so no reflections on the organisation at all.

KATE McGRATH: Absolutely.

The Hon. SARAH MITCHELL: They're good people. Obviously, theirs was a grant that ultimately didn't end up going ahead because there was a conflict of interest—

KATE McGRATH: Correct.

The Hon. SARAH MITCHELL: —that was found through the process with the Premier's Department in relation to your role as a councillor, and also on that committee, which is in the public knowledge. My question to you is, prior to the election, were there ever any questions asked from Labor Party head office or anyone about whether you might have had a potential conflict of interest with that organisation? Was that discussed at all, or did that not happen until after the election?

KATE McGRATH: Again, this is to the best of my recollection.

The Hon. SARAH MITCHELL: That's fine.

KATE McGRATH: I don't have specific records about that, but it was certainly made clear to us in discussion around the types of projects that would be suitable, that they should be obviously not for profit, and that they should obviously be organisations which we're not directly affiliated with.

The Hon. SARAH MITCHELL: Was it only after the election that that conflict was picked up formally through that process, not prior to the election?

KATE McGRATH: Correct.

The Hon. CHRIS RATH: Who approved it before the election?

KATE McGRATH: I wouldn't be able to tell you who approved it; I can only tell you who communicated the approval to me.

The Hon. CHRIS RATH: Who communicated the approval to you?

KATE McGRATH: That would be Josh Wright.

The Hon. CHRIS RATH: He was from Labor head office, was he?

KATE McGRATH: Senior adviser to office of the New South Wales Opposition leader at that time.

The Hon. CHRIS RATH: I might turn now to Asian Women at Work. Thank you for the information you've provided already in your opening statement, and just in the same vein as Ms Boyd said, I don't want to cast any aspersions on Asian Women at Work and the work that they do in the local community. One of the criticisms, I suppose, in the recent media article, was that money was offered to Asian Women at Work in exchange for campaign support. What would you say to that suggestion in the recent media reporting?

ASHVINI AMBIHAIPAHAR: I refute that assertion. There's no basis to it. What needs to be very clear is that the organisation didn't approach me. It was a person from the organisation that said they would like to help, in the beginning of the campaign. So I refute that allegation. There are no facts around indicating there was conversations asserting that "if you help phone-bank you'll get some money." I don't know where that's come from. There are no facts to that. I'm happy to go through that timeline with you, Mr Rath.

The Hon. CHRIS RATH: What was the timeline? You committed to—was it \$40,000 or \$50,000 to Asian Women at Work, and then they've also done phone canvassing for you during the election campaign. You're saying those two things aren't linked.

ASHVINI AMBIHAIPAHAR: Correct.

The Hon. CHRIS RATH: So what's the timeline there?

ASHVINI AMBIHAIPAHAR: From the best of my recollection, at the tail end of January 2023, Roni Wang, who is a coordinator, I believe—I'm not absolutely sure what her full title is in the organisation. But in her capacity, my manager reached out to her about potentially having phone-banking support volunteers. That was the tail end of January. I indicated in a response to an individual who asked for more particulars, as I had disclosed that, and I think you would be aware of the rough dates and the number of estimated hours. My relationship with Asian Women at Work—I don't have one prior, or even now even after the election. I'm aware of the good works that they do provide for our community locally. They did some phone-banking. I recall it was sometime closer to the election date where I had a conversation with my campaign team around providing some money to support with resourcing and finding a home for the organisation, and that's about it, Mr Rath.

The CHAIR: Thank you all so much for coming and helping us to get an understanding of the process during the election. Mr Black, you weren't personally involved in allocating any of that money before the election. There was no moment when you spoke with somebody to say that that amount was going to be committed to should Labor win the election?

JOSHUA BLACK: I sent suggestions in. I didn't approve the grant, or whatever it is. I just sent a suggestion in. It did come back before the election that the u3a money had been approved by someone, however the process worked. Like I said, Dugald had just announced 16,000 bucks, so I wasn't going to announce \$4,000 the day before the election. They are a very worthy organisation. It was my suggestion then. As I understood it, there was a team of people or someone who assessed it all and looked at it. I'm not sure how the process worked.

The CHAIR: The \$396,000 was also allocated during that period of time, the amount that then went to Dubbo Council? Was that your understanding? Was that a suggestion from you?

JOSHUA BLACK: That was unallocated. Anything unallocated was to go to parks and gardens; that was my understanding. That \$396,000 was unallocated come election day. That's my understanding.

The CHAIR: That doesn't accord with the documents I have here—they say that \$400,000 was allocated before the election, with none then being distributed under the second part of the unallocated funding.

JOSHUA BLACK: My understanding was that anything that was unallocated—the \$396,000 was allocated to councils for parks and gardens. I'm only guessing here—sharing my ignorance—that would have been an automatic allocation to councils for parks and gardens, upgrades or whatever the terminology was.

The CHAIR: I might need to ask the department again, because their official records indicate that you allocated all \$400,000 before the election.

JOSHUA BLACK: Can I just clarify that? I hadn't said, "We need to give \$396,000 to this park." I'd put in for \$4,000 for u3a for their computers, their network and whatever it was. There would have been \$396,000 that hadn't been allocated to a specific project. My understanding was that that was automatically "allocated" to parks and garden upgrades.

The CHAIR: Yes, that is the normal process. In terms of your particular allocation, it's registered on the department's statements as being something that was all allocated prior. How many councils does your electorate span over?

JOSHUA BLACK: Three.

The CHAIR: So it would ordinarily in those circumstances have been spread across the three if it was an unallocated amount whereas, in your case, \$396,000 went just to Dubbo.

JOSHUA BLACK: Yes, to a specific project in the end that was master-planned and costed.

The CHAIR: I don't know what date this was, but I understand that the Dubbo Regional Council spokesperson said council wasn't consulted prior to the funding being allocated, but they had received notice from you that the project had been nominated for grant funding allocation. Do you remember notifying the council about that?

JOSHUA BLACK: That happened after the election. The parks and gardens money, as I understand it—I wasn't aware that there was any process to go to councils on a pro rata basis. My understanding was that a project had to be found to allocate the money to. I spoke to the Mayor of Narromine, he spoke to his director, and he said that they'd done very well out of government grants and didn't have anything in the pipeline to go for a park upgrade. Mudgee has done very well with their Glen Willow sporting complex. I knew that there was the master-planned and costed project in Dubbo at Regand Park. All of the funds could go to that. It's a substantial amount of money to allow a whole project to happen, rather than in a cost-of-living crisis, burden a council with \$30,000 for a \$100,000 project that they then have to dip into their budgets and find money for just because they've had a little bit of money thrown at them from a State grant. That \$396,000 would be able to be all spent at the park in Dubbo, down by the river, and it wouldn't burden ratepayers unnecessarily with having to find extra money for half a project.

The CHAIR: Understood. That statement I was reading from was dated September 2023. You nominated that project after the election?

JOSHUA BLACK: Yes.

The CHAIR: Thank you. That's very useful. Ms McGrath, when did you first hear about this program and knew about the opportunity to allocate within the community?

KATE McGRATH: I'm not certain, to be honest. I think the conversations within the party around the allocations were already well underway when I was preselected as candidate.

The CHAIR: When were you preselected?

KATE McGRATH: That is a good question. I think it was December, January. I'm not certain, to be honest.

The CHAIR: That allocation process was run by the campaign team more than yourself? Or were you involved in working out which projects to give the money to?

KATE McGRATH: We are quite a small branch. The executive essentially operate as the campaign team. There was a bit of a mix. A lot of it was looking at where priorities within the branch also aligned with community-level priorities and what projects they might look like. If you want specifics, you would maybe need to ask about specific projects.

The CHAIR: You said before that there was one announced on 21 March, was it, or February?

KATE McGRATH: It was announced on 21 March.

The CHAIR: Were there any others publicly announced before then?

KATE McGRATH: No.

The CHAIR: Are you able to tell us which other ones were committed to before then?

KATE McGRATH: Absolutely. When you say committed, do you mean approved or do you mean that I have publicly committed?

The CHAIR: Maybe not publicly committed, but told to the relevant organisation, "Yes, we're making this commitment if Labor is elected."

KATE McGRATH: I couldn't tell you that with any certainty. I would imagine that once I was notified that they were approved, I likely would have communicated that, but I couldn't give you any dates or specifics.

The CHAIR: Is that something you would have a record of somewhere?

KATE McGRATH: It is not necessarily something I would have a record of. I'm sure you can imagine a lot of these communications happening across multiple platforms, multiple email addresses. I've looked through the records that I do have access to, and I wouldn't be able to answer that with any certainty.

The CHAIR: Your campaign team, then, would they have been the ones to have made those communications with people?

KATE McGRATH: Potentially.

The CHAIR: Would they have put your name on it?

KATE McGRATH: I don't know.

The CHAIR: There would normally be a process within—I'm only speaking from my party's experience; I don't know what happens in the Labor Party. But normally there'd be a candidate sign-off for communications that are going out. Was that a standard process for you or not really?

KATE McGRATH: If I can just reiterate, my experience in campaigning is probably not representative of the party as a whole. We are an exceptionally small branch and not particularly well resourced. I certainly am not aware of what the particular process was in terms of those communications and really would not want to speculate into how consistently they might be applied.

The CHAIR: Did you have personal knowledge of all of the projects that were committed to as part of this process?

KATE McGRATH: Yes.

The CHAIR: You had personal knowledge of it, but not necessarily how that was then communicated to others?

KATE McGRATH: Yes, to the potential recipients. I'm aware that certain conversations have occurred. I'm just very reluctant to state anything on the record that I can't verify with any certainty.

The CHAIR: Is it something, though, that you could check if you took it on notice?

KATE McGRATH: I doubt it, to be honest.

The CHAIR: Could I ask you to take on notice to have a look through and see if you have anything that can give us some insight into when these commitments were made?

KATE McGRATH: Sure.

The Hon. MARK BUTTIGIEG: Ms Ambihaipahar, I think you've covered it in your evidence but I just want to square off on some of the details and the implications of some of the questioning of the Opposition and the Chair. In terms of Asian Women at Work, can you please just walk us through why you thought they were such a worthy recipient?

ASHVINI AMBIHAIPAHAR: This organisation have been in the community for over two or so decades, I think 20-plus years. They do a lot of work particularly with migrant women, running programs particularly around support through employment and leadership programs is my understanding, obviously challenges around the language barriers that they would also have within precarious work. They do amazing work to make sure that they are supported and teach them advocacy skills is my understanding of what Asian Women at Work do. They provide a lot of support in the community as well, community-based engagement opportunities for various demographics of different community groups, like Vietnamese and Chinese. I think it's important to know that they have been a longstanding organisation providing that support.

The Hon. MARK BUTTIGIEG: In terms of them volunteering on your campaign for Oatley, given that you declared the conflict, is there any reason in your mind why a voluntary organisation who is active in the community and seeking representation for the community should be precluded from getting money for a good cause just because they volunteered on your campaign?

ASHVINI AMBIHAIPAHAR: Absolutely not. I think what's really worrying about the approach, particularly around the article, is questioning anyone's representation, whether they're a candidate or whether they're an elected official representing the community—cannot have potential contact or relationships or engaged in any volunteering capacity with any organisation. What's very clear about this program was there was an opportunity to provide or declare any potential or perceived conflict of interest for it to go through a probity check. It's worrying that—I know we're focusing on the program, but I'm aware that various other—the sitting member

for Oatley would also rely on other organisations to help on election campaigns or on election day. Where do you draw the line? I think this program really clearly demonstrated a very clear process to declare conflict of interest, whether it's actual or whether it's perceived or potential. I think it's important that any member of the community, whatever organisation they're associated with, should not be precluded from an opportunity to be part of a program like this.

The Hon. MARK BUTTIGIEG: You touched on the current member for Oatley, Mr Coure, who was the former Minister for Multiculturalism. Are you aware of any involvement that he's had with this group, Asian Women at Work?

ASHVINI AMBIHAIPAHAR: My understanding is that he is a supporter of Asian Women at Work. I don't know exactly what he has done specifically for the organisation, but I know he speaks well of this organisation.

The Hon. MARK BUTTIGIEG: Has he expressed a view about this perceived controversy about them getting \$50,000 as part of the Local Small Commitments Allocation?

ASHVINI AMBIHAIPAHAR: Not directly to myself, but he has disclosed—when I caught up with him the next day after that article dropped, when I was at a local football match, he decided to tell me, "I had nothing to do with that article." I don't know what that means, Mr Buttigieg, but that's for the Committee to determine.

The Hon. MARK BUTTIGIEG: I guess it means it may be his colleagues. So, Ms McGrath, can I just turn to you now? So in terms of this Landcare involvement, what was your capacity or what is your capacity on that Landcare management? You're a delegate from council, is that right?

KATE McGRATH: Yes, so there's certainly no personal involvement or conflict.

The Hon. MARK BUTTIGIEG: You're not paid? Just to be clear, you don't get any monetary reward for that role as a delegate?

KATE McGRATH: No, it's a council delegate to Gunnedah Urban Landcare Group. Quite a few of the community organisations that council provide support to, we will also provide essentially like a council liaison. That role is largely observational, so there's no decision-making capacity and there's no voting rights. It is just, essentially, to be someone to support that community group to liaise on with council effectively.

The Hon. MARK BUTTIGIEG: Your suggestion of the hypothecation of some funds to that group was for what, specifically? Do you recall?

KATE McGRATH: I don't know how familiar you are with the plight of koalas in our region at the moment.

The Hon. MARK BUTTIGIEG: We're all very familiar with the plight of koalas up here, I can assure you.

The Hon. SARAH MITCHELL: We're the koala capital in Gunnedah, thanks Butters. Proudly so.

KATE McGRATH: We're no longer the koala capital, because they are all dying of chlamydia and having their land cleared and suffered a massive drought. Our days as the koala capital have sadly ended. We're fortunate that there are grass roots organisations like Gunnedah Urban Landcare that have put considerable time and effort into restoration of koala habitat. They've been very, very involved, particularly through the drought, which was very severe and had a huge impact. They installed a lot of the Blinky Drinkers on the trees, for the koalas. They also have some relationships with some of the universities that are doing research into treatment and vaccination, to try and prevent the spread of chlamydia among the koala populations. Often urban landcare will partner with or provide support to some of those projects to roll them out on the ground. There's a whole variety of things. I couldn't tell you the absolute specifics of what they had intended to do as a project, but, yes, they certainly are a very worthy organisation.

The Hon. MARK BUTTIGIEG: Can you just elaborate a little bit for us on what sounds like an unfortunate byproduct of a very rigorous conflict of interest process—perhaps too rigorous in this case, because it sounds like it would have gone to a good cause—as to why that was rejected, given your role on the landcare committee?

KATE McGRATH: I won't share my opinion as to whether or not it is too rigorous. I'll let the Committee determine that. I communicated on 17 November to Alison Morgan essentially confirming the details around what I had disclosed in my conflict of interest form, just clarifying that it is as an observational and advisory role; therefore, I didn't feel there was a conflict. There's certainly no personal relationship with that group. As we've identified, I received no financial benefit for my involvement. It is literally just part of my duties as a councillor.

The Hon. MARK BUTTIGIEG: So the funding envelope was rejected on the basis that because you're a part of that advisory capacity on the landcare group that there was some sort of perceived conflict because the group would have gained from your advocacy. Therefore it was knocked. That's pretty much it, isn't it?

KATE McGRATH: That is my understanding. Presumably, in investigating the various conflicts and doing that probity check, there may be details in that that I'm simply unaware of, but that is my understanding.

The Hon. MARK BUTTIGIEG: Mr Black, I'll just turn to you now to clean up a few things. This \$400,000 which you all, as candidates, were asked to identify, which I just reiterate would go to the electorate regardless of whether or not you're the successful candidate. So the \$4,000 to the University of the Third Age, which you told us was trumped by Saunders, you didn't announce that. So the residual \$396,000, you were involved in suggesting that a worthy recipient was a weir project, wasn't it, in the Dubbo local council area?

JOSHUA BLACK: It was an area called Regand Park, and it was for barbecue facilities down near the weir. My understanding was that anything—

The Hon. MARK BUTTIGIEG: Can you just walk us through the merits of that, Mr Black, of why that turned up?

JOSHUA BLACK: Yes, for sure. It was a heavily, heavily used riverside park in Dubbo. When the COVID lockdowns were on, it was incredible how many people used that park once people were able to go out for a walk each day. It's right in the heart of central south Dubbo, near some other playing fields. There's a whole master plan to develop that. This was done years ago, the original Regand Park master plan, by previous councils—before I was on council—many, many years ago. That had I think been rescinded and it needed to be redone. The council that I was part of, I knew that there was a new master plan, fully costed, up to date, sitting there ready to go. It's a really lovely park down by the river.

It used to be a former dairy. When I was a kid, you could hear the cows mooing and stuff like that from when my parents still lived in town. That was actually purchased by council—I'll make up a number—20 or 25 years ago, for a recreation park. It's basically been undeveloped apart from a gravel pathway following the river. This would have gone to activate that area. It would have actually partnered with a charity, a not for profit, Titan Macquarie Mud Run. They've just had the mud run, actually, where people pay I think \$50 each and they get about a thousand people in there. They then put that money back into projects along the river pathway, such as solar lights, chairs and a whole heap of other things. They're looking to get an off-leash dog area with the money that they've raised. So they donate that to council. There was a real opportunity here to partner with council and the Titan Macquarie Mud Run, to really activate that area and get the community really involved.

The Hon. MARK BUTTIGIEG: It sounds like a very worthy and good outcome. Thank you, Mr Black.

The CHAIR: That brings us to the end of this particular session. To the extent there were questions taken on notice, or there's supplementary questions asked, then the Committee secretariat will be in touch. Thank you so much for attending today. It's been incredibly informative. We will take a lunch break until 2.45 p.m.

(The witnesses withdrew.)

(Luncheon adjournment)

Ms CHERIE BURTON, Director, Caucus Liaison Unit, Premier's Department, sworn and examined

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

CHERIE BURTON: I'm employed under the MOPS Act 2013 to assist the Premier in his ministerial role by liaising with the caucus on Government priorities and ensuring the delivery of the Government's election commitments. My role in supporting the Government in delivering their election commitments is the reason for my involvement in the local small commitments. Prior to the 2023 election, the Labor Party, being in opposition, committed \$400,000 per seat for community organisations, not-for-profits, parks, playgrounds and other local vital projects. This was \$400,000 for all 93 seats in the State. The commitment was made to assure the community that, regardless of who they returned to Parliament, their seat would be no worse off. It was designed to take the politics out and ensure fairness in all electorates. When Labor come into government in 2023, my job was to prepare the list of commitments, with contact details to be submitted to the Premier's Department.

The Government set up an independent probity process that all projects went through to ensure value for money and community benefit for the New South Wales taxpayer. Once a project was either recommended to be approved or not to be approved, they were sent to the Special Minister of State before any taxpayers' money went out the door. I had no role in the assessment or the approval of these projects. Of course, myself and my team then supported the caucus in announcing these projects. Over the last 12 months, many MPs—across all political parties, community groups and councils—have stated publicly how wonderful these initiatives have been for their local communities.

These are small but vital projects that are often overlooked. Every seat in New South Wales received \$400,000, which went to community organisations, which were able to deliver assistance to homeless people, support for migrant workers, funding for housing in the regions, funding for play equipment, walking pathways, tennis courts and other small projects that deliver a huge benefit to local communities. The Auditor-General is doing the report into local small commitments, and I look forward to reading his report and recommendations in the event that the Government wishes to pursue a similar program again in the future.

The Hon. CHRIS RATH: Thank you for appearing today, Ms Burton. Were you working for the Premier before the election, when he was then Leader of the Opposition?

CHERIE BURTON: On a part-time basis, yes.

The Hon. CHRIS RATH: Did you have any involvement with the local small commitments program in the election campaign?

CHERIE BURTON: No.

The Hon. CHRIS RATH: Your involvement has been post-election?

CHERIE BURTON: I would have assisted the Premier in the collection of commitments, obviously, for Kogarah and giving him recommendations. That was my only involvement.

The Hon. CHRIS RATH: Just in his local seat?

CHERIE BURTON: Just in his local seat.

The Hon. CHRIS RATH: In the previous hearing a few weeks ago, we heard from Alison Morgan from the Premier's Department, who said, regarding the list of projects for funding:

The source of truth for us for the eligibility assessment was the list that was provided by the Premier's office on the 28th of July.

Where did you receive the "source of truth" document from?

CHERIE BURTON: I don't like to refer to it as the source of truth. It was actually election commitments, and I'd like to call them by their name. I would have received it not long after starting in the Premier's office in April 2023.

The Hon. CHRIS RATH: Who gave you that list?

CHERIE BURTON: It was a very busy time, as you can imagine, with the transition of government. It would have come from the campaign, I would imagine, but it was the list that I was advised was the election commitments prior to the election.

The Hon. CHRIS RATH: From Labor head office?

CHERIE BURTON: As I said, I can't remember, but it would have come from the campaign.

The Hon. CHRIS RATH: Do you know how the list would have been generated?

CHERIE BURTON: No. Prior to the campaign, I had absolutely no involvement.

The Hon. CHRIS RATH: Do you know if Josh Wright managed this process in the then Leader of the Opposition's office?

CHERIE BURTON: I was not aware of that, no.

The Hon. CHRIS RATH: From your perspective, it was entirely run from Labor head office rather than the Leader of the Opposition's office?

CHERIE BURTON: No, that's not what I said. Wherever it came from, it was given to me. My specific role was to contact the candidates and to collect the contact details to prepare those lists to give to the department for assessment.

The Hon. SARAH MITCHELL: Was the list emailed to you or a hard copy? How did you get the list?

CHERIE BURTON: I think it was a hard copy.

The Hon. SARAH MITCHELL: No email, no electronic version of it?

CHERIE BURTON: I don't remember. It was two years ago. As you can appreciate, we were coming into government. There was a lot going on. I think you would have had this experience in 2011. We hadn't been in government for 12 years. There was a lot happening. That list was the list that I then contacted the candidates and ensured that we had all the contact details that we needed to go through the process.

The Hon. SARAH MITCHELL: Surely you can appreciate the origin of the list is quite important. I find it a little bit extraordinary that there was only a hard copy handed to you, there's no electronic version of it and you don't know who provided it to you. How did you know that you could trust what was on that document if you can't remember where it came from?

CHERIE BURTON: I want to make the point that these were election commitments. My job was to make sure that the contact details were there and specific commitments. They then were given to the department, where they underwent a proper probity process to ensure community value, community benefit and value for money. The election commitment was \$400,000 per seat. The reason that we did that was we wanted to take the politics out and we wanted to make sure there was fairness across all of the 93 seats, regardless of who was elected.

The Hon. SARAH MITCHELL: This wasn't a grant process per se in that there were applications. You would agree that it was Labor candidates in each of those 93 seats that nominated projects?

CHERIE BURTON: They were election commitments, yes.

The Hon. SARAH MITCHELL: But they were nominated from Labor candidates?

CHERIE BURTON: Absolutely, as election commitments.

The Hon. SARAH MITCHELL: I go back to my original question to you. If you are going to honour the election commitment, you've got a list which the Premier's Department have referred to multiple times as the list that they worked off, the list that you gave them. Can you tell us where that list came from and who gave it to you? How do you know that it was accurate in terms of election commitments if you can't even remember where it came from?

CHERIE BURTON: I'm telling you. My job was to then contact the candidates and get the contact details. When I did that, that was, as far as I was concerned, the information I was given by the candidates.

The Hon. SARAH MITCHELL: You're telling us under oath today you don't remember who gave it to you or if it was a hard copy or an email?

CHERIE BURTON: No.

The Hon. SARAH MITCHELL: That's just extraordinary. How do you not remember?

CHERIE BURTON: No, it's not extraordinary at all.

The Hon. SARAH MITCHELL: This is serious amounts of taxpayer money, and you can't remember where the list came from for these commitments.

CHERIE BURTON: Which all went through a proper probity process and assessment process.

The Hon. SARAH MITCHELL: We're not asking you about after the election.

CHERIE BURTON: No, that's the importance of it.

The Hon. SARAH MITCHELL: We want to know the list that you brought from the election into government and who gave that to you. You cannot tell us who gave it to you.

CHERIE BURTON: I've explained to you how we compiled those lists. We checked with the candidates.

The Hon. SARAH MITCHELL: You just didn't check who gave you the list?

CHERIE BURTON: We checked with the candidates to get the contact details. That list went in to the department, where all of those nominated projects went through a proper probity process. They were independent from me. I had no role in the assessment or the approval of these projects. I think the important point here is the use of taxpayers' money. If you've got an issue with one of the commitments or any of the projects that went out the door, let us know what that is.

The Hon. CHRIS RATH: Our concern is more about the process than individual commitments. You mentioned that you had to check with candidates for contact details.

CHERIE BURTON: Correct.

The Hon. CHRIS RATH: Who was doing that work? Who was contacting the individual candidates to chase up the contact details?

CHERIE BURTON: I would have been doing that.

The Hon. SARAH MITCHELL: Did you speak to all 93 Labor candidates?

CHERIE BURTON: Not all.

The Hon. SARAH MITCHELL: How do you know your list was accurate?

CHERIE BURTON: Once again, the list was what was committed prior to the election. Where I needed to get contact details, that's what I did. I want to make this very strong distinction. The election commitment was \$400,000 per seat for community organisations, NGOs, and parks and playgrounds. That was the commitment made by Labor. That was the commitment, and we had to ensure that every seat got their \$400,000. That was the most important thing, and that all of the projects that were given to the Premier's Department went through an independent probity process, and that is what happened. In the end, we have delivered what we committed to the community at the election. That has been delivered.

The Hon. CHRIS RATH: How were the projects approved prior to the election?

CHERIE BURTON: I was not involved in any of that.

The Hon. CHRIS RATH: You don't know how they were approved before the election. You were given a list, but you're not sure where it came from or who put the list together, then you give it to the Premier's Department, and then the Premier's Department's going from this single source of truth, but we're not sure who generated that list.

CHERIE BURTON: I've explained that already. I've explained that in my answer.

The Hon. SARAH MITCHELL: Ms Burton, can I just ask you about the time frame of approvals? In terms of projects—I've got an example here for the Sydney electorate, and I'm happy to table some copies of these documents just so you can have one in front of you as well what I'm referring to. There are nine projects for the electorate of Sydney approved on 26 July, and it says, "Organiser/person notified of approval is Paul Mills." This is from the documents that came out in the call for papers. Can you just confirm, then, that all of those were projects that were nominated before the election, if they were notified on that date in July?

CHERIE BURTON: No election commitments were changed, but what would have happened is, as they were going through the process, in order to deliver \$400,000 per seat, there would have been changes that were made going through that process. In relation to that document, my role was to ensure that the contact details were there, which I did, and then it was passed on to the Premier's Department for assessment.

The Hon. SARAH MITCHELL: Just to be clear, are you saying that after the election there were changes made to the projects?

CHERIE BURTON: While they were going through the probity process—and I'll give you an example. An example is Ryde. I remember this quite well because there was a bit of argy-bargy between the councils. I'll just go to it. The actual election commitment was—

The Hon. SARAH MITCHELL: We just have very limited time remaining, only a few minutes left.

CHERIE BURTON: You're making assertions, and I think I should have the right to—

The Hon. SARAH MITCHELL: I wanted to ask about Sydney. That's what the document is about.

CHERIE BURTON: Yes, but you're asking if projects changed. Is that correct?

The CHAIR: Order! If you're coming to an example yourself?

The Hon. SARAH MITCHELL: Yes. My question was about the electorate of Sydney, and that's what this document is about that I've just given to you. The front page of that packet of documents will show an email that came again through the calls for papers, which shows handwritten changes being made to the Sydney allocations. That was an image that came from—and I'm sorry, I'll probably mispronounce his name, and I apologise to the individual—George Psihoyos. Does he work in your office?

CHERIE BURTON: Yes, he does.

The Hon. SARAH MITCHELL: Does he report to you?

CHERIE BURTON: He's part of my team, yes.

The Hon. SARAH MITCHELL: There's a reference in here that you'll see handwritten on this email where it says, "Alex G/PO". What would that be referring to?

CHERIE BURTON: The election commitments for Sydney that were made prior to the election were the ones that went forward for funding.

The Hon. SARAH MITCHELL: Who made those prior to the election in Sydney?

CHERIE BURTON: It would have been the candidate.

The Hon. SARAH MITCHELL: They were publicly announced?

CHERIE BURTON: I was not involved in that prior to the election.

The Hon. SARAH MITCHELL: You got the list that you can't remember where it came from, but it had the Sydney announcements on it, presumably?

CHERIE BURTON: What was on that list, yes, that was what went forward for approval.

The Hon. SARAH MITCHELL: But this looks like the member for Sydney and the Premier's office have had a discussion about it post-election from the handwriting that's on top of this email. Would you agree?

CHERIE BURTON: Let me just state that for the electorate of Sydney the election commitments were \$400,000 for homelessness shelters, and there was a list of projects that actually went through—went through the probity process and were approved. Those were the ones that were committed prior to the election.

The Hon. SARAH MITCHELL: But that's different to the source of truth list that we've got from Paul Mills—

CHERIE BURTON: No, it's not.

The Hon. SARAH MITCHELL: Yes, it is. There are differences in the figures and the amount, and what's actually gone out and approved is much more consistent with this handwritten document than it is with the original list from 26 July.

CHERIE BURTON: The election commitments that went through the process and taxpayers' money was released were the election commitments that were made prior to the election.

The Hon. SARAH MITCHELL: But there are discrepancies in terms of what was in the original spreadsheet and what's been announced for some of these projects. Some have fallen off. I'm just wondering, was there a discussion between your office and Alex Greenwich and his office in relation to the specifics of these projects post the election?

CHERIE BURTON: What I can tell you is that the election commitments that were made prior to the election were the ones that went forward and went through the independent process, and were approved. That's what I can tell you.

The Hon. SARAH MITCHELL: Can you tell me if there was a discussion between the Premier's office and the member for Sydney, or his office, about the allocation of this money and where it was going to after the election?

CHERIE BURTON: He would have had strong views about where he felt that that money should have gone.

The Hon. SARAH MITCHELL: Was there a meeting with him? Was there a discussion with him about where this money should go?

CHERIE BURTON: Probably. Probably there would have been. There would have been a discussion maybe. I don't know, but at the end of the day—

The Hon. SARAH MITCHELL: Were you involved in any discussions with him?

CHERIE BURTON: Yes, I spoke to Alex. I spoke to Alex about getting the contact details for the organisations for the commitments.

The Hon. SARAH MITCHELL: Because you didn't have those on your list from your candidate, presumably? You said you needed to get contact details, and I thought you were asking Labor candidates for contact details, but you've now asked a non-Labor candidate in one seat for contact details.

CHERIE BURTON: Yes, because I couldn't get them.

The Hon. SARAH MITCHELL: So then you didn't have details on the original list that you had pre-election then of what the breakdown was?

CHERIE BURTON: Yes, that's why I would have contacted Alex. You've got to remember it was 600 projects across 93 seats. But I would have contacted Alex to get the contact details for those election commitments.

The Hon. SARAH MITCHELL: Were there any discussions about changing any of the funding allocations or this handwritten-on sheet, which is a copy of an email that someone has then handwritten on, crossing out certain organisations and changing the original column versus the Alex G/PO column where some of the money is different. You don't have anything you can tell us about that particular—

CHERIE BURTON: I remember the member for Sydney had very strong views about where he felt the individual money should go and what projects. However, once again, I will say that the projects that went forward to be assessed and the projects that were approved and the taxpayers' money that went out the door was the original ones prior to the election.

The Hon. SARAH MITCHELL: So there were no conversations with the member for Sydney that changed funding amounts or which organisations were getting money post the election?

CHERIE BURTON: I think he put forward his views very strongly, but, like I said, this is the important point—

The Hon. SARAH MITCHELL: Nothing changed from that conversation in terms of the original commitment and what flowed out the door post-election?

CHERIE BURTON: Nothing changed from the original commitment and what went out the door. That's correct.

The CHAIR: When we look at the Local Small Commitments Allocation program guidelines that were published on 31 July 2023—so three months after the election—in 3.2, "Eligible Projects", it says:

All Projects must:

- Have been nominated as an election commitment prior to the March 2023 election

When we have asked how people worked that out, whether there was some evidence—was there an email or was there something where each candidate showed the people who were assessing and doing the probity on these projects how they got comfortable with that—we were told that it was the list that came from yourself.

CHERIE BURTON: Correct.

The CHAIR: You said in response to the questions from my colleagues just now that you can't recall where you got the original list. We're talking about a \$40 million grants program that all hinges on that list being correct. Have you not gone back and looked at where that list came to you from?

CHERIE BURTON: I dispute that question because the election commitment was \$400,000 per seat.

The CHAIR: So \$40 million across the State—\$40 million of public money.

CHERIE BURTON: Correct, yes. So \$400,000 per seat for community organisations, non-government organisations, for small projects that ordinarily would probably miss out on funding.

The CHAIR: I'm well aware of the type of project.

CHERIE BURTON: Let me explain. These were election commitments, so the commitment itself was the \$400,000 per seat and, even as you go through the process, the independent probity process that I was not involved in at all—and I want to draw the Committee's attention to Ryde. Here is an example. So Ryde, the commitment was \$400,000 for planning money for a Korean cultural centre. When that went through to the department, the council then said that they didn't want to spend the money on that because they couldn't afford a cultural centre or they didn't want a cultural centre.

The CHAIR: So that money then went into unallocated?

CHERIE BURTON: It went to parks and playgrounds.

The CHAIR: Yes, that's what we would expect.

CHERIE BURTON: But that's a change, right?

The CHAIR: No, it's not. Ms Burton, if I can just bring you back. There are two stages to this. There's the stage of those that were made during the election commitment. For those ones that didn't make it then through, or hadn't been allocated, they ended up in that extra unallocated fund, or with different rules. If I could bring you back to that first part: I'm looking at the eligibility criteria for these particular grants that were election commitments. Are you telling us that anything that then ends up after the election as being funded is ergo an election commitment, or did you do the work of looking at what had actually been committed prior to the election?

CHERIE BURTON: My job was to contact the candidates, which is what happened, and just to collect the contact details for the commitments, and also any seat-specific stuff.

The CHAIR: We heard from a few candidates just before who were telling us that they hadn't had any contact, that it was all done through head office, that no one checked with them, that they didn't know what the list was. Did you speak with the people that we had on the panel just earlier?

CHERIE BURTON: I wouldn't recall. I know that I spoke to as many as possible, and in some cases—it really was where I couldn't get contact details, that was when I spoke to people.

The CHAIR: We asked Mr Black, the candidate for Dubbo, about the \$396,000. He had an entire allocation of \$400,000 listed in part one. So none of his went into that overflow for unallocated. When we asked him about his commitment, he said he didn't make it during the election; he made it after the election. How did his make it into the list?

CHERIE BURTON: I don't know what happened prior to the election because I was not involved in that, but after the election he would have been contacted. That was what we were given, and that was what went forward to go through the process to be approved. At the end of the day, it was \$400,000 for the seat of Dubbo, which was the election commitment, and \$396,000 went to parks and playgrounds.

The CHAIR: Sorry, when you say, "It was the election commitment," are you treating the election commitment as being the \$400,000 to a seat, rather than to a particular project?

CHERIE BURTON: They had to be in the end, because that was the commitment that we made to the people of New South Wales. The commitment that we made was that—take the politics out—every seat would get \$400,000 for community organisations or parks and playgrounds. If you've got a particular project that you think is unworthy, then I'd say bring them forward.

The CHAIR: Can we just come to that? Can I just bring you back to the question, because nobody has at any point in this inquiry suggested that any of these projects aren't worthy. We're looking at the process.

CHERIE BURTON: Well, you are.

The CHAIR: No, we are not. We are looking at the process of how these were allocated, and whether it was done in a way that is in compliance with all of the different rules and ethics that we like to apply. Can I just bring you back to that question about when you said that election commitment was \$400,000 per seat, this eligibility criteria talks about the project having to have been nominated before the election. I gave you that Dubbo example. How is it possible that made it onto your list, if it hadn't actually been nominated prior to the election?

CHERIE BURTON: They were the projects that we were given and that was what went forward for funding.

The CHAIR: Who were you given them by?

CHERIE BURTON: I've already said. Well, he would have probably been contacted, I would say. As I said, there were 600 projects, 93 electorates. He would have been contacted, and they were the projects he would have been given. They were the ones that would have gone ahead for funding. But I also want to add that those projects all went through a proper probity process.

The CHAIR: I'm not asking about that.

CHERIE BURTON: No, you are.

The CHAIR: With respect, you keep trying to talk about things that aren't the actual question or the focus of this inquiry.

CHERIE BURTON: This is the point. The point is: How was taxpayers' money spent?

The Hon. MARK BUTTIGIEG: Point of order: Process, which you and the opposition are going on about ad nauseum, includes probity. So the witness is quite within her rights to throw probity into her answer and I think you should let her articulate her answer in that context.

The CHAIR: I'd be happy to hear others' thoughts, but really this goes to the relevance of the question. I'm not asking for the deflection to other issues. I'm talking about the particular time of the election—

The Hon. MARK BUTTIGIEG: But surely the witness has a right to answer as she sees fit.

The Hon. EMILY SUVAAL: That's right.

The Hon. MARK BUTTIGIEG: Who on earth would think probity is not part of the process?

The CHAIR: No one is saying—

The Hon. SARAH MITCHELL: Well, it wasn't.

The CHAIR: —yes, it wasn't part of the process during the election.

The Hon. MARK BUTTIGIEG: That's a political statement.

The CHAIR: Let's continue without the interference. You've made it very clear in your comments so far that this had to be a commitment made prior to the election, and also that you had checked with the candidates. I find it hard to believe that you don't know where that original list came from, with \$14 million worth of projects on it.

CHERIE BURTON: Well, it would have come from the—

The CHAIR: Did you go and look before you appeared today, to refresh your memory?

CHERIE BURTON: It would have come from the campaign. I'm not sure exactly where, and I'm not, because it was a very busy time, and I have explained this. We were coming into government after 12 years of not being in government. That's only happened three times in 30 years. I'm sure the other side will recognise that's a very, very busy time. There is a lot going on. Where I could not get contact details, I contacted candidates. But that list was the list of election commitments. They were then compiled with contact details and given to the department for assessment.

The CHAIR: I have a lot of sympathy for you as someone just doing your job. You've got a list, and off you go and you do your bit.

CHERIE BURTON: Correct.

The CHAIR: I guess what I'm finding really hard to understand, though, is the lack of memory of where the list came from for such an important stream of funding. Can you tell us, when you say campaign, who do you mean? Who is the class of people it could be? Just for the layperson, what does campaign mean?

CHERIE BURTON: It would have come, I guess, from the campaign itself, as all election commitments do.

The CHAIR: What do you mean "campaign itself"?

CHERIE BURTON: The campaign.

The CHAIR: Every party has a different way of doing things, and I don't think the public understand what "the campaign" means either. Do you mean the campaign team, or the campaign office? Was it Sussex Street? Who was it?

CHERIE BURTON: I really don't remember. I don't recall.

The CHAIR: You are under oath.

CHERIE BURTON: I know.

The CHAIR: You honestly don't recall?

CHERIE BURTON: No, it was a very busy time. We were setting up for government. But what I can tell you is that all of those commitments that went in, they were independently assessed and that they were then subsequently either approved or not approved. There was a proper process set-up to ensure community benefit and value for money.

The CHAIR: Again, I'm not concerned with the process after the event. I'm trying to work out how those commitments got onto the list in the first place. Are you saying now that this is the dead end, that you can't tell me? Presumably it was delivered to you in a paper envelope.

CHERIE BURTON: Well, they were election commitments.

The CHAIR: Except that they weren't. We know, for example, that the one in Dubbo wasn't an election commitment.

CHERIE BURTON: No, that's not true.

The CHAIR: We know that the ones in Sydney were not an election commitment.

CHERIE BURTON: It was \$396,000 for parks and playgrounds, and that's exactly where the money went.

The CHAIR: No, that was in the overflow, unallocated bit that would go to parks and playgrounds. This was actually allocated, as part of the \$400,000, but then went through the Local Small Commitments Allocation program probity on the basis of a list that you provided. If we want to talk about the probity, it was all done on the basis of a list. So they checked off one part of the guidelines, on the basis of a list you gave them, which we've now discovered not to be correct.

CHERIE BURTON: But the point here is that all of the election commitments went through a proper process before any taxpayers' money was spent. That is the test here, I feel.

The CHAIR: That's the test that you are offering up. That's not necessarily the test that the public would—

The Hon. PETER PRIMROSE: Point of order: Is it possible, Chair, to allow the witness to finish her evidence before we move onto something else? She's explaining, as you pointed out, under oath, and I think it's appropriate that she be paid the courtesy of being allowed to complete her evidence. If you wish, we can swap places. I'm very happy if you—

The CHAIR: I think I've heard enough, Mr Primrose.

The Hon. PETER PRIMROSE: So have we. I'd like to hear some more from the witness.

The CHAIR: Just because I'm Chair, I don't have to allow the witness to go off track and not be held to be relevant.

The Hon. PETER PRIMROSE: You do need to allow her the due courtesy under the procedural fairness resolution to complete her answers.

The CHAIR: It's interesting you didn't raise these points of order against anyone else.

The Hon. EMILY SUVAAL: Point of order—

The CHAIR: Ms Burton, if I could ask—

The Hon. EMILY SUVAAL: How is that relevant? I think that's completely offensive to Mr Primrose, and Ms Burton, who's here voluntarily to give evidence.

The Hon. SARAH MITCHELL: No, she's not.

The Hon. EMILY SUVAAL: She's trying to assist the Committee by answering questions.

The CHAIR: She is actually not here voluntarily.

The Hon. EMILY SUVAAL: You continuously speak over the top of her, making statements.

The CHAIR: If you could stop wasting my time and allow me to ask my questions.

The Hon. EMILY SUVAAL: You haven't asked many questions. You keep making statements.

The CHAIR: I've heard your point of order. Thank you. Do you think that the list would have been sent to your government email address?

CHERIE BURTON: No. I don't recall. No.

The CHAIR: But at that time, you were working for government.

CHERIE BURTON: Yes. The list was given to me. I then got all of the contact details of the different organisations and gave that list to the department. That was my role. I've answered your question.

The CHAIR: It was given just to you, not to you and other people, or copied or made generally available to a group of people?

CHERIE BURTON: No, it was just given to me.

The Hon. CHRIS RATH: In hard copy.

The CHAIR: In a hard copy, do you think?

CHERIE BURTON: That's my recollection, yes.

The CHAIR: Does that strike you as being odd?

CHERIE BURTON: No. They're election commitments.

The CHAIR: I think we're just hearing the same thing over and over. I will stop there.

The Hon. MARK BUTTIGIEG: Thank you for appearing, Ms Burton. I just want to walk you through some of these process issues which the Opposition and the Chair were trying to make into some kind of grand conspiracy theory. This list that fell out of the sky, which is the implication of the questioning, presumably what happened was—and it's come out in the evidence this morning—you had a whole bunch of candidates who, heaven forbid, identified commitments in their seat that they were running for, and they were asked to solicit those projects by virtue of their candidacy. Someone compiles a spreadsheet of all those commitments. You're given the spreadsheet. It was your job to crosscheck with contact details and then put it through the proper internal processes for subsequent probity and then payment. Is that pretty much it?

CHERIE BURTON: Correct. I think it's really important to point out that there's a very big separation in all of the processes that have happened. There was the process prior to the election, which were election commitments. They were straight-out election commitments. Any candidate is able to make an election commitment based on community needs and put that forward to say, "If our party is successful, these are the election commitments that we will give to you." The big thing about this program was that it was unusual in the sense that it was \$400,000 across all 93 seats, regardless of who was returned to office in those seats. That meant that no seat would be worse off.

If we go into it and say these aspersions, that something untoward happened and all that stuff is just not the case, because after that, there was a process set up by the Premier's Department where all of these projects went through an independent process. While I might have added the contact details and those sorts of things to assist the department, once that list went into the department, I had no involvement. Neither did any of the candidates. They had no involvement in the assessment and they had no involvement in the approval. The important thing in Government, as you know, is how are we spending taxpayers' money? I've got examples here of the Coalition MPs being very—and I'd like to read some of out. Adam Crouch said:

Great to see the upgrade of the Wamberal Memorial Hall playground is underway. Well done, Central Coast Council. This new play space will be a fantastic addition for families in our community.

That was the delivery of \$60,000 to Central Coast Council for the Wamberal Memorial Hall play space renewal. He's in here for Empire Bay Tennis Courts as well, so \$100,000 to the Empire Bay Tennis Club towards resurfacing two tennis courts.

The Hon. MARK BUTTIGIEG: These are things either identified by the Labor candidate or subsequently spilt over to councils that the sitting member is getting credit for?

CHERIE BURTON: Correct. The point that I've tried to make here today is that the overarching election commitment, which was costed by the PBO and published on 20 March, was the \$39.2 million program of \$400,000 per seat. If you look at Adam Crouch again, with the Jirramba amenities block, you've got Adam Crouch actually writing to the Premier, making sure that these funding commitments are going to be met—these election commitments. We've got Matt Cross, for the Killara Rural Fire Service, \$200,000, which was also one of the commitments. There is James Griffin, the MP for Manly, "Works are underway for the new play area at Ivanhoe

Park behind Manly Oval." That was \$100,000 to Northern Beaches Council for the implementation of the Ivanhoe Park master plan. There's Paul Toole, "The Ninja Park opened. A makeover of O'Keefe Park. The project wouldn't have been possible without grant funding of \$208,000 from the NSW Government and will no doubt become a favourite for locals looking to train like a ninja." The list goes on. There's Mark Hodges, the member for Castle Hill.

The Hon. MARK BUTTIGIEG: This is an interesting exposé, isn't it? The slur of pork-barrelling, which has been bandied around quite a bit surrounding the media in this inquiry, would imply that a political party gets the sole benefit from taxpayers' money. What's happened here, by virtue of it going across every single seat, is that you actually had incumbent Opposition MPs and The Greens MPs benefiting from the allocation that was made originally. It's hardly pork-barrelling, is it?

CHERIE BURTON: That's correct.

The Hon. MARK BUTTIGIEG: My understanding of pork-barrelling is it's a one-sided affair to favour a political party.

CHERIE BURTON: It's even better than that. If we go back to Ryde, the election commitment was:

Labor will invest \$400,000 to begin planning and development of a new cultural centre in Eastwood.

As I tried to explain before, the council said they didn't want that \$400,000, because they weren't going to build a Korean cultural centre. They actually refused the money. I go back to the points I made earlier. In order for us to fulfil our election commitment of \$400,000 per seat on community organisations, NGOs, parks and playgrounds—and what have you—it went to the council. I'd like to have it on the record that in the case of Ryde, a completely changed project, the member for Ryde has put out in his electorate communications:

The only way to sustain Ryde's growth is by ensuring we continue to invest and upgrade our parks, roads, schools and hospitals. Over the course of the last year, I've been working closely with stakeholder groups, local residents and Ryde and Parramatta councils on local parks and sporting facilities in need of State Government funding. I'm pleased to announce we've secured five projects, including Mobbs Lane Playground upgrade, of \$36,000, the Waterloo Park playground upgrade, for \$160,000, and Marsfield Park amenities upgrade, for \$110,000, and the basketball court upgrade and seating, \$60,000, and the basketball amenities upgrade, \$34,000.

That looks nothing like the original commitment that was made. When we start talking about projects, it's always about the overarching commitment, which was the \$400,000 per seat, and ensuring that no matter who got elected into that seat, that that was delivered, which is done—tick—to community groups, parks and playgrounds.

The Hon. MARK BUTTIGIEG: That was purposely designed to even out the political benefit. In other words, Mr Lane, who is the member you're talking about in Ryde, can now go to the next election saying, "I had a role in delivering this," even though he probably didn't have much of a role. The point is he gets a political benefit regardless of his persuasion. That was the whole point of the program, wasn't it?

CHERIE BURTON: The point of the program was to take the politics out, and to give faith back to the community and say that, no matter how you vote—democratic vote—you will get \$400,000 for either community organisations, NGOs or parks and playgrounds. Of course, the nature of them had to change when they were going through that process. Organisations had to withdraw. Some councils didn't want to spend the money on whatever was earmarked prior to the election. Back to my point of earlier, where there's been a lot of discussion about the list, in the end, the bulk went through, but there might've been a couple of changes, based on the ability for the council or the organisation to deliver and ensuring that we were going to give every community \$400,000.

The Hon. MARK BUTTIGIEG: Any differential between what was committed prior and what was delivered post would either shake out by virtue of inability to deliver, for time frames or whatever, or probity checks. This idea that there was some sort of nefarious intention of this list appearing on paper to you and some sort of ulterior motive—you would have had a massive incongruence when you started ringing candidates to say, "What's this \$20,000 about? What's this \$50,000? We don't know anything." It would have shown up in those phone calls when you were actually asking them with their contact details what they're promised, and it's got to go through the probity checks, so there's a tight correlation between the original list and the final deliverables, notwithstanding those two criteria. That's basically it, isn't it, and that's borne out in the evidence?

CHERIE BURTON: Correct, and for the record I want to say that all of the stages were very separate. The election commitments were made; I was not a part of that process. The list was then compiled in the sense of what are the contact details and all of that. That was then given to the department. The department set up an independent process, which myself and the candidates were not involved in, and this is what makes it different to Community Building Partnership because with Community Building Partnership, the guidelines and everything is all built around it before it goes out to ask interested organisations, and the MP themselves are the assessor. With Local Small Commitments Allocation—and I really want to drive this home—they were election commitments made during an election, but the overarching commitment being that every seat had to get the same.

So of course there were a few things that may have changed between the election and the approvals, but the approval process was separate. The candidates were not involved in anything to do with the assessment or approval of any of these projects. I just wanted to go there, particularly in relation to the guidelines. The Cabinet secretary Kate Boyd did say in her answer in budget estimates on this very issue. She said:

... the grants guide itself does contain some guidance for agencies where a slavish adherence to the criteria wouldn't be in the public interest. There is clearly some flexibility around that, provided that it's appropriately documented.

I think everything, how they went through the approval process and everything, is available publicly. She said:

... 'if the grant doesn't quite meet the criteria, in any event we recommend that it be approved,' for example, and that advice and those decisions are all meant to be public under the guide, so there is transparency around that.

Which is what happened. There's a lot of transparency in relation to the approval and the taxpayers' money, which should be of any government, which is particularly true of ours. The main concern is that there was a probity process and that every bit of taxpayers' dollar that went out the door had gone through the community benefit test and had gone through the value-for-money test for taxpayers. As I've stated, you can see that all sides of politics have been very welcoming of these projects. She further goes on to say:

I think the important point is that each expenditure of public money has been independently accessed—

which it has—

by a public service agency, and a recommendation had been made to the Minister, who's the decision-maker—

which is what happened—

as to whether this expenditure is in the public interest.

It's a really important distinction to make that before the election and post-election, the assessment and the approvals were all done separately.

The Hon. MARK BUTTIGIEG: In fact probably unheard of compared to previous elections and campaigns.

CHERIE BURTON: Correct.

The CHAIR: That brings us to the end of our session. To the extent there were questions taken on notice or questions may be asked of you as supplementary questions, the Committee secretariat will be in touch. Thank you very much.

(The witness withdrew.)

(Short adjournment)

Mr HEATH JESS, Managing Director, Procurement Co, before the Committee via videoconference, affirmed and examined

Mr MICHAEL BATISTE, Principal Consultant, Procurement Co, before the Committee via videoconference, affirmed and examined

The CHAIR: I welcome our next set of witnesses. Would you like to commence by making a short opening statement?

HEATH JESS: I just wanted to provide some context, if that's okay. Our firm, following a competitive request-for-quote process, under the New South Wales Government's performance and management services probity services panel, were engaged on 25 July 2023 to provide probity advisory services. Procurement Co were not involved in the design of the LSCA program and, therefore, are unable to speak to any of the events that predate our engagement of 25 July as we are not across these activities or the decision-making process. Our scope items that we were engaged under contract to deliver were to prepare a probity plan for the program, review and provide comments on the LSCA program guideline, review and provide comments on the LSCA assessment plan, review any conflict of interest notifications, attend assessment panel moderation meetings, prepare a final probity report at completion of the program and provide advice on probity-related issues throughout the program.

The Hon. CHRIS RATH: Thank you so much for appearing today and for the work that you've done. Just to reiterate, you started on 25 July 2023 with your scope of work?

HEATH JESS: Yes.

The Hon. CHRIS RATH: You assessed the conflicts of interest that Labor candidates could potentially have. You reviewed 17 conflict of interest declarations by candidates. Is that right?

HEATH JESS: I'm not sure of the exact number, but we were given a list of conflicts by candidates and, yes, we reviewed those, and I believe the timing of that was that from 31 October to 21 November we were asked to conduct that review.

The Hon. CHRIS RATH: 2023?

HEATH JESS: 2023.

The Hon. CHRIS RATH: Who gave you that list? Was it the Premier's Department? Alison Morgan?

HEATH JESS: Yes, it was the program office.

The Hon. CHRIS RATH: At the election, there were 93 Labor candidates that committed funding to their electorates. Let's just say it was 17 or however many you were given. You weren't asked to assess all 93 of the candidates. It was a subset of that. That's right?

HEATH JESS: Correct.

The Hon. CHRIS RATH: The conflicts that you are asked to assess, were they self-declared conflicts?

HEATH JESS: I believe that those candidates had been provided a COI form and they were the conflicts that they had declared themselves, yes.

The Hon. CHRIS RATH: Of the 93 candidates at the election, it is possible that candidates may not have self-identified that may have had a conflict because you were only asked to look at the ones that you were given. You weren't asked to look at every single candidate that stood for election that made commitments.

HEATH JESS: Correct.

The Hon. CHRIS RATH: Outside of the conflicts of interest declarations that you were asked to assess, were there other probity or integrity measures that you were asked to look at beyond that?

HEATH JESS: I suppose the main element of our scope is supporting the assessment of the submissions. That would then come into attendance at the assessment annual meetings to ensure that they're in line with the assessment plan. Then, if there's any nominated conflicts by the assessment panel members, reviewing those. That's the majority of the scope we've delivered. It was only a few weeks, that COI process, of the nearly two years we've been engaged.

The Hon. CHRIS RATH: So value for money as well, as part of that process.

MICHAEL BATISTE: Value for money was a consideration by the independent assessors. As probity advisers, we don't contribute to or advise on the assessment process by the assessors.

The Hon. SARAH MITCHELL: Mr Jess, you said before that there were some that were supplied to you as conflicts of interest that needed to be assessed from a probity perspective, from your organisation. I think you said that only took a few weeks—I don't want to put words in your mouth—a short-ish period of time. Can you just elaborate a bit further? I'm sorry if I missed it, what other probity checks are you doing in relation to these projects, as opposed to just conflict of interest? What's the ongoing work, or what else was there?

HEATH JESS: That would be the majority of our scope. As the submissions go through the assessment process, we attend those assessment annual meetings to ensure that the assessment is in—that is, for all intents and purposes, the majority of the scope.

The Hon. SARAH MITCHELL: When you've got the independent assessors who are from within the department sitting there going through the project, you're there, or someone from your team is there, as well as a probity—

HEATH JESS: Correct.

The Hon. SARAH MITCHELL: Do you recall, or are you able to give any advice, in relation to some of the specifics? Have there been any conversations around particular seats, project scope changing, funding amounts changing, in those discussion with the assessors? Has that happened, to your recollection?

HEATH JESS: Not to my knowledge, no.

MICHAEL BATISTE: And not to my knowledge, either.

The Hon. CHRIS RATH: Were you ever asked to look into the commitments made in the electorate of Riverstone?

HEATH JESS: As far as the assessment of those applications, or conflicts?

The Hon. CHRIS RATH: In terms of the conflicts.

HEATH JESS: It would be purely in the list of councils we were given. Let me see. Riverstone, you say?

The Hon. CHRIS RATH: Yes, that's right.

HEATH JESS: Sorry, bear with me. No. It doesn't appear so on the quick review I just did.

The Hon. CHRIS RATH: Do you have the list there of which electorates or candidates you were asked to look into from a conflicts of interest perspective? Are you able to share them with us?

HEATH JESS: I can. Do you just want me to read through?

The Hon. CHRIS RATH: Yes, that would be great.

HEATH JESS: Sorry, I need the font up. So Blacktown electorate. Do you want the names of the MPs as well?

The Hon. CHRIS RATH: Just the electorates are fine.

HEATH JESS: Blacktown electorate. Camden electorate. Clarence electorate. Drummoyne electorate. Kiama electorate. Lane Cove electorate. Sorry, my PDFs not playing nicely.

The Hon. CHRIS RATH: If you want to take it on notice, it might be easier. You can provide the list to us on notice. That might be easier, rather than reading them all out now.

HEATH JESS: Yes.

The Hon. CHRIS RATH: Is it of any concern to Procurement Co, from an integrity perspective, that the projects themselves were most likely received on a list from Labor headquarters? This is in the pre-election phase, not any work that you did post-election, but in the pre-election phase there was a list that was compiled together of projects. Is that of any concern to Procurement Co?

HEATH JESS: Sorry, we didn't have any say nor did we review the design of the grant process. I suppose it falls outside the bounds of our particular engagement. The projects that were then submitted and those applications obviously assured they aligned with the assessment process, but at no time have we been asked to review anything pre-engagement.

The Hon. CHRIS RATH: Did anyone raise any concerns with you during your process outside of the conflicts of interest work that you had done, about the integrity of the scheme more broadly?

HEATH JESS: No, not to us.

The Hon. CHRIS RATH: I think that's almost everything I've got. I suppose, just in terms of, in the end, the projects that were knocked out, if I can put it that way, and then the ones that were determined as a moderate probity risk, what was the difference between the ones that—you identified quite a large number as moderate probity risk, but two I think you identified as a high risk, and they were essentially removed from consideration. What were the factors at play between a moderate and a high probity risk?

HEATH JESS: The key difference was if the official, them or their family, played a role in governance of the organisation in question, that had submitted an application, or if there was any type of potential financial benefit that may have resulted from that particular application. That is where it fell into "high".

The CHAIR: Can I just double-check, you were reading out the scope. Obviously you were brought on board on 25 July 2023. The program guidelines were published on 31 July 2023. You've said that you had no involvement in the structure of the grants program. Did you use those program guidelines or have any input into the program guidelines at all?

HEATH JESS: As part of our engagement, the guideline was provided, but I don't think we had any changes.

MICHAEL BATISTE: We were provided the draft guideline to review. There weren't any significant changes that we could identify, noting the design of the program at the time.

The CHAIR: I've been focused on section 3.2 of the guidelines, which talks about—in that very first dot point it says, "For a project to be eligible, it must have been nominated as an election commitment prior to the March 2023 election." I've been trying to find out how that aspect of compliance with the guidelines has been checked or ensured. We've heard from prior witnesses that really it was on the basis of what the Premier's Department or the Premier's office had sent across to them. Then that was sort of assumed to then be, as Mr Rath keeps saying, a sort of single source of truth, but that was then the list of election commitments. Did you look at all into that aspect of compliance with the guidelines? Did you have any thoughts around the way that that had been drafted, as well?

HEATH JESS: That particular compliance check was something that was conducted by the program office, rather than ourselves. We didn't actively, as part of our scope, check whether that aligned. Those core components about whether a project's eligible or not fall to that first round check from the program office.

The CHAIR: There were a lot of Labor candidates who were also councillors where grants were being proposed as pre-election commitments—not in the overflow bit that went in afterwards but during the pre-election commitment stage—that were proposed to go towards the council that they were currently sitting on. Was that something that was considered in those conflict of interest checks?

HEATH JESS: In the conflicts, it was. It was considered that that was part of their duties in their roles as a councillor and also because of political affiliations or community affiliations with most candidates. So it seems, one, part of their role that they would have been involved with council, and, two, the mitigation for those particular issues is any of the candidates are in no way involved in the assessment process. They therefore have no say on what's a good project as far as the assessment process. They still need to go through—scored against that criteria by the assessment panel.

The CHAIR: Did you look at all into Ryde? Was that an electorate that you had any cause to look at?

HEATH JESS: Is it City of Ryde?

The CHAIR: Yes.

HEATH JESS: Is this in the Lane Cove electorate?

The CHAIR: It says here a Ryde candidate, but it must be Lane Cove—apologies.

HEATH JESS: There were some conflicts raised in regard to the Lane Cove electorate.

The CHAIR: I understand that in relation to the allocation that was proposed to the City of Ryde council, the council came back saying this was going to cost a lot more than the amount that had been first proposed. I think it was going to be in the order of \$15 million. There was then some sort of back-and-forth with the council about coming up with another project that could fit within that amount.

MICHAEL BATISTE: That's not part of the conflict of interest work we did. I don't recall us being involved in any conversation between the Premier's Department and the council about that.

The CHAIR: What was the conflict of interest that you were looking into in terms of that particular allocation?

MICHAEL BATISTE: It wasn't to do with the allocation.

HEATH JESS: It was in regards to that they were a councillor, I believe.

The CHAIR: If you've got a candidate in an electoral area spanning three different council areas but they've decided to allocate or suggest that money be allocated to the council they happen to be sitting on, how was that considered in terms of the probity risk or conflict of interest assessment that you were doing?

HEATH JESS: That was outside our scope, that consideration.

MICHAEL BATISTE: The design and the allocation of funding was outside the scope of what we were engaged to advise on.

HEATH JESS: The question is to what projects were put forward by each candidate. Once again, I spoke to the initial design, which we weren't part of nor were asked to [inaudible]. We weren't asked probity advice on a per-project basis. Effectively, the assessment process goes through that. We ensure probity of conflicts and any deviations from their proposals.

The CHAIR: Was there any consideration given in the conflicts of interest factors to the fact of where this had originated from? Did it make any difference that these were suggestions that were coming out of an election campaign, as opposed to in the ordinary course, where a member might propose one of their local groups for an allocation? Was there any consideration of the fact that this was a commitment during an election? Did that matter for conflict of interest?

HEATH JESS: For our particular scope, the program had been approved and was in place. We were never asked to go back and review any of that in regards to the design of the process. Purely as far as our engagement and what we were focusing on, it was ensuring that each submission, whichever council it is or whatever program, aligns with that assessment process.

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

The Hon. MARK BUTTIGIEG: Thank you both for appearing. I just want to flesh out some of your understandings. My understanding is the Special Minister of State identified the electorates which subsequently went through to you two to do probity checks, on the basis that potential conflicts were raised with him. Then he added a layer whereby if you are both a sitting councillor and a candidate, you would be brought into that net too. That's how he distilled those electorates that came to you. Is that your understanding?

HEATH JESS: We weren't provided with that context. It was purely "We would like you to undertake conflicts of interest for a particular candidate."

The Hon. MARK BUTTIGIEG: Can you walk us through the process of determining the conflicts, maybe giving us an example of the various gradients of conflicts and the threshold for "We recommend this one doesn't get funding"—just so we're right across the process.

HEATH JESS: Once again, we never recommended that any project doesn't get funding. We just nominated conflicts and then what happened with that process after that was once again for the assessment process to conduct. In that time frame, end of October 2023, we were provided a document, which was the "Process for engaging with local MPs and Labor candidates to complete a declaration of any interests in nominated projects". Within that document, four key conflicts were nominated. They were nominated and categorised against various conflicts. Based on those four key conflicts which were raised and the actions and mitigations, we ranked those against three bases: a low risk, a moderate risk and a high risk.

Low risks were deemed to not be conflicts, or perceived conflicts only, and didn't require further action or treatment. That might have been a volunteer for the party who works for that organisation but has no actual direct connection from the MP. The moderate risk, those require further consideration. However, through the assessment process and the fact that the MPs have no direct involvement with either the assessment or the approval process, any potential conflicts were mitigated through the program in its design. The high risks were deemed to be actual conflicts of interest. It's those examples given before: the person in question is part of the Government, so that particular organisation, or it could be potentially perceived, may benefit financially.

The Hon. MARK BUTTIGIEG: I think one example of that last category, the high risk, would be the Tamworth example, on which the witness gave evidence earlier this morning. That was on the basis of the fact that, irrespective of the fact that there was no pecuniary interest, she was a delegate from the council to Landcare in this case and therefore had perceived conflicting roles between her candidacy and her role on that body to gain potential funding. I think the decision was made that that was high and therefore the Government's decision was that the money—it's pretty rigorous stuff, isn't it?

Because if you look at it purely based on the mechanics of it, that's an organisation which in this case was a not-for-profit doing good community work—in this case the money was hypothecated to koala preservation—but notwithstanding the fact that it was going to a good use and she didn't get paid, it was still deemed to be high-risk and therefore the Government knocked that parcel of funding out. That's a pretty rigorous example of where that probity process criteria served up by you and then used by the Government to say, "They're not qualifying for the funding"—that would be pretty good process, I would have thought.

HEATH JESS: I would say yes, and the COI process didn't look at the merits of a project because it wasn't in our scope. It was very much the probity question.

MICHAEL BATISTE: There was the conflict of interest declaration assessment that we've spoken about and there's been questions on, and from that there was still a probity risk identified and a probity recommendation. When every project was then submitted, it still went through the assessment process, so it was still assessed by the independent assessors. It was given a "recommended for funding" or "not recommended for funding" based on the guidelines of assessment, but then when you combined the assessment recommendation and the probity risk recommendation, those two recommendations went together to the Special Minister of State for him to consider.

The Hon. MARK BUTTIGIEG: Sounds like a pretty rigorous process.

The CHAIR: I think that's all we have for now. Thank you so much. That's been incredibly helpful. To the extent there were questions taken on notice or there are supplementary questions, the Committee secretariat will be in touch, but that concludes this session. Thank you.

(The witnesses withdrew.)

Ms RACHEL McCALLUM, NSW Electoral Commissioner, affirmed and examined

The Hon. ARTHUR EMMETT, AO, KC, Chair, NSW Electoral Commission, sworn and examined

Mr HUGO BERGERON, Executive Director, Funding Disclosure and Compliance, NSW Electoral Commission, affirmed and examined

The CHAIR: Thank you very much for coming along this afternoon. Would you like to commence by making a short opening statement?

RACHEL McCALLUM: No, thank you.

The Hon. CHRIS RATH: Thank you for coming today. Good to see you again, Ms McCallum. We have to stop meeting like this. I think it's three times in three weeks. I wanted to first ask about election commitments. My understanding is that there's no conflict of interest register or declaration at the moment that candidates need to make when they announce election commitments for funding or projects or things like that. Would it be feasible to establish such a register, not to track every single electorate and every single candidate, but more if candidates identified a potential conflict in the funding decisions that they were announcing during an election campaign?

RACHEL McCALLUM: I'm assuming that you're asking whether it would be feasible to establish one that the Electoral Commission might have some role in administering?

The Hon. CHRIS RATH: Yes, that's right.

RACHEL McCALLUM: I suppose my answer to that is it is feasible, but how easy it might be to administer for us would depend upon the way the legislation was drafted and the funding provided. I wouldn't see it as necessarily something that would be relevant to the administration of an election or indeed even if we're thinking about conflicts of interest that might arise if the candidate were to be elected and form part of a decision-making process from government. If that's the sort of conflict that we're talking about, it isn't necessarily similar to the other kinds of administration around the integrity of the election. But at an "Is it possible?" level, yes, it would be possible.

The Hon. CHRIS RATH: Yes, I think more for the election campaign, so pre-election rather than post-election that a candidate, if they felt they had a potential conflict with an election commitment, that they could potentially self-declare it and it could be on the Electoral Commission website as a type of declaration that they could make, which they currently can't do at the moment.

RACHEL McCALLUM: Yes, there are some pre-election disclosure requirements already in the State context, so it is possible to introduce some kind of disclosure regime, I suppose, in relation to that.

The Hon. CHRIS RATH: Do you mean the Parliamentary Budget Office and things like that?

RACHEL McCALLUM: No, I mean in relation to donations, pre-election donation disclosure.

The Hon. CHRIS RATH: Good point. What kind of enforcement mechanism would be necessary to back up such a register to ensure declarations would be forthcoming? I assume it would have to be self-declared rather than the commission looking through every candidate, which would be too onerous.

RACHEL McCALLUM: I might take that on notice, but I might just say now that it depends whether it was—if you're talking about enforcement, what are we enforcing? Are we enforcing the obligation to disclose a conflict or the failure to disclose a conflict? Or were we being asked to look into what actually emerged after the election and investigate that situation? I think that's quite different from "Was a conflict disclosed or not?" In that case, the current scheme in relation to the disclosure of donations has a regime which the Electoral Commission, rather than myself as Electoral Commissioner—I am a member of the Electoral Commission, and Mr Emmett's the Chair of the Electoral Commission. So it would fall on the commission itself to determine how best to go about compliance and enforcement action, if there was a requirement to disclose this.

The Hon. CHRIS RATH: Thank you. I think it's one of those things where it might not necessarily be a punitive thing. It's more like, if you're a candidate, for instance, and also the president of, say, the hockey club, and you know that that hockey club needs \$100,000 for new lighting to play at night or something like that—there's no mechanism at the moment to declare that conflict during the election campaign. So you can make the announcement, but you can't really declare it. I suppose it's probably up to political parties to do their own declarations. But the Electoral Commission doesn't have any role in that as of yet, I assume?

RACHEL McCALLUM: No, not now.

The Hon. CHRIS RATH: Did the Electoral Commission ever receive any complaints regarding the Local Small Commitments Allocation during the 2023 State election?

RACHEL McCALLUM: My understanding is we did not.

The Hon. CHRIS RATH: What rules currently exist for the use of funding or spending pledges that might be presented on election signage or in promotional material, including online? Does the Electoral Commission have any role in terms of political material that might be distributed that announces spending promises?

RACHEL McCALLUM: The extent of the Electoral Commission's role in relation to electoral material is looking at whether it is complying electoral material in accordance with the Electoral Act. I can't think of any section of that provision that would go to the question of the funding commitments that any political party might make in relation to their campaign.

The Hon. CHRIS RATH: I know the Electoral Commission doesn't have powers regarding things like pork-barrelling, for instance, but is there a point where pork-barrelling could get so bad that it could become bribery in a sense, and the Electoral Commission might step in or have a role?

RACHEL McCALLUM: I hesitate to ask for clarification on what pork-barrelling is, but—

The Hon. CHRIS RATH: Everyone's got their own definition.

The Hon. MARK BUTTIGIEG: That's for sure.

RACHEL McCALLUM: —if what you mean by that is promises by any participant in the election about funding commitments that might be made were they to be elected, then I think we would be guided by the Electoral Act and look at those through the lens of the electoral bribery offence in the Electoral Act and whether or not the public statements made or the commitments made were consistent with the exceptions that exist in that provision. As you're probably aware, there is an exemption in relation to declarations of public policy and statements about public action. Most election campaign commitments about what might be done if the person was elected, in relation to funding and announcements that are made during a campaign, would, in our view, fall within that exemption. But if someone were to make an allegation about that, we would obviously look at each matter and consider whether it was within the scope of that provision.

The Hon. CHRIS RATH: I assume there are already laws in place to ensure that you can't buy votes, in the sense of giving gifts to an individual on the basis that they come and vote for a particular candidate. You could promise to give money to their community group that they might be in or grant funding to their business or industry group or something, which is completely legitimate, but you couldn't then promise money to an individual for their own benefit. I suppose it's where that line gets crossed which indicates whether it's an issue for the Electoral Commission versus not an issue for the Electoral Commission—which might get murky at times as well.

RACHEL McCALLUM: Well, yes. I would perhaps draw the attention of the Committee to section 209 of the Electoral Act, which does set out what the elements of that offence are and what the exclusions are as well. That does deal with some of the issues. We would be analysing any allegation or views that we took with reference to that section.

The Hon. CHRIS RATH: Are there any penalties or enforcement after the election where candidates that weren't elected are posing in some way as the elected representative? For example, if there are candidates that fail to get elected but then after the election are in some way posing as the elected representative, is there any penalty or enforcement mechanism that the Electoral Commission has in place for trying to prevent that from occurring?

RACHEL McCALLUM: I'm not aware of any, but if I could, unless my colleagues here would like to—

ARTHUR EMMETT: There's section 237. The Court of Disputed Returns can declare an election invalid if there's been a contravention of section 209, I think.

The Hon. CHRIS RATH: Right.

RACHEL McCALLUM: I will add to that. I could take on notice the part about whether there is a specific offence that covers the conduct that you mentioned, as I understand it. I'm not aware of one. But I must also say I haven't ever come across that before. I will take that on notice, if that's okay.

The Hon. CHRIS RATH: Yes, sure. Say you run as the Liberal candidate for Sydney, or something like that, and then, after the election, when the election has concluded—at what point do you no longer hold that title or position to campaign in? Could you take that on notice? You haven't been preselected by your party for the 2027 election, for instance, but the election has concluded in 2023. At what point does your role end as an election candidate?

RACHEL McCALLUM: I might take that on notice as well. The Electoral Commissioner does declare the election. But I might take your question on notice, because there's quite a specific element to your question that I might be able to elaborate on, on notice.

The Hon. CHRIS RATH: I have one final, broad question. What oversight, if any, does the Electoral Commission have over party election strategies and campaigning? I know the Electoral Commission in the past has been hesitant to get too involved in truth-in-political-advertising-type things. But what powers do you currently have when it comes to election strategies and campaigning, in terms of the communications that are put out there by political candidates and political parties?

RACHEL McCALLUM: The powers that we have in relation to campaign strategies are quite limited. It is confined to those provisions in the Act that regulate electoral material, as I mentioned earlier, and also, I would add to that, statements that might falsely convey that the person making the statement was from the Electoral Commission. But beyond those elements, it is an administrative role in relation to registration, nomination and ensuring that those electoral material rules are followed. There are powers in relation to the conduct of people at polling places or around voting centres as well, which, to me, don't have an immediate relevance to your question of course there.

The CHAIR: I might pick up on the point about section 209. I have been trying to grapple with it and come to grips with its application. When I look at this, there is a broad scope of things that fit within using public money for electoral gain. Some of it we would call pork-barrelling, some of it we wouldn't and perhaps some of it has to do with when it is made in an electoral cycle—I don't know. But when we look at section 209, it has got those exemptions, including for an announcement of public policy. I imagine that everyone gets out there and says, "We'll build this new school in this electorate if we form a government." There is also the promise of public action. Does a promise of public action need to be a public promise of public action, or can it be a private promise of public action?

ARTHUR EMMETT: It's a legal question that I don't think we're in the position to answer.

The CHAIR: Have there been any previous cases where we have looked at section 209, or is there policy guidance or any kind of guidance that you've ever put out that talks about how to be careful around that? I can imagine that if you are going around saying to people, "Look, if my party gets elected, I'll give you \$100,000", that could very easily be interpreted or misinterpreted as a vote-buying exercise. Where is the line and how do political parties make sure that they're not falling foul of it?

ARTHUR EMMETT: That example doesn't really sound anything like public policy or public action.

RACHEL McCALLUM: If I could add to that, I will take on notice whether we have ever put out anything as guidance. I might take that on notice, if I can, to check whether there has ever been any public guidance related to this. I'm not aware of any that we've issued since I have been there, but that's only been since December. I will take on notice whether there has ever been any explanation given publicly about how political participants should contemplate what that exemption for a public act or declaration of public policy might be. It is fair to say that it is a broad exemption from the offence provision. I will see whether or not we've ever put out anything that might serve as a guidance. As I said, I'm not aware that we have.

The CHAIR: Another scenario that has been posited but—I will be clear—has not been proven or substantiated by this Committee is the supposition that some of the payments and grant amounts were being proposed to community groups in return for some sort of quid pro quo, for example, access to a forum where people could talk to a particular group of voters. In one case, the suggested—and unproven—quid pro quo was that if the group would help the candidate campaign, they may get the money. In another case—these were all reported in the media but are, again, unsubstantiated—it was the idea that if the candidate gave a particular organisation money, that organisation would stand and have photos with them and say, "Vote for this person" ahead of the election. Even if it wasn't explicit, there was an implicit quid pro quo. Would that sort of scenario concern you from a section 209 perspective?

RACHEL McCALLUM: I think there is a number of different potential scenarios that you outlined there. I might give the answer that we would ordinarily give in this situation, which is that we would have to look at each scenario separately and consider—in light of our compliance, enforcement and prosecution policies—whether that particular fact situation merited us going any further or considering whether the specific allegation that there had been some benefit bestowed on the candidate that is beyond the general approval of their community would warrant us thinking about the electoral bribery offence. Because I think each could be quite different. We would have to potentially think about—not that any of these situations necessarily raise it—whether there had been any electoral funding element to those additional activities that the recipient of the promise, if you like, has received. We would look at it from both those angles. I wouldn't like to say that any of those particularly concern

me. We would have to look at each scenario to check that they were, in our view, compliant with what the existing law is.

The CHAIR: One of the reasons that I was very keen on this inquiry being established was to have recommendations that would guide the next election. It would be good to have a set of guardrails to make sure that a party doesn't fall foul of section 209. I am thinking about what every party can do to make sure it is all very, very clearly above board. Are you in a position, even on notice, perhaps, to come back with any sort of input into what those recommendations might look like in terms of ensuring that those types of allegations can't be made in the future?

RACHEL McCALLUM: Yes, I can take it on notice. I think our answer would need to consider—there are policy questions there about the question of to what extent it is appropriate for all political participants to make promises in order to attract people to their cause. It's not something that the Electoral Commission itself would probably wish to comment on. What we would always prefer is that there is as little ambiguity as possible in the relevant offence provisions and that those provisions remain current and fit for purpose in relation to the current campaigning activity that we may be required to administer. As long as the legislation is as clear as it can be, we will administer that, of course, according to that legislation. I wouldn't think I would want to comment on what type of conduct should, in fact, be prohibited or where the line is in relation to promises that are made that relate to financial or other similar gains that are linked to voting.

The CHAIR: I guess what I am more interested in is not you saying where that line is, but us making some recommendations that inform best practice—things like making it very transparent or open. Maybe those things are quite obvious. I would like to make it very clear what is happening and what arrangements there are.

RACHEL McCALLUM: Perhaps what we could take on notice is some views on what amendments, if there were to be amendments, might be operationally feasible for us to administer, bearing in mind that these things sometimes need to be administered during election campaigns. There is that added aspect of time as well.

The CHAIR: This question is a little theoretical or philosophical, but bear with me. A lot of the existing laws appear to be very much based around the idea of what I would call the old two-party system. The party landscape has changed over the past 20-odd years. The idea of a candidate being able to say, "I may not get elected, but if my party is elected into government, these things will come into your area by my say so," in a landscape where there are Independents and minor parties who are not going to form government and don't have that same control over resources, to your knowledge has that changing landscape been considered in any of the calls for reform of our electoral laws? Is it something that has played a role in determining whether something is maybe not pork-barrelling, in the area of your expertise, but I guess currying favour for votes?

RACHEL McCALLUM: Not to my knowledge. That hasn't been an issue that I've come across in any way.

The CHAIR: I thought I would posit it. Mr Emmett, did you have anything that you wanted to add to any of those answers?

ARTHUR EMMETT: Really only this: the exception in subsection (4) is very vague, and it would be highly desirable for it to be more specific in terms of defining what is meant by "public policy" and "public action" in those circumstances. As the commissioner says, it really is a question of policy as to how far you go, and it may well be the commission can give some indication as to the difficulties that it would have in administering such a provision. But it really does require perhaps the same philosophical thought that you're referring to, to decide just what the extent of the exception should be. It clearly needs some tidying up. And the fact that you've got this Committee is perhaps the best example or the best explanation for the need to be more specific as to how far the exception is intended to go.

The CHAIR: Mr Bergeron, did you have anything that you wanted to add?

HUGO BERGERON: Nothing else, no.

The CHAIR: Thank you. That's been very useful. I will hand over to the Government.

The Hon. MARK BUTTIGIEG: Thank you all for appearing. I might ask you to tease out where we stand currently and where we might go, in this world that has just been articulated. The problem I see with a lot of this stuff is: Where do you draw the line? How difficult it would be for the Electoral Commission to be put in a situation where, effectively, you could be circumscribing the democratic process to the point where candidates might say, "I would love to be able to deliver XYZ, but I can't actually promise anything because I would fall foul of the Electoral Act." I just hope we're not going into that territory. I think, Ms McCallum, you referred to it before in respect of donations from developers in particular. Can you walk us through where that line is drawn at the moment, in terms of your jurisdiction?

RACHEL McCALLUM: Yes. In brief, there are donations that cannot be made, which I think is what you're referring to there.

The Hon. MARK BUTTIGIEG: Yes.

RACHEL McCALLUM: More generally, there are caps on donations and there are disclosure requirements in relation to donations. The definition of a donation specifically excludes some things, but, in effect, it's a gift that involves a disposition of property—that's at its most general. There is a longer definition in the Act. In the electoral funding jurisdiction there are, as you're all aware, registration requirements, and then there are ongoing disclosure requirements in relation to those donations. The commission has a compliance and enforcement function in relation to both meeting those disclosure obligations and, from time to time, determining whether a donation has been unlawfully made or received.

The Hon. MARK BUTTIGIEG: That is very much an effort to stem or eliminate the direct pecuniary benefit of someone seeking to gain financial advantage—for example, a developer—by giving money to a political party for certain outcomes that would favour their financial interest. How do you compare that to this scheme, which was a suite of promises of \$400,000 per electorate, which were to be delivered post election for every single electorate regardless of political persuasion? Do you have a view on that? I mean, it seems to me as though some of the questioning was trying to blur the lines between what we've got now and what happened in that last election. They're completely different universes, in my mind. I just wanted to get the view of the Electoral Commission on that.

RACHEL McCALLUM: Perhaps my colleagues could add to this, if they wish to. I'll start by saying I wasn't meaning to draw similarities between the actual promises made and prohibited donations. That wasn't what I was intending when I mentioned electoral funding before.

The Hon. MARK BUTTIGIEG: No, I wasn't suggesting you were. I was suggesting that some of the questioning previously might have tried to conjoin those two different worlds.

RACHEL McCALLUM: Yes. I don't see any specific link there to the donations regulations scheme that we have right now. My earlier reference to electoral funding was more in relation to one of the fact scenarios that was about what recipients of those promises or beneficiaries of those promises might do in response to that. I don't see any particular alignment between the promises that are made by candidates in this scheme, or more broadly, and the prohibited donors.

The Hon. MARK BUTTIGIEG: Are there any other jurisdictions where oversight and enforcement bodies analogous to yours—in other words, electoral commissions elsewhere—have the power to delimit election promises based on perceived conflicts? Are there any other jurisdictions that are doing this now?

RACHEL McCALLUM: I'll take on notice the aspect that relates to electoral funding, if I may. If you mean more broadly: Are there jurisdictions which look at campaign promises? Yes, there are. The ACT and South Australia both have a truth in advertising scheme. So, from that angle, yes, they do have jurisdiction over the content of promises that are made during campaigns. In that respect, they do.

The Hon. MARK BUTTIGIEG: But, in a hypothetical situation where that was applied in New South Wales, would this particular program have fallen foul of the truth in advertising?

RACHEL McCALLUM: It would always depend on how that were drafted. But it doesn't immediately strike me that it would, because it's an election promise which is not necessarily false or demonstrably false. It is difficult to see how that would fall foul of any—but it would depend on how it was drafted, of course. But I would think it would be difficult for any Electoral Commission to say, at the point in time that a promise was made to fund a particular project or to build a particular bridge et cetera, that those things were not truthful at the time.

The Hon. MARK BUTTIGIEG: Do you have anything to add, Mr Emmett?

ARTHUR EMMETT: Only in relation to that last point. It's a question that arises in relation to consumer protection legislation. A promise is not of itself false. It might be broken, but it won't be false unless, at the time when the promise is made, the promisor has no intention of fulfilling it. Hence the consumer protection legislation has a deeming provision that says if you make a statement about the future, it's deemed to be false unless you have good grounds for making the statement that it will happen in the future. Truth in advertising is a really difficult question as a matter of policy. I don't know how it works in South Australia or the ACT, other than that the previous commissioner reported to the New South Wales commission that information from his counterparts in the other States indicated it took a great deal of time without achieving a great deal. But that's always the problem when you try to deal with these things in the short space of an election campaign.

The only other observation I'd make is in relation to the comments about developers. In a sense, the prohibition on developers is based on an assumption, which might be right or might be wrong, that developers give money only in order to get a return back. There may be any number of other people who may give with the expectation that it is going to be returned. It may well be that one way of amending the provision is to go through and say how many people have an interest in the government doing something if they're elected, in the sense that the whole community does.

The Hon. MARK BUTTIGIEG: Indeed.

ARTHUR EMMETT: That is the difficulty that you have. As I said when addressing the Chair, the question really does depend upon adding some more flesh to the skeleton of subsection 4. Just how far, as a matter of policy, does the Parliament think the exception should go? It leaves a great deal of flesh to be put on by a judge who is hearing a prosecution under section 209 or the Court of Disputed Returns who is hearing an application to declare an election invalid because of a contravention of section 209.

The Hon. MARK BUTTIGIEG: Going back to your first point about the truth in advertising lens, if you applied that to this program, where lumps of \$400,000 were promised to various projects in every electorate across the State to be delivered, it could hardly be seen as falling foul of a truth in advertising lens, could it?

ARTHUR EMMETT: Probably not, as long as, at the time when the promises were made, the promisors—the party or individuals who made the promises—had a reasonable basis for expecting that the promises could be fulfilled if the government were elected. That is really the problem with a promise, as distinct from a statement of fact. One hears commentators talking about politicians lying because they've broken a promise. To break a promise is not a lie—it might be dishonourable, but it is not a lie to promise to do something if you intend to do it but then, for whatever reason, change your mind.

The Hon. MARK BUTTIGIEG: Mr Bergeron?

HUGO BERGERON: I have nothing else to add.

The CHAIR: If there are no further questions, that brings this session to a close. Thank you so much for coming and offering your expertise. It has been very useful. The Committee secretariat will be in touch about any questions taken on notice or any supplementary questions. Thank you.

(The witnesses withdrew.)

Ms LYNDAL HOWISON, 2023 Labor Candidate, Ryde, sworn and examined

The CHAIR: I now welcome our next witness. Thank you very much for attending. Would you like to start with a short opening statement?

LYNDAL HOWISON: No, I am happy to go to questions.

The Hon. CHRIS RATH: Thank you, Ms Howison, for coming today. You committed \$400,000 to the Korean Cultural Centre during the election. Who did you discuss that proposal with in the lead-up to you making that funding announcement?

LYNDAL HOWISON: Just to clarify, when the announcement was made, it wasn't called the Korean cultural centre. It was called the cultural centre. The site that was planned for the cultural centre was in what we now call Koreatown in Eastwood on Rose Street East. In the lead-up to the council election, I discussed that idea with former councillor and current Federal MP Jerome Laxale and someone who was a councillor at the time, Bernard Purcell. They had both been involved in the idea, which was a project that was in the council's halls and facilities strategy and had been sitting there for several years without any funding and prioritisation under the current leadership of the council. We proposed that that quantum of funds could be quite significant in terms of pushing that project forward, because it had been on the council's books in terms of being part of a long-term strategy but it hadn't been pushed forward in recent years.

The Hon. CHRIS RATH: In terms of the Local Small Commitments Allocation program generally, you obviously put forward one project, which was for the full \$400,000. Did you then have to communicate that to somebody for approval from Labor head office or the office of the then Leader of the Opposition?

LYNDAL HOWISON: Yes, but I didn't do that personally. That would have been done, probably, by my campaign manager. I know that it went into that general approval process. But it wasn't a process that I managed personally.

The Hon. CHRIS RATH: The project has now been essentially knocked out. Why is that?

LYNDAL HOWISON: I am really disappointed to see that that project has been knocked out, essentially. I would reiterate that the project existed in a long-term strategy that the council published in 2019. It still does. The halls and facilities strategy still exists on the council's website. A cultural facility in Rose Street East is named in that strategy as being a future facility for the City of Ryde. There are a couple of reasons. From the earliest days, the current leadership and senior managers of the council were not supportive of the announcement. Those people are different to the ones who were in leadership at the time the project received unanimous support in 2019, when that strategy was endorsed by council. That resolution passed unanimously. Some of the people who are currently in the majority of the council voted for the strategy that included that project.

I think it has fallen out of favour for political reasons, unfortunately. There is documentation that shows that initially the council's CEO applied for the funds to be put into general use on the basis that the project wasn't part of the council's operational plan. That doesn't really make sense to me personally because a project would never be in a council's operational plan if it didn't have an identified funding source. The purpose of my announcement was to provide funds to a project that did not have an identified funding source. Later, in the subsequent application, the word "construction" was included in the application. Demonstrably \$400,000 is not enough money to construct a cultural centre. I can't explain why the application was framed in that way.

The Hon. CHRIS RATH: In terms of that, when you made the commitment for \$400,000 for the cultural centre, you knew that it would never be enough to actually build the cultural centre, and certainly it wouldn't be built within two years, which was part of the program's guidelines. It had to be delivered within a two-year time frame. Why did you make that announcement if you knew that it was never going to be enough money, and certainly not within the time frame that it needed to be delivered in?

LYNDAL HOWISON: The announcement was for planning and design of the cultural centre. We were always very clear in the formal documentation—I'm happy to table the letter that was published at the time of the announcement, which says that the Minns Labor Government will fund the planning work needed for the project. That's \$400,000 for planning and design.

The Hon. CHRIS RATH: Yes, it's a little bit misleading, though, isn't it? In your social media post on 17 May 2023, you say, "That's why I'm so proud that a Minns Labor Government will build a new cultural community centre in Eastwood." You make it sound like you're going to build the cultural community centre in this—you're aware of this?

LYNDAL HOWISON: I am aware of that, yes. It's March, not May.

The Hon. CHRIS RATH: Yes, sorry—17 March 2023.

LYNDAL HOWISON: I think I've already got it, actually.

The Hon. CHRIS RATH: I can table it if you need it.

LYNDAL HOWISON: That's the letter that I was going to table, not the social media post. That social media post could be more precisely worded. With the benefit of hindsight, it would have been more clearly stated. But the formal correspondence about the project was very clear that the funds were for planning and design. In the graphic, it's clearly stated it is "\$400,000 for planning and design". That social media post was produced by the central communications team and not produced by myself or the local campaign team, so I don't actually recall seeing it before the election.

The Hon. CHRIS RATH: But you were leading the Korean community locally into believing that they were going to get a new community centre, built by the Minns Government, knowing that \$400,000 was never going to be enough—certainly not within the two-year time frame—and then not clearly explaining that it was merely for planning and development. Isn't that a fair assertion of what happened during the election campaign?

LYNDAL HOWISON: I think you'll forgive me for not accepting that that's a fair assertion. The formal correspondence is very clear that the \$400,000 was for planning and design. It's about moving the project forward and making a statement of support and commitment for that project. The people in the room when the announcement was made were very clear that this was a necessary first step—it was a necessary precursor. Currently the site that's in question—which is a council owned site, a car park—has been constructed with the necessary foundations to allow for this future extension, but it had never been progressed since the car park was finalised. We wanted to move it forward, and we wanted to get the height restrictions adjusted, so we committed \$400,000 for planning and design.

The Hon. SARAH MITCHELL: Ms Howison, you referenced the graphic in the social media post. It very clearly says in the graphic, "Vote 1 Labor for a new cultural centre in Eastwood." I appreciate what you said about it not being worded as well in hindsight, but, to me, that looks clearly like, "Vote for us and you will get this cultural centre." In reality, you never had the money to build the cultural centre, did you?

LYNDAL HOWISON: The commitment we were making was for planning and design.

The Hon. SARAH MITCHELL: But it doesn't say, "Vote 1 Labor for planning and design for a new cultural centre." I think that's very misleading to the average punter who would see that on your social media.

LYNDAL HOWISON: The wording is directly underneath—" \$400,000 for planning and design". The statement that we will build it was a statement of intent. I acknowledge that it could be more—

The Hon. SARAH MITCHELL: But you had no funding. You had intent but no money to build.

LYNDAL HOWISON: We had funds to deliver the planning and design, and that was always the intention.

The Hon. SARAH MITCHELL: But you didn't have money for capital to actually build the centre, just to be clear?

The Hon. CHRIS RATH: And who authorised this?

The Hon. SARAH MITCHELL: Sorry—just for Hansard, did you have capital money to build the centre?

LYNDAL HOWISON: We had \$400,000, part of the Local Small Commitments Allocation, and we committed to fund the planning and design.

The Hon. SARAH MITCHELL: But there was no capital money to build the actual centre.

LYNDAL HOWISON: One point I'd make about that is that the budget is still unclear for that. There's a number in the more recent correspondence from the CEO about how much it would cost to build.

The Hon. SARAH MITCHELL: I appreciate that, but, as the candidate before the last election, your \$400,000 was for planning. It was not for capital delivery. Is that correct?

LYNDAL HOWISON: Correct.

The Hon. SARAH MITCHELL: Thank you.

The Hon. CHRIS RATH: Who authorised this particular social media post that was eventually put up?

LYNDAL HOWISON: It would have been the central campaign team.

The Hon. CHRIS RATH: Was anybody connected to this particular project—for example, a donor towards your local campaign in Ryde?

LYNDAL HOWISON: Not directly, and not in any significant way that I know of. I couldn't guarantee that nobody who was connected to this campaign donated to the campaign, but there was certainly no nexus between the announcement and any donation.

The CHAIR: To finish off on that, just so that I am clear as well, I understand that the council have ended up saying that it will cost about \$15 million to build. Is that correct?

LYNDAL HOWISON: That is correct. An earlier number from 2019 is \$3.8 million. I appreciate obviously that we have been through a significant period of inflation and that construction costs have been elevated. But the reality is that we don't know how much it would cost to construct it at that moment, and we wouldn't know until we did the planning and design process.

The CHAIR: Is the main reason the project was knocked back because of the amount of time it would take? Is that correct, do you know?

LYNDAL HOWISON: I think it's still unclear. I know that the council CEO from the earliest days said, "I would prefer not to fund this project and move it forward," despite the fact that it's in the strategy. Later, when there was a council resolution—again, a universal council resolution—to support reapplying for these funds, the letter was different to the actual funding application. The letter said "planning and design", and the funding application included the word "construction". Demonstrably, \$400,000 is not enough to construct a cultural centre. I know that, and I think everyone that views the communication understands that as well.

The CHAIR: I'm looking at a letter from the Premier's Department to the chief executive officer of the council of 28 November 2023. I could table this if relevant. It says, "I'm writing in relation to the council of the City of Ryde submission under the Local Small Commitments Allocation program for \$400,000 for investigation and construction of a cultural community centre on top of the Rowe Street East car park." It then says that they've reviewed the submission to determine that it does not meet the eligibility criteria because all projects must be able to be delivered within two years. So that was the reason for it getting rejected then.

LYNDAL HOWISON: Yes.

The CHAIR: I understand you're now on council?

LYNDAL HOWISON: Yes.

The CHAIR: Have there been further movements to try and reapply since 28 November 2023 for this money?

LYNDAL HOWISON: No. To my knowledge, the strong preference on the part of the current CEO and the mayor is for the funds to be untied—to be general—for parks and community facilities. I recused myself from a vote on that because I have a conflict of interest in relation to that.

The CHAIR: Does that mean that your council, though, will get the full \$400,000?

LYNDAL HOWISON: I believe so.

The CHAIR: Which is then something quite different to what was originally proposed, if the election commitment was for a project and the guidelines are for a particular project.

LYNDAL HOWISON: Yes.

The CHAIR: But now it seems like we have this other category of unallocated money which is still allocated towards the council. Is that your understanding?

LYNDAL HOWISON: Yes. The council will get those funds, or because there's a slight difference between the border of the State electorate and the LGA, I think that there's a slight difference in the quantum of the funds, but I don't know exactly what the number is. How those funds are disbursed will be at the council's discretion.

The CHAIR: It sounds like it has then gone into that sort of unallocated pool, if you're not getting the full \$400,000.

LYNDAL HOWISON: Yes.

The CHAIR: That's good, because that's then in accordance with our understanding of how the program is supposed to work. Are you aware of when you were first told as a candidate—or when your campaign was told—that you had access to this \$400,000 that you could decide where to allocate?

LYNDAL HOWISON: I couldn't give you the date, but I do recall that it was quite close to the time when we needed to identify the project. So there was a process of planning and discussion, but it was quite condensed.

The CHAIR: Do you remember if there were any guidelines given to you by the campaign team or head office at that point to guide what sort of projects you could be allocating it to?

LYNDAL HOWISON: I don't know. I'm not aware. I'm pretty confident in saying that I didn't sight them personally. My involvement as a candidate was at a higher level—the idea, rather than the detail.

The CHAIR: Do you recall a campaign meeting being held where what to do with the funds was discussed?

LYNDAL HOWISON: Yes, I think it was by phone. The people that I have previously mentioned were involved. Not many ideas were actually floated. That was the main one. There was a shared desire to do something in Eastwood in relation to community infrastructure, which is a really acute need in that area. Eastwood is a fantastic and vital commercial and retail centre that is woefully underserved in relation to community infrastructure. Everybody knows that. There is a really wide demand to see that rectified. It seemed like a really obvious project—"Let's push this one, which has been a bit neglected and has been on the council's books for a long time. Let's push it forward and get the planning and design done. Then, at least, we can start applying for grants from other levels of government with a design and with the necessary height restrictions adjusted." It would not be legal, at this time, to apply for funds for that cultural centre because there is a height restriction in place in the LEP that prevents it. The planning and design was the necessary precursor to any other funding.

The CHAIR: Got it. Sorry to labour it, I am just trying to get the timeline. Then the decision was made to go ahead with that project, which sounds incredibly worthy. Did you have to then take that back to head office before the announcement was made?

LYNDAL HOWISON: I believe so, yes. But I wasn't directly involved in those conversations.

The CHAIR: You think it probably happened, though—someone went and did that, there was approval and the decision was made to go ahead and announce?

LYNDAL HOWISON: Yes.

The CHAIR: After the election, was there any further contact with you from the Premier's office to try to get details about the program?

LYNDAL HOWISON: There were one or two conversations. I was made aware by Cherie Burton that the CEO had said that they didn't want the funds, which was really disappointing. I still think that the project has merit and that getting the planning and design done would push it forward and would allow us to apply for funds for the construction. I then became aware that there was something of a local campaign. There was a petition that was run by the current State member and one of the councillors on Ryde council about the announcement. The headline on that is, "Fully fund the cultural centre." There is furious agreement, locally, that this cultural centre is needed and that funding is needed. I guess there is just a political debate about how that should happen and whether or not the planning and design was a valid announcement during the election.

The CHAIR: That's useful. There has been a lot of discussion about the supposed similarities between this allocation program and the community benefits program—is that what it's called?

The Hon. CHRIS RATH: The Community Building Partnership program.

The CHAIR: The Community Building Partnership program. I'm sorry, you can tell I'm not a lower House member. Were you aware of that project, where each elected member has a process of being able to suggest particular projects every year to the Premier's office, or whoever it is that administers that? That is then decided and probity and all the rest of it happens. Then it comes back and it is either approved or it is not. Was what the current member had been doing with that money ever raised with you? Were you aware of that?

LYNDAL HOWISON: I've heard of the program but I wasn't party to any conversations that linked the Local Small Commitments Allocation program to that program in any way.

The CHAIR: Were there any discussions around what you might do, if you were elected, with that additional money?

LYNDAL HOWISON: No.

The CHAIR: It wasn't a consideration—it was more about the \$400,000?

LYNDAL HOWISON: Correct.

The Hon. MARK BUTTIGIEG: Thank you, Ms Howison, for appearing. I just want to outline the sequence of events. At the time, when you were the candidate allocating or suggesting the \$400,000 for the Korean cultural centre, were you a member of council?

LYNDAL HOWISON: No.

The Hon. MARK BUTTIGIEG: How did you come to the decision that this would be a good project?

LYNDAL HOWISON: Having been a local resident for more than a decade, I have spent a lot of time in Eastwood and I have attended events like lantern festivals, which take place in the pub next to the car park. There is no criticism of the manager of the pub, who kindly makes the space available for community events, but it's the only place to do it. You'll have a K-pop performance and people coming in and out to play the poker machines, which are in the room next door. It's not fit for purpose. Eastwood is desperately underserved in relation to community space. This seemed like a great opportunity to push that project forward and to deliver something that, while it wasn't construction, was the basis for funding applications for construction. We could never have applied for any other grants for construction without this step.

The Hon. MARK BUTTIGIEG: You can hardly build a cultural centre if you don't plan to build a cultural centre.

LYNDAL HOWISON: Correct. And the LEP currently prevents it.

The Hon. MARK BUTTIGIEG: Can we just flesh out this business with the council? The council is controlled by Liberal councillors. Is that right?

LYNDAL HOWISON: Currently, yes.

The Hon. MARK BUTTIGIEG: Can we just flesh this out? What was your understanding of the nature of the discussions on council and the plans to build this?

LYNDAL HOWISON: Historically or subsequent to the election?

The Hon. MARK BUTTIGIEG: Historically.

LYNDAL HOWISON: There is universal agreement that Eastwood needs more cultural facilities. The council's Halls and Facilities Strategy was compiled in 2019. That included specific reference to community space in Rose Street East, which is the site of the proposed space. At the same time, the council was going ahead with the construction of a council car park. It had been a tarmac space that the council owned. It is now a multi-level car park with 148 spaces. There was a council report about the opportunity for future extensions to that building. Council unanimously agreed to allocate an additional \$800,000 or \$900,000 to ensure that the building could be extended up in the future—building services and specifications to the foundations that allowed for that construction in the future. That had universal support at the time in 2019. The more recent council correspondence and motions are somewhat confusing. I understand that the CEO initially wrote to the Premier's office and said, "We would prefer not to progress this particular project. It doesn't appear in our operational plan." It couldn't because it wasn't funded. The CEO said, "It doesn't appear in our operational plan. We'd prefer to have untied funds." I understand that that letter was sent without the knowledge of the mayor and the councillors. Councillors were concerned about that.

The Hon. MARK BUTTIGIEG: Sorry, so the general manager is corresponding with the Premier's Department on an allocation of \$400,000 without the knowledge of the mayor or the councillors?

LYNDAL HOWISON: Correct. Then an urgency motion was moved by a Labor councillor, which also had unanimous support, that the CEO go back to the Premier's office to say, "We would like the funds and we would like them for this project." That resolution also had unanimous support. At the same time, a mini campaign or petition was being raised to say that the announcement had been potentially unclear and that the Minns Government should commit the full funds for the cultural centre's construction. But we still don't know what that number is—somewhere between \$3.9 million and \$15 million, we think. But we could never have applied for those funds, because the current LEP prevents construction at that site. So it's got a long and tortured history, unfortunately. I was very disappointed with the outcome.

The Hon. MARK BUTTIGIEG: I can imagine. Tell me, in the aftermath, which was that we can't use this—sorry, the subsequent \$400,000 then was ineligible for what council subsequently suggested because of the time frame it would take. Then it went to parks and playgrounds?

LYNDAL HOWISON: I believe that's the default.

The Hon. MARK BUTTIGIEG: What's your knowledge of the member Jordan Lane's view of that? He's the member there. Has he been supporting it? Is he in favour of it? Has he criticised it? What's his position?

LYNDAL HOWISON: I don't know his position on the result but, in the initial months, he and Councillor Daniel Han launched a petition to protest the way that the grant had been announced and seek the full funding.

The Hon. MARK BUTTIGIEG: I want to tease out this attempt to portray what you did as a false promise because it was for planning rather than building. As we've said, you do actually need to plan for something before you build it. That's a fairly standard process. Otherwise, I'd imagine, you'd come up against all sorts of issues. I'm in possession here of a document, which I'll table for the Committee. The candidate for Port Macquarie in the recent election is seen here in a photograph with the Leader of the Opposition, Mr Speakman, and the Opposition roads Minister, Natalie Ward—"will deliver \$5 million towards planning and development for stage two of the Oxley Highway upgrade, including Wrights Road"—

The Hon. CHRIS RATH: Point of order: I don't know how this relates at all to the Local Small Commitments Allocation and the terms of reference of this inquiry. The Port Macquarie by-election held a couple of weeks ago is of absolutely no relevance whatsoever to this inquiry. I think the question is out of order.

The Hon. PETER PRIMROSE: To the point of order: We heard a number of questions to the Electoral Commission about possible amendments and issues associated with the Electoral Act, not only in relation to this inquiry, but more broadly on issues to do with how the Electoral Commission may or may not seek to change the Electoral Act, particularly section 209. I think the fact that my colleague here is seeking to also raise matters in relation to this is very appropriate.

The Hon. MARK BUTTIGIEG: To the point of order—

The CHAIR: I think I've heard enough on the point of order. I'm going to let you continue. I don't think it's relevant; I think it's just opportunism. But I'm happy for you to ask the question anyway. Please go ahead.

The Hon. MARK BUTTIGIEG: Well, can I address that point, Chair?

The CHAIR: Sure.

The Hon. MARK BUTTIGIEG: We have had a direct imputation that the witness somehow bent the truth with respect to a promise of a project. I simply wanted to ask her opinion on whether a directly analogous promise from a Liberal candidate in the recent by-election was similar. We're not accusing this candidate of doing the wrong thing—

The Hon. SARAH MITCHELL: Can I speak to the point of order?

The Hon. MARK BUTTIGIEG: It's a direct question to the witness to make an analogy to her situation.

The CHAIR: Order! I'll hear that, because I think I know where this point of order is coming from.

The Hon. SARAH MITCHELL: I was just going to say that I actually take offence to the suggestion that there was an imputation, if you were referring to the questions that I asked. It was related to a public social media post.

The CHAIR: I have been listening very carefully. I did not hear any direct imputation in relation to the candidate, as opposed to potentially a campaign team or someone else—

The Hon. SARAH MITCHELL: What was posted on social media, publicly?

The CHAIR: I think the transcript will agree with that. If you want to ask your question, please ask it. You've only got 47 seconds.

The Hon. MARK BUTTIGIEG: Well, Ms Howison, I might just table this for the benefit of your perusal, so that you can tell me whether or not you think this is a similar sort of thing, which happens ad nauseum during the campaigns, and I'll ask that—

The Hon. SARAH MITCHELL: How is this relevant to her expertise?

The CHAIR: For future reference, you table by giving the document to the secretariat.

The Hon. MARK BUTTIGIEG: Well, I had to have the witness have a look at it, so she could give her—

The Hon. PETER PRIMROSE: She only has 23 seconds.

The Hon. CHRIS RATH: And I don't think, Mr Buttigieg, that in any way we promised that we were going to build the Oxley Highway roundabout, or whatever it was—

The CHAIR: Order! This has become a—

The Hon. MARK BUTTIGIEG: Well, you should read the text.

The Hon. CHRIS RATH: It's a completely different—

The CHAIR: Order! This has become a circus now. We have seven seconds. Did you have a question?

The Hon. MARK BUTTIGIEG: Well, I've asked a question of the witness.

The CHAIR: Ms Howison, do you have a response?

LYNDAL HOWISON: The intention of the announcement was to move the project forward, to make a clear statement of intent and commitment towards this project by achieving planning and design, which was a necessary precursor for future construction.

The CHAIR: Apologies for the scrappiness of that last bit of your session, but thank you very much for appearing and giving us the benefit of your experience and insights. To the extent there were questions taken on notice or any supplementary questions, the Committee secretariat will be in touch. That concludes our session with you.

(The witness withdrew.)

Mr GEOFFREY WATSON, SC, Barrister and Director, The Centre for Public Integrity, affirmed and examined

The CHAIR: We now welcome our final witness for the day. Did you want to make a short opening statement?

GEOFFREY WATSON: I'm principally a barrister and I'm a director of the Accountability Round Table. Both organisations are interested in this kind of subject matter. I'm also a teaching fellow at the University of New South Wales, where I teach law. First of all, I need to say something by way of disclosure. I have provided pro bono advice to North West Community Services, which has been in correspondence with this inquiry in relation to statements made about it and members of it by Mr Williams. I explained to NWCS that I was coming here to give evidence, in case they felt there was a conflict. I did not think there was a conflict. They then, in effect, engaged me, because the price was right—I did it pro bono. I say that now so that anybody can see whether or not they think I've got a conflict. I've thought through it. I'm pretty severe on people at times about that. I don't think there is one.

May I then just turn to say a couple of things about the Local Small Commitments Allocation—I just noticed the way all of you seem to have it rolling off the tongue. I have trouble with that. I'm opposed to it and to things like it. There are two general reasons why I am. When money is to be spent through allocations of this kind, of any kind, be it large scale or small scale—this was relatively small scale. We've got to remember, no matter how large, no matter how small, it's public money. This is an imperfect method—this is really, effectively, my first complaint—of pursuing public policy by allowing ad hoc allocations. We need always to keep in mind that, it being public money, it must be for a public purpose. It needs to be put where it's needed and where it will be effective.

The second complaint I would make about it is it's frankly unfair. Only the major parties—the so-called parties of power—are able to make promises of this kind. That's Labor and the Coalition. The minor parties and Independents are denied the opportunity to make promises of this kind because it can't be implemented. I have been very critical here of the Labor Party for introducing and the design of the LSCA, but I'm going to rush to point out that, in the past, I've been critical of the Coalition for the same sort of thing. And I did hear what Mr Buttigieg introduced into evidence about a promise in the recent election, which is exactly the same sort of problem. Here I am raising problems, but you're here looking for solutions. That's harder, but I'm here happy to answer any questions you have.

The CHAIR: Thank you, we're very happy to have you.

The Hon. CHRIS RATH: Thank you for appearing today.

GEOFFREY WATSON: It's my pleasure. I'm quite honoured.

The Hon. CHRIS RATH: One of the arguments put forward in favour of the Local Small Commitments Allocation is that every electorate gets the same amount of funding, \$400,000, and therefore by its very nature it can't be pork-barrelling. How would you respond to that?

GEOFFREY WATSON: That's just not right. I've thought about it for a while. It still doesn't work, because it falls foul of my first complaint about public purpose behind it. But I was thinking, imagine if you redesigned this so that there was a bipartisan agreement, or across the Parliament agreement, that before the next State election every candidate would be able to put forward a \$400,000 program. So it might be the Coalition, or the Liberal Party in a seat, and the Socialist Workers Party in the same seat, who are putting forward ideas that they think should be funded. That would be better. That would take away the sting of part of it but still would not pass the test that you need a better long-term look and design when you're trying to effect a public purpose by making an allocation.

The Hon. CHRIS RATH: In part it's because this scheme isn't open, it's not competitive. Essentially it was only Labor candidates that could promise the funding and there was essentially no application process. It wasn't a competitive process. Is that one of the concerns that you have about it as well?

GEOFFREY WATSON: Absolutely.

The Hon. CHRIS RATH: Would you describe this scheme as pork-barrelling? I know everyone's got their own definition, but what is your definition of pork-barrelling?

GEOFFREY WATSON: I was so relieved when the Electoral Commissioner said, "I'm not really sure what it means." For years, by the way, I've been trying to tell people who ask me about this, "Please stop calling it pork-barrelling," which makes it sound like it's \$20,000 to recarpet the local library. Some of these projects are very large. We've just had about a \$5 million promise. This happens federally in hundreds of millions of dollars.

I hate the expression pork-barrelling. That can mean everything from, quite frankly, a deliberately false promise bordering on criminal conduct, right down to simple gestures where you tell the local librarian you're going to try and get that \$20,000 for the carpet. So I don't like the expression. In the wide definition of that expression, this plainly falls within it.

The Hon. CHRIS RATH: What about the issue of conflicts of interests? Another thing that this Committee has had to grapple with is where candidates have promised funding at an election to community groups that they have some involvement in. Either they might sit on the board of that community group or that community group may have campaigned for them to get elected. What are the concerns that you have around that?

GEOFFREY WATSON: That also cuts both ways, because quite often you'll find that a person who is either a sitting member or a candidate will have local community ties, and so their spouse may be on committees. What happens? Are they immediately excluded? They should be, because you can't deal with conflicts of interest that close to home. So there's always likely to be conflicts of interest in a scheme of this kind. By saying that I'm not trying to trespass on the area in respect of which I gave advice to North West Community Services.

The Hon. CHRIS RATH: If you were designing a grants scheme, how would you design it? What are some of the core principles that you would have to ensure that there wasn't this type of—I won't use the word pork-barrelling, since you object too much to it, but misuse of taxpayer funds.

GEOFFREY WATSON: That's what I call it. I call it "misuse of public money". How would I design it? First of all—and I'm living in a dream world, I'm afraid—I would prohibit it being done in the heat of a political campaign, because promises are made where seats are looking more edgy. I'm afraid that happens all the time. That's one way of doing it. But also there are design parameters put in place all around Australia—including federally, and here—which would say that, in terms of allocating funds like this, look at the public policy and define it, then work out where the money is needed. Don't send it where it won't work. These sorts of rules are already there.

Could I say, just for example, if this scheme had been around and Labor had said, in this particular scheme, "We have a particular policy for the reduction of domestic violence, or for the rehabilitation of young offenders"—I could give you a dozen examples off the top of my head—"We're going to look for grants which would fulfill that public purpose," it's a totally different thing. Because here, I'm afraid, it not only encouraged idiosyncratic schemes, but—and I've just sat through some evidence—it may also have been the fact that ideas were being presented to people who weren't in a position to make a proper assessment as to overall costs or its practicability. It's hard.

The Hon. CHRIS RATH: I'm not sure if you heard the evidence from Procurement Co, which was the organisation that assessed the conflicts of interest, but basically it was that 17 Labor candidates self-identified a conflict and that Procurement Co then assessed the probity risk, whether it was high, medium, or low. The concern that I suppose I have is that there were 93 Labor candidates and all were able to allocate \$400,000 in election commitments. Seventeen self-identified a conflict. The other 76 never went through that probity process. Should they have?

GEOFFREY WATSON: I think if you talk about it now it already shows that the scheme is fundamentally flawed if 15 per cent of the people who are allocating the funds are self-identifying with conflicts. Add to it that there would be some which went unrecognised and, let's be frank about it, there may have been some which were concealed. So you're already talking about a scheme which is just almost set up for conflicts of interest to arise, I'm afraid.

The Hon. CHRIS RATH: The 76 that haven't gone through that conflict of interest probity process, we can't go back now two years and tell them that they should have. But should they go through it now at least, at the very least to try and make a broken scheme even slightly better?

GEOFFREY WATSON: I'd attack it more fundamentally than that. I just would never allow a scheme like this to raise its ugly head ever again. If you wanted to go back and say why this scheme should never have been launched in the first place, I think what's been uncovered about it so far has already been a proper basis for that, I'm afraid. I think it was an error of judgement. I'm not trying to be, by the way, critical of one side over the other. I think I've got a pretty good reputation of being critical of everybody.

The Hon. CHRIS RATH: I get that. Mr Watson, you weren't our friend when we were in government, so I don't think anyone is saying that you're—

GEOFFREY WATSON: I used to try and explain to people, it's because they are in government that I get stuck into them.

The Hon. CHRIS RATH: We get that. We've still got the scars to show from your commentary when we were in government. The other issue that's come up is when failed Labor candidates have been part of the process after the election, whether it's being at announcements, or ribbon cuttings, or doing social media posts and things like that. Is that of any concern to you?

GEOFFREY WATSON: Of course it is. It just underlines the point that this is not a proper way of allocating money in these circumstances, I'm afraid. It becomes too political.

The CHAIR: Thank you. This already has been incredibly helpful to hear from you. I think in terms of that definition of what is pork-barrelling, I don't like the term either, but I think this idea of using public money to curry favour, or using public money for electoral purposes rather than policy purposes, if you're applying that sort of approach, is it hard to see how this can fit within—I'm scratching my head as to why this ever happened, I guess. Can you see how this could be made into a scheme that does sort of pass the sniff test?

GEOFFREY WATSON: No, I think this one's irredeemable, I'm afraid. I don't think this is a good one at all. I might say ICAC consulted the really leading people and came out with a very good report on why they felt that, at one edge of it, that thing known as pork-barrelling could even constitute corrupt conduct. It's a very good report. Genuine experts gave evidence to ICAC about that. They didn't ask me. I'd recommend you have a look at that. It's obviously, at its extreme edge, just completely inappropriate, but I don't like it full stop.

The CHAIR: I'm with you. The section 209 concerns that I was raising before, I'm interested in how we take this from a simple it doesn't pass the sniff test and I think it distorts democracy or has the potential to distort the outcomes of elections—but is there an actual something that we can point to say, "This is already in the law as to why we shouldn't do this again"?

GEOFFREY WATSON: It's not in the law. Justice Emmett was one of the best judges I ever appeared before. I appeared before him many times. It's was a bit scary sitting behind him because I thought he might ask me a question. He explained to you that section 209 (4), when you read it, you could drive a truck through it, and because it's a penal provision in nature, section 209, you construe it strictly so as not to create an offence where there isn't one and, whether it includes an exception within it, you construe that broadly so that everything favours it being inoperative in anything but an extreme case. I can't even think of a case which would fit within section 209 in the area of what we normally call pork-barrelling which wouldn't also be, I think, a breach of other provisions of the Crimes Act, when you're bribing somebody, for example.

It's not working at the moment. I said to you, "I'll come along and do a lot of whingeing," and you're looking for solutions. Justice Emmett went on to say obviously subsection (4) needs some tweaking. Could I just make a comment? That's 100 per cent true, but all electoral laws are like that, especially election funding laws. You should treat them like a taxing Act. Every time a problem arises, you look at solving the problem. Well, here there is a problem. You could refer this issue out to experts. I might say I would expect if you were doing it, the Centre for Public Integrity might be one of them, to say, "What do you think could be put in there?" Now those sort of civil society organisations—bunch of do-gooders, I know for a fact—would like to contribute to assist this if you are determined to try and reduce or eliminate pork-barrelling.

The CHAIR: You said at the beginning, potentially this would be better if every candidate was able to put forward their ideas for how that \$400,000 should be spent. Since 2009, there has been a grants program available in each electorate where the person who does win the election has a chance once every year for four years to suggest community groups who might get—

GEOFFREY WATSON: I think it's called a community partnership or something. Yes, that's good.

The CHAIR: That's the one, and it's 100 grand. So it's effectively 400 grand. You could have a candidate who goes out and says, "If I was to win an election and I was able to, I would put forward these things as part of that and do the application process." What is your view of that program?

GEOFFREY WATSON: Actually, I don't mind that because the sums are small—bear that in mind. Across the whole of New South Wales, it's stacking up to only about \$40 million. Gee, times have changed when you say "only \$40 million", but, in any event, I'll stick with it. It's not a huge amount of money, and it does actually mean that there's some engagement between the community and their local member. It, again, is unfair because it's rewarding incumbency. But, that said, I think that's kind of a nice idea. I don't think you could do it in a campaign to say that, "Over my four years, I'm going to allocate it here, there and everywhere," because, golly, the last eight weeks in America have shown us that things move very quickly, don't they? But I don't mind that.

The CHAIR: But what are the main differences then between that program and the LSCA, if you could spell that out for us?

GEOFFREY WATSON: It's the fact that it happens during an election campaign.

The CHAIR: Do you think that the guidelines that were put in place in July, so three months after the election, and then all of this subsequent analysing of the different projects and the rejection of some of them, has cured the ills of the scheme?

GEOFFREY WATSON: No, you can never cure the ills. But I tell you what, I think that those guidelines were pretty good. I thought they were very well done. It was a problem, and then there's been a retrofitted solution, if you like, and I think that they did a very good job with that.

The CHAIR: At 3.2 of those guidelines, it states it has to be a project that was committed during the election. We heard evidence that that has been satisfied by the production of a list that came from—we don't know, actually—somewhere to the Premier's office and then handed to the people who were doing the allocation assessment. What do you make of that particular aspect?

GEOFFREY WATSON: Isn't that another problem? If, by the way, the promises are vague or, as I can see the suggestion will be made in some instances, overstated, what is it? When you write that list, you can't really just put on it "Koreatown community centre", because there was something specific in mind that was going to be the subject of the allocation, so it really gets a bit awkward if you've just got a label, a tag or a name on something rather than a bit more detail. But it's coming back to what I see as a problem, so I'm not really easily persuaded.

The CHAIR: Would you have expected, at least, for those guidelines, in order to be satisfied, for someone to have gone back and looked at an email or some sort of written record?

GEOFFREY WATSON: Yes.

The CHAIR: Of the actual rather than just the list?

GEOFFREY WATSON: The problem that you're telling me about, this clause 3.2, is one I did not pick up, I'm sorry. I did think that the general guidelines were good, but that's an obvious problem.

The CHAIR: I mean, in hindsight, I guess it's one of those things.

GEOFFREY WATSON: I don't spend all my private time looking at those guidelines, I want to assure you.

The CHAIR: In terms of the conflicts of interest and the discussion we were having with the probity advisers about that, it seems to me that that perception of conflict of interest and the way that that impacts on people's perceptions of politics wasn't really taken into account. Is that something you would ordinarily expect to be taken into account?

GEOFFREY WATSON: Of course, yes. I shouldn't be rude and say, "Of course." Yes. But could I just make the point that it's almost a self-fulfilling prophecy? Because you know the importance of a local member, particularly in State Parliament, is to know the community and to know the community leaders, and you're almost certain to have dealings—good, bad or indifferent—with those community leaders. I might say, you might have your broader family, your spouse, your children or your brother-in-law involved in the local cricket club.

The Hon. MARK BUTTIGIEG: Thank you, Mr Watson, for appearing. I've got to be brutally honest. As someone who's been involved in election campaigns for 30 years, hearing some of this, I feel like I'm in some sort of parallel universe. It would be highly unremarkable, I would have thought, that a local candidate seeking to differentiate himself or herself from their opponents would be able to make promises on the basis of a public benefit. For example, if you're in an electorate where the sitting member hadn't been able to deliver an upgrade to a park for the 20 years that the community had been crying out for it, and, as the local representative of the area, you happen to make a promise based on this amount that you're able to allocate— isn't that our democracy functioning?

GEOFFREY WATSON: Mr Buttigieg, I'm a dreamer, not a fool. Of course I know you're right. And we're going to see it this week. We're going to see twice this week people stand up in the Federal Parliament and say things which have more than a little attention being paid to events which will come in a month or so. Of course—that's the real world. I'm trying to eliminate it in its most obvious form, which are those heat-of-the-election-campaign spirit of promises. If, for example, when you were talking about these matters as a matter of policy, that should be a matter for the Government or for the frontbench of the Opposition to declare. But I absolutely agree with you. If you've got white versus black parties and one's promising the upgrade to the local park, of course they want to differentiate themselves that way and do good things for their local community. I'm not trying to cut that out. I just think this one crossed the line, I'm afraid.

The Hon. MARK BUTTIGIEG: In terms of that qualitative comparison with previous programs—I mean, I've been involved in many, many election campaigns where it was blatantly obvious that one side of politics was promising outcomes on the basis that they were elected. This particular program said, "Even if I don't

get elected, this will be delivered." The incumbent politicians still got the benefit from it. In terms of a graduated improvement, from where we are in this imperfect world to your perfect world, isn't this scheme better than previous ones?

GEOFFREY WATSON: I agree. I always thought that was a very good twist, if you like, to what I saw as a problematic scheme. But I do agree that's a beauty.

The Hon. MARK BUTTIGIEG: Yes. This is operating at two different levels, I guess. There's the philosophical view that, for example, we should fund as much education of our population as we can, and that's a matter of policy that the two parties can differentiate between and allocate money accordingly. But then you've got these local issues which the community is screaming out for. It seems to me that candidates should have the wherewithal to have some say over that.

GEOFFREY WATSON: What if a party going into the election had said, "One of our matters that we're going to deliver is this. If we are elected to Parliament, we're going to create a scheme so that your local member of Parliament—we don't care what party they're from—will then be given \$400,000 to do it." That's quite different to giving somebody \$400,000 to promise before the votes are taken. That's what I don't like about it. Now, again, how do you police that? That's why we have an Electoral Commission. Aren't we lucky we have one, by the way?

The Hon. MARK BUTTIGIEG: In the scenario you're painting, it would be quite unusual and strange, I would have thought, for a political party to say, "You can go and promise money that we will have control over if we're elected to Government. Therefore, you've got the same political advantage as us." I mean, we want to be elected—

GEOFFREY WATSON: Yes, but that would be—

The Hon. MARK BUTTIGIEG: That side of politics does it. We do it too. Isn't that part of the democratic process—to compete?

GEOFFREY WATSON: Yes, sure. But it might make it attractive—if the black party said, for example, we're going to devise a scheme under which, whoever is elected, wherever they come from, has got the \$400,000. Once they're elected, they're going to consult with their own communities, and these small grants are going to go out where they can be most effective.

The Hon. MARK BUTTIGIEG: That's kind of what this did, because if the hypothecated \$400,000 was not allocated as part of the LSCA, then it went into parks and playgrounds to be allocated by council, and the local member had to be consulted.

GEOFFREY WATSON: Yes. I like that aspect of it as well. But then you have another problematical matter, which is—and I am not being critical of Ms Howison at all, but that was a single \$400,000 promise. It didn't seem to me to be in the same spirit as the idea, where I did see that some of these things which I looked at did seem to be \$50,000 grants here or there for some specific organisation which was doing good in a community. I like those ones better than, say, one large one. But I hear what you say. The idea of a local member of Parliament communicating with their electorate members and hearing what they want and what they need—who's going to argue with that? It's a fantastic idea. I just didn't like this scheme.

The Hon. MARK BUTTIGIEG: Okay. That's all from me.

The CHAIR: Any other questions? That was very comprehensive, thank you. To the extent questions were taken on notice or there may be supplementary questions, the Committee secretariat will be in touch. That does conclude our hearing for today. Thank you.

(The witness withdrew.)

The Committee adjourned at 17:55.