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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE RUTH McCOLL AO SC  
COMMISSIONER

PUBLIC HEARING

OPERATION KEPPEL

Reference: Operation E17/0144

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 1 NOVEMBER, 2021

AT 9.00AM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Ms Berejiklian, you remain bound by the oath you took on Friday.---Thank you.

Yes, Mr Robertson.

10 MR ROBERTSON: Ms Berejiklian, you'll recall that on Friday I had played for you some excerpts from a 52-minute telephone call that you had with Mr Maguire on 5 July, 2018.---Yes.

During the course of which Mr Maguire told you that he had been summoned to give evidence before this Commission, do you recall that?  
---Yes, I do.

20 I might just ask you to little bit closer to the microphone, I'm sorry. As I understood your evidence from Friday, you were curious about but were not concerned with what Mr Maguire had to say. Do I have that right?---Well, Mr Maguire told me had done nothing wrong when I'd asked him a number of times.

And you were satisfied with that response and believed him, is that right?  
---I was.

30 In the days following the call of 5 July, 2018, and before Mr Maguire ultimately gave evidence before this Commission on 13 July, 2018, did you ultimately sit back and reflect on what you'd been told by Mr Maguire, and perhaps on what you'd been told previously, at least reflect upon whether you were either required to or should take any steps in the exercise of your public powers and duties?---No, because I took him at his word.

Well, at that point in time you at least knew that Mr Maguire thought that he was in line to make a commission in relation to what he described as Badgerys Creek stuff of about \$1.5 million, correct?---No.

40 Well, you're not seeking to resile from any evidence that you've given regarding the Badgerys Creek stuff either on Friday or during the first public inquiry?---No. But as I'd said, I wasn't certain as to, I wasn't paying attention to that particular conversation you alluded to, so I had no reason to suspect there was anything wrong.

No, but you were at least aware that Mr Maguire thought that he was in line to make a commission in relation to Badgerys Creek stuff of about \$1.5 million, correct?---Not conclusively. I wasn't sure what he was talking about.

No, I'm not asking conclusively or not. You were at least aware that Mr Maguire thought and said to you that he was in line to make a commission in relation to Badgerys Creek stuff of about \$1.5 million, correct?---I didn't believe it would eventuate.

Yes, but you were at least aware that Mr Maguire thought that he was in line to make such a commission, is that right?---I'm not sure what he thought.

Well, he at least told you about being in line for a 1.5 million commission.  
10 Do you at least accept that?---The conversation is what it was but I certainly, certainly did not assume or presume that anything like that – I don't even think I was paying attention so I can't answer that question as definitively as you would like me to because I don't think I was paying attention to the conversation.

Well, you at least accept that Mr Maguire told you that in effect he thought he was in line to get a commission of \$1.5 million in relation to Badgerys Creek stuff. Do you at least accept that?---Yeah. Whilst he told, whilst he told me that, I can't say that I absorbed it or that I believed it or that I  
20 assumed there was any wrongdoing.

You also knew before Mr Maguire gave evidence on 13 July, 2018 that Mr Maguire had attempted to assist Louise Waterhouse by trying to have the proposed location of a road changed?---No.

Remember you and I discussed this during the first public inquiry year?  
---Yeah, but I wasn't aware at the time. You're putting words in my mouth. I wasn't, I hadn't made that link between, between all those things.

30 We're not trying to put words in your mouth. Let me show you the words actually used. Can we go to Exhibit 328? This is telephone intercept 2909, one that you and I discussed last year. I'll show you words not that I'm seeking to put in your mouth but words that came out of your mouth and out of Mr Maguire's mouth according to the transcript of that intercepted communication. So do you see there a transcript of intercepted communication of 18 October, 2017?---Ah hmm.

And if you just have a look at what Mr Maguire says. So he says, "So then, ah, then I had coffee with Louise Waterhouse." Do you see that there?  
40 ---Yes.

And then you say, "Oh, yeah. How's she going?" He responds, "Yeah, good. She's got a big problem so I took up to your office and said 'Can you help solve it?' She's got a lot of property out at Badgerys Creek." See that there?---Ah hmm.

"And the Planning Department, right, and RMS and all of them are saying, look, you know, we don't plan around that now, we're too busy worrying

about that now, the new housing and all this around Badgerys Creek.” Do you see that there?---Ah hmm.

Now, you remember me playing a telephone intercept dealing with that matter to you during the course of last year’s public inquiry?---Yes.

I’m quite happy to replay it if you want your memory refreshed.---I think I remember that bit, thank you.

10 Do you accept, having had your memory refreshed in relation to what I’ve just shown you on the screen, that you were aware before Mr Maguire gave evidence before this Commission on 13 July, 2018 that Mr Maguire was attempting to assist Ms Waterhouse in relation to the matters that we can now see in the screen in relation to Badgerys Creek?---Yeah. I don’t know what action he was intending to take and what, what assistance he was intending to provide. I can only tell what’s on this transcript but I can’t answer a question beyond what’s here.

20 I’m not asking a question beyond what’s there. I’m asking you to confirm what appears to be apparent from what we can see on the screen, namely that you knew before 13 July, 2018 that Mr Maguire had taken steps to assist Ms Waterhouse in relation to the proposed location of a road. ---Apparently, but I suspect a lot of other people knew that as well.

Does that mean the answer to my question is yes?---Well - - -

30 I’m just trying to understand your state of knowledge at the moment. I’ll ask you some further questions later.---I know, but you’re suggesting, you’re suggesting that I assumed any wrongdoing on this part.

No, no. I didn’t say, I didn’t use the word “wrongdoing”. I’m asking - - -? ---No, no, but you’re, you’re trying to, you’re, you’re, you’re, you’re asking me to, to answer a question which would assume that I presumed or had any knowledge of wrongdoing, and the straight answer is I had no assumption, no knowledge that there was any wrongdoing involved.

THE COMMISSIONER: Ms Berejiklian, it would be better if you listen to the question and answer the question rather than looking around corners.

---Okay, thank you.

40 MR ROBERTSON: So do you accept, Ms Berejiklian, that you were aware before 13 July, 2018, that Mr Maguire had taken steps with a view to assisting Ms Waterhouse in having the location or proposed location of a road change?---Yes.

Do you accept that you knew before Mr Maguire gave evidence on 13 July, 2018 that Mr Maguire had tried to assist Ms Waterhouse by approaching the

Greater Sydney Commission on her behalf?---I, I don't think I was aware of that, no.

Go, please, to Exhibit 331. This is telephone intercept 4309, one that I played to you last year. With any of these just let me know if you want me to have them replayed if that would assist your recollection. I'm trying to do it a little bit quicker than having to replay the matters that you and I have discussed last year. So do you see there Mr Maguire is talking to you about having dinner with William?---Ah hmm.

10

And then if we go a little bit further down the screen, do you see there he says, "I then, I had to come and meet our friend Louise and then, because she's having problems, big problems now." Do you see that there?---Yes.

And if we turn the page, Mr Maguire goes onto say, "They want to make all her area now a greenfield site and just leave, lock it up. She is furious and, which is the Sydney Planning Commission. So anyway, I met her and I introduced her to people and then William said 'Oh, can I have dinner with this Bali buyer,'" et cetera. Do you see that there?---Ah hmm.

20

Does that refresh your recollection that you were aware before 13 July of 2018 that Mr Maguire was at least seeking to take some steps in connection with what he there describes as the Sydney Planning Commission for the benefit of Ms Waterhouse?---Well, it says, "So, anyway, I met her and introduced her to people." It doesn't say Sydney Planning Commission. She's furious with the Sydney Planning Commission but he didn't tell me what he was intending to do.

30

So, in any event, you're at least aware that for the benefit of Ms Waterhouse, Mr Maguire was introducing Ms Waterhouse to various people with a view to resolving the thing that she was concerned about. Is that right?---Yes, but I can't assume from that it was the Greater Sydney Planning Commission.

So with someone, but not necessarily the Sydney Planning Commission? ---Yeah, I don't, I don't know. I, I don't even know if I was listening to the conversation properly, but - - -

40

Before Mr Maguire gave evidence on 13 July, 2018, you're aware that Mr Maguire had threatened to go feral in relation to an important trade mission to China. You remember we discussed that yesterday, not yesterday, on Friday?---Yeah, but, but that was his personality. He'd go feral at everything.

That means you're aware that he'd threatened to go feral in relation to an important trade mission. Is that right?---I don't think I would have taken it literally, but they're his words.

Well, I think you said a minute ago, didn't you, that that was his personality to go feral. Is that right?---Yes, but it could have been for something insignificant. That was just the way that, his turn of phrase.

But the particular thing that he threatened to go feral about that you and I discussed yesterday was in relation to an important trade mission to China. Do you agree with that? I'm quite happy to show you the telephone intercept again if that assists.---No, no. I get that. But I don't, I, but, I wouldn't have, I wouldn't have thought anything about that, in fact, on that  
10 occasion, I referred him to my office.

From your perspective as the - - -?---So if I thought he was doing any wrongdoing, why would I tell him to go and speak to my office?

From your perspective as the head of government at the time, was it satisfactory to have a member of parliament speaking to either your office or other places within government and going feral?---Well, I can't control what people feel, but certainly on that occasion, as I explained, my  
20 assumption was around concern for regional job losses which is why I referred him to my office. I doubt I would have paid any specific attention to those specific details. If I thought there was any wrongdoing or I wasn't going to disclose something, why would I tell him to speak to my office? Why would I tell him to speak to the relevant minister's office? Doesn't make sense to me.

Maybe you can't affect how people feel but you could have at least have intervened and told Mr Maguire to, in effect, pull his head in and not go feral. Do you at least agree with that?---If he had a concern and I didn't understand the nature of the concern, if a regional colleague or any  
30 colleague has a concern, I referred him to my office.

So you weren't concerned with the threat or suggestion that Mr Maguire might go feral in relation to the issue?---No. People say things they don't necessarily mean. I didn't, I, I didn't feel that that, that was an issue and I referred him to my office. And, and my expectation is, as is the case, that my office and the relevant minister's office would deal with any issue if there was any issue regarding legitimate concerns.

So that wasn't a matter in respect of which you thought it either necessary or appropriate as head of government to intervene. Is that right?---That's,  
40 well, I intervened to the extent that I asked, referred him to my office.

I mean, intervened in the sense of saying to him, in effect - - -?---No.

- - - I don't want you going feral with my staff or with anyone else's staff?  
---No, because that was his personality and he would have said that, that turn of phrase every day, I suspect.

Before Mr Maguire gave his evidence before this Commission on 13 July 2018, you were aware that Mr Maguire had been making representations on behalf of property developers, including so as to assist with planning issues. Do you agree?---No, I didn't, I didn't know the extent of those, no. I don't know what conversations he'd had with the planning authorities or the Planning Minister or anything of that nature.

10 Let me just refresh your recollection of the telephone intercept I played to you on Friday. Can we go to Exhibit 528, please. Exhibit 528, page PDF 5. That's excerpt 1 of the excerpts. Could you just have a look towards the bottom of the page. If we go, please, to page 5 of that excerpt. If we scroll down a little further. Do you see there, you ask Mr Maguire, "Who's Tim?"---Yeah.

He says, "Well, he's, he's, he was the, um, you know, property acquisition and those, um, he was in charge of all that, so I introduced, introduced him to, to him but they never bought, anything, you know?" So do you see all that there?---Yes.

20 Then he says, "So I don't actually know what the properties are." Do you see that there?---Mmm.

And if we then turn on to page 6, so that's just by way of context. If we then go towards the bottom of that page, do you see there the second-last thing attributed to Mr Maguire. He says, "I then made representations and, ah, the department, you know, met with him and did whatever. I don't know what happened." And then jumping to his continuation, "There was a planning issue that he was having trouble with. And I think I introduced him to Geoff Lee, as well," et cetera. Do you see that there?---Yes, I do.

30 So do you agree that you were at least aware, as at 5 July, 2018, that Mr Maguire was making representations or had been making representations on behalf of property developers, including in relation to planning issues? ---But I didn't know who this Tim fellow was and what his status was, and I certainly didn't know what he'd been doing. So the question you're asking me is, is, is difficult to answer in that I didn't know any of these, I didn't know the person, I didn't know what, what was going on. So if you're asking me whether I had any knowledge of what was actually going on, the answer is no.

40 I'm not asking about that. What I'm asking you is whether you're aware, as of 5 July, 2018, that Mr Maguire had been making representations on behalf of one or more property developers.---I don't think I knew that, no.

Isn't that what Mr Maguire's saying to you in this passage of the transcript? ---But I didn't know who Tim was. How would I know if he was a property developer or not?

I didn't use the word "Tim" in my question. Perhaps I'll ask it again. Do you agree that as at 5 July, 2018 you were aware that Mr Maguire had made one or more representations on behalf of one or more property developers? ---I don't think I did know that. I, I don't think I thought about that.

You don't agree that that very matter was what Mr Maguire was telling you about on the page of the transcript that I've put on the screen?---Irrespective of what he said, I don't know what he did.

10 I didn't ask you, I didn't - - -?---But you're asking me whether I had knowledge as to whether he made representations. I didn't have knowledge because I'm, wasn't aware of what representations he had made.

I'll put it this way. Do you accept, then, that you were at least told by Mr Maguire that he had made one or more representations on behalf of one or more property developers in relation to a planning issue?---Well, I can't confirm that that was my understanding because I didn't know who this Tim fellow was. And, and then I, so I can't confirm knowledge of, of what he did, to whom he did it, when he did it and in relation to what matter.

20

I've deliberately reframed my question to deal with the point that you're now raising.---Yep.

You must accept, mustn't you, that Mr Maguire told you that he had made representations on behalf of one or more property developers?---Well, in this instance he's told me but I don't know what it means.

So you accept that he told you about it, correct?---Well, in the transcript it says he told me. Whether or not I listened or cared is another matter.

30

Yes, that's all I'm drawing your attention to.---Okay, right.

Are you accepting that he told you - - -?---Well, that's what it says here.

- - - that he had made representations on behalf of more than - - -?---Mmm. Mmm.

40 - - - on behalf of one or more than one property developer?---Again, I didn't know if Tim, this Tim fellow was a property developer, so I, I, I want to make very clear that I had no understanding or appreciation of what he was up to or what he was doing.

But you at least knew that he was making representations in relation to planning issues, you agree?---Well, that's what he says, yes.

That's what he says, and he said it to you in a conversation, so that was something that you heard, that you'd been told.---But I suspect that's not

unique to Mr Maguire. I suspect that lots of people would make representations to various - - -

I'm not asking whether it was unique to Mr Maguire, I'm just asking you to confirm what, at least on my reading, is plain on the page. Namely that you were told - - -?---That's what he, that's what I was told. Doesn't mean that I absorbed or cared or, or assumed or knew anything else.

10 But you accept that that's what you were told, is that right?---Well, it's in black and white here. That's what he told, that's what he said, mmm.

Do you accept that as at 5 July, 2018 you had been told that Mr Maguire had been introducing properties to developers?---By whom? Told by whom?

That Mr Maguire told you that he - - -?---That's not what you asked in the question, I'm sorry.

Let me, let me be - - -?---You said I had been told, yep.

20 You'd been told by Mr Maguire that he had been introducing properties to developers. Do you agree?---No, I can't confirm that I knew that.

Let's go to page 4 of this excerpt. Just refresh your memory in relation to this. Just have a look towards the bottom of the page. You see there Mr Maguire says, "There's a whole heap, whole heap of addresses where they must have been playing funny buggers, um, and they sent me a whole list which I referred to Country Garden. And here, you know, then I introduced them to, ah, Johnson, and Johnson sacked them." And then we go to the next page, please. And then you see a reference to the boss of Country  
30 Garden, et cetera.---Mmm.

And then if you look a little bit further, you ask, "Well, who's Tim?" And he says, "And then Tim comes along." "Who's Tim?" "Well, he's, he's, um, you know, property acquisition." Do you see that there?---Mmm, mmm.

40 So do you accept that you had at least been told by Mr Maguire as at 5 July, 2018 that Mr Maguire had been, to use his phraseology, providing a whole list of properties to Country Garden?---I don't think I would have absorbed that. But obviously this is black and white as to what he told me, but as to how I interpreted that, I didn't assume any wrongdoing and I didn't assume, I didn't know what all these people, who all these people were.

You at least accept you were told the matter that I drew to your attention a moment ago, is that right?---Well, well, he's obviously spoken those words to me and told me that, yeah.

You were also aware that Mr Maguire thought that he might be paid an incentive for the assistance that he'd been providing to property developers? You're aware of that as at 5 July, 2018, do you agree?---You'll have to remind me of where that's come from.

10 Go to page 33 of this bundle, please, Exhibit 528. PDF page 33 on Exhibit 528. It's part of extract 4. Page 4 of that extract. Zoom in to the bottom half of the page. Now if you have a look at the third line. Do you see there it says, there's a sentence starting, "If, if one of these". Do you see that there?---Right.

Third line. "If, if one of these things actually got up, got up, right, and someone said to me we want to make an incentive, we want to pay you something, rather, I would have had to see my lawyer. We have companies, we have an accountant. You deal with them, right." Do you see that there? ---Yep. Yep.

20 So do you agree that as at 5 July, 2018, at least according to Mr Maguire, it was at least in contemplation that Mr Maguire might receive some incentive in relation to the assistance that he said that he'd been providing?---Well, I, I, I can't really say what I thought at the time or what I understood, but I certainly can tell you unequivocally that I did not assume any wrongdoing and assumed that whether he had any private interests of any description, that they would be disclosed in the appropriate way.

30 But does that mean you agree that you were, that at least as you understood it, Mr Maguire had in mind, or at least contemplated, that he might be paid an incentive for the assistance that he'd been providing to property developers?---Well, I don't think that I would have made – I can't confirm that I would have made that assumption. I mean, what he said and what he did could have been, or two completely things, but certainly my radar didn't go up at all. I didn't, I wasn't concerned.

40 Well, why wasn't your radar going up? Mr Maguire had been summoned to appear before this Commission. You have a 52-minute conversation with him where you're asking him a number of questions and he's providing answers. Why isn't your radar coming up in relation to this issue? ---Because, as you know, in that 52-minute conversation a number of times I'd asked him if he'd done nothing, anything wrong, and he kept saying he hadn't. Like, here's someone I'd known for a long time, and I trusted him, and, and I trusted that if he had any private interests, and that was a matter for him, that he would disclose them in the appropriate way, as members of parliament are allowed to do. And whether or not they should is a different issue, but that's what they're allowed to do. That was a matter for him. I did not assume anything was wrong because I'd pressed him a number of times. This is someone that I trusted, someone that my colleagues trusted, someone that had been integral to our, our team, our government, our, and I had no

reason to disbelieve him. When I pressed him a number of times and he said he'd done nothing wrong, I trusted him.

Isn't it a little bit more than just disclosures? Weren't you at least concerned as to whether Mr Maguire was misusing his office with a view to obtaining what he described as an incentive?---I didn't have those concerns. I assumed that he would do everything in the appropriate way, in his own time. I didn't, I didn't have, I didn't have that, that concern.

10 Were you at least concerned that Mr Maguire appeared to be associating himself with people who you regarded as dodgy?---Well, obviously in that conversation I said to him, "People might use you, stay away." I mean, and I hadn't remembered that until that, that tape was played to me. But as someone myself who's very careful as to who I associate with, I certainly gave him that advice at that time.

20 So you're saying despite the matters to which I've drawn your attention, you didn't reflect on 5 July, 2018, or at any time before Mr Maguire giving evidence on 13 July, 2018, as to whether you were either required to or should take any action in relation to the information that Mr Maguire was imparting to you?---No, because I trusted him.

You questioned him in effect. He said, "There's nothing to see here," as it were, and you trusted him, is that right?---That's correct.

Now, there's a reference in that telephone call to Sarah. I assume that's a reference to Sarah Cruickshank, is that right?---Ah hmm.

30 That's as you understood it?---I would assume that's the case, yep.

I think Mr Maguire says - - -?---I think he also had, he also had a staff member of that name but I'm not sure, yeah.

But I think Mr Maguire said – I think you might have asked actually, "Have you told, have you told Sarah?"---Oh, that's right, my chief of staff, yeah.

And Mr Maguire said that he had and there was a reference to a Brad as well, I think. Remember hearing that in the call?---Yeah,

40 Sarah Cruickshank was your chief of staff at the time, is that right?---That is correct.

She is a very diligent, she was a very diligent and competent chief of staff? ---Absolutely. She still is. Extremely professional.

In your observations a very honest individual, would you agree? ---Absolutely.

Between Mr Maguire's call of 5 July, 2018, and up to Mr Maguire's evidence of 13 July, 2018, did you ask Ms Cruickshank for any advice as to what, if anything, you should do in light of the fact that Mr Maguire had been summoned to appear before this Commission and had at least given you some information on the 5 July, 2018, call?---Not to my recollection and I recollect she was away for some of that time, so Mr Burden was acting chief of staff for some period and I can't exactly remember what the period was.

10 But is this right, between the call of 5 July, 2018 that I played you on Friday up to at least the start of Mr Maguire's evidence on 13 July, 2018, you didn't seek any advice from anyone as to whether there was any steps that you should take in light of, firstly, the fact that Mr Maguire had been summoned to appear to give evidence before this Commission and, secondly, by reason of any information Mr Maguire gave you on 5 July, 2018?---Not to my recollection. It may have happened but I certainly don't remember it.

20 You recall that during the call of 5 July, 2018, Mr Maguire complained that Big Brother could probably actually listen to the call that he was having, or the calls that he was having, including the call with you? Remember hearing reference to that?---Ah hmm. I do remember that, yeah.

And you said in response "Is that going to be a problem?" Remember that? ---Yes.

30 Did you, even if you didn't reflect on it on 5 July, 2018, did you ultimately reflect on whether it would or might be a problem if Big Brother or some investigative agency had been or was listening to you calls to Mr Maguire? ---No, not really.

When you say "not really" why did you qualify by saying "not really"? ---Oh, because I know that, my assumption was he hadn't done anything wrong and I certainly hadn't done anything wrong so I wasn't concerned by that.

40 Well, did you, or to your knowledge, Mr Maguire take or contemplate taking any steps with a view to making it more difficult for investigative agencies to monitor or intercept communications between you and Mr Maguire?---I, I certainly didn't.

What about Mr Maguire to your knowledge?---I don't know. He may have, I don't know, but I certainly, I, I knew that, as far as I was concerned, he, he had done nothing wrong, and certainly I, I, I knew I hadn't done anything wrong so I, I was not concerned for myself.

But do you have any recollection of Mr Maguire taking any steps that either were or seemed to be directed to making it more difficult for - - -?---He may very well have

10 - - - Mr Maguire to – sorry, I withdraw that – make it more difficult for what Mr Maguire described as Big Brother to, as it were, eavesdrop?---Look, he may very well have and I, I can't recollect. He may have, but certainly for my part, I didn't do anything in my part. I was very confident that he hadn't done anything wrong and I was certainly confident that I hadn't done anything wrong.

So you can't recall Mr Maguire taking any steps of that kind at least to your knowledge?---He may very well have I just can't remember.

Well, it would be something pretty significant, wouldn't it? It's the kind of the thing that you would remember if it happened, would you agree?---I honestly can't remember.

20 But doesn't this fall within a category of the kinds of things that if it had happened you would remember it?---Not really.

There are some things in one's life that one definitely remembers and other things that one doesn't.---All I know is that - - -

30 I can't recall what I had for breakfast last Friday but I recall that I was here asking some questions of you.---I, I remember specifically that I certainly didn't change anything I was doing because I didn't worry about anything and I trusted him and, and believed that he was doing – he told me he wasn't doing anything wrong. But whether he was concerned about his privacy or any other issue, that's a matter for him and I can't remember whether he did or not. But, but for my part, yeah, I can't remember, but if anything, he may have been concerned about his privacy and that's a matter for him, but I certainly didn't have those concerns for myself.

40 Let me see if I can assist this way. Can we go to volume 41, please? Let me just show you some intercepted short message service messages, SMSs, on 9 July, 2018, so a few days after the 5 July, 2018, call. Do you see there, 9 July, 2018, 7.48pm? Do you see that, towards the top, left-hand side of the screen, Ms Berejiklian?---Yes.

And so this is an intercepted short message service message, it appears, from Mr Maguire's phone to yours, and it says, "I'm chatting with my friends on WeChat now and are linked to download WeChat and a link in relation to adding Mr Maguire." Do you see that there?---Yes, I do.

That seems to be page 2. Can we go back to page 1. There's two messages that seem to have been sent at approximately the same time. Do you see there Mr Maguire says to you, "Download the app."---Mmm.

Does that refresh your recollection at all - - -?---Not really.

- - - as to taking any steps in connection with WeChat, for example?---Well, I certainly – no.

So if we then go to page 3, you say, “Okay, I’ll try. What about WhatsApp? That’s easy, too.” Do you see that there?---Mmm.

10 And then we go to the next one. “I’ll do it tomorrow as I don’t know my password for apps.” See that?---Mmm.

And then we’ll go to the next one. This is from Mr Maguire. Mr Maguire to you says, “You need to get a private phone.” Do you see that there? ---Yes, I do.

Do you have a recollection of Mr Maguire suggesting to you that you need to get a private phone?---Well, not until you’ve showed me this. But I never did.

20

Well, do you have any recollection of Mr Maguire making that suggestion by way of text or in some other fashion or is your only recollection what you can now see up on the screen?---This is my recollection. And that could very well have been for privacy reasons. I had no, I had no inclination to think that it was because he’d, he’d done anything wrong. It could have been for privacy reasons. But I was clearly not concerned because I didn’t do any of those things.

30 But back to my question. Are you saying your only recollection of Mr Maguire saying anything to you about getting a private phone is the text message that we can see on the screen?---No.

You don’t have an independent recollection over and above - - -?---He may have, he may have - - -

- - - just let me finish my question - - -?---Sorry.

40 - - - over and above what you can see on the screen at the moment?---Look, he may have well said it to me but other colleagues did, as well, because I was someone who didn’t have a separate phone. I’ve always had the one phone. Many people, many of my colleagues have two phones, one private, one business. But because I was so busy and had, and was so stressed, I always kept one phone throughout my career. I never had two. Many people did and many people used to suggest that to me outside of Mr Maguire but I never chose to do that.

Would you at least agree, sitting there now reading that text, that it would be a matter of concern to you if Mr Maguire is raising a question as to whether

or not you need a private phone?---No, not really. That's a privacy issue. It probably, many, it's not just he that suggested that to me. Many colleagues have also suggested that to me.

I'll just go to the next intercepted SMS. See your response at the time.  
"Okay. Is everything okay?" Do you see that there?---Yeah.

10 Now, having seen that message, would you like to reflect on your previous answer as to whether the reference to a private phone was something that raised some concern or issue for you?---I couldn't remember. But if I was worried, wouldn't I have got a private phone? If I was concerned, wouldn't I have taken action? I didn't.

Well, if you were concerned - - -

THE COMMISSIONER: But you were concerned, Ms Berejiklian, about something because you asked him if everything was okay - - -?---Yeah, I - - -

20 - - - in the context of the conversation which had happened four days earlier concerning his summons to give evidence here.---Right. I can't remember what I thought at the time.

MR ROBERTSON: Well, can you identify any reason why the Commission wouldn't read the message that we can see on the screen as being an indication by you of some concern about the fact that Mr Maguire is suggesting that you need to get a private phone?---Well, only, only for, for the sake of privacy, I would assume, but I, I wouldn't have, if I was so concerned, why, I would have done it.

30 If we then go to the next intercepted communication. We'll do a few in a row. He says, "Yeah, got the bugbears on the rum." Do you see that there? ---Yeah.

Any idea what Mr Maguire might have been talking about with bugbears on the rum?---I have no idea what that turn of phrase - - -

It may well be an autocorrect issue.---I have no idea what that means.

40 And if we go to the next page, you'll see that on 9 July, you're not sure you knew what it mean, either.---Right. So, yeah. Yeah.

It says, "What, what does that mean?" Do you see that there?---Yeah. Yes, I do.

He then responds and says, "Bugger"?---Right.

If we then go to the next one. You then say, "Who's Bigger"?---Yeah.

But we then might make some progress on the next message. If we go to the next one, please. He then says, “Means I got more info and data than them,” followed by an emoji which I’m reliably informed is called a beaming face with smiling eyes. Do you see that there?---Mmm.

What did you understand Mr Maguire to be saying when he says, “Means I got more info and data than them”?---I’d have no idea.

10 Well, do you read it, at least sitting there now, as indicating some kind of concern on Mr Maguire’s part that Mr Maguire might have more information than, for example, Big Brother or an investigative agency might have?---No. That’s certainly not my recollection.

Well, is that how you read the message sitting there now? Or how do you read it if you don’t read it in that fashion?---I don’t want to speculate. How long ago was the message?

20 July 2018. 9 July, 2018.---I can’t, I wouldn’t be able to tell you what I thought, but I certainly, certainly wouldn’t have given it too much concern.

Really? Mr Maguire’s saying, “You need to get a private phone.” You say, “Is everything okay?” And he says something slightly elliptical about having more info and data than them. Surely that would have been at least a matter of concern to you at the time.---I would have assumed that was for privacy reasons. If you trust someone that they haven’t done anything wrong, and you yourself know you’ve done nothing wrong, I never felt the need to get a private phone, I never felt the need to change what I was doing, and I didn’t have that level of concern.

30 Any idea who the “them” is that Mr Maguire is referring to?---No.

THE COMMISSIONER: Didn’t it strike you as curious, Ms Berejiklian, that after the long conversation on 5 July, when you had asked Mr Maguire and he had assured you on several occasions that he had done nothing wrong, that he then thought it a good idea to get a phone, which you say you at least thought could be for privacy reasons?---Mmm.

40 Did it not concern you that if he’d done nothing wrong, why did he now want to switch phones, presumably for some added protection that the phone he’d been speaking to you on 5 July did not afford - - -?---I think it would be normal human nature that you wouldn’t want anybody to assume your private conversations were being listened to. I didn’t, I wouldn’t have taken it any more than privacy issues. If I was concerned about my privacy or I was concerned that there was any wrongdoing, I would have taken, had my own private phone, but I didn’t feel the need to do that because I - - -

I'm asking about Mr Maguire, not yourself.---I'm sorry. I can't, I can't speculate as to what was going through his head.

I'm just asking whether you ever put two and two together.---No.

10 MR ROBERTSON: But why wouldn't you at the time have read the reference to "them" as being a reference to the them that was being considered or being discussed in the 52-minute conversation a few days ago, namely this Commission?---Because he had given me his assurance, and I think in that conversation – I hadn't remembered that conversation until you played it in full. I, I'm assuming you played it in full. And I put to him a number of times, so between the 5<sup>th</sup> and the 13<sup>th</sup> I had no concern whatsoever because he had assured me he'd done nothing wrong, that I had nothing to worry about, that my office had nothing to worry about. I think my office had similarly expressed that view. Perhaps I'm mistaken. But the view was that he'd been called as a witness. And between the 5<sup>th</sup> and the 13<sup>th</sup>, I had no concern whatsoever, and if anything I assumed or may have assumed he had concerns about privacy if he thought people were listening in on his conversations, but I certainly didn't share those concerns because I didn't take any action on my part.

20

I should just let you know I haven't played the 52-minute conversation in full. I've played you excerpts of it.---Oh. Okay.

If it would assist you to play the whole 52 minutes, I'm quite happy to do so.---No, I think we've heard, I think we heard enough, thank you, Mr Robertson.

30 Can we then go to the next page of volume 41.

THE COMMISSIONER: There's some water there, Ms Berejikian.  
---Thank you, I'm okay.

Sorry, where are we going now, Mr Robertson?

40 MR ROBERTSON: We're going to the final page of volume 41, page 12. Mr Maguire then sends a further message to you, "They can read texts but not the little green man. It leaves no trace." Do you see that there?---Ah hmm. Ah hmm.

Do you know what Mr Maguire was referring to by "the little green man"?  
---I have no idea.

Could it be a reference to the WeChat icon, which happens to be a green icon or at least have substantial green in it?---It could have been. I've never used that, so I don't know, yeah.

But did you not understand this message at the time, in light of your 52-minute conversation with Mr Maguire a few days earlier, that he was concerned about this Commission potentially intercepting communications between you and him?---I have no recollection of that but I would have assumed it was only for privacy reasons, for no other reason. Not because of any wrongdoing, but because he, he may not have wanted and didn't want private conversations to be communicated.

10 Well, he's saying things like "I got more info and data than them," beaming face with smiling eyes. Did that not put you on - - -?---No.

- - - notice that there might be something that you might be concerned about?---No, between the 5<sup>th</sup> and the 13<sup>th</sup>, I was assured, because of my conversation with him, that he hadn't done anything wrong, so I didn't, I would have seen everything in that context. I would have, beyond privacy issues it didn't, you know, it didn't strike anything in me.

I just want to circle back on an issue you and I discussed yesterday.

20 THE COMMISSIONER: Friday.

MR ROBERTSON: Friday. In relation to the call that I played to you where it appeared that you said something like, "I've got you now, got you the 170 million in five minutes." Remember hearing that telephone call? ---Ah hmm.

30 And your evidence, as I recall it, or at least as the transcript records was that you don't recall what steps you took, if any, in relation to the matter the subject of that call, is that right?---Ah hmm. Ah hmm. Ah hmm.

I'm just going to show you a couple of documents in the hope that that assists your recollection. I'm going to start by showing you a copy of Budget Paper Number 2, which is called the Infrastructure Statement, from the 2017-2018 New South Wales Budget. That's the budget of the preceding year.---Ah hmm. Ah hmm.

40 I just want to give you some context around the Wagga Base Hospital because that may assist you in recalling what steps, if any, were taken. The '17-18 budget, please, budget paper. And can we go, please, to PDF page 95 of Budget Paper Number 2 for the 2017-2018 year. That page is also marked page 5-16. Now, if you could just have a look about halfway down the page, do you see there's a line item in that document - - -?---Yeah, I do.

- - - called Wagga Wagga Hospital Redevelopment Stage 3. See that there? ---Yep. Yep, I do.

And there's a total figure. If we just zoom up the page so you can see the headings to the table.---No, I can see the 170 figure, yep.

And see there there is an estimated total cost - - -?---That's ETM, yes.

- - - of 170 million.---Yep.

And an allocation of 4 million. Do you see that there?---I see that.

10 And so it appears, at least from this document, would you agree, that before you had the conversation with Mr Maguire, in a preceding year there was already a line item in the budget papers in relation to Wagga Wagga Hospital Redevelopment Stage 3?---I suspect the government would have made the decision to fund that a year ago.

THE COMMISSIONER: Ms Berejiklian.---Oh, sorry.

Could you just listen to Mr Robertson's question.---I'm sorry. Repeat the question.

Just answer the question, please.

20

MR ROBERTSON: Would you agree that it at least appears from what you can now see on the screen that before you had the conversation with Mr Maguire there had already been a line item in relation to a previous budget year?---Correct.

30 And if we then go to Budget Paper Number 2 of 2018-2019, in other words it appears from the '17-18 budget paper that stage 3 of Wagga Base Hospital was already in play in some form of another before your conversation with Mr Maguire, is that right?---In fact, I understand from the public record a decision was made well in advance, a year ago, yep.

That's really what I'm drawing to your attention in the hope that that assists - - -?---Yep, yep.

- - - in you being able to answer the question as to what steps, if any, you took in relation to what you said to Mr Maguire, "I've now got you the \$170 million in five minutes." So if we can go, please, to page a hundred and - - -?---I didn't say that. I didn't say the five minutes.

40 Let's go back to the - I'll take you back to that in a moment.---Yeah, yeah, yeah. Because - - -

THE COMMISSIONER: Ms Berejiklian, just wait for the next question, please.---I apologise. Sorry. Yep.

MR ROBERTSON: So can we go, please, to page 110, PDF page 110. If you have a look towards the very bottom of the screen, do you see there we've got Wagga Wagga Base Hospital Redevelopment.---Yes.

There's now a figure, about 431 million, although that seems to be a combined total of stage 1, stage 2, stage 3.---They're previous stages. There were three stages to the hospital. It was ongoing, it'd been ongoing for 10 years, a decade or so, yeah.

10 That's what I'm drawing, drawing your attention to. The apparent reason for the increase between the 170 million figure to the \$431 million figure, it would appear to be that that's a combined figure in relation to the previous work done on the Wagga Wagga Base Hospital, would you agree?---That's correct. That's correct, yeah.

And then if you have a look at the final column, there's then a \$20 million allocation in the final column, do you see that there?---And I suspect what's occurred, which is what members of - - -

THE COMMISSIONER: Ms Berejiklian.---Oh, I'm sorry.

20 Just might be – just - - -?---Context is relevant here, Commissioner.

And I'm sure you'll have an opportunity to answer and give explanations. ---Yep.

But at the moment just listen to the question, answer the question, please.

30 MR ROBERTSON: It's exactly the context that I'm seeking to expose so that you can give the explanation that I think you're about to embark on. But just on this document, this document itself refers to an allocation of 20 million, is that right? See that on the right-hand side of the page?---Which budget paper is this? 2018 - - -

This is the 2018-2019 budget paper.---Yes, yep.

40 Now, can we then in that context go back to Exhibit 524. That's the transcript of the telephone intercept that you and I were discussing on Friday and are now discussing. While that's coming up, I tender as a bundle Budget Paper Number 2, Infrastructure Statement, from the 2017-2018 New South Wales Budget, along with Budget Paper Number 2, Infrastructure Statement, 2018-2019 budget.

THE COMMISSIONER: Exhibit 529.

MR ROBERTSON: I'm told, Commissioner, that it may be 5, we may be up to 530.

THE COMMISSIONER: Very well. Exhibit 530.

**#EXH-530 – BUDGET PAPER NUMBER 2, INFRASTRUCTURE STATEMENT, FROM THE 2017-2018 NEW SOUTH WALES BUDGET, ALONG WITH BUDGET PAPER NUMBER 2, INFRASTRUCTURE STATEMENT, 2018-2019 BUDGET**

MR ROBERTSON: I'm now showing you the telephone intercept that I played you before.---Ah hmm.

10 And do you see there a reference to speaking to Dom and "I said put the 140 in the budget" et cetera. See that there?---Ah hmm, yep.

And if we then go to the next page, please, and then we'll go to the following page. Just pardon me for one moment. If we can go, please, in that bundle to page 8. I just want to show you the quote from the transcript of the telephone intercept which I think, sitting there now, you said you didn't quite recall.---Ah hmm.

20 Just have a look on the second thing attributed to you after the second dash. It says "I've got you now, got you the 170 million in five minutes." Do you see that there?---Yep, ah hmm.

Now, having been refreshed with at least some of the context, the fact that a reference to the Wagga Wagga Base Hospital stage 3 was in the preceding budget papers before this conversation with Mr Maguire, are you able to assist as to what you were saying when you were telling Mr Maguire on 16 May, 2018, that you had got him \$170 million in five minutes?---I can only make this assumption and that is that the money was already allocated in the budget but the issue is that members of parliament like to see it as a separate  
30 line item because it was a separate stage. He needs to explain to his community that that particular stage was being, was being funded. So the money was already there, it's how it's presented, and many colleagues often have those issues where a commitment is made or money is allocated and it's put up as a general line item, but they want to be able to explain to their communities that the allocation is actually there. So the money had already been agreed to by government, it had gone through the proper process, the relevant minister would have had to have made that recommendation, and my assumption would have been that it's how it was presented in the budget papers so that any member, including he, were able to explain to his  
40 community that the stage 3 funding had commenced. And in fact I see from the budget paper there, the end date was 2022 and often the allocations are less in the first instance and then the balance of the sums are, are heavier in the, in the, towards the end of the project, when most of the capital works are undertaken. So I see from there absolutely nothing unusual. If anything, I may have, and I have no recollection of this, spoken to the Treasurer to make sure that it was presented in a way in the budget where the local member was able to confirm to the community that the commitment was being made. But as to the dollars, they were already in the

budget. Nobody on this planet can get that amount of money overnight and I certainly would never have done that. I am a stickler for going through the processes, I am a stickler for making sure everything is done by the book and I would never have been able to pluck that money out of thin air over, in five minutes. That's just absurd, absolutely absurd.

10 So at least a possibility is that when you said to Mr Maguire that you had got him the \$170 million in five minutes, what you in fact got him is not actual new money but a reference in the budget papers to money that had been committed in previous budget years. Is that right?---That could very well have been the case, yeah.

That's at least one possibility.---That's a possibility.

Having regards to the context that I was seeking to show you a moment ago?---Correct.

20 But do you at least agree that the intervention that you apparently engaged in on 16 May, 2018, getting \$170 million in five minutes, perhaps simply getting it in the budget papers as opposed to getting new money, that's not the kind of intervention that you would have made for any other member of parliament?---That's incorrect. It would have been. I've had many instances where members of parliament are upset because we've made a commitment and sometimes in some portfolios a minister, or the line item might be planning money and in that planning money there may be several projects that are bundled up in that and members get anxious when they can't go back to their community and show the line item. So in subsequent years, and certainly when I was Treasurer, you often have a separate sheet of  
30 election commitments so that the general line items can be determined and demonstrated to the community. So, it, that's a question of presentation and, and I would have absolutely done that for other colleagues, absolutely explained to them. In fact we even had supplements to the budget to satisfy colleagues concerns that if a commitment had been made but money hadn't been spent yet, but the money had been allocated, that we made that transparent to the community. Of course I would have done that for other colleagues, in fact I have. And I'm very comfortable if you go and ask some of them as to the level of my - - -

40 THE COMMISSIONER: We'll just focus on the ones here, I think, Ms Berejiklian - - -?---Okay. I'm sorry. Yeah.

That's enough.---Okay. I apologise, Commissioner. I'm sorry.

MR ROBERTSON: So, what, you say at this point in time as Premier not as Treasurer, you would intervene to get the budget papers changed within five minutes or perhaps more accurately within about two hours for anyone who raised the kind of issue that Mr Maguire raised?---It's not so much having change, it's just to make sure that if, if a colleague is concerned

about something, I would raise it with the relevant minister, whether it was the Treasurer or relevant minister. I mean, that is just par for the course. Certainly, members from time to time, they go the minister, they go to the Treasurer. I'm normally the last stop they come to. But, having said that, I would have treated any of my colleagues in the same way. And I understand as a member of parliament myself that if you have a commitment in your community, you want to make sure the community believes you, that the money is there. The money was there. It's a question of presentation. And any Treasurer would be cognisant of that. It's, often in the days leading up to the budget, there's a flurry of, of interventions and calls by members to make sure that what they've promised their community is, is evident there, so that is not unusual in the least. It's actually part of the normal process. And one thing that I prided - - -

THE COMMISSIONER: I think you've answered the question, Ms Berejiklian.---I'm sorry.

MR ROBERTSON: Why didn't you just tell Mr Maguire what you said to him about the Tumut Hospital, "Go and speak to the Minister for Health or go and speak to the Treasurer"?---Well, I suspect the Tumut Hospital funding hadn't been allocated, I don't know, because if, the, the, it seems to me, and again, I'm only speculating because you've asked me to speculate, but in relation to the Wagga Hospital, the money was already there and my understanding is for Tumut, it wasn't there yet. So if you're fighting for money, you've got to go to the relevant minister. But if it's a presentation issue or explaining to your community, well, then that, that's something that, that you'd bring to the attention of the Treasurer or the minister to make sure the community is aware of every stage of every project.

And so is this right? If the person who picked up the phone to you on 16 May, 2018, was someone other than Mr Maguire, you would have acted exactly the same way as you ultimately did?---100 per cent. 100 per cent. I would have shot a text to the Treasurer, or I don't know what action I took on that part but I would ordinarily shoot a text to the relevant minister, say, "This person is concerned. Can you make sure that it's a line item or the money's there," or what have you. That's the normal course of making sure that you keep your colleagues satisfied, engaged. And I prided myself on being a leader that was engaged with my colleagues because I appreciated how, how important it was for us to make sure the community was aware of everything we were providing.

Now, back to July of 2018 - - -

THE COMMISSIONER: Before you go there, Mr Robertson, is there an implication, Ms Berejiklian, for members of parliament and perhaps, as you've been saying, for their communities that if there isn't a line item but whatever their, allocation they wish to have for a particular item, for

example, here the Wagga Hospital, is not specifically identified, that it might, in effect, not be able to be drawn down during that relevant period? ---No, it can, no, no, no. It's definitely drawn down. But the community needs evidence that the commitment's being met, so - - -

There must be a concern if the MP can say, "Look, it's there. It's just in that great big - - -?---Correct. But if it's a separate line item or it's mentioned, then, then people feel confident that it's definitely there. But the allocation of funds is there. It's often a presentation issue.

10

Thank you.---But that is a regular issue. For example, we may have made commitments, there might be - - -

No, I understand that, Ms Berejiklian.---Yeah. I'm sorry.

Thank you (not transcribable) explanations.

MR ROBERTSON: Back to July of 2018. You, of course, recall that Mr Maguire gave evidence on Friday, 13 July, 2018 before this Commission in an inquiry referred to as Operation Dasha?---I do.

20

You were on leave on that date. Is that right?---That was the first day of my leave, from memory, yeah.

I take it, though, that you became aware of at least the general nature of Mr Maguire's evidence within fairly short order of that evidence being given? ---Yeah, I had a staff member call me.

Who was that staff member?---From memory, and I haven't been, I haven't been listening to proceedings last week. From memory, it was Mr Burden.

30

Mr Burden, I think, was your acting chief of staff at that point in time. Is that right?---Because my chief of staff was away, yes.

At least as a matter of practice, Ms Cruickshank would ordinarily seek to take leave around the same time as you would take leave. Is that right? ---That's correct, yeah.

The evidence of which you became aware that Mr Maguire gave was evidence that upset and shocked you?---Yes.

40

It became apparent to you from Mr Maguire's evidence that Mr Maguire had been lying to you in the past. Do you agree?---I wasn't sure. I made that, I wasn't sure what was happening that day. He told me that he hadn't been involved in any wrongdoing. But I could only go by the information conveyed to me by my staff member, so he told me there was, he hadn't, hadn't been involved in any wrongdoing and my staff member conveyed to, to me that it was a very bad look, that he'd been caught up in, in some

people who'd likely been, had been done some wrongdoing. But, Mr Robertson, I stress that that investigation was ongoing, so there was yet, there was still investigations as opposed to findings or anything of the like.

Well, is this at least right, it was apparent to you on or soon after 13 July, 2018 that Mr Maguire was closely associating himself with people who, in all likelihood, were doing things improperly?---Well, that was a concern, that he had been. Obviously, yeah, that's what the evidence showed, he'd been associating himself. Whether or not he knew what they were up to is another matter. But certainly that was the concern, that he'd been caught up with people who were accused of doing wrong things and that was a major concern.

But that was your understanding of the position, is this right, when Mr Maguire's evidence of 13 July, 2018 came to your notice, namely that, amongst other things, Mr Maguire was closely associating himself with people who, in all likelihood, were doing things improperly?---Yes, that was my concern.

20 You were concerned that he was directly involved with those individuals and with people in respect of whom there were shadows cast, is that right? ---Well, concern that he was definitely in their orbit. To what extent, I didn't know. But at that time it was, there was, as should be the case, concern about members of parliament being involved too closely with, with people of that nature.

Well, wasn't it a little bit more than that? It was apparent to you that Mr Maguire had admitted that he was engaged in a money-making exercise for his own benefit, along with one of the people who were being investigated in the operation known as Operation Dasha?---Well, certainly on and around the days of 13 July I considered that possibility. I just didn't know. I was away. But certainly around the day, 13 July and the next few days, I was very concerned as to what might be occurring, I wasn't sure, and, and I was extremely concerned.

But you were aware, weren't you, in short order of Mr Maguire giving his evidence on 13 July, 2018, that he had admitted to being engaged in a money-making exercise along with Mr Hawatt, who was then a member of the Canterbury Council? That was the gist of Mr Maguire's evidence in that afternoon.---Yeah, I mean, I was aware of what was on the public record but nothing more than that.

You at least had come to the view by 13 July, 2018 that Mr Maguire had been lying to you in the past - - ?---Well, on that, on - - -

- - - in relation to his association with property developers, for example?

---On that day, not before that day.

On that day you were aware that Mr Maguire had been lying to you in the past concerning that matter, is that right?---Well, I had made that assumption but I, I wasn't definitely sure. I had made that assumption that something was awry, given the evidence that came out that day.

10 So you assumed that something was awry, is that right?---Awry, but I wasn't sure what it was, and I wasn't sure what had transpired. But I'd assumed that he hadn't been fulsome with me, but I wasn't sure at that time. Now, that subsequently changed but, so that day and the next few days, I was not sure as to what had transpired.

20 The thing that was awry, as you understood it, was that Mr Maguire may have been engaged in some kind of wrongful conduct.---Well, he was hanging out with people that were, absolutely. But I wasn't sure if that was the case. It was my concern that he had been caught up in others doing wrongdoing, and I wasn't sure about his involvement or the extent of it. But the fact that he was hanging around these people in itself, and the fact that he'd been caught up in this inquiry, at the very least put a cloud over him and his involvement.

30 It was at least clear to you, as at 13 July, 2018, that Mr Maguire had been lying to you in the past or had lied to you in the past in relation to certain matters that he had told you regarding things like relationships with property developers?---Well, potentially, yes, although I wasn't sure. I was just mortified that he was caught up in all of this because it was not, in my opinion at that time, not within his character. And I was shocked at what had transpired, and I had assumed he was caught up in something, but I wasn't sure as to the extent of it. But from a public perspective, clearly there were questions to be answered.

40 And so at least, is this right, at least your state of mind as at 13 July, 2018, after Mr Maguire gave his evidence, was that you were of the understanding that Mr Maguire had lied to you in the past regarding, for example, his relationship with property developers?---Well, I didn't rule that out. It wasn't a conclusion I came to but I had assumed he may have. He may not have been telling me everything but I wasn't sure. It was the, the shock of, the shock of what happened did question, did make me question everything. The shock of what I, what I was told and the shock of what I subsequently read definitely made me question things and I was, I was very confused as to what it meant and very confused as to what he had actually been caught up in.

It was at least an assumption or conclusion that you had reached as at 13 July, 2018, that Mr Maguire had lied to you in the past in relation to his relationships with property developers, is that right?---Well, I, I think I thought that on the day but then in subsequent days I wasn't really sure because it, the investigation was ongoing and he was professing his innocence every day, and I came to the conclusion that I, eventually came to

the conclusion that I just didn't know but I kept racking my brain as to, firstly to what extent he'd been truthful and, and secondly to what extent the investigation was, was going to reveal anything further about his activities.

10 But, I'm sorry, you're agreeing or disagreeing with the proposition that as at 13 July, 2018, after Mr Maguire's evidence came to your notice, that you had concluded or at least assumed that Mr Maguire has lied to you in the past in relation to his relationships with property developers?---Well, on that day I definitely would have had that, that conclusion. That subsequently changed, but on that day I would assume that there was something untoward occurring because he'd been caught up in this cloud and, and I, I subsequently wasn't sure and subsequently I gave him the benefit of the doubt and the presumption of innocence. But on that day and the next few days I just didn't know, but I had made that assumption.

20 So are you saying that, what, on 13 July, 2018, you had reached a conclusion that Mr Maguire had lied to you in the past but that that conclusion somehow was adjusted or changed in further days?---Well, I just wasn't, I just, I was away, I hadn't been following proceedings and so I just didn't know, it was, I was over, absolutely overwhelmed with the shock and grief of what had transpired in the hearing because he had told me definitively that there was nothing to worry about, he had done nothing wrong, and yet that's not what transpired in terms of, of evidence, but I, I, I just didn't know. I was confused but on that day I knew that something was awry, I just didn't know what.

30 The evidence of 13 July, 2018 at least led you to question what Mr Maguire had been telling you, for example, on the long telephone call of 5 July, 2018?---Absolutely. I questioned everything. I questioned anything that I may have known, I questioned everything. That was, I can't imagine, I can't express what a shock it was to the system because you have a certain view of somebody and, and that view is then questioned, was enormously shocking and I did, I thought long and hard about everything. I thought long and hard for a number of days about what he'd said and what I, what, what he had said to me and, and, and what had occurred and, and that for me was a very, very difficult period and I was trying to rationalise what had occurred at the hearing, his protestations of presumption of innocence and, and, and what my responsibilities were.

40 You came to the view by the weekend immediately after his evidence that Mr Maguire had let down his constituents, the people of New South Wales and the New South Wales Liberal Party, correct?---I did. I, I put that in a statement.

In the face of all of that, did you suspect that Mr Maguire may have been engaged in corrupt conduct?---I didn't.

Why not?---Because I, I assumed that anything he was caught up in was, was something that, on his part, was, was, was unintentional, that he wasn't aware of everything going on around him and I also assumed that this, the investigation of Dasha would come to a conclusion as to whether or not he'd engaged in corrupt conduct. But certainly in my experience, in, in what I have known of him, I, I didn't put it past him that he was caught up in something that perhaps he wasn't totally aware of, and that's probably the extent to which my concerns went. But I certainly didn't, never suspected him of being corrupt.

10

But as at 13 July of 2018, you at least assumed that Mr Maguire had been lying to you, by the following Sunday you had come to the conclusion that he had let down his constituents, the people of New South Wales and the NSW Liberal Party. In the face of that, surely you at least suspected that Mr Maguire may have been engaged in corrupt conduct, even though at that point in time you may well have not have known.---No, I didn't. I didn't. I assumed he'd been caught up in something. I didn't know the extent of it. But I didn't assume corruption on his part because that's not the person I knew. But in terms of public office, in, in public life, it wasn't just the facts of what we were dealing with and investigation that was under way, but it was also the perception of what he may have been caught up in. At the very least, if there's a cloud of that nature, one would be expected to sit on the crossbench, to relieve themselves of their responsibilities, until the matter came to a conclusion. And that was certainly my expectation of Mr Maguire, that until this cloud, which had been exposed on 13 July, would come to a conclusion, that he should avail himself of the party room, of his responsibilities, and sit on the crossbench until the matter was determined by this agency and determined as to whether or not there was a case to be answered.

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You used the word "cloud". Isn't that a cloud of suspicion. Isn't that the nature of the cloud that you're just referring to?---Well, the cloud was for public display. The cloud was there for everybody to see. The cloud was there for everybody to consider. And in public life, clouds of that nature need to be addressed before you can assume responsibility. And certainly because of that cloud I completely supported him availing himself of all responsibility and, and sitting on the crossbench until this body conducted its investigation, came to conclusions, after which his future would be determined.

40

But one way in which a cloud of the kind that you've just identified could be dealt with is by providing the investigative agency with everything that you knew regarding Mr Maguire's dealings, for example, with property developers, do you agree?---Yep. If I'd known anything, of course I would have done that. I would have done it at the time that I knew that. But I racked my brain. On 13 July I looked back and, and spent many days thinking is there anything, did I know anything, do I need to report anything? Of course all of that went through my mind. Of course all of that

did. But I had nothing to report. There was nothing that I knew. Nothing that I remembered, nothing that I thought was of any relevance. And if there was, I would not have hesitated. I did not hesitate to avail him of his responsibilities, given this dark cloud that had emerged. And, and I, if there was anything that I had to report, anything specific or any concern, I would have done that. But there was nothing I could remember, nothing that I knew, no detail which I could provide.

10 What about each of the things that I addressed with you this morning? For example, the attempt to obtain a commission in relation to the Badgerys Creek stuff of \$1.5 million, making representations, trying to get the location proposal, roads changed and things of that kind?---No, I did not, did not assume for a second that any of that was corrupt, and I did not assume for a second that he was doing wrongdoing. And if I had, if I had, I would have reported it. I would have reported it at the time that it emerged or subsequently on 13 July. But I had no cause because I trusted him and there wasn't anything that I believed was specific or, or a concern or, or I don't know what I would have reported. I don't know what I would have said to this body.

20

But as I understood your evidence from earlier this morning, you were asking questions of Mr Maguire on 5 July, 2018, the long telephone call, the 52-minute call, and you were satisfied with his responses because you trusted him to be telling you the truth, correct?---That's correct.

As at 13 July, 2018, you assumed that he was not telling you the truth. Doesn't that then explode the whole assumption as to why you believed Mr Maguire on 5 July, 2018 that he'd done nothing wrong?---No. On 13 July what erupted was his close association with people who were accused of doing wrongdoing, and his association and interest with these people. And that, in public life, that's sufficient cloud for you to step aside until that cloud is dealt with positively or negatively. And I did question that day whether he'd lied to me, he must have lied about his association or must have lied about something, but it didn't, I didn't think, I didn't come to the conclusion that it was corrupt conduct. I didn't come to that conclusion. In fact, it was the responsibility, respectfully, of this body, to, to come to those conclusions. But I certainly did not, did not know of anything, did not, if I had, I would have reported something. But what came to fruition on the 13<sup>th</sup> was on public display and was for all to see.

40

What, in particular, about the evidence that was revealed on 13 July, 2018 was something that shocked you?---What shocked me was that, clearly, this body had caused to investigate that particular council and their activities, and what shocked me was the level of, I guess, association he had with these people who were accused of wrongdoing.

But you knew about that on 5 July because Mr Maguire told you over 52 minutes.---But he'd told me he'd done nothing wrong.

Yes, but by the - - - ?---Just because, because you associate with somebody doesn't necessarily mean you've done anything wrong, and I trusted him and believed him, and on the 13<sup>th</sup> I did question all of that. I did question to what extent he'd been telling me the truth and I thought about every, tried to remember every conversation we had, I tried to remember everything because I was shocked that this was something, in my view, out of character for him. It was something I did not expect him to be involved with and I questioned everything. Then I came to the conclusion in subsequent days, and I can't remember exactly when that was, that what I should assume is he should be availed of all his responsibilities until this cloud was dealt with, that this body would deal with that cloud, and if I had known anything or suspected anything, of course I would have made those reports.

I'm just trying to understand just what the particular thing or things that you understood were revealed on 13 July, 2018 that shocked you. What was that matter or matters?---That he had some, I wasn't even specific but it was just that he had some level of association with these people who were accused of wrongdoing.

But you knew that on 5 July. Remember you told Mr Maguire, in effect, I don't think you should be hanging out with dodgy people like that.---Yes, but he had told me that there was nothing to worry about and it was almost a mistake or he'd been caught up in something unawares as opposed to having a close association with them.

But by 13 July, 2018 you had at least assumed that that assurance from Mr Maguire on 5 July, 2018 was a lie, correct?---Well, I certainly assumed that it should come under question. I certainly assumed that something may have been awry, and, and the shock of, the shock of what had transpired did cause me to think has he lied to me, is there something wrong, is there something awry? And I wracked my brain as to whether there was anything specific I knew or anything that I needed to report in terms of obligations. I came to the conclusion that there wasn't anything I knew. I came to the conclusion that I wasn't sure what he was up to, he was still protesting his innocence to me and I had, and I felt that I had in subsequent days gave him that presumption of innocence because I was confident that this body, this body would be able to determine to what extent that cloud should be dissipated or otherwise.

THE COMMISSIONER: Why didn't you just tell, report to the Commission the information he gave you during the conversation on 5 July in the course of which Mr Robertson has just reminded you, you told him not to engage with these dodgy people?---Because he told me he'd done nothing wrong.

But you'd just found on 13 July that there may well be some problem with believing that assertion in the light of the evidence on 13 July?---Because

clearly this body had, had all that knowledge and information. I didn't know, I didn't know anything beyond him saying I've done nothing wrong.

You didn't know the extent of the information this body had. For all you knew, the information he'd imparted to you on 5 July was something which could have assisted the Commission with its inquiry.---But I had no knowledge of that and even - - -

10 What did you have no knowledge of?---I had no knowledge as to what, any, any wrongdoing he was doing. And I, I don't even think that I would have recalled in full the conversation on 5 July, I just, there was nothing - - -

A conversation about a week before the evidence that he gave - - - ?---Yes, but I - - -

- - - that went for 52 minutes?---Yes, but with all due respect Commissioner what would I have reported?

20 What he told about his association with Mr Hawatt and other people which led you to instruct him not to engage with these dodgy people.---Yeah, but what he told me was that he wasn't doing anything wrong.

But you might have had reason to believe that that was a suspicious statement by 13 July, surely, Ms Berejiklian?---But I don't know what I would have reported. He told me he did nothing wrong, he told me his association with these people was limited and I believed him. And then clearly on 13 July that wasn't the case, but I, I didn't assume he'd done anything wrong. There was, I didn't feel there was anything I could add. I didn't feel there was anything I could report.

30 MR ROBERTSON: You could have reported I know these things, Mr Maguire has told me these things, I trust him, I believe him but I appreciate it's a matter for this Commission, not for me, to decide whether or not Mr Maguire or anyone else has been engaged in corrupt conduct. Why couldn't you do that?---But I, but, but I had no, I had no belief that that was the case. I had no understanding that was the case.

40 So are you saying, at least as you understand it, your duty to report suspicions of corrupt conduct only applies in the event you think corrupt conduct has in fact been conducted, has been engaged in, is that what you're saying?---But I, I didn't suspect, I didn't suspect him of corrupt conduct. I didn't suspect that he'd done anything horrendously wrong.

So he just lied to you, according to your assumption, he'd let down the people of the state, the Liberal Party and his electorate, but he hadn't done anything relevantly wrong?---Well, I knew there was a big cloud but I didn't know the extent of what was transpiring. I wasn't even party to the proceedings, but I did know that there was questions for him to answer at

the very least, and, and therefore that's why he was asked to stand aside and, and did so.

Questions that you might be able to assist this Commission in answering by reason of material that you had, to your knowledge, correct?---No. I didn't feel I had anything or knew anything. I didn't even have last names. I knew nothing.

10 You said a little while ago that you at least gave consideration to the question of whether you had a duty to report to this Commission, is that right?---Can you please repeat that question.

I understood your evidence before to be to the effect that you gave close consideration in the days following 13 July, 2018 as to whether or not you should make any report to this Commission, is that right?---Absolutely I did, yep.

20 Did that include obtaining any advice from either your chief of staff or any lawyers within government or separately from government?---No, it didn't.

Why not? Surely you could get some assistance from perhaps your chief of staff, perhaps from the very good lawyers within the Department of Premier and Cabinet to assist you on that question.---But I, I didn't feel I knew anything. I didn't feel there was anything I could ask advice on. I'm not sure what I would have asked advice on.

30 THE COMMISSIONER: Ms Berejiklian, were you concerned that if you sought the advice, the sort of advice to which Mr Robertson has just referred, the cloud which Mr Maguire was under might shift to you?---No. Because - - -

Or spread to you.---No, because I knew in my heart that I had never, ever, ever done anything wrong. In fact, anyone who's worked with me or knows me knows I'm not capable of that. Absolutely. But if I had any suspicion whatsoever that, that I knew anything or suspected anything, of course I would not have hesitated.

40 Why not say to these people, who could assist with advising you as to whether or not the belief you held was accurate, share with them the information Mr Maguire had imparted to you at the very least on 5 July? ---But that information to me was insignificant. It was his protestations that he didn't really have much to do with these people and there was nothing to worry about. I wouldn't have retained that information. If you're told, "I've done nothing wrong. Don't worry about it. It's all going to be fine," and I asked him several times, I don't even think I absorbed that information. I wouldn't have retained it because he'd given me an assurance.

What do you mean you wouldn't have retained information told to you six or seven days before 13 July?---But, but my concern was to ascertain from him - - -

No, you haven't answered my question.---Oh, I'm sorry.

Have a listen to my question.---Yep.

10 What do you mean he wouldn't have retained it? It would have just totally left your mind by 13 July, the conversation of 5 July?---No, if he'd told me – the only parts of the conversation I would have recalled were the association with the so-called, as I describe them, and I apologise if it's not yet been determined, dodgy people. But beyond that, I wouldn't have, wouldn't have retained anything or thought about it, because he'd assured me he was innocent and hadn't done anything wrong.

MR ROBERTSON: But why is it for you to decide whether or not he's done something wrong, as opposed to putting this Commission, being armed with information so that this Commission can decide that question?---No, 20 but the question I asked myself is did I know anything. The question I asked myself at length is did I know anything that I could help with the Commission in their investigations, and the answer very strongly in my mind was I didn't know anything which would add to what this Commission was looking at.

30 Didn't you know quite a bit of information, having regard to your close personal relationship with Mr Maguire in which you had had many, many, many conversations over many years, including conversations in which Mr Maguire was reporting to you as to his outside business activities?---But I never, ever for a second assumed any of that was corruption. I assumed that if he did have any, any activity, any private interests, that he would have gone through the proper disclosure process, that he was doing everything aboveboard. I chose not to be interested or involved in his personal matters, and I assumed at all times he was doing everything right. If I, if I had at any stage assumed that there was any hint of corrupt activity, of course I would have reported that. Of course I would have done that. There is no reason why I wouldn't. But I just didn't, I just didn't suspect that.

40 But you could have said all of that to the Commission by way of a report, “This is the information I've got, I, I trust him, I believe him but I appreciate I am the Premier, I am not the Independent Commission Against Corruption, I'll leave it to the Independent Commission Against Corruption to decide that question.” Why didn't you do that?---But I, because I suspect many other, many other colleagues who are in the same category, all of us trusted this person, trusted, I trusted this process. I trusted that this process of Operation Dasha would come to its conclusion and I had nothing to add, I didn't know anything to be able to add to, to any investigation.

But Operation Dasha, as you understood it, was only concerned with the former Canterbury Council, correct?---Well, I didn't know what else, what else was, was part of that. There, there may well have been, I, I, I had no idea beyond what things, whether that, that led to other issues.

My point is Mr Maguire, over the years, had told you about things that had nothing to do with the Canterbury Council, do you agree?---Well, clearly he told me and others things that had nothing to do with Canterbury Council, yes.

10 Including information that to your knowledge might be of interest to this Commission?---No. If there was any information that would be of interest to this Commission, of course I would have exposed it. At the very least I would have raised it with my department heads or, or legal counsel, but I had no cause to do that.

On 13 July, 2018, it was revealed that Mr Maguire was, in effect, trying to share commissions with Mr Hawatt, you're aware that that was the nature of the evidence, or at least a part of it on 13 July?---Yeah, I, and Mr Robertson, I would be dishonest if I said to you that I played, played close attention to,  
20 even to this day I can't tell you exactly what, what those, those matters were about.

No, but it had nothing, for example, to do with Badgerys Creek stuff, correct?---Yes, but I didn't, I didn't draw any dots. I, if you trust somebody, I wouldn't have remembered that conversation from Badgerys, I wouldn't have remembered or assumed that any of that had to do, had to do with this. That, I did not join the dots, I did not think that there was anything untoward. I did not think there was anything I had to report, and if there was, I would have.

30 But why didn't you draw the dots? There was a, to use your phrase, a cloud over Mr Maguire by reason of the evidence in Operation Dasha. Mr Maguire had told you quite a bit of information over many years, as we've seen by reference to the telephone intercepts. Why didn't you simply report to the Commission and say, "Look, I trusted him all along. I think there's nothing to worry about here but this is the information that I've got, just in case it is of assistance to the Commission either in Operation Dasha or in the Commission's overall duty to investigate corrupt conduct"?---I doubt I would have first of all remembered all those things. Many of the  
40 conversations I didn't recall until you played them to me in private hearings. So there was nothing I could really, nothing I retained, nothing in my involvement with him that caused me to think that I had an obligation to report to this body, because there was, in my view, in my mind, nothing I knew, no information I had and I didn't suspect him of corrupt conduct. That to me was completely not the person I know, not the person that I trusted and if I had, if I did, of course I would have. I would have at the very least reported it to my departmental officials, at the very least sought their advice, but I didn't even feel I needed to get to that level because I,

there was just, in my mind, nothing I remembered, nothing I had to report and, and nothing that I thought I could add to these proceedings.

Why didn't you at the very least at least seek some advice from someone who might know or might be able to assist you as to whether or not you had a duty to perform?---Because in my mind there was nothing I knew, there was no information I knew that I could convey to say that this is what I know. I'm not quite sure what I would have, what I would have reported. There is no specific thing that I felt that I knew or understood or assumed or suspected, and if there was, of course I would have undertaken my obligations, as is the obligation of any person who suspects or has any knowledge of corrupt conduct.

The evidence that Mr Maguire gave on 13 July, 2018, was a matter of significant political controversy at the time, is that right?---It was.

Was your decision to not report any suspicion of corrupt conduct to this Commission affected by a concern that if you did so, you might be subject to the cloud that you referred to before that Mr Maguire was under?---Why? No. Because I knew in my heart of hearts that not only was I incapable of doing anything which I felt was wrong, but I, I'm always someone who stands up for my actions and that there was nothing that I was concerned. As you saw in the evidence, I didn't even bother getting a private phone, I didn't bother taking any of those actions because I'm completely comfortable with who I am and what I'd done and my record. So I had no reason to be concerned. And as I ironically told Mr Maguire in that long telephone conversation if you tell the truth and you're honest, you've got nothing to worry about and that's always been my position.

Was a reason as to why you didn't make a report or, for that matter, seek advice from anyone as to whether or not you were obliged to make a report a concern that your hitherto confidential or private relationship with Mr Maguire might become more widely known?---No, because my obligation to report any information I had on suspicion or corrupt conduct would have outweighed any other, any other consideration and I want to be very, very clear about that.

Was the fact that you didn't make a report about Mr Maguire influenced by the feelings that you had for Mr Maguire at the time?---No.

Was it influenced by any - - ?---No, because I, I, I sacked him.

Was it influenced by any other aspect of your close personal relationship with him?---No. No. It was based on the fact that I didn't feel I knew anything. I didn't know any details, I didn't know anything, I didn't suspect him of corruption. And correct me if I'm wrong, Mr Robertson, but in that inquiry, I don't think there were any corrupt, I mean, I don't know if that, that report recently, I understand, completed but I, I, I had no knowledge.

I think you asked for a correction. Are you drawing attention to the fact that in the Commission's report, a recommendation was made that consideration be given to the prosecution of Mr Maguire for giving false and misleading evidence? Is that what you were referring to?---No, I understand that to be the case. But in terms of, in terms of what I suspected and what I knew, there was nothing I knew, nothing I suspected and if there was, I wouldn't have hesitated to report because I envisage this body would have been sympathetic to my situation and I would have not hesitated, not hesitated to execute my responsibilities and obligations if I felt they existed.

What do you mean about sympathetic? What do you mean by sympathetic to your situation?---No, I would have, obviously, if there was any, any concerns I, I felt I had or any, anything to report that this body would have welcomed that information. I wouldn't have been concerned about that.

You referred a little while ago to sacked Mr Maguire. That occurred on the evening of 13 July, 2018. Is that right?---Look, from memory, it occurred on the day, on the day that occurred. I can't remember what time, but I do recall it was on that day, yes.

THE COMMISSIONER: By "sacked", do you mean sent to the crossbench and dismiss - - -?---Sorry. When I say "sacked", I mean, he resigned his position as parliamentary secretary, resigned his position as a member of the Liberal party room and, to sit on, and went to the crossbench.

MR ROBERTSON: On the day of his evidence, you asked for his resignation as parliamentary secretary. Is that right?---That's correct.

And then I think he resigned from the parliamentary Liberal Party and the Liberal Party itself during the course of the weekend of 14 and 15 July. Is that - - -?---I can't remember the exact dates but they were in close succession, yeah.

That's consistent with your recollection what I've just set out, I take it? ---Yes. I can't remember the exact dates but that was, and, and, and perhaps, I can't even recall if he, what the order was but it was a mutual understanding that he had no option but to undertake that activity.

So how do you reconcile sacking Mr Maguire on the one hand as parliamentary secretary and not having a suspicion that Mr Maguire engaged in corrupt conduct on the other hand?---Well, as I said, it was that cloud, but everybody was subject to that cloud. The Opposition was calling for it. Are you suggesting the Opposition had information they needed to report? Are you suggesting the media had information they needed to report? When a cloud like that emerges, there's a political uproar and, understandably the public needs to be assured that until that cloud is

considered, until that cloud is investigated, that that person alleviate themselves of any major responsibility.

So far as I'm aware, there was no one within the Opposition who was in a close personal relationship with Mr Maguire and who had been told information regarding their outside business interests over many years. In the face of that, how do you say that you're in effectively the same position as the media or the Opposition or anyone else?---But I didn't have any, I didn't have any - - -

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Wouldn't you accept that you were in a very significantly different position because you were aware of at least some information regarding Mr Maguire's outside business dealings?---But I'm sure a number of, a number of people were but that doesn't mean you suspect corruption. That doesn't mean you suspect wrongdoing. It doesn't mean that you have not, not committed to your obligations with this body. Just because you have scant bits of information doesn't mean you suspect corruption. And if I had suspected corruption, if I had suspected wrongdoing, of course, I would have reported those matters.

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THE COMMISSIONER: Mr Robertson, is this a convenient time to take a short adjournment?

MR ROBERTSON: Thank you, Commissioner.

THE COMMISSIONER: I'm going to take a 15 minute adjournment for morning tea, Ms Berejiklian.---Thank you.

30 **SHORT ADJOURNMENT**

**[10.30am]**

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Ms Berejiklian, can I just make sure I've got this right, the events of 13 July 2018 led you to give close consideration as to whether you had a duty to report to this Commission or a head of an agency responsible to you, is that right?---Of course I had those thoughts.

40 And you came to the view that you didn't have a duty to report, but that was a view that you came to without the benefit of any advice from anyone, is that right?---That's correct.

Did you ultimately, though, seek – I withdraw that. Did you seek, though, any what I might describe as political advice from anyone as to what to do in light of the events of 13 July, 2018?---Political advice in terms of how to issue public statements and how to deal with the matter, but at the end of the day, Mr Robertson, it's on me, it's my obligation, and I was clear about that,

and, and I came to the conclusion myself that I, there was nothing that I needed to or, or had to or had any knowledge of to report.

Did the events of 13 July, 2018 cause you to make contact with your then on leave chief of staff, Ms Cruickshank, to inform her anything about - - -?---I did contact her, yep.

You did?---Ah hmm.

10 And what day was that? Was that on the 13<sup>th</sup> or some subsequent day?---I think it was on that day. I'm pretty sure it was on that day but I stand to be corrected. But I, my understanding was it was that day, but I remember hesitating to call her because I think she was still technically on leave. But I felt it important enough to contact her. I think it was that day, yep.

But you called her rather than she calling you, is that right?---That's my recollection.

20 Was that done on the suggestion of a mutual friend of yours and Ms Cruickshank's? I don't want you to give me the name of the friend, at the moment.---Oh, look, it could have been, but I would have come to that conclusion myself. I just don't remember. But I do remember, my only hesitation in calling my chief of staff that day would have been that she was on leave, but I took it upon myself to, to call her that day and then I did have a (not transcribable) – anyway, I'll leave it at that, yep.

30 Why did you come to the conclusion that it was desirable to interrupt Ms Cruickshank on leave, probably on 13 July, 2018?---Because of what had transpired and I was satisfied with the execution of my public responsibilities, but I wanted to have a conversation with her to share some other details about my relationship with Mr Maguire.

Why – I withdraw that. Before 13 July, 2018, had you shared with Ms Cruickshank that you were in a close personal relationship with Mr Maguire?---Not to my recollection, no.

40 What was it about the events of 13 July, 2018 that led you to, in effect, change that view and give some information to Ms Cruickshank?---Well, clearly, clearly what had happened was quite shocking and quite public, and I felt that I needed to at least share with her how close Mr Maguire and myself were. And also I don't know if it was that conversation or both conversations we had to give her an assurance that I didn't know anything to report and I didn't have anything to, to provide this body.

But why were you telling her that last bit of information? I understood your evidence from before that you weren't, you didn't ask Ms Cruickshank for any advice regarding whether you had a duty to report, is that right?---Well, I wanted to give a, give her an assurance that, and she would have accepted

that. I just wanted to make sure she knew that whatever had occurred that day was a complete shock to me and that what had, and I just felt I needed to share how close we were to her, and then, and just to make sure she, she knew that, as far as I was concerned, there was nothing further that I felt I needed to do.

10 But why did you feel that information about the relationship was something that you needed to share with Ms Cruickshank on 13 July, 2018 but not at some prior date?---Oh, because obviously I didn't realise or was not aware or was completely shocked as to what had transpired, and I just felt she should know about how close we were. Because obviously she didn't until that point in time.

20 Was this because you had a concern that if it became known to the public that you were in a personal relationship with Mr Maguire, the cloud that then was above Mr Maguire might also spread and be above you?---I certainly did not prevent myself from providing any information I knew because of that concern, but I just wanted her to know in case it was revealed. I wanted, I didn't want her to be taken aback or surprised.

THE COMMISSIONER: That wasn't the question, Ms Berejiklian.---I'm sorry.

Can you repeat the question, Mr Robertson.

30 MR ROBERTSON: Is the reason why you informed Ms Cruickshank of the existence of the relationship on 13 July, 2018 a concern that if it became known that you were in a relationship with Mr Maguire, the cloud that was then over Mr Maguire might also encompass you as well?---It wasn't my main concern.

It was at least a consideration, is that right?---It could have been. I can't remember. But I remember my main concern was I was wanting to assure her that I didn't know anything about what had transpired and what had gone on. I guess that my major concern was to relay to her firstly the closeness of our relationship, or close personal relationship, but also that there was nothing I knew or nothing I felt or nothing I understood or suspected that I needed to report.

40 But at least an aspect of informing Ms Cruickshank regarding the existence of the relationship was to, in effect, put her on notice so that she would be able to deal with any potential political controversy that arose from the fact that the Premier of the day was in a close personal relationship with someone in respect of whom there was a significant cloud, is that right? ---Yeah, I wanted her to, to know in case, in case that came up that she wasn't taken aback, and, and that she had that information.

Why was it that your primary concern – you’ve identified two aspects, what I’ll call the political aspect, but the second and I think you said primary aspect, you wanting to assure Ms Cruickshank that you in effect had nothing to report. If you were so confident that you had no duty to report, why are you telling Ms Cruickshank that?---No, I just wanted her, well, I was giving consideration if there was anything I knew or anything I had to report. I was very alive to my obligation. And I just wanted to, and, but I can’t remember if that conversation – I recall having two brief conversations about the topic. I can’t remember if it was the first one or the second one,  
10 when we both got back to the office. There were two brief conversations. I can’t remember if it was the first one or second one, but I just felt I needed to say that because that was, for me, the main concern. It was something I gave a lot of thought to, a lot of – you know, questioned myself as to have I, have I missed anything? Is there anything I know? Is there anything I need to report? So that, for me, was top of mind. It was a very scary situation where I kept racking my mind, thinking, can I remember? Is there anything? Can I suspect? And, and I came to the conclusion absolutely that there wasn’t. And I, I just felt that I needed to share with her, and I can’t remember if it was the first or the second conversation.

20

But doesn’t informing Ms Cruickshank of those matters reflect a concern on your part that you may well have had a duty to report?---No, I think it was just a reflection of making sure that she was at least aware of the extent of, of my, my close personal relationship with him, the, the extent to which – I just felt that I needed to share that with her and I needed to share with her that. And again, I can’t, I don’t, I don’t have a specific recollection and I don’t want to overstate the conversations we had, they were very brief and I can’t recall what date the second one was on. So, they were the two things that I recall.

30

But I just don’t understand at the moment at least why that primary factor was driving you. I understand what you’ve described as the secondary factor, it was a matter of considerable political controversy out there, there was a cloud over Mr Maguire, what happens if some journalist picks up a photograph, for example, that shows the Premier and Mr Maguire together  
- - -?---Certainly, yeah.

- - - might that cause the cloud to encompass or at least questions to be asked, you want your chief of staff to know about things of that kind.  
40 ---Yeah. Politically, politically absolutely. Politically she had a right to know and, and I imparted that information to her. But having said that, there’s no doubt in my mind because of what had transpired that day that I did question what I knew, what I didn’t know and, and pored over my, in my head, was there anything I needed to do, and I came to the conclusion that there was not.

But why are you telling that to Ms Cruickshank? You’re not asking her for advice in relation to that matter, you confirmed that before. Why did you

feel you needed to tell her specifically that there was nothing to report?---I just felt I needed to share that with her. I wanted her to know that what had occurred on that day was a shock to me and, and that, again, Mr Robertson, the conversations were some years ago. I'm only telling you what my recollection is and that was my vague recollection of what had occurred.

10 Did Ms Cruickshank give you any advice during the course of either or both of the conversations that you referred to as to what you should do or should do?---No, I, that, that was on me. I was very strongly of the view that at the end of the day I'm the Premier, at the end the day I know what I have or haven't done and I know what my position was. And for me it was more, you know, making sure she was advised of, of what the situation was and, and she did give me advice. She said, you know, "Stop having anything more to do with him" and I did not take that bit of advice, obviously, but, but her advice to me was, you know, "Don't have anything more to do with him."

20 Was that the only advice that she gave you that you can recall?  
---Specifically, yes. I mean, I, I proactively disclosed what I felt I needed to disclose to her, and again they were, that, that is my, my vague recollection of the two conversations we had, and I can't remember what day the second one was but I do remember it was in person when we both returned to the office after our respective leaves.

30 But in any event, in both of the conversations that you're referring to, they weren't a request for information or advice from Ms Cruickshank, it was rather you providing advice to her, is that right?---No, I didn't and she – no. And I didn't, I, I wouldn't have expected that from her apart from just, I guess, just giving myself the reassurance that I had first of all divulged to her that the closeness of the relationship but also the fact that I didn't have anything to report or didn't know anything and, as I said, that's on me, I was the Premier, I was the one that had to make that decision but I didn't seek advice per se. I, I simply relayed to her what I knew or what I didn't know.

40 Did you tell Ms Cruickshank that the relationship was an ongoing relationship or a historical one?---I can't remember the exact conversation but my recollection was that we were very close personal friends, that, and, and the nature of the relationship and it was off-again/on-again and that's my recollection.

Is it possible that you made clear to Ms Cruickshank, or at least you said to Ms Cruickshank, that your relationship with Mr Maguire was a historical relationship?---I don't have any, a, a recollection of that. I can only remember, I can only recollect what I remember. My, my, my memory is there were two points, to firstly highlight to her the extent of my relationship with Mr Maguire and, secondly, that I had nothing to disclose. I can't remember the exact words or how much detail I'd given her but my, that was my recollection.

Did you tell her, as in Ms Cruickshank, that the relationship was one that was only in force before you were Premier?---I can't, I can't recall exactly the nature of the conversation but I certainly wanted to leave her in no doubt about how close we were.

10 You used the word "were". So does that mean you're accepting that you explained to Ms Cruickshank that it was an historical rather than an ongoing relationship?---No, I, I don't have that, I can only recollect what I, I can only remember what I thought in my head that we had the conversation about.

But it's a pretty significant point, wouldn't you agree, whether it was an ongoing relationship or perhaps a recently ended relationship as opposed to one that had ended before you even became Premier?---But I, I'd left her in no doubt that I had, I was very close to Mr Maguire and, and, you know, the exact words were used or what we spoke about, I can't confirm but that's just my personal recollection. I remember two things. The two things I remember are disclosing my close personal relationship with Mr Maguire and, secondly, the point that I, I felt that I didn't know anything or needed to report anything but I can't, that's just my personal recollection on those two brief conversations that we had.

Did you lie to Ms Cruickshank regarding the timing of - - -?---Never.

30 Just let me finish the question. Did you lie to Ms Cruickshank regarding the timing of the relationship?---No. That was just my recollection, and it's conceivable that two people for conversations held some time ago, I can only tell you what I recollect. And I did talk to her about the closeness of the relationship and I also spoke to her about the fact that I didn't know anything. That was my recollection.

THE COMMISSIONER: Ms Berejiklian, you must have realised at the time that when you shared this information with Ms Cruickshank, if you had told her that you were still in a relationship with Mr Maguire as at 13 July, 2018, that that would have been a significant political fact?---Well, either way, she told me not to have anything further to do with him.

40 Well, let's not worry about what she told you in relation to the future. Let's just worry about the day you told her - - -?---Yeah.

- - - about what you say was you wanted her to be sure of the extent of your personal relationship. You must have realised on 13 July or soon thereafter as you had one or more of those conversations with Ms Cruickshank that the fact of your then relationship with Mr Maguire would have been politically explosive?---Absolutely but that would have happened irrespective of the longevity or how intense it was or anything like that. That was, it, it was,

that was already going to be the case because I'd told her about the closeness of the relationship.

If it was an historic relationship, which had preceded the time you were Premier, that also preceded the time Ms Cruickshank was your chief of staff, did it not?---It, yes.

10 And did you not have a discussion with Ms Cruickshank about whether or not there was anything in relation to the period that you had been Premier that you needed to disclose having regard to that relationship?---I can't remember the exact, all the details of our, of our conversation but I, I made it known that I was close to him, it was off-again/on-again and I tried to convey as much as I could, but I, beyond that, that was my personal recollection, Commissioner. That was what I remember telling her. And, certainly, as Premier, I was extremely busy and, and there's no doubt that, that things ebbed and flowed in terms of, in terms of my activity but that was the best of my recollection, Commissioner. And I remember two things, like, I obviously divulged my closeness to Mr Maguire and, secondly, my strong, strong view that I had nothing to report.

20

MR ROBERTSON: You accepted a little while ago that one of the reasons you told Ms Cruickshank was because of what I described as the potential political consequences of that information?---It wasn't the main but it was definitely considered.

That was at least one of the considerations. Correct?---Yeah. Yeah.

30 You'd have to accept, wouldn't you, that the question of whether the relationship was ongoing or historical in the sense of being before you were Premier, was apt to have a very significant impact on the level of political, to use the Commissioner's terms, explosiveness of any information about your relationship. You'd agree with that, wouldn't you?---I think it, no, I, I don't accept that. I think it would have been, I think irrespective of, I mean, I've, the whole debate during these hearings, Mr Robertson, has, has been for the significance of the relationship and what I felt about it. And I don't think those, those matters would have made a difference. Either way, obviously, I made known to her how close I was to him.

40 But if it was a historical relationship before you were Premier or perhaps before you were a minister, in the event that there's some photograph or something that's dredged up, the media report could simply be made or media statement could simply be made to say, yes, there was a relationship in the past, it's come to an end and it's not a particularly important political matter is what the statement would say.---No. I don't think, I don't think that would have made a different whatsoever.

Are you seriously saying, at least as a matter of political consequences, it would make absolutely no difference whether your relationship was ongoing

as at 13 July, 2018, or whether it had come to an end before you were Premier?---I don't think it really would have made a difference because a lot of the questions you asked me were during the time I was Treasurer. It wouldn't have made a – politically, to have an association with somebody with a, with a, that cloud, that wouldn't have made a difference. I mean, that was already established.

10 Past or present makes absolutely no difference, is that your evidence?---No, I'm just saying, no, my evidence is that I can only tell you what I recollect. I can only tell you what I remember as, as my - - -

No, I'm not asking about that now.---Yeah.

10 I'm going back to an answer you gave to the Commissioner before. You're not seriously suggesting, are you, that the question of the timing of the relationship was a completely irrelevant matter in relation to the issue of political risk that you and I have discussed?---But irrespective, we were close friends. I was close friends with Mr Maguire. Whether or not the relationship was at a particular stage at any given time was irrelevant. I had a close association with him, a close ongoing association and relationship with him. How you define that is, is subjective, because I know exactly, you know, what my position was. But irrespective of how close or not it was at any particular time, as Premier I had a close relationship with him. I was, as I've stated, it, it was immaterial as to what others thought about it. I knew what situation I was in. And either way, either way that was a political consideration. But at the end of the day, it didn't affect what I did in terms of executing my public duty. It didn't affect what I thought were my obligations and it didn't affect how I thought about things.

30 If you could just direct yourself to my question, please, though. As a matter of political controversy, you must accept this, mustn't you? As a matter of political controversy, it would be a matter of significantly higher political controversy for the Premier to be in a continuing relationship with a person in respect of whom there was a cloud, to use your terms, as opposed to a Premier who, in the past, before they were Premier, may have been in such a relationship. You'd at least agree with that proposition, wouldn't you? ---Well, I'm not sure why you're asking me a political question, but in any event I, I, I had a close personal relationship with him, which ebbed and flowed, and which I didn't, just, didn't intentionally disavow her of. I mean, that was just my recollection.

40

THE COMMISSIONER: Immediately prior to 13 July or even on 13 July perhaps - - -?---Yep.

- - - you and Mr Maguire had discussed his retirement before the 2019 election, he planned to retire before the 2019 election?---Yep. And I, and at that stage, Commissioner, I wasn't convinced that he was retiring. I had - - -

You had - - -?---Yep.

Could you listen to my question, please, Ms Berejiklian.---I'm sorry. Ah  
hmm.

You and he had discussed making your relationship public after he retired?  
---I can't recollect to what extent we did that afterwards, but obviously my  
state of mind was that I wasn't convinced he was going to retire.

10

I'm just asking you what you and he had discussed.---Oh, I'm sorry.

You and he had discussed making your relationship public after he retired  
from political office?---At some stage we definitely had discussed that, yes.

You had discussed getting married after he retired.---Potentially. But I  
didn't feel, that wasn't something I felt he wanted.

20 That was still on the cards on 13 July, 2018, wasn't it?---Yes, but I don't  
feel it was something, I don't think he was, that was something he was  
committed to. That was not, in my mind, it wasn't established that that was  
something he was committed to.

Those were your mutual discussions about the plans after his retirement?  
---Yes, but I, having agreed Commissioner, but that was my, what my  
aspiration was. I wasn't convinced that was going to materialise. And I  
also want to state that I wasn't assured or didn't know whether he was going  
to retire or not. And he flip, was flip-flopping as to whether that was the  
case.

30

MR ROBERTSON: I'd still like an answer to the question I asked you  
about 10 minutes ago. You agree, don't you, that as a matter of political  
controversy, it would have been a much more significant matter of political  
controversy had you been in a continuing relationship, the fact that you were  
in a continuing relationship with Mr Maguire, as at 13 July, 2018, as distinct  
from being in a, having been in a relationship in the past, before you were  
Premier.---But I was.

40 That's my point.---I don't understand the question. I was, like, I've made  
that clear.

But you said a little, you said a little while ago that it wouldn't have made a  
difference whether it was a historical relationship or a current relationship.  
---In terms of the political controversy, that's for others to determine. But  
obviously I've been very open with this body that it was on-again/off-again  
and different intensity for that duration, so I've been very honest with this  
body about that.

Let me put it directly. Did you say to Ms Cruickshank, when you spoke to her on or around 13 July, 2018, that you had in the past been in a personal relationship with Mr Maguire but it came to an end before you were Premier?---That's not my recollection but my recollection was that I discussed the close personal relationship, that, made her aware of how close we were, and that's just my recollection, Mr Robertson. I can't, I can't go back from that, that's just what I remember.

10 It shouldn't be a matter of recollection. It's a significant fact that you were informing Ms Cruickshank of, isn't it, as to the existence of the relationship. This was something you had kept very close to your chest for many years, correct?---Well, for a significant time absolutely and I - - -

You must recall whether you told Ms Cruickshank that it was a historical one or a current one. Such an important factor shouldn't just be a matter of recollection. You must recall it, surely.---Mr Robertson, I can only tell you what I remember and I remember speaking to her briefly on two occasions and I can only tell you what I remember.

20 So are you saying it's quite possible that you in fact did tell Ms Cruickshank that your relationship with Mr Maguire was a historical one that came to an end before you were Premier?---That's not my recollection. That's not what I remember.

Well, what do you remember telling her?---I remember telling how close we were, the time that we'd spent together. There no doubt obviously I had more time when I was Treasurer than when I was Premier, we, obviously my time was extremely limited when I was Premier, so I made, may have made that point but I, I did not intentionally in any way attempt to prevent her from knowing how close we'd been and how close we were and, and that's just my recollection.

Why didn't you tell Ms Cruickshank, or alternatively your preceding chiefs of staff, as to the existence of the relationship before 13 July, 2018?---Well, I'm a very private person and I, and I assumed that was my private business. I didn't feel I needed to share that. I didn't feel the, I didn't feel I had a commitment in that relationship that would cause me to, to tell anybody outside, anybody that I worked with.

40 Doing the best you can, what were the words that you used, or at least words to the effect of, insofar as you can recall, when you advised Ms Cruickshank of the existence, historical or current, of the relationship on or around 13 July, 2018?---I wouldn't be able to tell you the exact words I used.

Well, do the best you can. It's fine to say words to the following effect, but do the best you can as to what you said to Ms Cruickshank.---I can't remember those exact words. I remember speaking to her about - - -

THE COMMISSIONER: I think you've also been given the possibility of saying "words to the effect of", which is - - -?---Oh, words to the effect that we were in a close personal relationship, that I had been seeing him and that we were extremely close, or words to that effect

MR ROBERTSON: Were in a close personal relationship, is that what you just said?---No, I, I said, well obviously had different degrees of, different degrees of intensivity, but I would have explained to her that we'd been, had been and that, yeah.

10

Prior to 13 July, 2018, did anyone suggest to you that it would at least a good idea to inform your chief of staff as to the existence of the relationship?---I can't remember.

Is it possible that they did but you don't recall one way or another, is that right?---I can't remember.

20

Commissioner, I wish to further explore this matter with the witness. I wish to do it by reference to some material available to me which, in my respectful submission, is more appropriately dealt with in private rather than in public. As I submitted during the course of the first public inquiry, one of the important matters in the exercise of this Commission's public functions is to balance the public interest in the exposures of matters to the public with the public interest in the privacy of the individuals concerned. In our respectful submission, in relation to the particular topic I'm going to, it's appropriate that at least in the first instance the questions that I ask be done in private, having regard to the interest of privacy both on the count of Ms Berejikian and Mr Maguire. So on the face of that, I apply for this hearing to proceed into a private session, pursuant to section 31(8), accompanied by a suppression order under section - - -

30

THE COMMISSIONER: Nine?

40

MR ROBERTSON: Subsection 9, I'm so sorry, Commissioner, thank you. By way of exception to subsection 8, that a suppression order be made under section 112. You would also make a direction under section 31A as to the persons entitled to be present. That should be restricted, in our submission, to Commission officers, Ms Berejikian, those who represent Ms Berejikian and those who represent Mr Maguire, but otherwise it should be limited to those numbers of people.

THE COMMISSIONER: Very well.

MR ROBERTSON: Or those descriptions of people at least.

THE COMMISSIONER: Very well. Yes, being satisfied that it's reasonable and necessary, pursuant to section 31, and in the public interest pursuant to section 31(9) to hold the next part of the public inquiry in

private, I direct that the following persons may be present at that part of the private inquiry: obviously Ms Berejiklian, Counsel Assisting, those representing Ms Berejiklian, Commission officers, and Mr Harrowell representing Mr Maguire. Would anybody else please leave the hearing room now.

MR ROBERTSON: So I think I should have said that those representing Ms Cruickshank, if there's anyone in the room, should also be present.

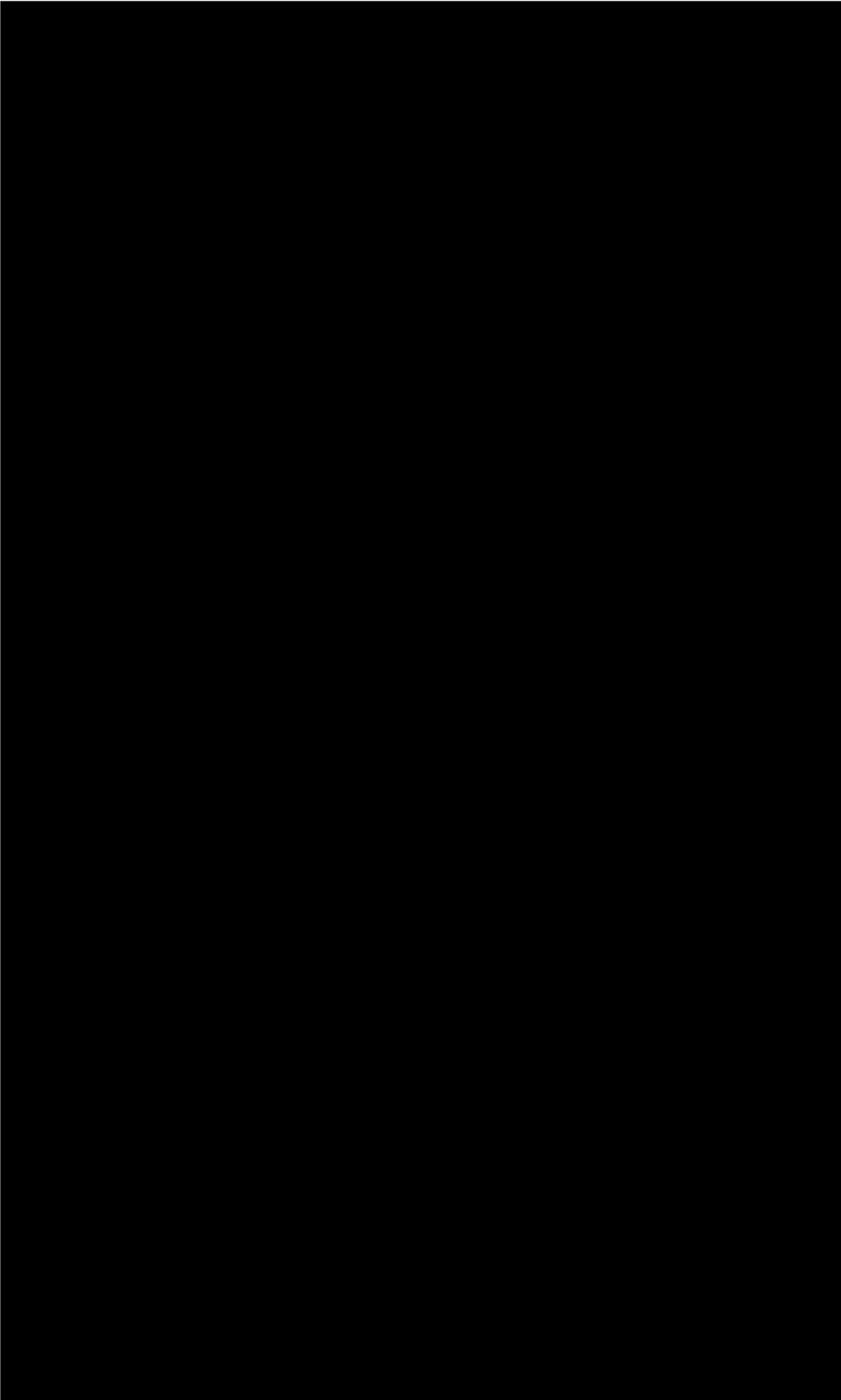
10 THE COMMISSIONER: So I was wondering about that. Very well. I didn't know the full extent of what you were planning to address. Mr White may also remain in the hearing room. Could all others please leave the hearing room now. I take it the live feed has now ceased or will cease?

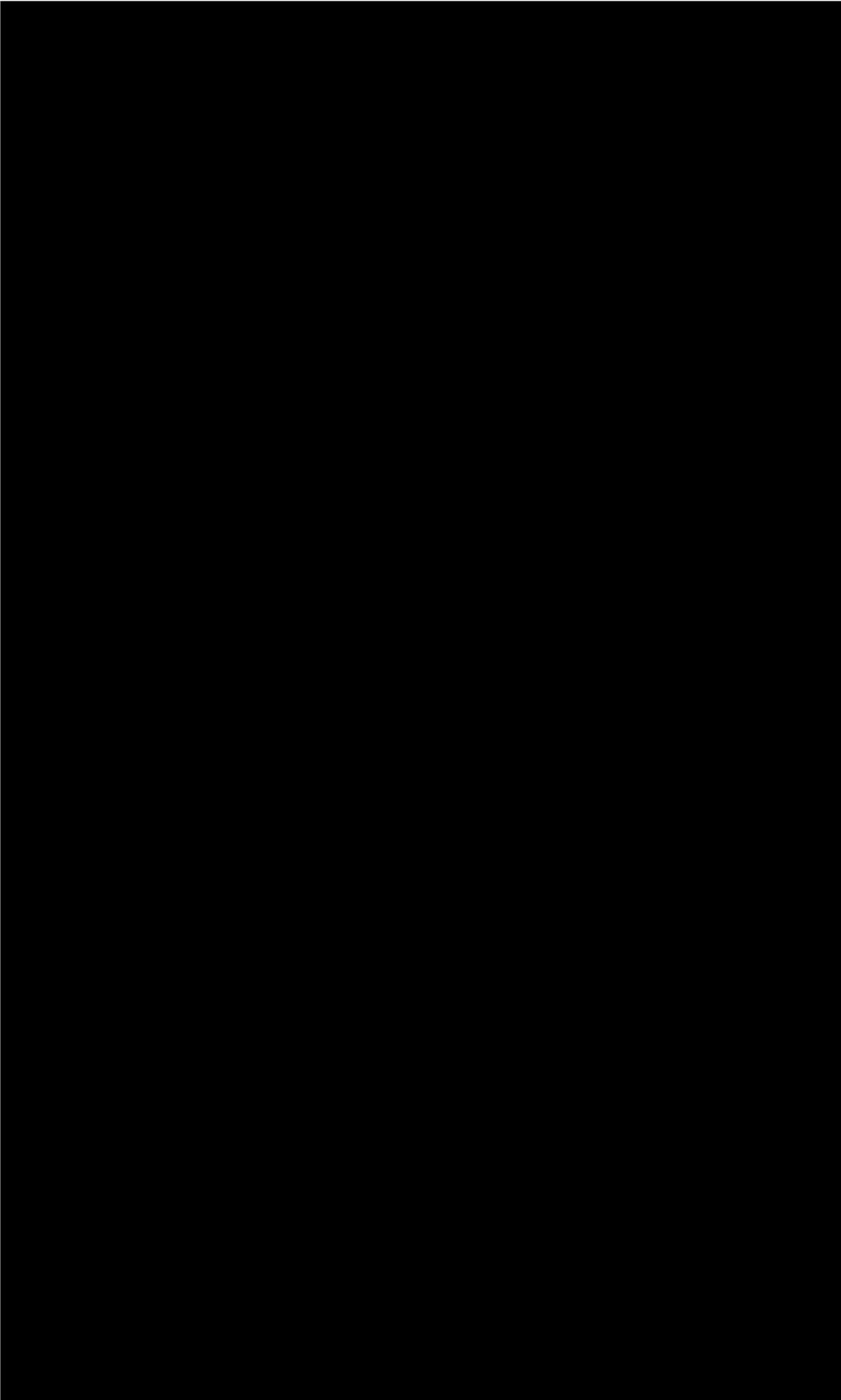
MR ROBERTSON: Yes, Commissioner. I'll just ensure that's confirmed.

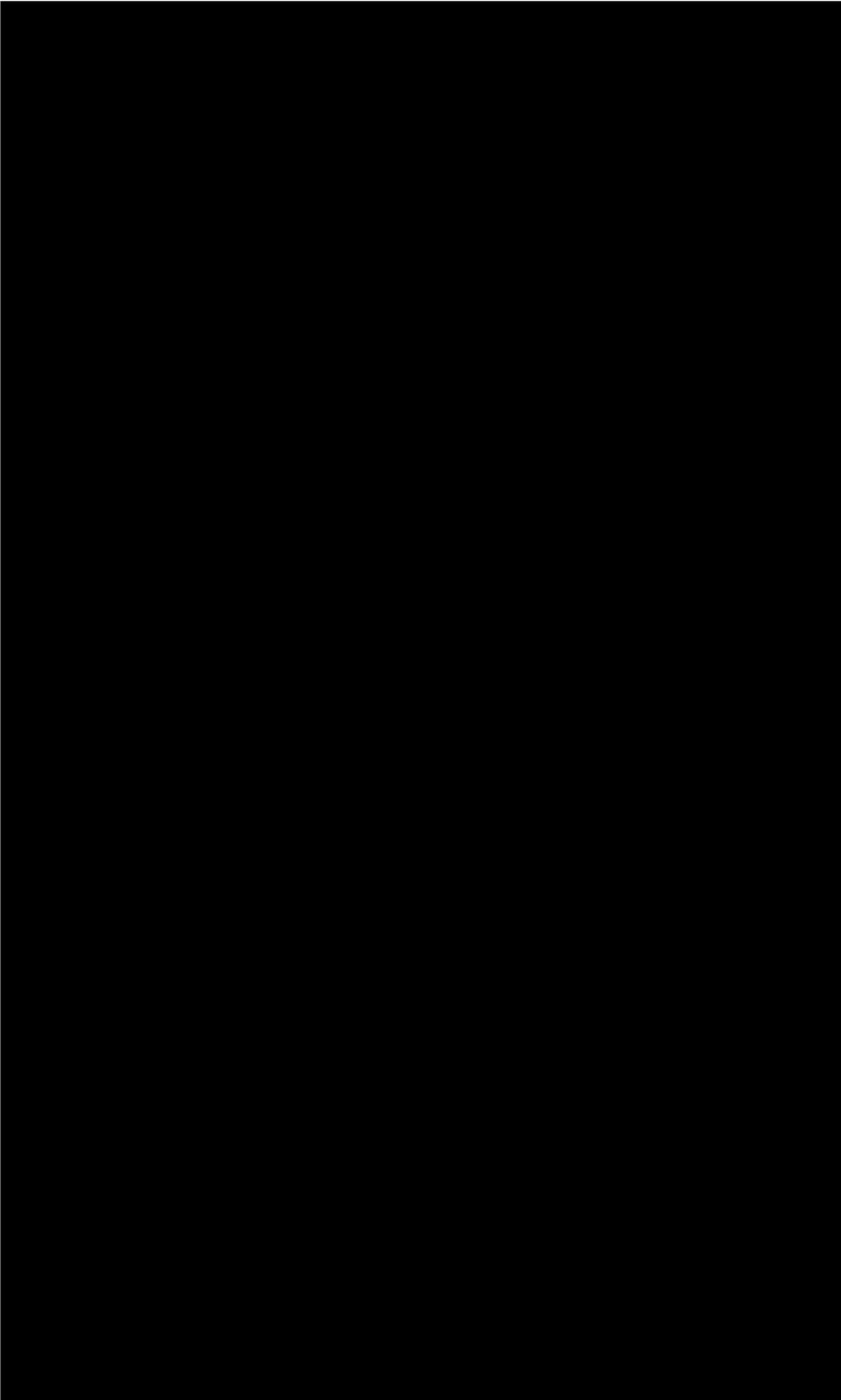
20 THE COMMISSIONER: You understand, Ms Berejiklian, that what is about to happen now will happen in private and will only be heard within this hearing room. I'll now make an order pursuant to section 112 in relation to the evidence which is about to be taken. Being satisfied that it is necessary and desirable to do so in the public interest, I direct pursuant to section 112 of the Independent Commission Against Corruption Act that the evidence given by Ms Berejiklian, the contents of any exhibit tendered, the contents of any documents shown to her, any information that might enable her to be identified, and the fact that she has given evidence in this private part of the public inquiry shall not be published or otherwise communicated to anyone except by Commission officers for statutory purposes or pursuant to further order of the Commission.

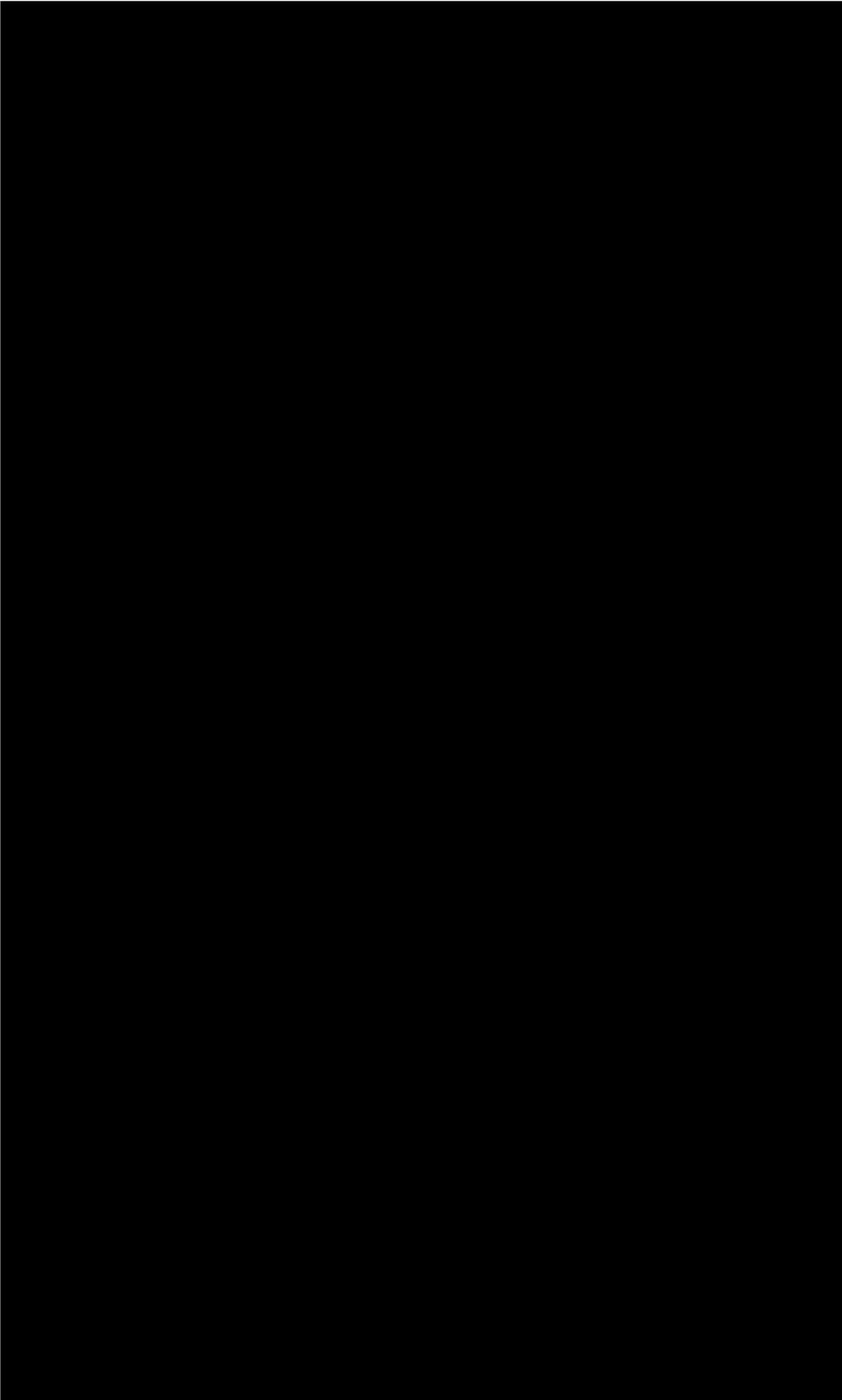
30 **SUPPRESSION ORDER: BEING SATISFIED THAT IT IS NECESSARY AND DESIRABLE TO DO SO IN THE PUBLIC INTEREST, I DIRECT PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT THAT THE EVIDENCE GIVEN BY MS BEREJIKLIAN, THE CONTENTS OF ANY EXHIBIT TENDERED, THE CONTENTS OF ANY DOCUMENTS SHOWN TO HER, ANY INFORMATION THAT MIGHT ENABLE HER TO BE IDENTIFIED, AND THE FACT THAT SHE HAS GIVEN EVIDENCE IN THIS PRIVATE PART OF**  
40 **THE PUBLIC INQUIRY SHALL NOT BE PUBLISHED OR OTHERWISE COMMUNICATED TO ANYONE EXCEPT BY COMMISSION OFFICERS FOR STATUTORY PURPOSES OR PURSUANT TO FURTHER ORDER OF THE COMMISSION.**

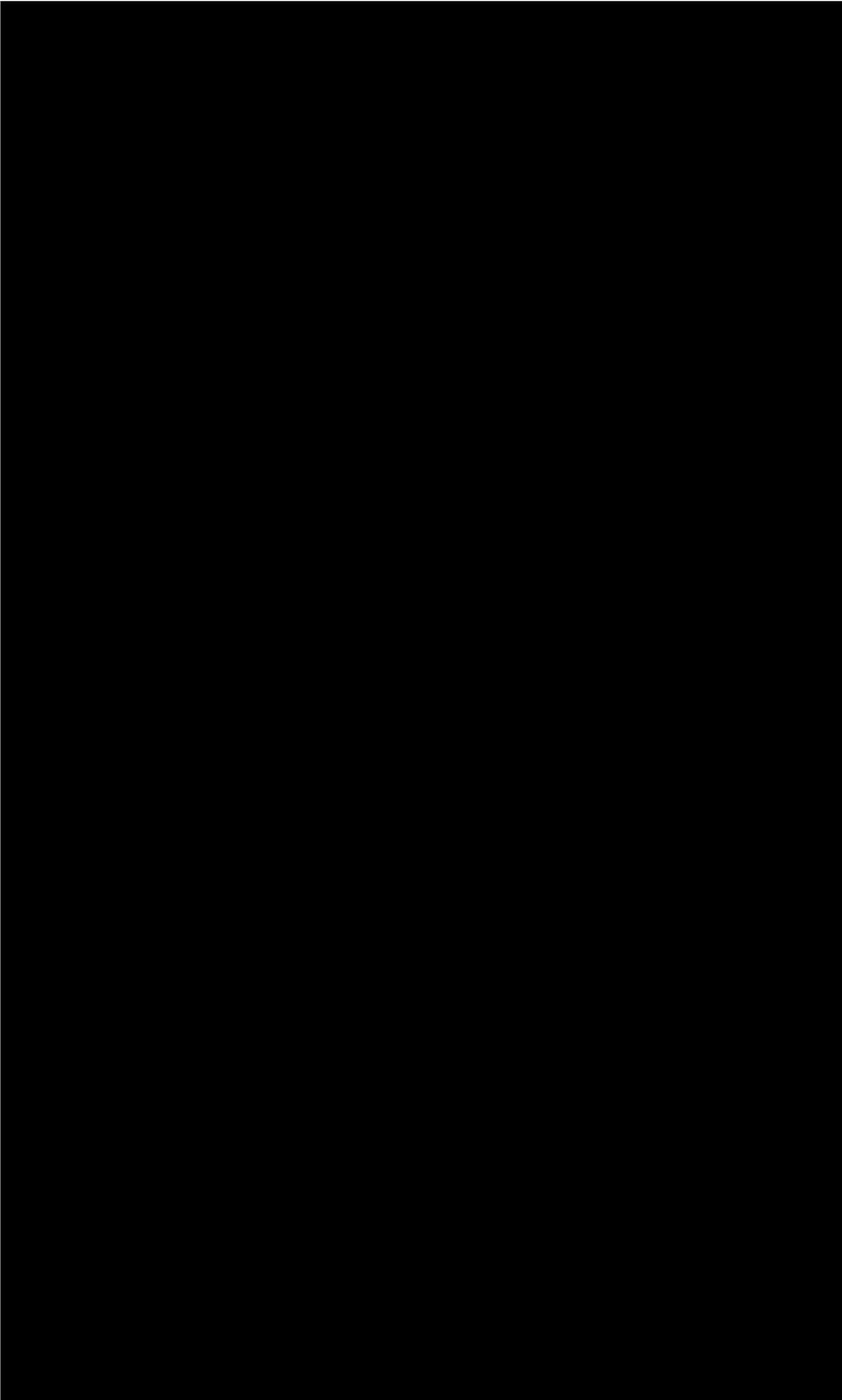
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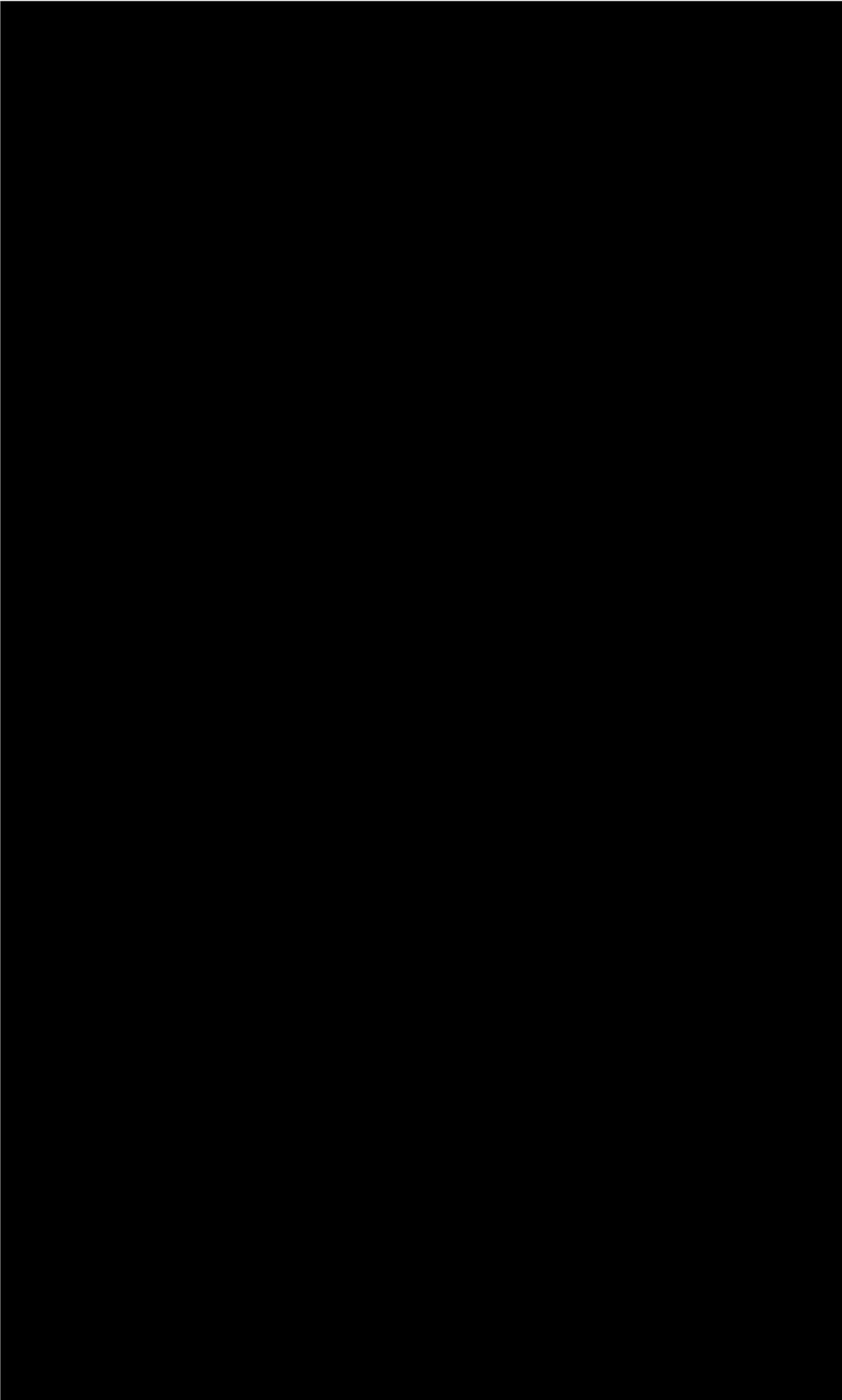


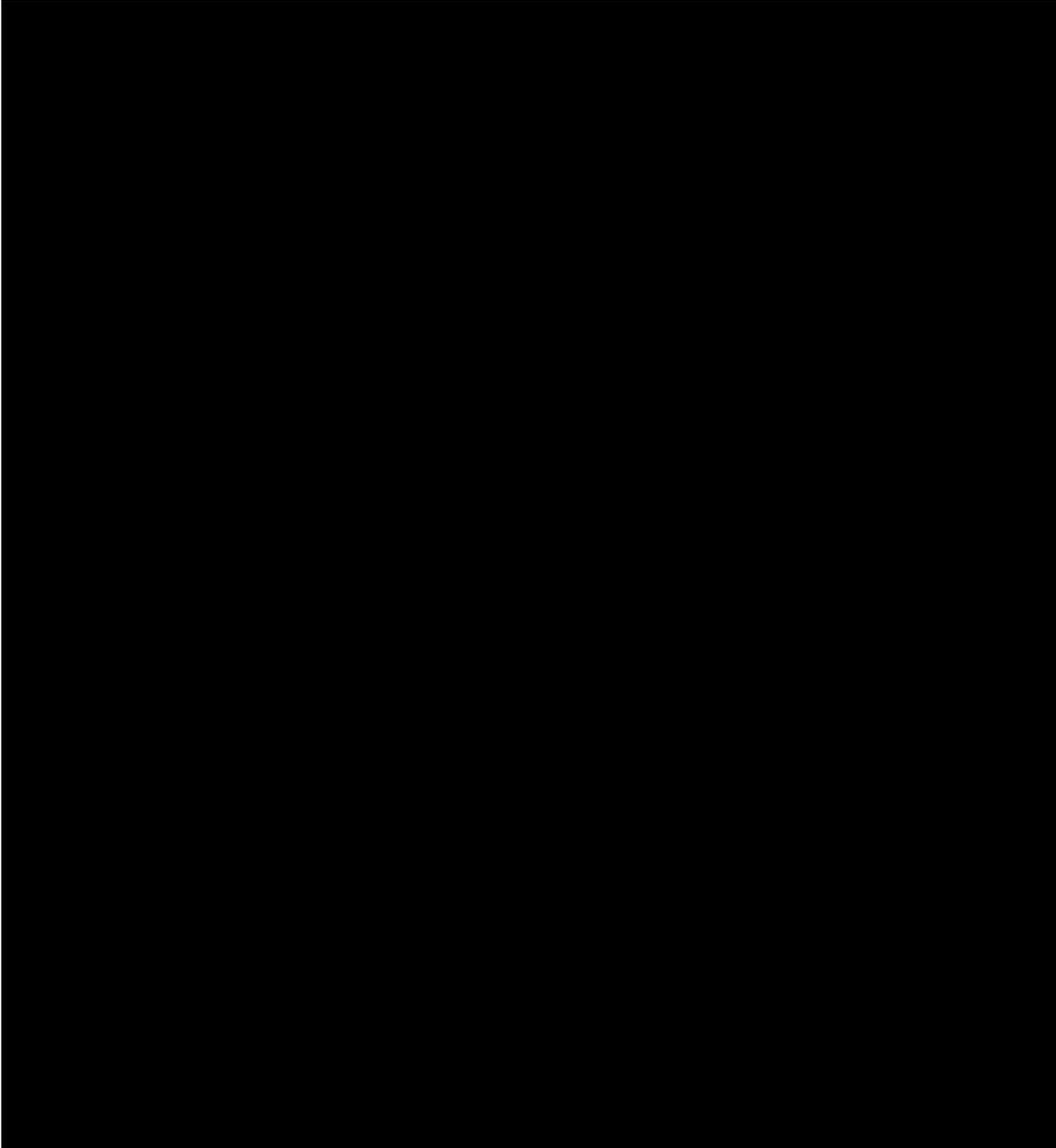












THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Commissioner, I neglected to tender volume 41, which  
40 is the bundle of SMSs that I took Ms Berejikian to earlier today, so I now  
tender that bundle.

THE COMMISSIONER: Exhibit 532.

**#EXH-532 – SMS MESSAGES BETWEEN MAGUIRE AND  
BEREJIKLIAN DATED 9 JULY 2018**

MR ROBERTSON: Ms Berejikian, following Mr Maguire's evidence of 13 July, 2018, you became aware that reports were being made to this Commission in relation to concerns with respect to Mr Maguire's conduct. Is that right?---Subsequently, based on what you showed me in the private hearings, yes.

10 Well, if I just show you the document I think you're referring to. Can we go please to page 451 of volume 33, which is also Exhibit 480. And just while that's coming up, there's a concept within government, at least in the time that you have been a minister, referred to as a ministerial pink. Is that right?---I don't refer to them as "pinks". I just refer to them as briefs, but, yes. Yeah.

But the briefs that come on pink paper tend to be the ones that go directly to the minister. Is that right?---Not necessarily.

20 So, what, sometimes they're pink and sometimes they're not pink?---Well, and sometimes they come to me and sometimes they don't. So sometimes the staff might deal with them. So it just depends, it depends on what it is.

But is this right? A briefing for the Premier will ordinarily be provided on pink paper rather than on different types of paper?---Not necessarily.

Well, is this at least right? If it is on pink paper, we can infer from that that it's a brief - -?---I don't think the colour really matters, Mr Robertson, but, in any event, yeah.

Well, I am asking a question about the colour.---Right.

30 If it is put on pink paper, we can infer that ordinarily, it's a brief going to the minister rather than, for example, to a ministerial staffer?---No. Often my, my staff would see everything before it came to me.

If you look at the document on the screen, is this the briefing that you were referring to before?---Referring to, that you showed me this in the private hearing, yes.

40 So is this right? Do you recall that by about 25 July, 2018, which is the date towards the bottom of the page, you were advised that reports were being made to this Commission regarding concerns with respect to Mr Maguire's conduct?---Well, the, the purpose of this note was to advise me that the department is providing information in relation to Operation Dasha.

But you understood at the time this to be a note in relation to information concerning Mr Maguire. Is that right?---Well, I don't, can't remember what I thought but it was in relation to Operation Dasha.

In relation to Operation Dasha but specifically in relation to Mr Maguire. Is that right?---I just need to re-read it because I can't remember. I'm sorry. Can I just have that enlarged?

We'll zoom in to the top half of the page, just to make it easier. Now, if you have a look at the first dot point underneath the heading Background, it refers to, "Mr Daryl Maguire" - - -?---Yeah.

10 - - - "has announced his intention to resign as a member of parliament as a result of this investigation." Do you see that there?---Yeah, but it says here that the staff member was providing information in relation to Operation Dasha. It doesn't tell me what specifically it's about.

But you understood from the context of this note that it was information concerning Mr Maguire specifically rather than Operation Dasha more generally. Do you agree?---How would I have come to that conclusion?

20 Well, have a look. It's referring to Mr Maguire in the first dot point and there's a reference - - -?---That's background to remind me that Operation Dasha involved him, but it doesn't say that's what the staff member was reporting. I would have no information as to what the staff member was reporting.

THE COMMISSIONER: Have a look at the second dot point, Ms Berejiklian.---"DPC has been currently employed", mmm.

30 And you learn from the second dot point that the information relates to the staff member's former role in 2016 as an adviser to the then Minister for Planning?---Mmm. But, I mean, I, I may have made that assumption but the note doesn't say that. All I'm trying to say is I can't remember what I thought at the time, but clearly I knew it was to do with Operation Dasha.

MR ROBERTSON: You recall I asked you some questions about this particular ministerial briefing during the course of your compulsory examination - - -?---I do, yeah.

40 - - - on 19 September, 2021, of which I think you were given notice on – no, I withdraw that. Sorry. 19 September, 2021, you and I had a discussion about this document?---Yeah.

And can I just remind you about what you said on that occasion 'cause it might help your recollection here. If we can go, please, to page 3848 of the - - -

THE COMMISSIONER: Do we have to lift the section 112 notice, order about this?

MR ROBERTSON: I think you've already made that direction but, if not, I'll apply for it for abundant caution. I apply for the direction made under section 112 of the Independent Commission Against Corruption Act in relation to the compulsory examination of Ms Berejiklian on 19 September, 2021, be lifted insofar as it would otherwise prevent publication of the fact that Ms Berejiklian gave evidence on that date and insofar as it would otherwise prevent publication of any question asked or answer given in this public inquiry.

10 THE COMMISSIONER: Yes, I make that order.

**VARIATION OF SUPPRESSION ORDER: THE DIRECTION  
MADE UNDER SECTION 112 OF THE INDEPENDENT  
COMMISSION AGAINST CORRUPTION ACT IN RELATION TO  
THE COMPULSORY EXAMINATION OF MS BEREJIKLIAN ON  
19 SEPTEMBER, 2021, IS LIFTED INsofar AS IT WOULD  
OTHERWISE PREVENT PUBLICATION OF THE FACT THAT MS  
BEREJIKLIAN GAVE EVIDENCE ON THAT DATE AND INsofar  
20 AS IT WOULD OTHERWISE PREVENT PUBLICATION OF ANY  
QUESTION ASKED OR ANSWER GIVEN IN THIS PUBLIC  
INQUIRY.**

MR ROBERTSON: If we go to the top of page 3848 of the private transcript, please. And zoom in to the top half of the page. You see I ask you, "So doing the best you can, your assumption as at the time you received this briefing was that you were being told was that information regarding Mr Maguire was going to be provided by the secretary of your department to ICAC. Is that right?" And you say "Yes" and there was a bit that was not transcribable "that inquiry, yes". Do you see that there?  
30 ---Mmm.

Now, I at least took that at the time as being a confirmation that you understood it to be information about Mr Maguire. Do I have that right?  
---Yeah, although at the time, if you recall, my legal counsel made the point that that wasn't evident in the briefing note.

40 But at least your recollection - - -?---It wasn't my, well, it was an assumption but it wasn't, I can't say directly. I assumed that it had something to do with that, but I, I don't know for sure.

So your assumption at the time was that the information being provided was concerning Mr Maguire, is that right?---My assumption was it could have, yes, definitely, because that was Operation Dasha.

Well, your assumption was that it was most likely to be information about Mr Maguire, noting that Mr Maguire was the only individual referred to

specifically by name in the background section of the briefing note, is that right?---No, but the, in the background what often occurs is the department, or whoever's providing me the advice, provides context. I may not have known what Operation Dasha was but for the fact that Mr Maguire was involved in that process. So that would have been background. All I'm saying is it was a very general note. I assumed it was about that inquiry. And of course I encouraged my department to pass on any information and allow everybody to report what they needed to. In fact, I even wrote on their proactively to suggest that all future reporting should be done in a proactive and positive way.

So let's get that back on the screen, page 451, volume 33, Exhibit 480. Is this right, your recollection is that around the time that you received the ministerial briefing that I'm about to put back on the screen, you were encouraging people to pass on information concerning any concerns of corrupt conduct, is that right?---I wasn't encouraging. I just made, I was just making the point that I handwrote the note at the bottom of the brief to say to my secretary please make sure that information of this nature is done in the usual, is done moving forward, whatever my handwritten note was down there.

Let's zoom in to the bottom of the page, just so we can see that.---Yeah.

So you recognise that handwriting?---Secretary's role in this instance should be replicated for all future declarations. Yep.

So this is your signature, date and handwriting, is that right?---Yep, yep, yep.

30 And so, what, you're drawing attention to the fact that you made a note that the secretary's role should continue to be adopted or at least replicated? ---As in I was, as in I wanted to make sure that everyone who had information regarding this or subsequent matters involving this agency, the information was forthcoming.

So you're at least clearing the ways, as it were, to make sure that if people thought they have information that might be of assistance to this Commission, that that information was provided?---Absolutely.

40 Having signed off on that, didn't you just at least reflect on the question of whether you should pass on information that might be of assistance to this Commission?---But I reflected on that on the 13<sup>th</sup>. I reflected on that the day it all happened. I've been reflecting on it for a number of days. So my, my reflections suddenly didn't emerge on the 25<sup>th</sup>, it emerged on the 13<sup>th</sup>, and I gave the matter considerable thought.

But there's other people who have got concerns about Mr Maguire's conduct within government. You're in a continuing close personal

relationship with him and have been for many years. You've been, you've had many telephone and other communications with him, as we've seen by reference to the telephone intercepts. Didn't you at least sit back and reflect and say, well, there are concerns within government about this particular individual. Shouldn't I at least provide what information I have concerning Mr Maguire?---Well, I obviously didn't have any information to report. And whoever, commend and congratulate the person who provided this information, but clearly they had something specific. And again I just return to the fact this was about Dasha. I didn't know specifically what it  
10 was about. May have involved other parties as well. And my reflection on my responsibilities and obligations didn't commence on 25 July, as this briefing note says, it's commenced on the 13<sup>th</sup>. That's when I gave it serious thought. Do I know anything? Is there anything I need to report? That went through my head on the 13<sup>th</sup>, and I came to the conclusion that I did not.

But it was clear to you, wasn't it, as at 25 July, 2018, that information concerning Mr Maguire might be of some assistance or relevance to this Commission?---Well, clearly somebody felt that they had information to do  
20 that, and that's on them. But I didn't know what that information was.

No, no, you might not have known what information they had, but you knew that you had information that might be of assistance to this Commission.---No. No, I did not. And if I did, as I said previously, I would have reported it.

Can we go then – withdraw that. Was your decision to not make any report on or about 25 July, 2018, on your own behalf, was that affected by any concern on your part as to the potential political consequences to you - - -?  
30 ---No.

- - - in the event that you made a report and that your relationship with Mr Maguire became public?---No, absolutely not. I would have, if there was any suspicion of corruption, any information I thought I could pass on to this body, of course I would have done that.

Was it affected by your personal feelings for Mr Maguire?---No. Gosh.

And was it affected by any other aspect of your relationship with Mr  
40 Maguire?---No.

Can we go then to page 475? This is Exhibit 481. We'll show you a similar but different note. Now do you see there in the Premier's Comments box it says "Noted"?---Yep.

Is that your handwriting?---No. That means I wouldn't have seen, it says returned by my office. It means I wouldn't have seen that note.

So are you quite clear in your mind that that handwriting in the Premier's Comments box is not your handwriting?---Correct. If I was going to note a brief, I would sign it and date it.

So your usual practice, if you're noting a brief or approving a recommendation or anything along those lines, is to sign it as opposed to, for example, put a line through it and say "Noted"?---Yeah, yep, yep.

10 THE COMMISSIONER: In what circumstances would a briefing note, of which its purpose is identified as being to inform the Premier of the matters there set out, not actually come to your attention, Ms Berejiklian?---Perhaps because I had already seen a previous note and put a, a note on there to my secretary to say please pass on any information you have. Perhaps that was, I can't speculate on that.

20 Or is it possible that you read it and you told someone just to mark it noted?---No. That would never have happened and I would have had no hesitation – look at the previous note. I had no hesitation in telling my secretary to be as, as collaborative and as supportive of the process as possible. That's definitely not the case.

MR ROBERTSON: Do you recognise who the handwriting actually is of the word "Noted"?---No, no.

Sorry, I didn't hear that.---No.

30 And what about the blue writing we can see towards the bottom of the page saying "Returned by Premier's office"?---No. No, but in any event, I would never have hesitated, can I make this very clear, that a number of matters, a number of my, people in my department had delegations to make sure that if any member of the public or anybody who wrote or anyone working in government had any concerns which this body should know about, that they knew, they were under no illusion that my position was of course make sure you provide any information that's asked. In fact, as I have done, with all due respect during this process, make sure you provide any information that's relevant and make sure it's done as soon as possible.

40 So do you say you followed your own advice in relation to that, that you've provided any information that might be relevant?---Well, over the years you have members of the public writing to you about a number of things and we would always - - -

Sorry, I should be more precise. So you say that you provided any information that might be relevant concerning Mr Maguire to this Commission?---No, I'm just saying whenever I've asked to proceed information I've provided it here, yeah.

No, but I'm drawing attention to what I think you said, words in effect, your advice within government, which as I understood your evidence to be, if you've got any information that you think is appropriate to share with this Commission then you should do so, have I got that right?---Absolutely, absolutely.

10 What I'm asking you is whether you say you followed your own advice with respect to that matter and provided all the information that you - - -?  
---Absolutely I followed my own advice. I, I thought about it at length, as I have said, and there was nothing for me to provide. There was nothing specific that I felt I needed to report.

Did Mr Maguire provide any advice to you regarding how you should deal with the political controversy arising from the evidence that he gave on 13 July, 2018?---I'm sure he did. I'm sure he gave me his opinion on what should occur.

20 What was the nature of that advice insofar as you can recall it?---Oh, I don't remember. I don't recall but I, he was, he was never backward in giving his advice on these matters.

Let's go to Exhibit 517. I'll show you some short message, service messages of 18 July, 2018, so a few days before the ministerial briefings I've just shown to you, a few days after the evidence of 13 July. Do you see there – and parental advisory before I read it out – 16 July, 2018, “Hokis, get stuck into me, kick the shit out of me. Good for party morale.” See that there?---Ah hmm.

30 And then we'll go to the next one, “You've got some tough decisions to make” exclamation mark “soon.” Do you see that?---Ah hmm.

What did you understand Mr Maguire to be suggesting to you as to tough decisions to make?---Not sure. I don't, I can't remember the timing of this as to whether he'd already resigned from parliament or resigned from his seat. I don't, I don't know.

40 At least according to my note, Mr Maguire didn't announce his proposed resignation from parliament until the following Saturday. This is 18 July, Saturday was the 21<sup>st</sup>.---Right. I can't, I can't, yeah, I can't remember or speculate on what, what the context was there I'm afraid.

We'll just go to the next page then, which might help. You say, “Like?” And we'll go to the next page, “Expelling me from the house.” Do you see that there?---Right, yep.

So is this right, was Mr Maguire actually fairly closely involved in advising you or assisting you as to what steps he said should be taken in light of the political controversy arising from his evidence of 13 July, 2018?---No. I

suspect it was more about the political controversy as to whether it was on the public record. He'd put out some video, which all of us saw, about him wanting to stay in parliament, and I suspect, I can only speculate it was around that, that he wanted to stay on the crossbench at the very least until, in his eyes, his name was cleared and then make decisions about his future then.

10 But here he seems to be suggesting that you should support expelling him from the House.---No, he, I – well, I'm assuming by the tough decision, given you've shown me these things, again I'm only speculating, the tough decision was whether or not I should support the expulsion or not.

Did Mr Maguire give any advice or assistance as to what by-election announcements should be made consequent on the by-election that was necessary because of his resignation from parliament?---Yes, he did. He, he advised my staff. I'm pretty sure he would have contacted me as well. It wasn't uncommon that if a retiring member is causing a by-election that regard would be given to what they regard as the major issues in the electorate.

20

Well, it was at least uncommon for that advice to be sought when the resignation happens under, to use your phrase or your word at least, a cloud?---No, not necessarily. Because that's a separate matter. The, the person's already resigned. They've already fallen from grace. They've already left the party. They're absolved of their responsibilities. And - - -

30 Just to understand as a matter of procedure, is this right, within the Coalition where there is a by-election in respect of which the Liberals but not the Nationals are proposing to field a candidate, it's a matter for the party leader to decide what by-election announcements should be made?---Well, obviously the party leader takes advice on what the issues are.

No doubt. But the ultimate decision is a matter for the party leader, is that right?---Yeah, based on advice and consultation with colleagues.

40 And so the decisions as to what by-election announcements should be made during the course of the Wagga by-election in 2018 was a decision, was, was a decision for you, albeit with the benefit of advice?---Yeah, it wasn't, it wasn't, I didn't do it in a vacuum. It would have been based on the views of those who were close to the electorate, my staff, people who were providing me advice on what we needed to do to keep the seat. And I would have had to consult colleagues as well, depending on the subject matter of those commitments.

No doubt with consultation, but the ultimate decision, at least as a matter of practice within the Coalition, is that it's a matter for the party leader to decide on the by-election – just let me finish my question.---Well, the

ultimate decision on everything ultimately is up to me, but I don't make these decisions in a vacuum.

In relation to – I think you're agreeing with me – in relation to by-election commitments within the Coalition, the decision is for the party leader, albeit with the benefit of advice as appropriate, is that right?---Yeah, with, obviously with advice, yes. If I don't like something, for example, if a minister is keen to announce something, unless I object to it, I'd be happy for them to announce it as part of our campaign strategy.

10

Did Mr Maguire suggest to you during the course of the Wagga by-election that one of the things that you should announce, or at least one of the things that the government should announce, is funding for building a large recital hall for the Riverina Conservatorium of Music?---Well, you asked me that in the private hearing and you showed me evidence to that effect.

Does that mean the answer to my question is yes?---The answer is yes but I wouldn't have remembered that unless you showed it to me.

20

Now, you ultimately decided that this should be a by-election announcement in relation to that project, is that right?---Yep. Clearly it had community support. The community wanted it. You look for announcements which are going to cause the community to feel favourably about your new candidate. In this instance we had a candidate, obviously, and that was, and that was determined obviously to be an issue which the public, we thought the public would have supported.

30

How do you know it's a matter that had community support?---Well, the organisation had written to me, the current member. Well, obviously that was post, but the current member has written to me. I'd visited them, I'd seen them. It was being in the local papers. Clearly when there's a by-election you look at all the issues that have been raised in the local paper and raised by community members. I don't think it was a secret. This was for that community and it was a conservatorium which was for the whole region. It wasn't just for that seat. It had major positive implications for the region, but obviously it wasn't a secret. In fact, quite the opposite. It had been on the public record.

40

Weren't you advised that that particular aspect of the Riverina Conservatorium was a project that had limited community support?---I'm sure people expressed to me different views. I had some staff members that said you should definitely do this, and others that said you don't need to, there are other priorities, and in the end ultimately we decided to do it.

Who were the staff members who supported the announcement?---I can't remember, I can't remember but I respect the relevant minister would have been consulted as well, and I suspect those doing our campaign strategy, but there's no secret that this is a popular project. In fact, as I've said, the

current Independent member for that seat has since lobbied me for this project. So it's on the public record that it was something that the community wanted, it's something that was popular, and it's not uncommon during by-election to make announcements which are going to gain you popular support. And I think the local member also, sorry, the local candidate – obviously she didn't get elected – but the local candidate was also providing that support. My understanding was that everyone agreed that it was a good thing to announce.

10 Your understanding was that everyone agreed that it was a good thing to announce, is that what you just said?---No, not everybody, clearly there was, as I said to you in the private hearing, some members of the staff said, some said no, you have a, obviously a list of things which you consider and that was one of the things that we were considering as what would be a positive announcement.

Who were the ones that said yes?---I can't remember.

20 So sitting there now you can't identify anyone within your staff - - -?  
---Well, I only know because - - -

Just let me finish my question, please.---Sorry.

30 Sitting there now, you can't identify anyone within your ministerial staff who supported the making of this announcement, is that right?---I can't remember, Mr Robertson. I know there was some who supported it, some who didn't. I know that people in government supported it, the public supported it. To me it wasn't even controversial it was something that was going to give benefit to the region, and, and in by-elections you obviously -  
- -

THE COMMISSIONER: Ms Berejiklian, I think you've answered the question.---I'm sorry. Yep.

40 MR ROBERTSON: What advice did you obtain from any department or agency within government as to whether there should be any announcement or reservation concerning the building of a large recital hall at the Riverina Conservatorium of Music?---Well, during a by-election there's limited opportunity to do that, so often you make announcements, political parties will make announcements based on what they think is going to curry favour with the community. So it doesn't follow the normal process that otherwise would.

So does that mean you received no advice from a department or agency as to whether an announcement or reservation in relation to the Riverina Conservatorium of Music should be made?---No, that's not correct. I don't know what advice, I can't remember every bit of advice I would have received.

Well, you don't have a recollection sitting there now of either asking or receiving advice from a department or agency within government, is that right?---I can't remember, I'm sure there was some advice provided. At the end of the day, it's the government's decision as to what announcements we make, and it was regarded as a worthwhile project.

10 Is this right, it's quite possible that announcement was made contrary to advice or at least in the absence of any advice from the department or agency?---And it would not be the first time and it certainly won't be the last.

Does that mean the answer to my question is yes?---I don't know the answer to that question because I don't know what advice I was provided, I can't remember what I was provided.

20 THE COMMISSIONER: You were asked whether it was a possibility, Ms Berejiklian?---Oh, a possibility, yes, obviously. But it's not irregular. That's, that's how by-elections work.

MR ROBERTSON: Mr Harley of your staff was against the making of this announcement, is that right?---I didn't listen to the evidence he provided here but quite possibly yes.

There was a concern within your office that the by-election, b-y-election, was becoming a buy-election, b-u-y-election, correct?---Yes, but that's, every by-election has that concern. It's not different, this was no different.

30 So what then, so, you didn't have any advice, or at least you can't identify any advice from the department or agency, you can't identify any particular individuals within your staff, your ministerial staff, who were supporting the project?---I know that there were, I, I, I recall there were staff supporting it because I received briefing notes to that effect. I received briefing notes to say this is something we should support, but not everybody is going to agree on every single issue.

40 Let's go then to a document which appears to be a briefing note, Exhibit 477. It's page 56 of volume 31.4. Now that's the covering email, if we just go to the next page do you see there what appears to be, at least a draft briefing note from Mr Okosdinossian?---Yes.

O-k-o-s-d-i-n-o-s-s-i-a-n, do you see that there?---Yes, I do.

There's a heading called Adviser Comments, just have a look at the third paragraph. It says, "Stage 2 is very much a nice-to-have for the RCM, no doubt they're using the by-election as leverage to secure funding for this next stage." Do you see that there?---Ah hmm.

And then, "Based on a conversation I've had with DPC staff based in Wagga, stage 2 is by no means a top order priority for the community and could be seen as quite a political announcement." Do you see that there?  
---Mmm.

10 So is it consistent with your recollection that at least some advice that you had at the time of deciding whether or not to make an announcement in relation to the RCM stage 2 was advice that the proposal was not a top order priority for the community and could be seen as quite a political  
announcement?---Well, that's from the department, I think. That's from public servants. It's not, they're not people expert in winning by-elections or, with all due respect, campaigns. And the recommendation to me is please provide my feedback, to lock in an announcement I prefer. So I was asked what I thought and I thought it was a worth project which the community supported otherwise I wouldn't have committed to it.

Why did you think it was a worth project that should be supported?  
---Because I think arts and culture in the bush, I think all children and all  
20 people should have access to arts and culture in regional New South Wales, and, in fact, it was something that I believe was a good project. But it was also something that I understood from public reporting, from representations, there would have been a whole host of things we announced in the by-election. This was one of them. I suspect there was a long list of them. I can't remember what the list was. I have - - -

THE COMMISSIONER: Well, that was why it was apparently getting the reputation as a b-u-y election, Ms Berejiklian.---Yeah, but every, indeed, Commissioner. But every by-election has that, that, well, most by-elections are unfortunately come down to what announcements you make and what  
30 the public regards as your commitment to that seat. By-elections are notorious for making political announcements.

MR ROBERTSON: So was this a political announcement in the sense that you've just identified?---Well, I would have described it as an announcement which was good for the community insofar as providing facility but also politically, it carried favour with the community and that's, at the end of the day, whether we like it or not, that's democracy. Each party puts forward their list of projects or what they, convincing the electorate about what they're going to do. And this had been a longstanding,  
40 longstanding commitment.

THE COMMISSIONER: Was Mr Maguire encouraging you to support this?---Yes, he had provided, he had provided feedback to my office and to myself on what he thought the top order, and I believe to the candidate at the time, as to what the top order issues were in the community. You would rely, he held the seat for 20 years. You wouldn't disregard what he would recommend in terms of what he thought was going to win us the election. So he'd been there, I think, in excess of, well, around 20 years at that stage.

So, obviously, if he thought as the local member this was something that was going to get votes, well, that would be something we would consider.

This was something I think he told you about on 1 May, 2018, just after you'd told him, "We've got your conservatorium, it was the second tranche of the funding the conservatorium needed." Do you recall that conversation with Mr Maguire?---I remember the first tranche. I don't recall the status of the second one, yeah.

10 But when you told him words to the effect of - - -?---It was a project he was supporting.

- - - "We've got your conservatorium," on 1 May, as I recall, he then said, "But that's only stage 1," or words - - -?---1. Correct. Yeah. Yeah. Yeah.

And I think, as I recall, you expressed some degree of exasperation when he said there was another \$20 million needed for the recital hall?---Yeah. Yeah. But that's not to say that it wasn't a worthy project to support.

20 MR ROBERTSON: Or was at least a project in respect of which Mr Maguire was the driving force within government. Do you agree?---Within government, yeah, but the community had also written to me and others had. It, it was not, if I could put it this way, Mr Robertson, it was not a project that stood out to me as opposed to others. I know it's taking a lot of attention here, but it was one of several things which we thought were worthwhile for that community.

30 But you're agreeing with me that, at least as you saw it, Mr Maguire was the driving force for this program or this project or suggestion within government. Is that right?---Within government, yeah. There could have been others, as well. I suspect those interested in arts and culture and, and relevant ministers would have had an interest, as well, because relevant ministers may have very well thought this was worthwhile. We had a whole, subsequently a whole program of arts and culture and music halls across the state, so I, I, I don't think it's, I don't think it, it would be limited to just one person. I feel others probably would have supported this, as well.

40 Perhaps other people to support it but you saw Mr Maguire as at least the driving force, the primary force, within government. Is that right?---Of course. It was in his seat and he was the local member.

And I just want to understand the factors that you saw in favour of making this announcement during the by-election campaign. I think one of them was, at least in your assessment, that making an announcement would be apt to garner votes for the Liberal candidate. Correct?---That's correct.

Was that the only factor or were there other factors?---I, I, my impression was, again, this was, without putting too much attention on this, this was one of a number of projects that were announced during that election. My impression also was it was, the community had a lot of support for it, the arts community more broadly had support for it, and in the scheme of things it was a, a nice thing to announce during the campaign. It was something that I personally thought was a good idea.

10 But how did you know that the community had support for it?---It was in the local, it's been in the local papers and the local organisation had written to us a number of times.

THE COMMISSIONER: The conservatorium, you mean?---Yep, sorry.

Well, they would support it, wouldn't they?---Yeah, well, well that's the point though, with all due respect. The local organisation, and my impression was it was canvassed publicly for a long time and that this was something the community wanted to have.

20 MR ROBERTSON: The community of Wagga Wagga, is that right?  
---Correct.

And you ultimately agreed that there should be reserved some \$20 million from the Regional Communities Development Fund in relation to the RCM stage 2 project, is that right?---I can't remember the source of funding but I remember we announced it.

30 Well, let me help this way, Exhibit 437. Exhibit 437, volume 31.0, page 244. Do you see there a letter on Premier letterhead to Mr Barilaro?---Yep.

Now, whilst this doesn't have a signature on it, I take it that you agree with the second paragraph that you and then Treasurer Perrottet agreed to the reservation of up to \$20 million from the Regional Communities Development Fund?---Yep, yes.

40 Now, that was a fund that was what I'll call a competitive fund, is that right? In other words one can make applications to it and the top projects get the money by reference to established criteria as opposed to government simply picking a winner?---No, but during a by-election the government's at liberty to make these decisions so long as all these qualifications are satisfied.

At liberty or not, I'm asking you to focus on the Regional Communities Development Fund. That was a fund that was a competitive fund in the way that I've identified, is that right?---I, I would have to see that criteria. I can't recall the exact criteria for that fund, Mr Robertson. There were a number of funds where community groups could apply to receive funding, and I don't know the criteria to that fund, but obviously I would have left it to the relevant people in government to advise on the source of funds.

Clearly it was made evident that we wanted to announce the, the, the \$20 million and then we would have left it to the experts in government to advise us as to the best source of funding for that.

Well, is this at least right, a consequence of the decision that you made, along with the then Treasurer Mr Perrottet, was to in effect carve out \$20 million from the Regional Community and Development Fund such that so long as that reservation existed it could only be spent on the Riverina Conservatorium of Music project and not on other projects?---Presumably, although government can always add extra dollars from consolidated revenue. If the, if the government really wants to do, wants to allocate extra money to anything, there are very adequate and, and proper ways of doing that. So - - -

Maybe so, but I'm focusing on this particular way rather than the myriad of other ways.---Right.

The effect of your decision, along with the Treasurer, was to at least temporarily excise from the Regional Communities and Development Fund \$20 million that, so long as the reservation existed, could only be spent on stage 2 of the Riverina Conservatorium of Music, is that right?---Yeah, you, you would know more about it than I would. Yep.

Well, I'm trying to understand your understanding as someone who was a Treasurer for some time and Premier for some time after that.---Yeah but, but that's the whole point. When, when you're, when you're in my position, you, you retain, you remember what you need to know, you expect the processes of government to do all the proper checks and balances and to do all the proper steps. It wouldn't be reasonable for me to be expected to remember every single step of the way and every single source of funding and every single pool of funding, but what would be responsible for me is to make those high-level strategic decisions in consultation with advice and colleagues.

So is this right, you made a high-level strategic decision that this was a project that should be funded and you left the detail as to, in effect, where you get the money from to others within government?---And also, you also assume at every stage - - -

I'm sorry, just, I'll let you give the explanation.---I'm sorry, yeah.

But is the answer to my question yes?---Yes.

Is there some clarification or addition matter you want to raise with respect to that question?---Only to say the qualification is that at every stage you received advice or you, you make sure that everything's done aboveboard and, and fits all the criteria that's relevant.

Just to make sure I understand. In relation to this particular announcement, RCM stage 2, one substantial consideration in your mind was that you thought that the announcement would be apt to garner further votes for the Liberal candidate, is that right?---Yes, that's correct. In addition to it being a good thing to do for the community, yeah.

10 But I'm just trying to understand. Why, as you assessed it, was it a good thing for this community to build a conservatorium of music as distinct, for example, building it in some other place, such as Albury?---Well, there are a number of – well, firstly, Wagga's the largest inland city. And, secondly, there were a number of arts and culture similar projects we'd announced in other seats. In fact, I'd visited electorates where we'd provided support to arts and culture. So it wasn't, you know, every electorate has different needs. Every electorate has different priorities. And this was just a consideration given to one of a number of projects.

20 But you're not suggesting that there was any, in effect, comparative consideration given to say, well, the best place for a new recital hall in a country area is Wagga as opposed to, say, Albury or some other place within the state?---Well, it would have made sense because the conservatorium had relocated to a location within Wagga, so it would have made sense to have the recital centre in close proximity. Look, again, I'm only speculating because I didn't care to all this level of detail. There's a whole range of lists you get during a by-election about projects that are worthy to announce. You make a holistic consideration of what you announce and this was one of them, and I didn't take it as to anything more or less than that.

30 Is this right, you didn't actually care about the detail of the proposal because you took the view that the part course to win the Wagga by-election was to just throw money at Wagga?---Well, I wouldn't say just throw money, but it's a regular, a regular political activity that, that governments try to win seats, try to keep their seats, as do opposition. So I don't think it's a surprise to anybody in and around government to know that we threw money at seats in order to keep them.

Can we play, please, telephone intercept 11846 and play extracts 2 and 3 one after another, please. Exhibit 518, I'm not sure if I said that.

40

**AUDIO RECORDING PLAYED**

**[12.22pm]**

MR ROBERTSON: I just want to focus on the reference to "throw money at Wagga". You remember hearing that?---Ah hmm.

Perhaps - - -?---Oh, can you just remind me of the date of that, please?

I can. It's 30 July, 2018. There may have been a problem with playing the extracts. Just pardon me.

THE COMMISSIONER: I think you've got extract 1 there, Mr Robertson. I thought you wanted 2 and 3.

MR ROBERTSON: Yes, I did. I wanted 2 and 3. Perhaps it was 1, only 1 was played.

10 THE COMMISSIONER: Yes.

MR ROBERTSON: I'm sorry about that, Ms Berejiklian.---I didn't think -- that's okay, yep.

We'll start again. We'll do extract - -?---I don't think that throwaway comment was in that one.

We'll deal with extract 2 and 3.

20

**AUDIO RECORDING PLAYED [12.23pm]**

THE COMMISSIONER: I think you're going to have to play those again because the transcript didn't come up. Can we replay those extracts, please.

**AUDIO RECORDING PLAYED [12.24pm]**

30

MR ROBERTSON: And extract 3, please.

**AUDIO RECORDING PLAYED [12.25pm]**

40 MR ROBERTSON: Ms Berejiklian, I just want to focus on that phrase "throw money at Wagga". Do we take from that that at least what you had in mind in the Wagga by-election was to throw money at Wagga with a view to winning the by-election, without necessarily being concerned with the merits of the particular projects or announcements being made?---I don't think they're, they're mutually exclusive. Obviously it was in our interests to try and keep the seat. That would involve a number of commitments. And I'd like to think that all the announcements we made, in addition to trying to win votes, were actual things that the community would have been better off with.

But I'm just trying to understand in relation to the RCM project why you regarded it as a project that was in the public interest. Obviously enough, the Riverina Conservatorium would like the idea of having a very large - - - ?---You don't think arts – mmm.

10 - - - would have a very, would like to have a very large recital hall, but people in some other part of the state – for example, Albury – might say, well, what about us?---Albury's an hour away. In fact, the community of Albury would have benefitted from this because they would have been able to attend major classical performances, which they otherwise couldn't have. So in effect this was a worthwhile project for the entire Riverina region. It may have attracted students and performers from all across regional and rural New South Wales. I don't, I'm not going to apologise for supporting a program or a project which could have had very huge benefits for that community.

20 But you're not suggesting that at least in deciding whether or not to make this particular announcement, you're not suggesting that there was some kind of comparative analysis as to whether the money was best spent in Wagga as opposed to some other part of the state?---But when it's a by-election, you're only focusing on that seat. You're not making a comparative analysis. When it's a by-election, you're focusing on one, that one local area and you're - - -

THE COMMISSIONER: I think the answer to Mr - - -?---Oh, I'm sorry.

- - - Robertson's question was either yes or no, Ms Berejiklian.---Sorry, can you repeat the question?

30 MR ROBERTSON: Is it right that in deciding whether or not to make this particular by-election announcement, you weren't engaging in any comparative analysis of the kind that I'm talking about as to whether the money was best spent in Wagga Wagga, in the interests of the state as a whole, as opposed to in some other part of the state?---Well, as I, as I said, in a by-election, you focus on that one seat.

40 Now you're aware, I take it, that the bureaucrats, what Mr Maguire describes as the bureaucrats, were not in favour of making the announcement that you ultimately agreed should be made, is that right? ---I can't, again, I can't remember all the advice we received, but clearly government was provided some advice on the qualifications for that reservation. Otherwise, the Treasurer and I wouldn't have written to the Deputy Premier at the time. So clearly there'd been some work done on what it would take to make this project feasible, and we were provided with that advice. So it certainly wouldn't have been done in a vacuum. We wouldn't have known what qualifications to put in that letter unless we'd received some level of advice.

Let me just remind you about what Mr Maguire says at the end of the extract I've just played, Exhibit 518. If we can – last page of that, please. Zoom in to the bottom of the page. See there Mr Maguire says, “Well, the bureaucrats knocked it all out. They're idiots.” Do you see that there?---He may have been referring to the stadium.

Well, you see the context, at least in the middle, you say, “I already, already know, you've already told me. The top, the three top things I already know.” See that there?---Yep. Yeah.

10

One of the top three things was the Riverina Conservatorium project, is that right?---I assume so.

And then if you have a look at the second-to-last thing, Mr Maguire says, “Well, the bureaucrats knocked it all out. They're idiots.” At least as I read it, that seems to be a reference to all of the things that he's talking about above.---Well, I thought, it says “stadium” so I don't know what that stadium's to do with.

20

So are you saying you don't know one way or the other as to whether what Mr Maguire describes as the bureaucrats - - -?---Yeah.

- - - were in favour or against the RCM project?---Yeah. But in any event it's immaterial. At the end of the day, it's the government's decision. It was a by-election. We're trying to retain the seat. So at the end of the day, we would have received advice on a multitude of things and then it would have been up to the government to make those announcements.

30

Was a factor in your consideration as to whether or not to make a by-election announcement in relation to any or all of the top three things identified by Mr Maguire a desire to seek to secure a legacy for Mr Maguire?---No, this was about keeping the seat. I think Mr Maguire's legacy was not relevant then because we had a Liberal candidate, we had a new candidate. Anything we announced would have been part of her legacy.

Is this right, at the stage – at least in your time as a minister – at the start of any meeting of Cabinet or a committee of Cabinet the first agenda item is the declaration of conflicts?---Yes, normally it's a standing item.

40

You no doubt, as a Premier and minister, attended scores and scores, hundreds and hundreds, perhaps thousands of meetings of Cabinet and committees of Cabinet?---Indeed.

Did it never occur to you during the course of any of those agenda items in those scores or hundreds of meetings that it may have been desirable, if not required, to make a declaration regarding your relationship with Mr Maguire?---No.

That's the examination, Commissioner.

10 THE COMMISSIONER: So you say that same answer to Mr Robertson in respect of the ERC meeting on 14 December, 2016 at which the decision was made, subject to relevant conditions, to award \$5.5 million to the Clay Target Association?---That's correct.

And also at the meeting of the ERC of 12 April, 2018 at which a decision was made to transfer the Simmonds Street land to Property NSW to be made available for the conservatorium?---That's correct, Commissioner.

20 At the meeting of the ERC on 24 April, 2018 at which it was decided to award the \$10 million for stage 1 of the conservatorium project?---That's correct, Commissioner.

And when the decision was made, reflected in the letter in which Mr Robertson has just shown you, to reserve \$20 million for the stage 2 of the conservatorium, it also never crossed your mind to declare your relationship to Mr Perrottet or Mr Barilaro?---That's correct.

Thank you. Mr White, did you wish to seek leave to ask Ms Berejiklian any questions?

30 MR WHITE: Yes, I do, thank you, Commissioner.

THE COMMISSIONER: Yes, you have that leave subject to relevance, Mr White.

MR WHITE: Ms Berejiklian, you've described Ms Cruickshank throughout this hearing as, as recently as today, as being an honest, diligent person? ---Without question, one of the most outstanding people I've ever had the honour to work with.

40 And you also described her last year when you gave evidence as a very smart, intelligent person?---Without question.

You acknowledge that she is a senior public servant?---Yes.

You acknowledge that part of her responsibilities as a senior public servant is to disclose matters that she thinks are improper?---Absolutely.

You would be very confident that she would fulfill those obligations?  
---Without question.

This discussion that you had with her on the phone on 13 July, 2018, you say you don't recall what you said in relation to the relationship?---Ah  
hmm.

10 I suggest to you, that what you said to her in relation to the relationship is that it was historical before you were Premier, what do you say about that?  
---I've answered those questions already, Mr White. I can only go by my best recollection. But be in no doubt, Ms Cruickshank, without question, is someone of enormous integrity and she is well aware of and would have discharged any of her obligations and I have no doubt about that.

20 THE COMMISSIONER: I don't think you've answered Mr White's question, Ms Berejiklian.---I'm sorry, I'm sorry. All I can say is I don't think it's uncommon for two people who trust each other to have a different recollection of the exact nature of the conversation. I can only recall what I thought I told her and she can only recall what she thought I told her.

MR WHITE: But you've indicated in your evidence today that you don't recall the conversation, correct?---I indicated that I don't recall every specific word of the conversation, it was just the general conversation that I recalled.

30 Ms Cruickshank gave evidence and never suggested that she didn't recall the conversation, do you agree with that?---I didn't follow her evidence but I have no reason to believe she would have been a hundred per cent assured of what she remembered. It's not uncommon for two people to have a different version in their head of what was said and I don't dispute that. I don't dispute her version as I hope people wouldn't dispute my version.

Ms Cruickshank also gave evidence to the effect that had you said it was a continuing relationship that she would have considered issues concerning conflict of interest and disclosure.---I, I accept that. That's her, that's her evidence.

40 And you're not suggesting, are you, that during this conversation you ever said to her not to disclose anything about what you said?---Not at all, and neither of us would have, neither of us would have had, had that understanding of each other. Both of us were very aware of our obligations, both of us took our jobs very seriously and both of us trusted each other and I, and I have no hesitation whatsoever in believing that she would have always conducted herself, as she does, with the highest level of integrity and I don't want to take anything away from that, as I would have.

Can I suggest to you, Ms Berejiklian, the very fact that she didn't make any disclosures suggests that you didn't say anything to her about a continuing relationship and you referred to a past relationship?---Look, that is her recollection and her understanding. Let me make it clear, that if she felt that she needed to disclose anything or had that information, she would have. I don't take that away from her for a second, and I want the world to know that in terms of integrity, professionalism, obligations, you can't go past Ms Cruickshank in those, in that way.

10 You've been shown some documents today, some briefing notes, pink documents, you've seen those.---Yep.

And you understand, don't you, that those documents or that information was provided as a result of actions that Ms Cruickshank made that she set up with other chiefs of staff to create a reporting system in relation to Operation Dasha?---Oh, I, I am sure, I'm I don't know the detail of that, but I'm sure Ms Cruickshank as my chief of staff would have made sure that all processes and systems in my office were of the highest level of, of  
20 responsibility and accountability. I have no doubt of that. That's why I asked her to be my chief of staff, because of my confidence in her ability to make sure that all proper processes were always followed.

Well, what I want to suggest to you is that the very fact that she set up that system of disclosure concerning Mr Maguire and concerning the operation, concerning particularly the controversy of what occurred on 13 July, suggests that she must have not known anything about a continuing relationship. What do you say?---Mr White, I don't dispute what she remembered for a second. That's her recollection. I don't dispute that. She is an extremely truthful, honest person. That is her recollection, I respect  
30 that, and I have no reason to think anything differently of her recollection and I can only go by what I remember.

Well, what she suggests that you said is that the reason you referred to as a past, historical relationship was just in the event that there was anything that came out as a consequence of you being with him in the past, as has been suggested to you today.---I have provided my evidence to the best of my recollection, Mr White. I don't have anything further to add.

Well, you maintain your evidence that you believed, based on the  
40 conversation, that you communicated that it was a continuing relationship. ---Well, I, I expressed to her how close we were, no doubt about that, and expressed to her that I didn't have any obligation, I didn't remember anything to report but I have no doubt that she would have and always has maintained the highest level of integrity. I don't think it's uncommon for two people to have a different recollection of a conversation that occurred three and a half years ago and that was her understanding, and I respect that. as I'm sure you would understand and respect my position.

Well, can I suggest to you, Ms Berejiklian, the difference in versions is incredibly significant in terms of the relationship. What do you say about that?---That's your opinion.

After 13 July, Ms Cruickshank gave evidence about what she referred to as free character assessments of Mr Maguire to you. Do you agree with that? ---Absolutely. There was no secret that they, that she didn't have much time for time for him, much regard for him,

10 She was making derogatory remarks about him directly to you?---That's correct.

Don't you think that that was a bit strange, bearing in mind you were still, according to you, communicated to her you were in a continuing personal relationship with him?---I don't think it's any secret that, that people express views about one another, but all of us make decisions on how we treat someone according to our experience, so it was a known fact that, that she didn't get on with him, and I think the feeling was mutual.

20 But what I'm suggesting to you is that if you'd have said to her that this was a continuing personal relationship, it's highly unlikely that she would have been making adverse comments about someone you were with?---Look, she's a very honest and direct person. She did everything according to her obligations. She always gave me free advice on what she thought about people, and I accepted that.

But this is someone who you're in a relationship with.---It doesn't matter.

30 And making adverse comments about.---That's immaterial to me.

It's unusual, though, isn't it?---Well, that's for you to comment on. It's immaterial to me.

40 Well, I'm asking you what you consider about that.---Well, what I absolutely love about Ms Cruickshank is she's very honest and direct about what she thinks about things. But it doesn't mean that I have to agree. It doesn't mean – I mean, you hire people because they're going to be robust, fearless and frank, and that's exactly what she was and always will be. But it doesn't mean that I agreed with her on every occasion or agreed with her assessment. That was her assessment.

I think you've also acknowledged today that she also – or, sorry, you – sorry, I'll withdraw that. What you have acknowledged today is that she said not to communicate with him.---She did. I accepted that, I, I accepted that she said that.

Do you agree that you were saying things to her along the lines of "He keeps contacting me all the time"?---I'm sure I did.

And she was telling you to not have any contact with him.---Ah hmm.

10 Don't you think that's a bit strange, if you're in a relationship with him, to tell you not to contact him?---She was giving me her best political advice and, and it's for me to accept it or otherwise, and that's on her and that's on me. She was always, again, I chose her as my chief of staff because she was always so robust and fearless. And it didn't mean that I always had to take her advice but I certainly always gave it good consideration and I commend her for that.

But I'm asking you whether you think that's unusual.---What, to agree or not agree, no, that's, I mean, I agreed with her on many things and disagreed with her on others, and that's natural.

No, for you not to contact her. Her telling you, as your chief of staff, not to contact someone you're in a relationship with. Don't you think that's strange or unusual?---That was her best advice and I listened to her advice.

20 Well, what was your response to that, bearing in mind you've told her you were in a relationship? Did you say, "Mind your own business," or - - -? ---No, no, I, I just, I listened, I just took her, I listened quietly.

THE COMMISSIONER: And didn't take her advice.---And didn't take her advice, indeed.

30 MR WHITE: After 13 July, I suggest to you that there was never any occasion where there was any discussion about, between you and her about any ongoing relationship?---No, I just remember having one brief discussion about a situation that had arisen because of the by-election, but I don't recall any further discussion, no.

So between 13 July, 2018 and when you gave evidence and disclosed the personal relationship - - -?---Yep.

- - - you never had any discussion with Sarah Cruickshank about your relationship with Mr Maguire?---Not that I recall.

40 You were a friend also of Sarah Cruickshank, correct?---Indeed.

She never inquired about how the relationship was going over that period of time?---Not to my recollection. But remember, Mr White, I hadn't shared that with people very close to me. I hadn't shared details of that with any, with anyone very close, with many people close to me.

But you had shared it with her.---Correct.

But she never inquired any time from 13 July up to the time you disclosed it to the Commission? Never inquired about how the relationship was going?  
---I have no recollection of that, no.

Don't you think that's a bit unusual?---Not really, no.

She's had functions at her place that she's invited you to, hasn't she?---Yes, we're friends.

10 Since 13 July, 2018?---Yes.

She's never invited Mr Maguire, has she?---No, but because that wasn't, that wasn't a relationship that was sufficiently significant for me to share with people, so she wouldn't have known that. She wouldn't have known to or surmised to because that wasn't the type of relationship I had with Mr Maguire. That actually strengthens my case as to the status of the relationship.

20 What, that you've told her about an ongoing relationship?---No, no, no. That nobody, nobody would have assumed to have invited him.

Well, these were private functions at her place that she never extended the invitation to Mr Maguire.---But I wouldn't have expected her to.

Have you heard Mr Harley's evidence that he gave before this Commission?---I didn't listen to it strongly, no.

30 Do you remember having a discussion with Mr Harley about your relationship with Mr Maguire?---Yes.

Mr Harley suggested that he was left the impression after that discussion that it was a past relationship and it wasn't something that was continuing. What do you say about that discussion you had with Mr Harley?---Well, look, that was a separate discussion and obviously much time had, had, had followed after that. Again, Mr Harley is, is a man of his word and, and in the fullness of time, at the appropriate time, I divulged what I had to do, what I had to divulge at all times.

40 But Mr Harley has virtually said the same thing as Ms Cruickshank in terms of what you said, that it was a past relationship, not that it was a continuing relationship.---Well, well, obviously, I'd had those conversations with Mr Harley and, and he's provided his evidence and that's where it stands.

I suggest to you, Ms Berejikian, that you're not being honest about the discussion you had with Ms Cruickshank on 13 July, 2018, in terms of the relationship.---I can only reflect my recollection and I can't do any better than that. I've been honest in what I thought I remember, what I do remember and I appreciate, I appreciate that she has a, a, a different

recollection and that's not uncommon with two people who've had a conversation three and a half years' ago. But I do want to make the point that Ms Cruickshank is very aware of her obligations and would have fulfilled them completely and I don't want to leave any dispute in anybody's mind about that.

10 And the very fact that she hasn't fulfilled those obligations by disclosing what she would have perceived as a conflict of interest suggests that she was never told it was a continuing relationship.---Look, that's a matter, that's a matter for her and what she remembers and a matter for me and what I remember and I have nothing further to add.

But you maintain you don't recall properly what the conversation was, in any event?---That's correct. It was three and a half years' ago. I don't remember every detail of it, no.

Thank you, Commissioner.

20 THE COMMISSIONER: Thank you, Mr White. Mr Agius, do you wish to seek leave to ask Ms Berejikian any questions?

MR AGIUS: No, Commissioner.

THE COMMISSIONER: Thank you. Mr Harrowell, do you wish to seek leave to ask Ms Berejikian - - -

MR HARROWELL: No, Commissioner.

30 THE COMMISSIONER: Thank you. Ms Callan?

MS CALLAN: Yes, Commissioner.

THE COMMISSIONER: You're subject to relevance, Ms Callan.

40 MS CALLAN: Yes, Commissioner. Ms Berejikian, you were asked on Friday whether you would intervene from time to time in government processes, so as to fix problems that Mr Maguire complained to you about and you agreed you would do so from time to time through the appropriate channels. That's at transcript 2651. You also stated that you would intervene to fix problems in exactly the same way for Mr Maguire as compared to anyone else who might address questions, complaints or concerns to you. Ms Berejikian, whilst you were just focusing on the period you were Treasurer and then Premier, how often do you estimate members of parliament raised with you a concern or roadblock or problem and asked you to fix it?---All too frequently, I'm afraid but that was my style of leadership. Members of my team, members of the government, any other members of parliament knew that I was accessible and knew that I was there to support them in issues they wanted to progress for their electorates.

And I stand by that so strongly, that every single member of parliament, every single member of my team, every single member of the House who wanted to raise something with me had the opportunity to do so and I would have dealt with their issues in the very same way that I did.

In terms of the method by which members of parliament had access to you, for instance, to raise concerns or roadblocks, did that include communicating with you directly, for instance, via SMS or telephone call or in person?---Most definitely. It would have been telephone, SMS. Some  
10 would have dropped in to my office at Parliament House when parliament was sitting. They may have rung and said, "Can I come and see you." Formal correspondence, I made a point in my office of responding in formal writing to every single member of parliament that wrote to me. That was a standard policy I had. So there were a myriad of ways, and I'm sure that if my colleagues were asked they would acknowledge that if they wanted to get a message to me, if they wanted me to address or fix something in their community or fix a problem they had in their electorates, that they knew I was accessible, albeit they would probably go through the minister first, the Treasurer, and then I'd be the last port of call, but admittedly, that was a  
20 regular occurrence.

On Friday you were asked in relation to the Australian Clay Target Association whether that submission was influenced by the fact it was a project being advanced by Mr Maguire. This is at transcript 2681. You answered, "That could have been part of the consideration but the absolute consideration for me, the strongest consideration was the consequence of the Orange by-election." Insofar as you said the fact the project was being advanced by Mr Maguire could have been part of the consideration, what did you mean?---I meant to say, obviously, there were merits that would  
30 have been presented by the relevant minister and the government's consideration, but for me, the one thing that I remember about that project was in timing, the proximity to the Orange by-election, the fact that the Shooters Party had won the seat of Orange, which was a safe seat, and that many rural and regional communities and members were very concerned about their prospects and what was happening in relation to the Shooters Party. And it was also put to me, not just by Mr Maguire, by a whole host of colleagues and public servants at the time in varying degrees, or more so colleagues, that that was a project for the entire region and not just that  
40 community. So there were a number of facts, but again, it wasn't something that stood out for me apart from the fact that it was in such close timing to the Orange by-election, and apart from the merits of the project itself, that was a factor in my decision-making.

Recognising the emphasis you've placed on what you can recall as to what was on your mind, the evidence that you gave on Friday when you were asked whether the fact that Mr Maguire advanced the project influenced your support, you said that could have been part of the consideration. Why might that have been part of the consideration for you?---Well, you always,

if there's a project in any electorate you always consult or consider the views of the local member, so if the local member is strongly supporting something and then the minister puts forward a proposal and the Expenditure Review Committee's asked to consider that, the views of the local member – irrespective of what seat it is – are always taken into account. For example, there's no point strongly supporting a project which has statewide significance or otherwise if the local member doesn't think it's a good idea. So clearly, that would have been a factor but one of many.

- 10 Ms Berejiklian, you recall that earlier this year on 3 March, 2021 then New South Wales Liberal Member of Parliament John Sidoti resigned as Sports Minister, and that followed an announcement by ICAC that it was going to hold a public enquiry into his property dealings. Did you, as Premier, play a role in respect of that announcement of his resignation?---Yes, I had a number of conversations with him - - -

THE COMMISSIONER: What's the relevance of that to this enquiry, Ms Callan?

- 20 MS CALLAN: There's just one question that follows from it. Did you make any report to ICAC under your obligations in section 11 of the ICAC Act in respect of Mr Sidoti?---I didn't feel I had any information to provide this body.

THE COMMISSIONER: Were you in a close personal relationship with Mr Sidoti, Ms Berejiklian?---He was a close friend.

Were you in a close personal relationship akin to that with Mr Maguire?  
---No, obviously.

- 30 No. Yes, Ms Callan.

MS CALLAN: Ms Berejiklian, as female Treasurer and Premier of New South Wales, what do you say to the suggestion that you had a private interest and a close personal relationship with Mr Maguire - - -

THE COMMISSIONER: Ms Callan, I really think such matters are for the Commission to determine. We're not asking Ms Berejiklian's opinion of legal interpretations of conflict of interest provisions, are we?

- 40 MS CALLAN: Commissioner, I understood the approach being taken by this Commission was that it was prepared to hear evidence from witnesses which bear on the question as to whether something objectively had the potential to influence the performance. I recognise, and as I made clear last week, that that is a matter ultimately and only for you, Commissioner, to decide but in circumstances where a number of other witnesses have been asked questions directed at the, precisely in my submission, the same point -  
- -

THE COMMISSIONER: Well, about how they perceived the particular situation in respect of their involvement in it and their observations of Ms Berejiklian as a matter of fact.

MS CALLAN: But in my submission the questions went further than that.

THE COMMISSIONER: Did you wish to say something, Mr Robertson?

10 MR ROBERTSON: I think, with respect, my learned friend has misapprehended my questions. I have asked quite a number of witnesses whether they would have done anything differently had certain things occurred. The question of construction as to whether or not a particular matter does or does not constitute a breach of the Ministerial Code is a question of law, it's not a question of fact. My questions have been directed to trying to demonstrate one way or the other as to whether in the event that Ms Berejiklian did make a disclosure of a kind that there will no doubt be debate as to whether or not she was required to do so, whether that would have had any practical consequences. So I think with great respect to my  
20 friend, she has misapprehended the questions in this particular area.

THE COMMISSIONER: Thank you, Mr Robertson. Even though I objected to it myself, Ms Callan, I'll allow you to ask it but you'll understand that, as you say, ultimately it's a matter for the Commission.

MS CALLAN: Yes, Commissioner. Ms Berejiklian, as Treasurer and Premier of New South Wales, what do you say to the suggestion that you had a private interest, namely a close personal relationship with Mr Maguire, including a deep emotional attachment to him, which objectively  
30 had the potential to influence the performance of your public duties?---I completely reject that suggestion. Every decision I have made in public life has been in the interests - - -

THE COMMISSIONER: Ms Berejiklian, you're being asked about this particular situation, not about your general commitment to public life. You're being asked about the relationship between yourself and Mr Maguire.---That was always separate to my public responsibility. What I felt for him was completely separate to what I did in terms of executing my responsibilities and I stand by that ever so strongly.  
40

MS CALLAN: Did you consider your emotional attachment to him influenced the performance of your public duties?---Not at all.

Thank you, Commissioner.

THE COMMISSIONER: Thank you, Ms Callan. Mr Robertson, did you wish to ask anything else?

MR ROBERTSON: Nothing arising.

THE COMMISSIONER: Very well. What should we do with Ms Berejiklian's summons?

MR ROBERTSON: She should be released from her summons.

THE COMMISSIONER: Very well. Ms Berejiklian, you're released from your summons. You may step down.---Thank you.

10

**THE WITNESS EXCUSED**

**[12.57pm]**

THE COMMISSIONER: What about Mr Maguire's summons?

MR ROBERTSON: Mr Maguire should also be released from his summons.

20 THE COMMISSIONER: Yes. I also release Mr Maguire from his summons.

**DARYL MAGUIRE EXCUSED**

**[12.57pm]**

30 MR ROBERTSON: Can I deal with some formal tenders? Evidence was received last year regarding Mr Maguire's involvement in what he agreed was a cash-for-visa scheme. See page 1609, line 16 in relation to that admission. There was some evidence received during the course of the Public Inquiry last year that a Ms Monica Hao, H-a-o, may have had some relevance in relation to the so-called cash-for-visa scheme. Ms Hao was summoned to appear before this Commission to give evidence in relation to that question. However, there is evidence suggesting that Ms Hao has left the country after being summoned but has not yet returned. I tender a statement prepared by Senior Investigator Paul Grainger, dated 7 October, 2021, volume 38, pages 226 and following in relation to that matter.

40 THE COMMISSIONER: That will be Exhibit 533.

**#EXH-533 – STATEMENT BY PAUL GRAINGER DATED 7/10/21  
ABOUT ATTEMPTS TO CONTACT MONICA HAO**

MR ROBERTSON: Next, at volume 26.12, page 293, there was a memorandum from Mr Blunden, which I'll refer to as the WTF memorandum, that document itself did not contain a date on it but I did

indicate, both with him and with my learned friends, as to the date of the document. For abundant caution, I tender a document that contains the metadata relating to that document and I respectfully suggest that you mark it Exhibit 420A because Mr Blunden's memorandum is Exhibit 420.

THE COMMISSIONER: Very well. That will be Exhibit 420A.

10 **#EXH-420A – METADATA RELATING TO THE ‘WTF’  
DOCUMENT**

MR ROBERTSON: That's the only matters from my part in relation to the public inquiry. I respectfully suggest that the public inquiry be adjourned. There's one further matter the subject of the private section of the public inquiry in respect of which the adjournment might be relevant but I won't say anything further about that, given that we're in public session.

20 THE COMMISSIONER: Very well.

MR ROBERTSON: So it should be adjourned sine die is my suggestion.

THE COMMISSIONER: Yes. Well, can I - - -

MR ROBERTSON: To a date to be fixed, I should say.

30 THE COMMISSIONER: Yes. Can I advise that the reasons for the ruling I made last Thursday morning rejecting the application, that as a matter of general proposition what I'll call the relationship evidence, be heard in private has now, I think, been published on the Commission website. While we're adjourning the public inquiry at this stage, as I understand it, it is proposed that a timetable will be agreed as between the legal representatives, Counsel Assisting and the legal representatives as to the making of written submissions in relation to the evidence with a view to them proceeding after the conclusion of those submissions for the preparation of the report.

MR ROBERTSON: May it please the Commission.

40 THE COMMISSIONER: Very well. I will now adjourn.

**AT 1.00PM THE MATTER WAS ADJOURNED ACCORDINGLY  
[1.00pm]**