

KEPPELPUB01256
09/10/2020

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pp 01256-01347

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE RUTH McCOLL AO
COMMISSIONER

PUBLIC HEARING

OPERATION KEPPEL

Reference: Operation E17/0144

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 9 OCTOBER, 2020

AT 9.30AM

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

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Commissioner, today there's a program of three witnesses. I'll first call Mr Cull by video link, I'll then call Ms Cruickshank in person and I'll then call Mr Vellar. I anticipate getting through each of those three witnesses by lunchtime. Next week the program of witnesses has been uploaded. Firstly, the Honourable Gladys Berejiklian MP. My proposal is that we start at 9.30am if that's convenient to the Commission, because Ms Berejiklian - - -

10

THE COMMISSIONER: On Monday?

MR ROBERTSON: On Monday, on Monday, because Ms Berejiklian has other public duties and I'm doing my best to accommodate those. That day I apprehend will be a relatively short day. I don't think I'll be the whole day with Ms Berejiklian. We then have Ms Wang on Tuesday, and when I'm finished with Ms Wang I will proceed with Mr Maguire. That may be on Tuesday afternoon, alternatively it may be on Wednesday. As I indicated yesterday it's possible that I'll need to recall some additional witnesses, depending on the course of the evidence, but as matters presently stand I expect the main segment of the public inquiry to finish during the course of next week. Can I deal with one tender arising out of yesterday. Can I have on the screen, please, the electoral division map. You'll recall, Commissioner, there was some evidence yesterday regarding a UWE facility in Leeton. Can I ask the operator to zoom in to the area that is in and around Leeton. The Commission will see towards the middle of the screen the word "Leeton." Leeton itself is in the electorate of Murray. Cootamundra is the next electorate that's immediately adjacent and then the next electorate is Mr Maguire's electorate of Wagga Wagga. I thought it's appropriate I should tender that to give some context to some of the evidence received yesterday and some of the evidence that will be relevant today. I tender the electoral map that's presently on the screen.

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30

THE COMMISSIONER: That will be Exhibit 304.

#EXH-304 – NSW MAP STATE ELECTORAL DIVISIONS

40 MR ROBERTSON: I call Charles Cull.

THE COMMISSIONER: Yes. Mr Cull, firstly can you hear and see clearly?

MR CULL: I can, thank you, Commissioner.

THE COMMISSIONER: Do you wish to take an oath or make an affirmation?

MR CULL: An affirmation, please.

THE COMMISSIONER: Please listen to the officer.

THE COMMISSIONER: Mr Mendoza-Jones, have you explained to Mr Cull his rights and liabilities under the Independent Commission Against Corruption Act?

MR MENDOZA-JONES: Yes, Commissioner, I have.

10 THE COMMISSIONER: And does he seek a section 38 declaration?

MR MENDOZA-JONES: He does, Commissioner.

THE COMMISSIONER: Mr Cull, please listen to what I'm about to explain to you very carefully. As a witness you must answer all questions truthfully and produce any item described in your summons or required by me to be produced. You may object to answering a question or producing an item. The effect of any objection is that although you must still answer the question or produce the item, your answer or the item produced cannot
20 be used against you in any civil proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings.

The first exception is that this protection does not prevent your evidence from being used against you in a prosecution for an offence under the Independent Commission Against Corruption Act, including an offence of giving false or misleading evidence, for which the penalty can be imprisonment for up to five years. The second exception only applies to New South Wales public officials, of which I understand you to have been and maybe still are one.

30 Evidence given by a New South Wales public official may be used in disciplinary proceedings against the public official if the Commission makes a finding that the public official engaged in or attempted to engage in corrupt conduct. I can make a declaration that all answers given by you and all items produced by you will be regarded as having been given or produced on objection. This means you do not have to object with respect to each answer or the production of each item, and I gather from your counsel that you wish me to make such a declaration.---Yes.

40 Very well. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection, and there is no need for him to make objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION, AND THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

10

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Can you state your full name, please, sir.---Charles Christian Cull.

You're also known as Charlie from time to time. Is that right?---That's correct.

20 You were a senior policy adviser for the Honourable Niall Blair between March of 2017 and April 2019. Is that right?---That's correct.

At that point in time Minister Blair was the Deputy Leader of the Nationals. Is that right?---That's correct.

He was the Minister for Primary Industries?---Yes.

Minister for Regional Water?---Yes.

30 And Minister for Trade and Industry?---Yes.

While you were the senior policy adviser to Minister Blair, did you have any dealings with Mr Daryl Maguire in relation to a firm known as United World Enterprises?---Yes.

And can you just explain in general terms what those dealings were?
---Mr Maguire approached our office in August of 2017 with an issue regarding to UWE.

40 And how did Mr Maguire approach Minister Blair's office in relation to that matter?---I think he may have approached the minister initially. I can't recall the precise details, but he, so Mr Maguire subsequently was given my phone number and called.

So one way or another - - -?---To start the engagement.

So one way or another Mr Maguire made contact with the minister's office, perhaps directly to the minister or perhaps someone more senior to you

within the minister's office, but ultimately the responsibility of making initial inquiries with Mr Maguire fell to you. Is that right?---That's correct.

And just to try and give you some context around that and try and get some dates, can we go, please, to page 32 of the bundle. I'm going to ask for a document to be shown on your screen and it will be shown in the hearing room in a moment. Just bear with us because there's two systems that will need to, as it were, talk to each other. And just while that's coming up, is it right that you had some text message exchange with Mr Maguire before you had any meetings or anything of that kind in relation to the UWE, United World Enterprises issue?---Yes, I think we exchanged a couple of texts just to coordinate a meeting.

Now, in a moment what I think are the texts will come up on the screen. Do you see there an iMessage that appears to be from you to Mr Maguire, 17 August, 2017, 4.15pm?---Yes.

And you say, "Hi, Daryl. Feel free to text me or email me at," and you set out your email address, "Once you work out the best time to meet tomorrow morning." Do you see that there?---Yes.

And so I take it that before 4.15pm on 17 August, 2017, there was some occasion for you to make contact with Mr Maguire. Is that right?---Yes, yes.

And was that Mr Maguire making some direct contact with you, or is your best recollection that it was someone within the minister's office, perhaps the minister himself, who asked you to reach out to Mr Maguire?---I don't recall, I'm sorry.

But one way or another, it fell to you to make contact with Mr Maguire with a view to setting up a time to meet on the next day, is that right?---Yes, yeah, that's correct.

And setting up meetings of this kind, a meeting with a member of parliament regarding an issue of concern, did that fall within your ordinary responsibilities as a senior policy adviser?---It did, although it happened infrequently because there weren't too many trade issues that (not transcribable) from an MP's (not transcribable).

Does that answer apply to all of Minister Blair's portfolios or are you saying it was unusual to have meetings in the Trade portfolio, as opposed to the others?---There were very few electorate trade matters that came up. It was very common for a lot of people of my equivalent position to arrange meetings like this.

Is part of the explanation for that that trade is often a responsibility dealt with on a federal level rather than on a state level?---(No Audible Reply)

Sorry, one or other side might have broken up. Is part of the reason for the answer you've just given that trade is often dealt with on a federal level rather than on a state level?---That's correct.

And is at least part of it that it's relatively unusual for individual members of parliament to be raising matters associated with trade, as opposed to raising matters that might be relevant to some other area of responsibility?
---Oh, I'm, I'm not sure about how to answer that, I'm sorry.

10

Well, you're saying it was unusual to set up a meeting of the kind that you set up with Mr Maguire on the 17th or 18th of August, 2017?---Yes.

And I think you agree that part of the reason that it was unusual is that trade is a relatively small portfolio on a state level - - -?---Yes, yes.

- - - because it's usually dealt with on a federal level, is that right?---Yes, that's correct.

20

Is another aspect of it being unusual the fact that it is relatively unusual for individual backbenchers to be raising matters relevant to the Trade portfolio?---I don't know, I'm, I don't really, there weren't enough ways that I could give it an answer either way, to be honest. MPs are supposed to raise issues that affect their constituents, so that could be a trade issue or something else.

And so did you understand that Mr Maguire was seeking to raise an issue relevant to his constituency?---Yes, that was my understanding.

30

And before the meeting itself, what was your understanding of the issue that Mr Maguire wished to raise?---Oh, I don't know that I had any particularly strong understanding of the issue before (not transcribable)

But at least it was, as you understood it, something relevant to his duties as a member of parliament for the electorate of Wagga Wagga, as opposed to something that he was interested in for some other reason, is that right?
---Yes. That's correct.

40

And are you saying, though, that it was not unusual for you to have the responsibility of setting up a meeting with a member of parliament of the kind that you and I have been discussing?---That's correct. (not transcribable) very infrequently. There were other, other meetings more common in other, say, for the industry part of the portfolio where this happened more often than the trade.

Is it right that ordinarily meetings with members of parliament within the minister's office would be organised by the parliamentary liaison officer rather than by a policy adviser?---I don't, I don't know that I could give a

strong answer either way on that, I'm sorry. It'd depend on the circumstances.

THE COMMISSIONER: Did you want to tender that chain of texts?

MR ROBERTSON: I do. I tender the chain of messages, 17 August, 2017, pages 32 through to 34 of what I'll describe as the bundle.

THE COMMISSIONER: It'll be Exhibit 305.

10

#EXH-305 – SMS CHAIN CULL TO MAGUIRE DATED 17 AUGUST 2017 TO 8 DECEMBER 2017

MR ROBERTSON: And so is it right that a meeting was ultimately arranged for the day after the messages that I just showed you, so a meeting arranged on 17 August for 18 August, 2017?---Yes.

20 And doing the best you can, if you can explain to us what occurred at that meeting.--- So the meeting included myself, a number of UWE representatives, Jimmy Liu, Steven Foote, Graham Steer, as well as Daryl Maguire, and there was a representative from the Trade Department there, and they outlined issues that they had, UWE had, to do with their 51 per cent investment, which was Shanghai Dairy, who were in turn owned by Bright Foods.

30 You said there was a representative of the Trade Department there. Who organised that representative to be there?---I would have organised that representative to be there.

THE COMMISSIONER: You may have been about to ask the question – is this the New South Wales or the Federal Trade Department, Mr Cull? ---New South Wales. They would have, so one of the Trade Team members within the Department of Industry.

Thank you.---What was the Department of Industry at that time.

40 MR ROBERTSON: In other words, one of the minister's departments at that point in time, is that right?---That's correct.

Is this a meeting, a meeting of a kind that would have occurred if no member of parliament was requesting it? In other words, was the fact that it was Mr Maguire requesting this meeting – as opposed to, for example, Mr Liu directly – did that have any impact on whether the meeting was arranged at all? And, if so, whether the particular people who attended the meeting – such as yourself and the Trade Department representative – was in attendance?---If UWE had approached the Trade Department, they

probably would have secured a meeting of the Trade Department, but my involvement was because of Daryl had raised the issue.

So is it right to say it's likely that, but for Mr Maguire raising the issue, it would be unlikely to be dealt with at a ministerial level by people such as yourself and the minister's office, as opposed to be dealing with it at a departmental level by way of officials within the Department?---Yes.

10 Now, you started to explain that, during the course of the meeting, there was a description of an issue that UWE was having. What, as you understood it, was the UWE representative asking the minister's office, or perhaps the minister's Department, to do in relation to that issue?---That's an interesting question because part of the problem with this issue was that, I suppose, myself and my departmental colleagues never really came to a firm understanding of exactly what the real issue was that we were being asked to solve in this case. And so we were initially asked, I think, to assist with communication, opening lines of communication to China. But as we went further along, it was not really entirely clear what the core problem was.

20 So you're saying that at least from the meeting it was relatively unclear not only what the problem was but also what solution was being sought from the minister's office or the minister's department?---Yes.

So far as you can recall, what was Mr Maguire's role in the meeting? What was he saying or was he just sitting back and letting Mr Liu and others speak?---The UWE representatives did most of the speaking but Mr Maguire did some. I couldn't tell you exactly what he said in the meeting, no.

30 Whether or not you can remember exactly what he said, was he, as it were, trying to promote the position of UWE, support the position of UWE, as you understood it, during the course of the meeting?---Yes.

And did he do that in a fairly usual way for a member of parliament or, at least in your mind, was it a little bit unusual the way in which Mr Maguire first requested the meeting, but also participated in the meeting itself?---I found it unusual, yes.

40 Why did you find it unusual?---I found, in, in the meeting and subsequent, I just found his manner and perhaps (not transcribable) unusual.

You'll just need to repeat that response because you broke up a little bit. You were explaining why you thought that the involvement was unusual. ---Sorry. In the meeting and in my subsequent engagements with him on the issue, I found his, the intensity of his engagement with the issue unusual.

What did you understand Mr Maguire's interest in this UWE issue? Why was Mr Maguire concerned, as you understood it, so as to call and

participate unusually in a meeting and in an intensive manner?---I understood it was an electoral matter and there were a number of jobs on the line locally that would fall over if whatever it was that we were trying to resolve couldn't be resolved.

And the thing that was trying to be resolved was in relation to a particular facility that UWE had, is that right?---Yes, yes.

10 Did you have an understanding of where that facility was situated as at the time of the meeting?---I, I may have been told but I don't know that I fully appreciated where it was.

Well, did you proceed on the understanding that the facility was in Mr Maguire's electorate of Wagga Wagga?---Yeah, in his electorate or, certainly, directly relevant to.

20 You now know that the facility was not in the electorate of Wagga Wagga, it was in the electorate of Murray, is that right?---Yes, I now understand that.

But in terms of why Mr Maguire was interested, as you understood it, was your understanding that it was just Mr Maguire attending as a local MP, as it were, seeking to advocate the position of either a constituent or at least a business that might have some relationship to or effect on constituents. ---Yes, that's correct.

Did Mr Maguire disclose during the course of the meeting, or at any other time, that he was interested in obtaining a board position with UWE?---No.

30 Did he disclose to you or say to you that he had any other actual or contemplated interest in UWE or any entity associated with UWE?---No.

So at least as you understood it, there was nothing associated with Mr Maguire's personal interest involved in the meeting. He requested the meeting and participated in it, as you understood it, as a local MP who was concerned about a local issue, is that right?---Yes. Yes.

40 Now, had Mr Maguire suggested that he was interested in obtaining a board position with UWE or that he was otherwise interested in having some interest in UWE or some other entity, would have you handled yourself any differently in terms of setting up the meeting and perhaps participating in the meeting?---That's a difficult question to answer as a hypothetical. I imagine I would have. I'd, I'd need time to think about it, though.

Well, you at least would have drawn that matter to the attention of your superiors within the minister's office, is that right?---Yes, that's correct.

And you may well have at least sought advice, perhaps from your chief of staff, as to what to do in light of that piece of information.---Yes, I'd imagine things would have played out very differently.

Now, you said that the meeting was unusual. I suppose you'd accept that if you were told of the kinds of matters I've just identified, such as Mr Maguire interested in a board position, it would make it even more unusual and you would have sought advice as to how to proceed, is that fair?---Yes, that's fair.

10

Did you take any file note or any other record of the meeting that appears to have happened on 18 August, 2017.---Yes, I did, and I've provided those to the Commission.

So can we have on the screen, please, volume 17, page 25. Do you see there some handwritten notes with a date of 18 August, 2017, in the top right-hand corner?---Yes.

20

Are they notes you were referring to a moment ago?---Yes, they are.

And do you confirm that those notes accurately identify, at least in general terms, what was discussed during the course of the meeting?---Yes.

And if we can scroll back to the top of the page, please. You see there's a series of individuals who were identified on the top line of the document? ---Yes.

30

Those are all of the individuals who were in attendance at the meeting along with you?---And a departmental representative.

So the departmental representative is not referred to on the top line but was an additional attendee at the meeting, is that right?---Yes. Yes, that's correct.

Can you remember the name of that representative?---I don't, but I think it was either (not transcribable) or Susan Calvert.

40

And was that individual present throughout the meeting or only for part of the meeting?---Throughout the meeting.

I tender Mr Cull's file note of the meeting of 18 August, 2017, volume 17, page 25.

THE COMMISSIONER: Exhibit 306.

#EXH-306 – CULL FILE NOTE DATED 18 AUGUST 2017

MR ROBERTSON: Now, Mr Cull, during the course of that meeting, or immediately before or immediately after it, was there an exchange of business cards or name cards, do you recall?---Yes, there was.

And I think you may have provided a copy of those business cards, or at least some of them, to the Commission, is that right?---Yes, those that I had.

10 Can we go, please, to page 35 of the bundle, just so I can ask you to confirm those.

THE COMMISSIONER: When you say the bundle, is this always volume 17, Mr Robertson?

MR ROBERTSON: It's not. There's a separate bundle with some additional documents that are not in volume 17, to keep everyone on their toes.

20 THE COMMISSIONER: Including me.

MR ROBERTSON: Including the Commissioner. Do you see there, Mr Cull, three business cards, one from Jimmy Liu, L-i-u, one from Mr Foote, F-o-o-t-e, and one from Mr Steer?---Yes.

What was Mr Steer's role in the meeting, can you remember? He's referred to there as a consultant.---I understand that he was a board member of UWE.

30 What was that understanding based on?---That was what I was told in the meeting.

And if we then just turn the page, I think we've got the rear side of a business card. So this is the rear side of the business cards that we saw on the previous page. Is that right?---I think so. I can't recall. It was a while ago when I last saw those.

I tender the two pages of business cards provided by Mr Cull, pages 35 and 36 of the bundle.

40 THE COMMISSIONER: Exhibit 307.

#EXH-307 – UWE BUSINESS CARDS

MR ROBERTSON: And just to try and understand the ordinary procedures in terms of a meeting of the kind that you've just explained, are there any procedures at a ministerial office level as you understood it as to what

records should be kept of meetings of the kind that you had on 18 August, 2017, is there some formal process to make sure that it's recorded in a particular way or in a particular diary or anything like that?---No, because they met only with me, not with the minister, there was no particular requirements to record the meeting.

10 So are you now drawing attention to the fact that as a matter of policy, ministers will publish details of meetings that they have that are scheduled with outside individuals who are seeking to put forward a particular position?---Yes, and there's no such requirement for advisers.

And so there's a procedure that at least when someone visits the minister with a view to putting a particular position forward, that is made available to the public on I think a quarterly basis. Is that right?---Yes, that's, that sounds consistent with my recollection.

20 And that's what you were drawing attention to before when you said because it wasn't the minister involved there wasn't that same formal process of disclosure in relation to the meeting. Is that right?---Yes.

Is there any alternative-type process, though, is there some internal record that is kept as a matter of policy or procedure or practice so that there's an ongoing record kept of the fact that for example you have met with these individuals on 18 August, 2017?---No, that varies with (not transcribable) adviser (not transcribable) keep track of who they've engaged with.

30 I'm sorry, you'll have to repeat that answer, you broke up again. I think you were saying that it depends on the particular adviser. Is that right?---Yeah, that's correct, the adviser and how the office runs.

And so there may be records kept but not because there's a particular practice or procedure or policy, but rather because that's the way the particular adviser conducts their affairs. Is that right?---That's my understanding.

40 And presumably everyone keeps their own diaries, for example, so they know where they need to be at a particular time, but that's simply as an administrative matter to make the smooth running of the office and people's individual diaries rather than some formal process for keeping that information for posterity. Is that fair?---That's fair.

I note, though, for this particular meeting you took a fairly extensive file note. Was that your usual practice, to take a detailed file note of the kind that I showed you a little while ago?---It was my usual practice, yes.

And so taking that particular file note wasn't affected by what you described before as the unusual nature of the meeting, you would have taken a file note of that kind in any event. Is that right?---I, I would have, but my chief

of staff did encourage me to take particularly detailed notes when we were discussing this meeting beforehand.

So just tell us about that communication. So in advance of the meeting of 18 August, 2017, you had a discussion with your chief of staff about the forthcoming meeting. Is that right?---That's correct.

10 THE COMMISSIONER: Members, I thought you said members of staff, Mr Cull. Did you say chief?---Sorry, no, chief, it was chief of staff, yes.

Sorry, I must have misheard.

MR ROBERTSON: And who was the chief of staff at that point in time? ---Sean O'Connell.

Did Mr O'Connell explain why he wanted you to take a particularly detailed note of this particular meeting?---Oh, I think it was because he didn't entirely trust Mr Maguire.

20 And did he explain why he didn't entirely trust Mr Maguire?---No.

Are you aware of any information, whether it's from the chief of staff or anyone else, as to why you might not trust Mr Maguire and want to keep a file note?---No.

30 But it's at least the case, as you understood it, that the chief of staff had some concern in advance about this meeting, and wanted to ensure that there was a detailed file note taken, so if there was any question as to what happened during the meeting, you would have a note in relation to that matter. Is that right?---Yes. That's correct.

And you complied with that instruction by preparing the file note that we prepared?---Yes.

40 Did you report back to the chief of staff or anyone else in the minister's office and/or – by which I include the minister – after the 18 August, 2017 meeting?---Yes, I, I discussed the issue over the course of the, a couple of weeks (not transcribable) and discussed it frequently with the chief of staff.

Was this particular issue, the UWE issue that Mr Maguire raised, an issue of particular concern to the minister in the minister's office as you understood it?---It was an issue of particular concern to the minister's office, that is myself and the chief of staff. I, I don't recall discussed (not transcribable) in any detail with the minister.

Why was it a matter of particular concern to both you and to the chief of staff?---Because Mr Maguire threatened to travel to China at the same time

as the minister was planning on being in China for his first overseas trip as Trade Minister.

And why was that a concern?---I was, having limited experience of Mr Maguire and his behaviour, which I had judged to be, as I said, intense and erratic. I think as well I was worried about what might happen if he was in China at the same time as the minister.

10 So to cut to the chase, there was a concern that Mr Maguire might turn up in China, cause some trouble, and potentially embarrass the minister, correct?
---That's correct.

And that's a matter of particular concern to the minister's office, particularly when the minister's on a trade mission, I think the first time he had such a trade mission to China. Is that right?---That's correct.

20 THE COMMISSIONER: And not only embarrass the minister, I assume, but also the state of New South Wales.---The state of New South Wales, and relationship with China is important and delicate to balance at any point in time.

MR ROBERTSON: And so is it right that the minister's office took it upon itself to attempt to dissuade Mr Maguire through whatever means available from attending China as he'd in effect threatened to do?---That's correct.

30 And the particular threat to turn up in China, when was that made? Was that made during the course of the meeting that you and I have discussed, or was it not made until after that meeting?---No, that was subsequent to that meeting.

So at least as at the time of the meeting, the problem was explained to at least some degree, although you've said it was a bit hard to see what the problem was. There was some discussion maybe of potential solutions, but again, what the potential solution was, was not clear. But there wasn't a suggestion at that point that Mr Maguire would try and sort it out by going to China. Is that right?---That's correct. Only subsequently did Mr Maguire start saying that he was intending to travel to China.

40 And doing the best you can, when and how was that identified to the minister or the minister's office?---That would have been I think over the, potentially initially over the phone to me, and then I received a draft, and then I sent a letter that Mr Maguire sent to Shanghai Dairy or Bright Foods – I can't recall, sorry, who was the recipient, you'll have it on the record, I'm sure – where he stated that he was intending to travel to China.

So let's have a look at that letter. That's page 39 of volume 17. Just while that letter's coming up, you said you were provided a draft of the letter before Mr Maguire sent it, is that right?---Yes.

And were you given an opportunity to comment on the text of that letter in advance, or was it only a short period between the draft and the final?---It was a very short period. I didn't expect to be sent it. I was surprised that I was sent a draft, and so I did nothing with it, and I was surprised to then be CC'd on the final (not transcribable) only a very short time later.

Did you draw the attention of the draft to anyone?---I would have discussed it with the chief of staff.

10

But neither you nor, to your knowledge, anyone else in the minister's office took any steps in relation to the draft, is that right?---I may have called Daryl about it or he may have called me, either immediately before or after sending me the draft, but I certainly didn't try and shape the letter. I don't, I don't recall shaping the letter in any way.

20

Was there any view in the minister's office, either your view or perhaps the chief of staff's view, or perhaps the minister's view, as to whether a letter of the kind that you're now identifying either should be sent or should have been sent?---I thought it was an appalling letter. It was very provocative.

Why did you think it was an appalling letter?---Because of the, the language involved and the, just the suggestion that you would turn up and demand a meeting.

THE COMMISSIONER: In China.---In China.

30

MR ROBERTSON: And so let's have a look at the detail of that in the context of the letter. So I've first shown you the covering email, which is an email from Ms Tuck of Mr Maguire's office to the Bright Food representative. And as you've identified, it was copied to you. That's 29 August, 2017, 5.06pm. Can you recall roughly how early before 5.06pm on 29 August, 2017 you were provided a draft of the letter? Was it a few - - -? ---I think it was earlier that day.

So your best recollection is some time that day. Not, for example, a number of days in advance?---I'm, I'm reasonably sure it was earlier that morning.

40

And if we can turn to the next page. Just to draw to your attention, that's going to an individual from Bright Food to someone described as the Party Committee Secretary - - -?---Yes, thank you.

- - - and Chairman of the Board. And you'll see that it's on Mr Maguire's Member for Wagga Wagga letterhead. Now, you explained a little bit earlier that, in particular in dealings with China, it's important to deal with those relationships in a delicate and appropriate fashion. Have I summarised one of your concerns in that regard?---Yes. Yes.

And then in terms of the Minister for Trade's role, when you were in the Minister for Trade's office, was there some procedure or practice that was adopted in terms of communications with overseas officials and overseas organisations with a view to ensuring that those sort of delicate matters are dealt with appropriately? So, for example, letters of the kind that we can now see on the screen. Was there some practice or procedure in drawing it to the Department's attention for advice? Or perhaps to Federal Departments for advice? Anything of that kind?---Yes, all, all of the, those things. If we were writing to either, well, anyone, anyone from overseas, whether an important foreign company or a minister or someone in government, we would have sought the New South Wales Department's advice or we would have sought the, the advice of the Department of Foreign Affairs. We may have canvassed the Premier's view or DPC's view. It was certainly a very (not transcribable) consulting process to make sure that we, yeah, that we were covering all our bases.

You used the acronym DPC. That's the Department of Premier and Cabinet, is that right?---That's correct.

20 To your knowledge, was there any practice or procedure or guidelines or anything of that kind in relation to backbenchers, rather than ministers, or perhaps parliamentary secretaries, raising concerns about the position of the government, position of the State Government, whether they were permitted to say something of that kind or whether there's some procedure that required them to get that signed off by either DPC or by a minister or something along those lines?---I'm not aware of any formal guidelines, but that doesn't mean that they weren't there.

30 But at least as a matter of practice, would you agree that it would be a very unusual thing for a non-minister to be expressing concerns to an overseas organisation – and in particular to a party committee secretary within China – without at least some involvement of one or other of the agencies that you've identified so far this morning?---Yes, I agree.

And so can I ask you to draw your attention to the paragraph that's got the underline. It says, "I seek an appointment with you in Shanghai on 7 September, 2017." Do you see that there?---I do.

40 And then in the next sentence it says, "The delay is causing issues for the operators, farmers and loss of face by my political leaders." Do you see that there?---I do.

Are you aware of any reason why Mr Maguire would know or think that this UWE issue would or might result in a loss of face by his political leaders? ---No. When I, I was aware I think at the time that there had been ministers or MPs travelling to the UWE facility when it opened, but that would be the only thing that I could suppose that that had any credible link to it.

To your knowledge, did Mr Maguire have the approval of your minister, or anyone else on a ministerial level, to express the view that this individual needed to get involved in the UWE issue so as to avoid a loss of face by political leaders in New South Wales?---No, to my knowledge he had no such approval.

Is the reference that I've just drawn your attention to, the phrase "loss of face by my political leaders", is that an aspect of the letter that led you to think that the letter was appalling, to use your word?---Yes.

10

And can I draw your attention to the next paragraph, which starts, "You must understand that unless," et cetera.---Yes.

And can I draw your attention to the very end of it, the second-to-last line, sorry, third-to-last line towards the end, "and raise very serious questions by our government, both state and local, about future joint ventures with Chinese companies". Do you see that there?---I do.

Is that another aspect of the letter that led you to describe it earlier as being appalling?---Yes.

20

To your knowledge, did Mr Maguire have the consent of your minister or, to your knowledge, anyone else at a ministerial level to explain to the Party Committee Secretary, Mr Fang, that there might be serious questions by our government, both on state and local, about future joint ventures with Chinese companies.---To my knowledge, he had no approval.

And would you agree that, at least from your vantage point, you would expect that before any member of parliament would express a view of the kind that I've just drawn your attention to, at the very least it would be appropriate for them to raise that with an appropriate agency? Perhaps DPC, perhaps another agency?---Yes.

30

And part of that is dealing appropriately with the relationship between New South Wales and China in the way that you sought to explain earlier, is that right?---That's correct.

Now, having received this letter, this is 5.06pm, 29 August, 2017. What, if any, sketch did you take in light of that letter?---I, I can't recall if I had already begun efforts to stop him travelling to China, but I certainly continued those.

40

What efforts did you take to attempt to discourage Mr Maguire from travelling to China, as proposed in the letter that I've just shown you? ---Initially I, I raised it with him over the phone, and eventually we got the Premier's Office involved.

And how was that arranged?---I spoke to my equivalent adviser in the Premier's Office and I think she raised an issue with the Premier's chief of staff.

Your equivalent in the Premier's Office, what was her name?---Maddy McCure.

And the chief of staff at that time I think was Sarah Cruickshank, is that right?---That's correct.

10

And so what else happened in relation to that issue, following that being raised with the Premier's Office, do you recall?---I don't know, but I, I recall that it was the involvement of the Premier's Office, but following the involvement of the Premier's Office that Mr Maguire finally decided not to travel.

20

So are you saying at some point in time that someone from the Premier's Office communicated that they were successful in dissuading Mr Maguire from travelling to China, is that right?---Yeah. I'm not, well, I don't recall whether Mr Maguire would have told me first or whether I would have heard it from the Premier's Office. But generally, that's correct.

But one way or another, the course of events was the minister's office was, your minister's office was concerned about this issue and sought to enlist the assistance of the Premier's Office. That's one aspect of what happened, is that right?---That's correct.

30

And, as you understand it, the Premier's Office was successful in dissuading Mr Maguire from attending China as he had threatened, is that right?
---That's correct.

But you can't immediately recall whether that information came back from the Premier's Office or whether it came directly from Mr Maguire to you?
---That's correct.

Did Minister Blair ultimately offer to assist in relation to the UWE issue, do you remember?---No.

40

And so it was a part of the agreement, as it were, to dissuade Mr Maguire to not attend China, that Mr Blair would attempt to assist during his trade mission to China, or was that no part of it?---Sorry, could you repeat that?

Was there any suggestion by Minister Blair or perhaps by anyone in Minister Blair's office that Minister Blair rather than Mr Maguire would try and sort out the UWE issue when Minister Blair was in China?---No, at no stage did we ever countenance the minister's involvement.

And why was that?---Because we didn't understand the issue and we didn't understand the need for government involvement to resolve it and so therefore deploying the minister (not transcribable) we didn't understand would have been very inappropriate.

And so I take it from that, then, that Minister Blair didn't in fact meet or for that matter seek to meet with Mr Fang, the Party Committee Secretary and Chairman of the Board of Bright Food?---That's correct.

10 But he did proceed with the trade mission but uninterrupted as it were by Mr Maguire.---That's correct.

THE COMMISSIONER: Mr Cull, as I understand the letter, what had happened was that the 51 per cent shareholder, Shanghai Dairy Group, was going to withdraw from UWE and it appeared that Mr Fang, to whom Mr Maguire's letter was addressed, was somehow responsible or in a position to influence the identification of a replacement 51 per cent shareholder, that that hadn't happened and Mr Maguire was trying to put pressure on Mr Fang by way of both trying to arrange a meeting with him and pointing to
20 the loss of employment in New South Wales and the loss of face of political leaders if that did not occur. Would that have been the sort of issue which, you know, please do not answer this if you don't think you can express an opinion on it, but is that the sort of issue which a minister in the position of Mr Blair, holding at least the portfolio of Trade, might have been appropriate for him to engage in?---It's difficult to say, Commissioner, because I don't feel like I, that I ever understood the issues clearly as you just expressed it and how the letter, if you took the letter as a standalone you could draw it out. At every discussion I had with Mr Maguire or every
30 discussion that the Department had on the issue we didn't, we sort of only got more muddled, and so it was never really clear that there were grounds for the minister's involvement.

MR ROBERTSON: Can I attempt to ask a related question this way. Was it usual for the Minister for Trade's office to get involved in individual business transactions with companies from overseas, China or elsewhere, or was the usual approach in the minister's office to deal with broader issues of trade, things like trade policy, matters of that kind?---It was usual for us to, put it this way, the minister would travel overseas and meet with companies that would work (not transcribable), but that was very much a broad
40 conversation starter, he would often do that in groups, he would occasionally meet with companies who were proposing to invest on a one-to-one basis, but this was, this was a relatively unusual matter.

It would be unusual for the minister to get involved in an individual transaction as opposed to trying to assist parties or potential interested investors and others to invest in a more general sense. Is that a fair sort of summary?---Particularly with (not transcribable) because there was a, it was an established business relationship between two or three parties that

already had commercial relations so there didn't seem to be any particular need for government involvement.

And in relation to the particular issue you and I have been discussing so far today, there was involvement from Mr Maguire, there was involvement from UWE individuals. There was a trade representative at the meeting of 18 August. The Premier's Office had some involvement in the way that you've explained. Was there any other agencies involved in the particular issue you and I have been discussing today, namely the UWE issue with Mr Maguire's interest in going to China to try and sort it out?---Yes. The, yes, the New South Wales Government's representatives in China attempted to assist, and I understand they were (not transcribable) Austrade.

Anyone else that you can recall?---Not that I can recall.

What about Minister Ayres? Did Minister Ayres have any involvement in the matter at all?---No, he didn't. I did enquire of his office if they knew why Mr Maguire was so interested in this case, and they indicated to me that they didn't know.

20 What did Minister Ayres have to do with this issue, noting that at that point in time he was Minister for WestConnex, Western Sydney, and Sport, and the Member for Penrith?---Yes, he, I had just (not transcribable) UWE, and had seen that Minister Ayres, I think he'd visited the UWE facility, and so I checked in with his office, because I thought they may have some background from that time.

But that didn't lead to any fruit by the sounds of what you're saying?---No. That's correct.

30 And presumably the letter that I showed you a moment ago, you would have at least forwarded that letter onto the Department, so they had a recollection of it, is that right, or perhaps not?---That, yeah, I, that sounds like a reasonable thing to have done. I suspect I would have done that, yes.

40 Is that standard practice in terms of correspondence that comes to the minister's office relating to a relevant portfolio that you, as a ministerial adviser, would make sure it ends up in the Department, at least for recordkeeping if no other reason?---Yes. Anything that I received, I would have registered with the departmental staff that worked in the minister's office.

But that was not because you were asking the Department to do anything about it, that was dealt with at the ministerial office level, is that right? ---Yes, and occasionally to fast-track the process, I would have forwarded correspondence directly to senior members of (not transcribable) Department.

But if you forwarded it onto the Department, you weren't asking them to charge of the issue as it were, that was an issue that was being dealt with within the minister's and to some degree within the Premier's Office. Is that right?---No, sorry, in this case, no, the, the Department did play a role in trying to assist us. They, they tried to help, they tried to help us understand what the problem was. So they, in, both in China and the Trade staff in New South Wales, were involved in conversations in trying to understand the issue.

10 Perhaps I need to split it up in two parts. In terms of the substantive issue, just trying to deal with the UWE issue, there was assistance in a number of areas including within the Department and Austrade, for example, and New South Wales representatives in China, is that right?---Yes. Yes.

In terms of the issue of seeking to dissuade Mr Maguire from attending China, that was principally dealt with in the minister's office and in the Premier's Office, is that right?---That's correct.

That's the examination, Commissioner.

20

THE COMMISSIONER: Thank you, Mr Robertson. Mr Harrowell, did you have any questions to ask Mr Cull?

Mr HARROWELL: No, Commissioner.

THE COMMISSIONER: Mr Mendoza-Jones, did you have any questions to ask?

30

MR MENDOZA-JONES: No questions, thank you, Commissioner.

THE COMMISSIONER: Thank you. Shall I discharge Mr Cull?

MR ROBERTSON: Yes, please, Commissioner.

THE COMMISSIONER: Thank you very much for attending, Mr Cull. You are discharged from your summons to appear at the public inquiry. You can continue with your travels.---Thank you, Commissioner.

40

THE WITNESS EXCUSED

[10.23am]

MR ROBERTSON: Commissioner, just for the benefit of the transcript of the particular letter that I showed and asked some questions of Mr Cull of was Exhibit 299.

THE COMMISSIONER: Yes. And so I was going to ask you that, in fact, that you did yesterday also tender the covering email, did you?

MR ROBERTSON: I did.

THE COMMISSIONER: Very well, thank you.

MR ROBERTSON: Commissioner, would you be prepared to adjourn briefly just to allow the MS Team system to be relevantly decommissioned?

10 THE COMMISSIONER: Yes, by all means. We'll adjourn briefly.

SHORT ADJOURNMENT

[10.24am]

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: I call Sarah Cruickshank.

20 THE COMMISSIONER: I understand you wish to make an affirmation.

MS CRUICKSHANK: Yes, thank you.

THE COMMISSIONER: Please listen to the officer.

THE COMMISSIONER: Thank you. Please be seated.---Thank you.

There's some water and hopefully a glass in the witness box.---Thank you, yes, there is.

10 Mr White, have you explained Ms Cruickshank's rights and liabilities, under the Independent Commission Against Corruption Act, to her?

MR WHITE: Yes, I have, Commissioner.

THE COMMISSIONER: And does she seek a section 38 declaration?

MR WHITE: She does, Commissioner.

20 THE COMMISSIONER: Very well. Thank you. Could you please listen very carefully, Ms Cruickshank, to what I'm about to explain to you. As a witness you must answer all questions truthfully and produce any item described in your summons or required by me to be produced. You may object to answering a question or producing an item. The effect of any objection is that although you must still answer the question or produce the item, your answer or the item produced cannot be used against you in any civil proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings.

30 The first exception is that this protection does not prevent your evidence from being used against you in a prosecution for an offence under the Independent Commission Against Corruption Act, including an offence of giving false or misleading evidence, for which the penalty can be imprisonment for up to five years. The second exception only applies to New South Wales public officials, which I understand you to be one.

40 Evidence given by a New South Wales public official may be used in disciplinary proceedings against the public official if the Commission makes a finding that the public official engaged in or attempted to engage in corrupt conduct. I can make a declaration that all answers given by you and all items produced by you will be regarded as having been given or produced on objection. This means you do not have to object with respect to each answer or the production of each item, and I gather you wish me to make that declaration.---Yes, thank you.

Very well. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on

objection, and there is no need for her to make objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION, AND THERE IS NO NEED FOR HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Can you state your full name, please?---Sarah Cruickshank.

You were chief of staff to the Premier between January of 2017 and March of 2020, is that right?---Yes, that's correct.

You're now a deputy secretary within the Department of Premier and Cabinet, is that right?---That's correct.

And you're responsible for what I think's called the Transformation Group, is that right?---Yes, that's correct.

As chief of staff, you were responsible for managing the Premier's Office, is that right?---Yes. Yes.

And I think you led a team of about 35 people within the Premier's Office, is that right?---Yep. Yes, that's right.

Presumably not all of those directly reported to you, but that was the overall team within the Premier's Office generally, is that right?---Yes. Yes, that's correct.

And indirectly the other ministerial staff would, at least as a formal matter, report through their own chains of command right up to you, is that right? ---Yes, they, by and large, would report directly to their chiefs of staff, but sometimes there would be certain issues that they would come to me on.

So at least on a day-to-day basis, the relationship of individual ministerial staffers is between them and the individual minister, is that right?---Yes, and their chief of staff.

And in particular through the chief of staff.---Yes.

But sometimes there would be communications with you or your office as well, is that right?---Yes, that's correct.

But does it follow from that that your principal discussions within government as chief of staff to the Premier's Office was more with ministerial officers and ministerial staffers as opposed to for example with backbenchers?---Almost entirely with ministerial staffers so - - -

10

So is it right to say that it would actually be fairly rare for you to have at least direct involvement with backbenchers in your capacity as chief of staff?---Yes, correct.

20

Now, I take it that one of the aspects of your role as chief of staff to the Premier is almost to act as a bit of a gatekeeper, in that lots of people are going to want access to the Premier for meetings or for her to come to functions and things of that kind. Is at least one aspect of your office activity to act as a bit of a gatekeeper or perhaps a triage nurse in relation to those kinds of requests?---It's accurate to say that, except for the Premier was always very clear on the fact she didn't want her staff to stop engagement with ministers and MPs, so therefore we played a kind of respectful role, if that makes sense. So yeah, I'm not sure if that answers your question.

So is it right to say that the - - -?---It's not the characterisation of a gatekeeper that you sometimes see in political dramas perhaps.

30

So is it right to say that the current Premier has made it clear that at least within her Ministry and also within members of parliament more generally, they should be able to have access to her, in an appropriate way and at an appropriate time, rather than necessarily having her staff standing in the way of engagements of that kind?---That would be correct.

40

And then just putting aside members of parliament for the moment, I just want to understand how, as a matter of practice when you were chief of staff to the Premier, how those kinds of engagements would take place. So for example if a general member of the public unsupported by a member of parliament wanted to have a meeting with the Premier to discuss a particular issue with her, perhaps to invite her to a function or something along those lines, and sends a letter to her making that kind of request, what happened in terms of her office in terms of working out whether that request should be recommended or not or what procedure would be adopted in relation to matters of that kind?---Yeah. So we had a procedure which meant that any member of the public or business or whatever who wanted to reach out to the Premier could do so through a web portal. We had two or three people in the office whose entire job was to go through all of the requests that would come through and to make sure that we actually saw who was

requesting meetings, who was sending correspondence, who was requesting or inviting the Premier to attend events. There were literally thousands of those every year. So obviously you would then go through a process of prioritisation based on, you know, was it a large event with a large number of people attending, was it an individual who perhaps could be better helped by another minister who had specific responsibility for a portfolio, you know, all manner of things, you would just assess what was feasible for the Premier to be able to do as opposed to how we might be able to provide assistance, or at minimum just write back and acknowledge that the
10 correspondence or the request had been received but unfortunately we wouldn't be able to do anything with it.

And so does it follow from what you've said so far that the prospect of obtaining a meeting with the Premier, or for the Premier to attend some function, is likely to be increased if that request was made by a member of parliament as opposed to if it was made just by a general member of the public?---Not necessarily, because still the same, if you like, judging would be applied to it of, and this is a hypothetical example, but if a local MP said,
20 "I've got an action group of 14 people who I would like you to meet with," we probably still wouldn't have been able to, given all the other requests the Premier was dealing with, be able to do anything with it, even if it had come from that. So occasionally what you might do, and again this is a hypothetical example, but what you might say is, "This particular adviser might be able to assist, why don't you, the local MP, talk to this adviser and see whether or not they can provide any guidance." So just because a member of parliament might have approached with a request, it didn't automatically mean that they were going to be able to get time with the Premier.

30 So is it right to say that it's a factor that might be taken into account in the kind of triage process that you're referring to or the assessment-type process you're talking about?---Yeah, potentially, yeah.

But it's not necessarily determinative, just because a member of parliament has asked for it doesn't mean that it will happen?---Correct.

And that's for a number of reasons, including the most practical one, which is if one was to agree to every request then the Premier would need a lot more than 168 hours a week.---You'd need more than 365 days a year.
40

Now, what about in relation to parliamentary sitting days? So I take it that your office's chief of staff was ordinarily in the 52 Martin Place building. Is that right?---In non-sitting weeks, yes.

In non-sitting weeks.---Yep.

Which anticipates my next question.---Yep.

Would you then decamp, as it were, and relocate to the Premier's Parliament House office during parliamentary sitting weeks?---Yes. Yes.

And I take it that's not with the whole of the Premier's Office, but is at least with some component of the office.---It's probably most of them, to be honest. Probably two-thirds of the office. Certainly all of the key policy advisers and media team and senior staff, yep. But not the people that I referred to before, the correspondence and events people.

- 10 And by the sounds of it, at least in non-sitting weeks, if a member of parliament – at least a backbencher – wants a meeting with the Premier, they'll need to go through the ordinary-type processes of the kind that you've identified, and there'll need to be an agreement or disagreement as to whether or not that's actually going to occur. Is that right as a general proposition, at least?---As a, so as a general proposition, obviously most MPs live in all different parts of the city and the state, and so therefore if an MP wanted to meet with the Premier, you would try and make that happen during a sitting week because that's the most convenient time. They're already here in Sydney, and so therefore that meeting is easier to take place.
- 20 But as I said earlier, the Premier always took the view that she, you know, had an open door for all of her colleagues. So if an MP wanted a meeting in the non-sitting week, then, yes, if they asked for, it they probably could have got it subject to the Premier's diary. But normally we would say, "Why don't we arrange it for the next sitting week."

- And part of that process is, there's some degree of formality to it because there's a request for the meeting, it'll go through the kind of assessment process that you've identified, and it will be approved or not approved, depending on all the circumstances.---Yep. Well, and that's the only way
- 30 you could actually put time in the Premier's diary, if you had gone through that process.

- But what about in parliamentary sitting weeks themselves? Was it open to members of parliament to, as it were, drop into the Premier's office and try and have an informal chat of a kind that doesn't necessarily appear in the formal diary, through the formal process that you've identified?---It wasn't encouraged because, frankly, the amount of time the Premier had was pretty limited. And so I know you're familiar with what goes on in parliament, but if you're preparing for the day, for Question Time and, you know, having to get through briefs and all the rest of it, you actually need to leave some - - -
- 40

She's not sitting around with her feet up.---Correct. You need to leave some time for the Premier to actually do her work. So we didn't encourage it, but to answer your question, yes, people could drop into the office.

And not just could. It was not uncommon for members of parliament, particularly backbenchers, to attempt to use parliamentary sitting weeks as

an opportunity to at least bump into the Premier and say, "I've got a particular issue that you might want to look at," things of that kind.

THE COMMISSIONER: If you have an open-door policy - - -

THE WITNESS: Correct.

THE COMMISSIONER: Sorry, I interrupted your answer, Ms Cruickshank.---No, no, that's all right.

10

I was just going to suggest, if you have an open-door policy, people are going to take advantage of it.---Correct. And some were more respectful than others. To be honest, the most common example of that would be a local MP would have a school group that they were giving a tour of Parliament House to, and then they would pop down and say, "Premier, I've got this group of school students. Can you come and, you know, say hello?" And those sorts of things the Premier found very difficult to say no to, so she would always go and say hello to the school students and talk to them.

20

MR ROBERTSON: And how does that work actually practically? So does the MP or someone turn up to the reception area within the Premier's office in Parliament House, and then what? Speaks to someone and asks nicely?

---Well, so the, yeah, the layout of the office in Parliament House is such that, if you turn up in reception, you actually can see if the Premier's door is open or closed, so if she was already doing something or had a meeting, then the door would be closed and they would realise there was no ability to try and see her, but they might still say, "Oh, I just wondered if the Premier was free," and then her personal assistant would usually look at the diary and say, "I really can't do this. She's got back-to-back meetings. She's not going to be able to do it, I'm sorry." Or alternatively she might say, "Let me just check. I think the Premier's got a few minutes," and then the personal assistant would go in and say, "Premier, do you have time to do this?" and, you know, it was sort of luck of the draw, I guess.

30

And so just to understand the layout of the office. Off what we might call the main corridor, there's like a sort of a reception/sitting-type area, is that right?---Yes.

That's got some couches in it and newspapers and things of that kind?
40 ---Yep. Correct.

The personal assistant, to whom you're now referring, do they sit in that general area or do they sit elsewhere?---No, so in that general area there's a receptionist who takes calls from outside the building, essentially, and then around the corner there's a private office, which is where the personal assistant sits, and then here is a corridor which goes down to the office part of the rest of the office, and the Premier's office is over here.

And I think you were saying that at least in that - - -?---(not transcribable) geographic.

- - - in that reception-type area, if you peer carefully, you'll be able to see whether the Premier's door is literally open or not.---You could see whether or not the door was open, yes.

10 And when you're referring to an open-door policy, in fact that's literally true in at least some cases, in the sense that her door may well be open, and that might be a cue that you might speak to the - - -?---Yeah, it's very rare though for someone just to charge in. Like, they would more use that as a sign of have they got a chance of being able to see the Premier.

And so one would at least expect them to check in with the receptionist. ---Correct. Correct.

And if not the receptionist then with the personal assistant.---That's right.

20 And does that - - -

THE COMMISSIONER: Mr Robertson, if that layout is critical – I'm not sure it is – you'll need it to be drawn because, regretfully, while everybody here might understand Ms Cruickshank's hand gestures, they will not translate on the transcript.---I can draw it.

MR ROBERTSON: Yes. I'm - - -

30 THE COMMISSIONER: But I don't, I suggest it's not a good idea to draw the layout of the Premier's office.

MR ROBERTSON: No, and can I indicate, I've deliberately not tendered in public session any detailed indication of this suite of offices.

THE COMMISSIONER: Yes.

MR ROBERTSON: But just to be clear on the key points - - -?---Yep.

40 Off the main corridor, there's a reception-type area where the receptionist sits?---Yes, with couches.

In or around that area's the couches, the newspapers, et cetera, et cetera? ---Ah hmm, yep.

With an eagle eye, you can see whether the Premier's office, her own office, has the door open or not open?---Correct.

She also has a personal assistant who sits in that general direction, we might call it. Not in the office itself, but in that general direction.---Correct.

And the receptionist – is the receptionist there throughout the parliamentary sitting day, or does the receptionist ordinarily leave during ordinary hours, leave at 5 o'clock or something like that?---A little bit later than 5.00, but it was a late parliamentary sitting, there probably wouldn't have been a receptionist still sitting there.

And what about personal assistants and people of that kind?---Personal assistant usually stayed and most of the staff would still be there.

10

And is there a separate set of security that one needs to go through to get to that area of the parliamentary accommodation, or once you're in the secure area that any member of parliament can access, can one then access the Premier's offices?---Yes. So there are secure doors on the level that the Premier's office is on, and members of parliament and staff have passes that they can swipe to go through, and once you're in there, you can walk up and down, and also up a flight of stairs, and up and down the corridor in the flight above as well, which is where all the ministers and MPs are. So - - -

20

And so every member of parliament, with their own ordinary access, could access at least that reception area of the Premier's office, if they wished to do so?---Yes. Yes.

And indeed, it's not uncommon for them to at least attempt to do so from time to time during parliamentary sitting weeks.---Yes. Correct.

In terms of recordkeeping in the Premier's Office, you've explained in general terms what happens when someone for example requests a meeting, requests the Premier to come to a function, something of that kind.---Mmm.

30

Is there some procedures that ensure that records of that kind are generally kept?---Yes.

Or is there some process where after a period of time or whatever, they get destroyed?---No, every minister and every Premier has to put on the record, I forget if it's quarterly or six-monthly now, but have to put on the record details of everybody that they've done a meeting with that pertains to sort of an external organisation.

40

And so in relation to those particular disclosures, just to be clear about that, that will only deal with scheduled external meetings, is that right? In fact, I'll deal with it in parts.---Mmm.

It first of all has to be a scheduled meeting, so it has to be physically in the diary?---Yep.

So that won't cover, for example, an attempted drop-in on a parliamentary sitting day, is that right?---Yeah, no, it wouldn't cover that.

It doesn't cover what I'll call internal meetings. It won't cover a meeting between the Premier and one of her ministers.---No, it doesn't, yep.

Or between a Premier and a member of parliament, something on those lines, is that right?---Correct.

10 It won't include functions, will it? As in, if someone, if the Premier attends, for example, a fundraising dinner or attends a school opening or something along those lines?--- That's a very good question. That's a very good question. I think, from recollection, you don't have to list party functions that you've been to, so political party functions, but you are supposed to still – oh, I know what else, you also don't have to list electorate-based things. So if the Premier went to – I'm making this up – Willoughby Girls High School speech night, you wouldn't list that, even though that's a function that she's been to, and it involves the public.

20 And so this disclosure regime will pick up the kind of scheduled meetings that have gone through the kinds of formal processes that you've identified? ---Yep, correct, yep.

Will identify the individuals who have been met, and their organisations where appropriate?---Yep.

30 But won't necessarily pick up the more informal or unscheduled meetings that are not, that don't go through the same kind of process that you've just identified.---Yeah. So, no, it wouldn't. It wouldn't pick that up. But equally, they're also pretty rare that they would ever be of any substance, those drop-ins, if that makes sense.

Well, it's possible, but – well - - -?---They're usually what I described to you, which was, "Premier, can you come and meet these school kids," or - - -

40 But it's at least possible that at least some of those drop-ins is a member of parliament saying, "Look, I've got this particular issue. I'm getting nowhere with the Department," or whatever. "Can you, you know, can you ask someone in your office to have a look at it?" That kind of thing.---Yep. And then usually under that hypothetical scenario, the response from the Premier would be, "Yes, absolutely, talk to X adviser in my office," and then the person would leave her office.

Because for at least some members of parliament, that might be the only facetime that they're able to get, as it were, with the Premier, because whilst they might have requested access, and whilst the Premier wants to give members of parliament as much access as possible, at the end of the day, there's only so many hours in a day and so many hours in a week.---Yeah, that's true. Although, I would say the Premier always made sure that she

gives all of her colleagues facetime. So I, I guess I'm just picking up on your "they might never have got any access to her". That's not correct.

"Never" is putting it far too high.---Yep.

It may be that they haven't had particular facetime in some recent time.
---Yep.

10 And a parliamentary sitting week is a good opportunity because if they drop in at the right time and peer around the corner at the right time, and given her general open-door policy of the kind that you've identified, they might be lucky. They might get five minutes.---Yeah, that's fair, yeah.

Just to put some detail around the disclosure matter that you've just identified, can I have on the screen, please, just by way of an example - - -?
---This screen?

20 - - - the diary disclosure of the Premier for October 2017, through to December 2017. That will just come up on the screen in front of you.
---Oh, sure. This one here?

It will. Just give us a moment.

THE COMMISSIONER: October till when?

MR ROBERTSON: October 2017 to December 2017.

THE COMMISSIONER: Thank you.

30 MR ROBERTSON: So the last quarter of calendar year 2017.---Ah hmm.

Is this an example of the kind of disclosure that you were referring to a little bit earlier?---Yep, correct.

And so we'll see, just by way of examples, a series of organisations that the Premier's met with in that disclosure period and have identified the purpose of the meeting.---Ah hmm. Yes.

40 And that was done on, I think, a quarterly basis in relation to meetings.---I think it's quarterly. Yeah, well, actually, yes, clearly, yeah.

And that's provided not just by the Premier. The expectation is that each minister will produce a document of this kind.---Yes.

And that it's made publicly available.---That's correct.

And I'll just draw your attention to the notes towards the bottom. You might need to zoom in just a little bit.---Oh, here we go.

Which - - -?---Oh, this is some of what I was referring to.

Which is some of what you were referring to before.---Yep, yep. Does not include internal meetings.

Scheduled meetings.---Yep.

10 Telephone conference, telephone call, et cetera, with external persons - - -?
---Ah hmm.

- - - who seek to influence government policy or decisions, which presumably doesn't include Willoughby High School, et cetera, does not include internal meetings and refers to strictly personal electorate or party political meetings.---Yep.

20 And so does it follow from that that if there is something in the nature of a fundraiser, for example, that that won't appear on these kinds of disclosures?---No, it's not required to.

But it's quite possible that someone who attends a fundraiser at which the Premier and other minister attends will try and take the opportunity to say, "Well, look, by the way, I've got a particular, I've got a particular issue that you or your office might want to look into"?---Yes.

And that won't end up in a document of this kind.---No.

30 I tender the document on the screen, Disclosures of Meetings for the Premier, October 2017 to December 2017.

THE COMMISSIONER: Exhibit 308.

**#EXH-308 – DISCLOSURE OF MEETINGS WITH THE PREMIER
OCTOBER 2017 TO DECEMBER 2017**

40 MR ROBERTSON: And we're talking about drop-in meetings, as it were, on parliamentary sitting days. I take it that those kinds of drop-ins are not necessarily just the members of parliament alone. You gave an example of a school group. The school group might poke their head in and say, "Can we see the Premier for a few minutes?" But it would also be possible for a member of parliament to bring someone else with them, because they would be able to bring them through security with their security access pass, is that right?---Yes, so it's definitely possible for them to do it. I don't recall it happening very often, though, because there's a level of that's not acceptable to do that, because you would effectively be surprising the Premier by bringing someone in who she doesn't know, doesn't know

anything about the issue and hasn't prepared for. So you are right, it could happen, but it was pretty frowned upon.

And part of the reason it's frowned upon is that there's a very good reason for the kind of process that you've just identified. One aspect of it is ensuring that the Premier's time or, in ministerial office, the minister's time is deployed in the most efficient way possible, agree?---Ah hmm. Correct.

10 But another important matter is to ensure that the Premier has been appropriately briefed in relation to the particular meeting, correct?
---Correct.

And another one is, as you were pointing to the screen, ensuring that it's consistent with the disclosure obligations.?---It gets disclosed. Yep.

20 That you don't have people, as it were, lobbying that have not been picked up in the disclosure approach, which is all about transparency in relation to meetings with people who are lobbying for a particular position, is that right?---That's correct.

Do you ever remember Mr Maguire doing a drop-in meeting of the kind that we've identified at all?---Only by himself. I don't remember him bringing anybody in.

So you don't have any recollection of any occasions where Mr Maguire did a drop-in meeting not just on his own, but brought someone else with him?
---No.

30 But you do have recollection of Mr Maguire doing a drop-in at least on his own?---Yes.

Was he a regular attendee in relation to matters in relation to that kind of a drop-in meeting?---No more than many others, if that makes sense, but yeah, he, maybe once every couple of parliamentary sitting weeks.

So semi-regular - - -?---Yeah, yeah.

40 - - - but doesn't stand out as someone as doing it much more than the ordinary, anyone else.---No.

And I suspect there's a whole spectrum of people, some are, and I'll ask you to name them - - -?---What's that line, you might think that I couldn't possibly comment?

Some of them are what we might call more eager than others. Is that - - -?
---Yes, that's the right word.

Or more ambitions than others perhaps.---You might think that. I couldn't possibly comment.

Is it right that ordinarily if a member of the public or a member of parliament wanted a meeting with the Premier or wanted to raise some matter with the Premier they would use an email address of a kind that would go through the process that you've identified?---Yes, two ways. They could use the email address or, depending on usually the age of the constituent, sometimes they would actually write a hard copy letter as well,
10 so, and it would still go through the same process.

And obviously enough it's not the Premier sitting there reading thousands and thousands of emails a day, it goes through the kind of process that you've identified. Is that right?---That's correct.

And as part of that process that might involve drawing the correspondence to the attention of appropriate people, such as potentially other ministers. Is that right?---Ah hmm, yes.

20 Potentially relevant departments?---Yes.

Potentially policy advisers within the Premier's Office?---Yes.

It will depend entirely on the particular thing that's being requested.
---That's correct.

If it's a request to attend Willoughby High School for a function, it's not going to go to another minister or a policy adviser, it's more likely to go to the diary people who might - - -?---Well, actually on that example it would
30 go to the electorate office because there is a distinction between electorate office activities and ministerial activities, so that particular example would actually go to her electorate office.

And so is it right that at least as matter of ordinary practice and procedure, if a member of parliament wants to draw a matter to the Premier's attention or wishes to request the Premier's action on some item, they would be expected to send it through one of the ordinary email addresses or ordinary addresses so that it could go through the kind of formal process that you've just identified?---Yes. If memory serves me correctly, though, there might
40 have been a different email address that members of parliament were allowed to use, but I actually don't remember what it was, but I think, I think there might have been a different address, and the main function for the different address was on occasions you have, at an electorate level, particularly difficult circumstances that might happen, you know, a family might be in trouble or an individual's in trouble, and if an MP learns of that – and when I say in trouble I mean socially or physically in trouble – and they often need assistance quickly via, it might be the Department of Community Services or Department of Health or whatever, so there was an

extra avenue if you needed to send something very quickly to try and get some assistance.

And is that an email address that's monitored within the office through a similar process to what you've identified?---Yes, yes.

But that's in effect a priority email address, for want of a better word, that's an email address that indicates that it's coming from a member of parliament.---Yeah.

10

It might be a matter of significance that should be looked at earlier than the thousands of emails that come through the ordinary front-facing addresses. Is that right?---Yes. Having said that, it usually still wasn't dealt any differently. If it was an example like the one that I just gave of someone being in hardship, you know, the Premier may never see that email at all. What we would do is make sure that we logged a call with the appropriate, you know, human services-type assistance, we might need to provide police or whatever, just deal with the matter.

20

So it probably goes through a similar kind of process to what you've identified.---Correct, yeah.

But it may be that eyes get on it a little bit earlier because this is a more specialised address.---Yeah, and because of the volume, yeah.

Again this isn't the Premier sitting down and going through in this case hundreds of emails probably, rather than thousands of emails, it's going through her staff in a formal process of the kind that you've just identified. ---Correct.

30

In your time as chief of staff did the Premier have a separate email address that was a personal email address, one that she would monitor as opposed to one that someone else in the office would monitor and then draw to her attention as appropriate?---Yeah. Every minister, including the Premier, has a personalised email address when they can receive emails on, and which, as far as I'm aware, she's the only person that has access to it.

40

Now, that particular personalised one, what's the purpose of that? What, as you understand it, is the class of communications that are appropriately sent to that email address, as opposed to the ones that go through one of the more formal processes of the kind that you and I have been discussing?---It's a good question because I don't have access to it. If, for example, we were putting out a media release that day, all ministers and, for that matter, all members of parliament – sorry, yeah, all members of parliament or maybe all just members of the government, anyway – would receive the media release on that address, so that it's, it's, was used for that kind of thing. But, I mean, it could be used for normal communication as well, I suppose, between ministers if they needed to.

So at least as you understood it, that email address was only supposed to be used as between ministers and perhaps members of parliament, rather than broader to, for example, members of the public.---No, I don't think so. I, I mean, if, if a minister or a Premier chose to give their address to somebody, they could certainly communicate on that front. I mean, it wasn't the norm, as far as I'm aware, from our office. But it's not an email address that is restricted to only being between ministers or MPs.

- 10 But is it an email address of a kind that you might offer to someone outside of being a minister or a member of parliament?---Well, I can't answer that because I didn't have a ministerial personalised address, but I, it - - -

No, no. Sorry. No, sorry, I'll withdraw the question and be more clear.
---Sure. Yep.

- 20 That particular address, I suspect that if a minister said, "I want to send something directly to the Premier but I can't remember what the direct email address is," you might provide that address to the minister?---I actually don't think I ever provided the Premier's personal address. I mean, if a minister, I think ministers knew what the Premier's address was because they have very similar ones. It's hard to describe the words but it's a, it's a consistent construct, if you like, that every minister has and possibly every MP has. But I didn't, I don't remember ever saying to somebody, "Here's the email address to send an email to the Premier." Instead, I would probably be more likely to say, "Is there something I can help with? You can either send it through this address or send it to me."

- 30 But it would be inappropriate to give out an email address of that kind, wouldn't it?---Yeah, I wouldn't.

In part because, as I understand what you're saying, that email address doesn't go through the same kinds of formal processes that you've identified - - -?---Correct.

- - - in relation to the more general addresses, is that right?---Well, correct, because nobody has access to it other than the minister or the Premier, whose address that is. So, yes, you're right.

- 40 And when you say no one else has access, does that mean it's just the Premier or just the minister? Or is it possibly a slightly broader group such as Premier and assistant or something along those lines?---I actually don't know. I know as chief of staff I didn't have access to it, so - - -

Do you know whether there was any procedure in terms of record-keeping in relation to that email address? You were saying before, I think, that at least in the general email addresses there's a record kept, things aren't destroyed, et cetera.---Ah hmm. Yeah.

What's the position in relation to this personal email address that you've just identified?---I don't know. My suspicion – but I, it is only a suspicion – my suspicion is it's a personal email address that nobody else receives.

And so - - -?---As in there's no other group that's on it, because if there was, I think I'd be on it.

10 And so therefore it's up to the Premier or the minister to manage that email box themselves.---Correct.

They might receive something and the Premier might receive something and send it to you and say, "Can you deal with this?" or send it to someone else, "Can you deal with this?"---That's correct.

20 Or it may be a minister saying, you know, "Have a look at this" or "Here's my latest media release," and she might take the view that she's not particularly interested in that, hits the delete button, and that's the end of it. ---Correct.

Is that right, as you understand it?---Yes. I think the way I would frame it is I think those email addresses are entirely managed by the person to whom the email address is attached.

I'm just going to put up on the screen Exhibit 262. And what's going to come up on the screen is a redacted version of a document.---Okay.

30 But I've given you the unredacted version of the document in the witness box.---Oh, this one? Yep. Yep.

Because I want to ask you a question about the unredacted version.---Sure. That's okay.

Now, do you have in the witness box with you an email from Louise Waterhouse, 15 November, 2017, to a particular email address?---Yes, I do.

Now, is that email address, as you understand it, the personal email address of the Premier?---Yes. Yes, I believe that is, yep.

40 Now, if you have a look on, you can look on the screen now that we've identified that.---Ah hmm.

Ms Waterhouse sends an email to the personal email address of the Premier, saying, amongst other things, "Dear Premier, I hope you don't mind my taking the liberty to send my attached letter to you directly," et cetera.---Ah hmm.

And so this is an email coming from someone who's not a member of parliament or not a minister to the personal email address of the Premier. At least as you understand it, is that a fairly unusual use of the personal email address of the Premier?---Yes.

You didn't just say, "Yes." You said, "Yes," with a sort of a surprised half giggle.---Yes.

10 It would be, at least from your perspective, inconsistent with the ordinary practice for someone outside of the ministry or outside of being a member of parliament to have and to use the personal email address, is that right? ---Yes.

And they might stumble across it, because they might try and work out what it is, or they might be told about it potentially, by someone who knew about the email address.---Mmm.

20 But at least as a matter of procedure, from your perspective as a former chief of staff, that's not an appropriate use of the email address, is that right?---Mmm. No.

And is it right to say that part of the reason for that is that at least as a matter of probity and disclosure, one wants a record kept of communications, in particular those that are asking for a form of action, is that right?---Correct.

And so as you've said, all the general email addresses go through that procedure, recordkeeping and things of that kind.---Mmm.

30 Whereas I think what you're saying is that the personal email addresses go through that same system or triaging and recordkeeping and the like. Is that right?---That's correct.

If we just turn to the next page, so this is the attachment to the email, we'll go a further page as well. Do you see there this is an email from SmartWest Sydney, 15 November, 2017, to the Premier?---Ah hmm. Ah hmm.

It's ultimately signed by Louise Waterhouse. Do you recall seeing this letter in your time as chief of staff?---No, I don't.

40 It's not a letter that you have any recollection of the Premier saying, "Look, I've got this on my personal email address, can you deal with it?", or "Can you log it?", or something along those lines.---No. No. No.

THE COMMISSIONER: Is that the sort of letter which would in the ordinary course, had it come through the ordinary channels to which you've been referring, have been logged as received?---If it had come through the ordinary channels, yes, it would have been logged as received. I still probably wouldn't have seen it, looking at the subject matter of this. It

probably would have gone through the Correspondence Unit to the relevant adviser. And then in this case, depending on what the full substance of it is, probably then sent off to the, the Minister for Planning's office, or the Department of Planning.

10 MR ROBERTSON: So a letter of this kind that looks like is expressing a particular in relation to a particular project, that would be unlikely to find its way to the eyes of the Premier if it was sent in the ordinary way, using an ordinary email address. Is that fair to say?---Mmm, mmm, yes, except for if it had come through the ordinary process, we always made sure that the letter that had been received was acknowledged. And so, again, without being able to see the full amount of this letter, but I'll just go on the headline where it's talking about infrastructure and Sydney's west - - -

I think you've got a full copy, you should have a full copy of the letter - - -?
---Oh.

20 Oh, no, sorry, you've just got the front, I'm sorry.---Oh. Yeah, no, I've only got the front.

20 I'm sorry.---But I mean, I've got the general gist of what it's about. What would have happened is that letter would have come in, would have been registered. A draft would have been prepared for the Premier which would have gone along the lines of, "Dear Ms Waterhouse, thank you for contacting me about futureproofing new infrastructure for Sydney's west and thousands of new skilled jobs," or something similar, maybe slightly more eloquent, "as this matter relates to," whether it's the Minister for Transport or the Minister for Planning, or whoever, "as this matter relates to this issue, I have taken the liberty of referring this onto," said minister. And then the Premier would see that letter, and obviously would have the attachment behind it, and would sign that. We'd say thank you, and then off it would go, and it would say, "CC Minister Constance," or "CC Minister Roberts," or whoever.

30 And so in the ordinary course, it's possible that the letter itself would have found its way on the Premier's desk in the sense of it being physically there.
---Attached to a copy.

40 Physically attached to another letter.---Yep. Yep.

But not for the purposes of her review or detailed consideration.---No. No.

But rather for the purposes of saying, "Our advice to you, Premier, is that this is a matter appropriately dealt with by," the minister, the Department, or whoever.---Correct. Correct.

"Sign this letter to say thanks, thank you kindly for the letter."---Correct.

“I, as it were, referred it to be dealt with by minister/Department,” et cetera.
---Yeah. Yeah.

Is that roughly right?---Yep, that exactly right.

And I think, just in fairness to you, I should just show you a little bit more of the letter.---Yep, because I can’t see all of it.

10 Just to make sure that doesn’t affect anything that you’ve changed, so we’ll just go down – you’ve said so far. We’ll just scan down a little bit further. You’ll see in the bottom paragraph - - -?---Yeah, Northern Road.

- - - there’s a request, “To do this, we need access to the new Northern Road”?---Yep.

And if we then just turn the page.---So this is a combination of a Planning and Transport issue. So - - -

20 That seems to be so.---Yeah. So under my response – oh, and RMS. So it might have gone, under the scenario I gave you, had this had come through, it would have been sent to probably multiple ministers, actually, for their action, looking at this.

And we’ll just go to the end of the document so you can see the signature.
---Yep. Oh, and a map.

30 Even a map. And then the penultimate paragraph, asking for her urgent support in relation to this relatively minor design change, et cetera. You see that there?---Sorry.

Why is that a bit humorous? Someone’s pushing their luck, is that the short point?---Thank you for saying that. Yes.

THE COMMISSIONER: Sorry, I missed what you said, Mr Robertson.

THE WITNESS: Oh, I’m just reading the final paragraph, Commissioner, which says, “We seek your urgent support in this relatively minor design change and a fast-track for engineering work.”

40 MR ROBERTSON: Ms Cruickshank sort of reacted in a humorous fashion and I - - -

THE WITNESS: The Premier would not be involved with something like that.

MR ROBERTSON: - - - I suggested to her that the paragraph looks like it’s pushing her luck a little bit, and I think you’d agree with that.---Yes, correct.

And the mere fact that it says, “We seek your urgent support,” but in relation to this particular issue it would be unlikely to affect the kind of triage process that you’ve identified so far.---Absolutely no change.

10 THE COMMISSIONER: But even though the Premier might ordinarily be involved in something like that, would you expect her to bring it to the attention of the office so that it might be dealt with in the ordinary course to which you’ve referred, by being referred off to the various entities referred to in the letter, who might be able to assist Ms Waterhouse?---Yes, in theory she could have. It didn’t come to me, but in theory she could have. If she received this email on her personal address, she could have forwarded it on to an adviser and said, “Can you please” - - -

Look after this, yes.--- - - - “prepare a response accordingly and, you know, send it off?” But I, I don’t know if she did because I don’t know if she forwarded it on.

No, I’m not asking you that.---Yeah.

20 I’m asking as a matter of practice what you would have expected.---Yeah, I understand. Yeah, so that, that’s probably what could have happened, yeah.

MR ROBERTSON: And if it went to one of the usual email addresses rather than the personal email address, that kind of thing – referring it to the appropriate adviser or minister or Department – would have just happened in the ordinary course, is that right?---Yes, yeah.

30 But it going to the personal email address of the Premier, none of that obviously would have happened unless the Premier looked at the letter and said, “I want someone to deal with it.” She may well have, she may well have forwarded it on so that it then goes through that usual process as if it was sent through the normal chain, is that right?---That’s right. If she had forwarded it on, as I just described to an adviser, and said, “Can you please make sure this is referred to the relevant minister,” then that adviser probably would have logged it as formal correspondence, so it would have come back through the loop that I described before.

40 But that couldn’t - - -?---I’ll be frank, it’s not guaranteed that it would be even forwarded on, I mean, like, as in why would, why would the Premier respond to that coming to her personal email address?

Well, but the short point is that would be entirely within the gift of the Premier because that’s the Premier’s personal email address, which she monitors, as opposed to it being monitored by her staff, like the more general email address, is that right?---Correct. Correct. So I, I don’t know what happened if it went to that email address, so - - -

And so far as you can recall, you haven't seen this letter, at least in your time as chief of staff, is that right?---No. No.

So as best you can recall, for example, it was not forwarded to you for action?---Oh, it certainly wasn't forwarded to me for action.

Now, while you were chief of staff, did you have any involvement in any matter involving a firm known as United World Enterprises?---Not that I recall, but I know subsequently I did, if that makes sense.

10

So what do you mean by that?---Well, what I mean is, I don't recall having anything to do with UWE. However, I am aware now that there was a letter that related to that company.

Is that a letter that you saw around about the time that it was sent? Or is that a letter that you've only seen more recently?---It's a letter I've seen more recently.

20

So let's just go to that letter so we've got the context.---Yep.

Volume 17, page 39, Exhibit 299. It'll come up on the screen in a moment. ---Ah hmm.

So that's a covering email, but we'll go to the next page to see the letter itself.---Yep.

Is this the letter that you were referring to a moment ago?---Yes, this is the letter that I've seen subsequent to my being in my role as chief of staff.

30

Can I just ask you a few questions about the letter itself. If you have a look at the – there's a paragraph that starts with the words, "I seek an appointment with you in Shanghai on 7 September, 2017." Do you see that there?---Yep. Yes.

Do you have any recollection of being made aware in advance of 7 September, 2017 that Mr Maguire was proposing or threatening to go to China to deal with the UWE issue?---yes.

40

And how did that come to your attention, do you remember?---Yes, I do. So one evening I was in our office in 52 Martin Place and our trade adviser came to me and said, "I think I need your help with something. I've just been talking with Minister Blair's office."

And who was the trade adviser at that point in time?---Maddy McCure. "I've just been talking to Minister Blair's office. Daryl's threatening to go to China and the minister's office is really worried it's going to impact the trade mission that's happening," I can't remember, in a week or two weeks or whatever, sometime reasonably soon. And so I said, "Great." Went

over, stood with Maddy, we called the minister's office, they sort of briefed me on the fact that Daryl had a company that was in his electorate that he was upset that the company wasn't, or something to this effect anyway, upset that the company arrangements with a company in China wasn't going ahead, so he was threatening to jump on a plane and could we help stop him from jumping on a plane.

And when you say a call with the minister's office, which individuals do you mean?---Charlie Cull.

10

And you said it was an issue "In his electorate." Is that right?---That's what I understood it to be but - - -

So are you quite clear that at least as it was communicated to you through Minister Blair's office, it was an issue concerning a company in Mr Maguire's electorate?---That's what I understood it to be.

20

And were you told where in particular the facility was or the company was that was being referred to?---I don't think I was. I think I was just, what's the word, presented with the scenario that needed fixing.

And what, if any, steps did you take with a view to fixing that scenario? ---I think I expressed my displeasure on the phone that there was going to be potential disruption to an important official ministerial visit.

30

THE COMMISSIONER: This is still while you're on the phone to Mr Cull, is it?---Yes, yeah. Yeah, so I suppose the way to describe it, it's like a three-way conversation. I was standing at Maddy McCure's desk and we had Charlie on speakerphone. And so I expressed my displeasure, to this effect anyway, expressed my displeasure, said to Charlie, "That's ridiculous. Of course Daryl can't do that." And then I don't know what I said. I probably said something like, "Yeah, we'll get in touch with him," or I might have said, "Let him know we're onto it," or something, something to the effect of the Premier's Office is saying no, you can't do this. And then that's kind of the end of the call. So typically in my role as chief of staff you would have other ministerial officers, if they had a problem with something, a significant problem, they would escalate it. So I took this as a, this was just an escalation of, can you help us, because we've got this random MP proposing to fly to China just before we go on our official trade mission.

40

MR ROBERTSON: So it's a random MP in circumstances that are ridiculous. I take it this is a pretty unusual situation for a backbencher, albeit a parliamentary secretary, to be proposing to fly to China to sort out trade issues.---Yeah. It's not unusual for an MP to be fervent about, you know, what's happening in their electorate and, you know, economic development opportunities, that bit's not unusual, but yes, you're right, the threat to jump on a plane, and I was looking at it more from the point of

view of I knew Minister Blair was doing an important trade mission and so this was an unnecessary distraction and not one that should be happening.

Was that the extent of what was ridiculous, namely the possibility that it would interfere with the trade mission, or was it also ridiculous the idea of, as I think you put it, a random MP getting on a plane and trying to deal with a trade issue themselves?---Well, yes, because he wasn't the Minister for Trade.

10 And so to what extent, at least in your time as chief of staff, would it be regarded as normal or appropriate for members of parliament who aren't ministers to get involved in matters of trade of the kind that Mr Maguire was seeking to get involved in?---Not appropriate.

Something you'd seen before?---Not that I can recall, no.

Something that you saw after this event?---Not that I can recall, no.

20 Just looking at the letter itself, I draw your attention to the paragraph that's underlined, "I seek an appointment with you," et cetera. See it says amongst other things, "A loss of face by my political leaders." Do you see that there?---Yes.

As chief of staff to the Premier's Office do you regard it appropriate for a backbencher to be saying to a party committee secretary in China that there might be a "Loss of face by political leaders?"---No. Absolutely not appropriate.

30 Is there some procedure, policy, understanding as to the extent to which it's appropriate for backbenchers as opposed to ministers to be expressing views or concerns that seem to be being expressed on behalf of the government rather than on behalf of the individual member?---I can't think of a particular policy, but in practice it's well known that unless you're the portfolio holder of the particular portfolio – in this case Trade – you don't go round expressing opinions on behalf of the government on that particular portfolio issue.

40 Have a look at the next paragraph, towards the end, third-to-last line towards the end, "and raise very serious questions".---Sorry, where am I?

Just near the little hand.---Oh, here we are, yep. "And raise" - - -

"And raise very serious questions by our government, both state and local, about future joint ventures with Chinese companies."---Daryl was not authorised to say anything like that.

And at least from your perspective as a former chief of staff, it was quite inappropriate for Mr Maguire to be expressing views about what serious

questions that the State Government may or may not have with an important trading partner of this country and this state, would you agree?---That's correct. I would.

So at least as a matter of practice, if not a formal procedure written down, the idea of a backbencher making these kinds of representations, that seemed to be speaking on behalf of the government or at least indicating a position of the government, would be quite inappropriate, is that right?

---Correct. Completely inappropriate.

10

And I take it that's the case, even though, if we just scan up a little bit, Mr Maguire is a parliamentary secretary, not just an ordinary backbencher. He's got a parliamentary secretary role.---Yes.

But in the list of titles there, I don't see trade.---It's not the subject matter of trade, though.

THE COMMISSIONER: Rather remote from trade.

20 MR ROBERTSON: I can see Centenary of ANZAC, Counter-Terrorism, Corrections and Veterans.---Absolutely right.

But is it right that, even if he did have some portfolio responsibility in that area, say he was the parliamentary secretary to the Minister for Trade, at least the kinds of comments that we can see on this letter would, at the very least, be raised with the minister's office and probably more broadly, is that right?---Yes.

30

Indeed, at least in matters of trade, it may be that reference is made to the federal colleagues as well as state colleagues, is that right?---Well, yeah, the simple reality is, even if it was a Parliamentary Secretary for Trade, you wouldn't have a letter to the tone like this written by, well, frankly, anybody. Not even the Minister for Trade or the Premier would write a letter in that tone, so - - -

40

And at the very least, even if someone had a bright idea of writing such a letter, it's not just going to be an individual person putting it down in print and signing it. It's going to go through a process where appropriate people consider the text, including in light of a very important trading relationship that this country has with an important trading partner.---Yes, but there is a whole apparatus behind government-to-government relationships, which involves, you know, the Protocol Unit and the Department of Premier and Cabinet, the Department of Industry – which is now in Treasury – Department of Foreign Affairs and Trade. There's understandably because, you know, Australia's relationships with other countries require that kind of apparatus. So, no, people don't go sending letters like that, that's not right.

And in terms of – I’m sorry to interrupt.---I just said, “That’s not right,” yeah.

10 In terms of the idea of getting on a plane as a backbencher, was there some procedure at this point in time as to clearing it with DPC, the Premier’s Office, DFAT, et cetera, or - - -?---Yeah, so that’s interesting. I actually, because he’s not a minister, I don’t think there’s any official procedure that says you can’t jump on a plane. It’s more purpose for jumping on a plane, if that makes sense, that gets him in trouble, if that makes sense, looking at this letter.

So if it’s a holiday, for example, obviously it doesn’t matter.---Correct.

If it’s a trip - - -?---All he would have to do is talk to the whip to make sure that he was taking leave at a time that not everybody else was taking leave and he wasn’t missing a parliamentary sitting, something like that, but that’s all done at the MP/Parliament House level.

20 If it’s a trip to attend a Commonwealth Parliamentary Association conference, something like that?---You would attend, but there’s, again, there’s a structure around that, so you would have to declare the fact that you’ve attended. There’s records of it because it’s organised through that particular example you’ve talked about, is organised through New South Wales Parliament House. I think the presiding officers, both Upper and Lower House are involved. You know, so, again, there’s a structure. You’re listed on a delegation. You do a report back at the end of your trip. It’s not jumping on a plane by yourself.

30 And I think DFAT might be informed, at least in the ordinary course.---I think that’s right.

At least some trips of that kind.---Yeah, correct.

Department of Foreign Affairs and Trade.---Correct.

40 Any of the answers that you’ve just been given, are they affected by the fact that Mr Maguire was also the chair of the New South Wales Parliament Parliamentary Asia Pacific Parliamentary Friendship Group?---So I actually didn’t know he was that till I was told he was that, which gives you a sense of the separation between ministerial and parliamentary activities.

But does that have any impact on the appropriateness of getting on the plane in relation to this particular issue?---No. No, because that’s a, it’s a friendship group that, again, usually participates in kind of official government-to-government type visits. So if a delegation comes from one of those Asia Pacific countries - - -

THE COMMISSIONER: And this doesn't look very friendly, anyway.
---This is true, too. This is true, too. No. This would not be consistent with my understanding of what those friendship groups are designed to do.

MR ROBERTSON: And although this is a fairly stark example, does it follow from the answer that you've just given that Mr Maguire's role as chair of the Asia Pacific Parliamentary Friendship Group didn't carry with it, at least so far as the government was concerned, some authority to represent the government in things like trade negotiations or things of that kind?---Not at all.

Indeed, that doesn't carry with it any particular authority from the executive government itself, as opposed from being a backbench member of parliament who has a particular interest in a particular area. Is that right?
---Are you saying it doesn't have - - -

It does not.---It does not. No.

In other words, at least as you understood it - - -?---There is no official government link to that, if that makes sense.

At least as you understood it, it would be inappropriate for Mr Maguire to go overseas with his Asia Pacific Friendship Group hat on and to represent himself as being a representative of the executive government, as opposed to a parliamentarian who has an interest in a particular area.---Yes.

Is that right?---If he was on a delegation overseas, and they happened to go to, we'll use this example, they happened to go to China, it would be okay for him to introduce himself in China as, "I'm the chair of the Asia Pacific Friendship Group," whatever it's called, "and I'm also a parliamentary secretary in the government." But it still wouldn't extend to, "And so now I'm authorised to talk about trading issues and particularly, one particular company."

And obviously enough, he can identify who he is and what he does and what his titles are.---Yeah, yes, yes.

But the titles that we've identified – parliamentary secretary for the portfolios indicated there, Member for Wagga Wagga, and chair of parliamentary friendship group – doesn't carry with it some executive authority to represent the government.---Yeah, no.

As opposed to, to turn up and say, "I've got these particular roles." Is that right?---Yep, not at all.

THE COMMISSIONER: And is there some sort of handbook which is issued to members of parliament so they understand these limitations on their, the propriety of them writing letters like this? Or is it just - - -?---So I

think there is, but I referred earlier to the separation between ministerial and parliament. I'm not very familiar with it, but I think there is, if not a handbook, certainly a list of what, what you're required to do and how you're supposed to behave as a member of parliament.

10 Protocol.---Yeah, protocol, yeah. So whether it's a handbook or whether it's just online and it's what they agree to when they're first elected to parliament, I'm not quite sure. But, yeah, there, he, absolutely, members of parliament would be aware that they should not misuse or misrepresent their authority or position. Yep.

MR ROBERTSON: And early on you identified a distinction between your role vis-à-vis ministers, which was a common form of communication, as opposed to backbenchers, which was uncommon.---Mmm. Mmm.

Where does parliamentary secretaries fit in that mix? Is that in the backbencher pile, or is it in the minister pile, or is it somewhere in between? ---It's somewhere in between.

20 THE COMMISSIONER: Because they're appointed by the Premier, are they not?---They are appointed by the Premier. And there are some elements of the ministers' handbook which apply to them, but not many. They're not privy to government decision-making. They don't sit at the Cabinet table. They don't have any, if you like, access to government decision-making as it happens in, well, New South Wales or Canberra my guess as well. So - - -

30 MR ROBERTSON: And in relation to - - -?---They're, they're to support a minister, essentially.

Oh, which is what I was about to, in effect, ask.---Mmm, mmm.

Their main relationship is vis-à-vis the relevant portfolio minister, rather than having a direct role for example at the Cabinet table or in that decision-making type role.---Correct. That's exactly right.

Is that right?---Yep.

40 And I think you're referring to the ministerial handbook. I think you meant reference to the ministerial code of conduct, is that right?---Yes, yes, I did, oh, sorry, did I say handbook? Yep.

And you're aware that, that code of conduct does apply to parliamentary secretaries but not all of it?---Yep, yeah, not all of it.

Only parts of it, not all of it.---Yeah.

So we got up to where you were having the conversation with Minister Blair's office.---Oh, yes.

And expressing views of displeasure and the like as to what was then being proposed.---Mmm.

10 What other steps, if any, did you take in relation to the, to use your words, "random MP" potentially going overseas?---So I actually don't remember. It would have been one of two things that I did. I either said to Charlie
20 words to this effect, "That's ridiculous, tell Daryl we're not going to let him do it," and therefore would have left it to Charlie to do it, or alternatively I would have rung Daryl directly, but the thing is I don't recall having a conversation with Daryl, which I think I would remember, given the subject matter. So I suspect what I might have done is something that often used to happen when you would ring a minister or a parliamentary secretary or an MP and if you had to impart something important, and this was because in theory he was getting on a plane pretty quickly, I would just leave a detailed message to the effect of cease and desist and, no, you're not going to. I'm
20 not saying those were my exact words, but to that effect. And then I just remember being told either later that night or early the next morning, "It's okay, Daryl's not going on the plan anymore."

30 Do you remember who told you that?---I think it was Maddy in my office, and again I'm assuming it's because she heard it from Charlie, and then it just wasn't an issue. So I just remember it was resolved. I just, I can't, I've thought many times what, what it was, what the method of communication was, and I just, I just don't remember. So it could have, it could have been my point of view was articulated via Charlie back to Daryl or it could have been that I left a detailed message, and as I say, either way, within a few
30 hours I'd been told he wasn't going anymore, so I was pretty comfortable the matter had been dealt with.

Do you remember whether you told the Premier about it?---I don't.

You don't remember one way or the other?---I don't remember if I did.

40 Do you remember whether you spoke to Mr Maguire directly about it? ---I'm pretty sure I didn't because I think I would have remembered the conversation because I suspect he might have reacted badly and I would tend to remember it, our conversation.

Did you have some practice of informing the Premier if you were going to speak to a particular minister or member of parliament?---I did, but it would depend on the nature of the issue. So the way I'd been brought into this discussion it's still what I would regard as relatively low-level. It was one of those things that you just had to try to fix quickly because we didn't want to derail the ministerial mission that was happening later in the week or next week or whatever it was, and so because I heard so quickly that he wasn't

going anymore I didn't need to escalate it and tell the Premier. So, so no, I'm not sure I told her. If I did, I might have done something like, "Oh, just a heads-up, Daryl's being annoying," or something like that, and that would have been it.

But just in the abstract at least, did you have some arrangement with the Premier that if you were going to speak to backbenchers you'd at least let her know so that she knew that you'd spoken to them about a particular issue?---Only if it was a significant issue, not just routine.

10

So if it was just ordinary routine communications you wouldn't necessarily involve her at all.---No.

But if it was something more significant you'd at least let her know.---Yeah.

Not necessarily in any great detail, but say I'm going to speak to Minister so-and-so or member X, just so that she has, to use your terms, "A heads-up."---Yeah.

20

In the event that that person does a drop-in meeting, they know that - - -? ---And has a complaint about me, yes. Yes, but again I come back to my point, it depends on the seriousness with which I felt the issue was at, if that makes sense. And so because I felt it had been dealt with I can't guarantee I did actually tell her about it or - - -

I mean, an important part of the Premier's Office role, speaking generally, and you and I have discussed a number of aspects of it, is to try and triage things which ultimately get to her desk with a view to efficiently deploying her time.---Yeah, that's correct.

30

And so you're not going to annoy her with each and every issue that can be dealt with without her having to get involved.---That's correct.

Is that right?---That's correct. Hypothetically, had I not been told within 12 or 24 hours that Daryl was no longer going, I probably would have escalated it because I would have had to, but he wasn't going so it wasn't an issue.

40

Because you had a concern that Mr Maguire might tend to disrupt or embarrass the minister on an important trade mission to an important trading partner. Is that right?---Mainly the embarrassment piece. I don't think he would have deliberately disrupted, but he, you know, every relationship you have with a foreign country is sensitive and so you want the state of New South Wales to put their best foot forward, so for us that's the Trade Minister going on an official mission and you don't want an interruption that might, particularly in culture where face and reputation is important, you don't want someone randomly turning up that's going to disrupt the success of that mission. So that was kind of the frame I was thinking about.

And I just want to be clear as to what your understanding was as to why Mr Maguire was interested in the UWE issue more generally. I think you said that at least as you understood it, Mr Maguire was concerned about it because the relevant facility was in his electorate of Wagga Wagga. Is that right?---Yeah, as I understood it, he was upset about a business deal not going ahead in his electorate that was going to deliver jobs in his electorate.

10 And you've since learnt that the particular facility the subject of those communications was actually in Murray and not in Wagga Wagga, is that right?---Yeah, I subsequently learnt that, yep.

Not something you knew at the time.---No.

Did anyone suggest to you that Mr Maguire, at that point in time, so the time that he's threatening to go over to China, that Mr Maguire was interested in obtaining a board position with UWE?---No.

20 Did anyone suggest to you that Mr Maguire might have had an interest in the UWE company, by which I mean a financial interest or other business interest or at least a contemplated interest in that organisation?---No.

If that had been brought to your attention, what would have you done?
---Quite a lot. If that had – well, put it this way. If that had been brought to my attention, let me think which order I would have done this in. The first thing I would have done is I probably would have reported it to DPC legal counsel just for the sake of having something recorded. Not because they have a specific responsibility in that, but things like conflicts of interest, you usually would want to do that. I probably would have spoken to Minister Blair, rather than the Premier, and I would have asked Minister Blair if he
30 agreed with me that this was significantly concerning, because I feel like it is, sort of thing. And then someone, whether it would have been the minister – probably would have been the minister, not me – would then have probably called Mr Maguire out on it and said, “This is completely inappropriate and don't ever come to my office or my staff again with this.” And I suspect there's probably a series of other things you would do. Fortunately, I've never been in this position. But I suspect you would also probably report it to the relevant presiding officers in Parliament House. I mean, it's pretty serious. To be acting, to be using your position to act for personal gain is directly contrary to not just ministers and parliamentary
40 secretaries but also just members of parliament.

So that was, in fact, the position. Or at least if there was some reason to think that it might possibly be the position, that would be ringing very big alarm bells in your head.---Yeah. Yeah, absolutely.

It wouldn't just be ignored, it would be something that would be addressed in an appropriate way.---Yeah, completely.

And considered very carefully.---Completely.

If not, not just within the office itself but with the assistance of anyone else who is appropriate to assist.---Yep.

Perhaps people within DPC, perhaps broader than that.---Completely. Completely.

10 THE COMMISSIONER: Would you have considered reporting it to this Commission?---I, yeah, I suspect, I suspect because my first call, because I am a senior public servant and was on secondment to the office, I tend to think about it as a public service thing. So I suspect my first call, as I said, would have been to DPC Legal, and they would have said to me, “We need to report it,” so then probably my second call would have ended up being the Commission, yeah.

MR ROBERTSON: To your knowledge, did anyone – other than Charlie from Minister Blair’s office – raise this issue with the Premier’s office? ---No, not that I’m aware of.

20

There wasn’t any direct communication, so far as you can recall, from the Minister, for example?---No. No. I don’t think I even spoke to the minister about it. I think it was just Charlie.

So it was really Charlie to Maddy, Maddy to you - - -?---Charlie to Maddy, Maddy to me, me joining the conversation. Charlie, Maddy, me, yeah.

And then soon after that, at least so far as you’re concerned, crisis averted. ---Yeah. Literally within hours.

30

And you moved on to other things, is that right?---Correct.

Is it right to say that you hadn’t actually seen the letter that I showed to you?---I don’t think I had, no. So, I don’t recall it, no.

While you were chief of staff, if you’ve seen it – I’ve shown it to you today, obviously.---I’ve seen it now, yep.

40 But you didn’t see it in the time that you were chief of staff, so far as you can recall, at least.---I think I did my first discussion with this organisation whilst I was still chief of staff, so I saw it then, but certainly not at the time that the letter was sent by Daryl to China.

So your best recollection is that you first saw that letter at the time that you were shown it when you had a voluntary interview with this Commission? ---Yep. Yes, that’s right.

Just to help you in the timing, that was 10 July, 2019.---I was definitely still chief of staff then, so, yes.

And you were still chief of staff at that point in time?---Yep.

Just pardon me for a moment, Commissioner. That's the examination, Commissioner.

10 THE COMMISSIONER: Thank you, Mr Robertson. Mr Harrowell, do you have any questions?

MR HARROWELL: No, Commissioner.

THE COMMISSIONER: Mr White, do you have any questions?

MR WHITE: No, Commissioner.

THE COMMISSIONER: Very well. Shall I discharge Ms Cruickshank?

20 MR ROBERTSON: Yes, Commissioner.

THE COMMISSIONER: Thank you. Thank you for attending, Ms Cruickshank. You're discharged from your summons to attend the public inquiry and you may step down.---Okay. Thank you very much.

THE WITNESS EXCUSED

[11.44am]

30 MR ROBERTSON: Does the Commission wish to adjourn for morning tea, or does the Commission wish to continue?

THE COMMISSIONER: You may step down, Ms Cruickshank. I think the Commission wishes to proceed. See if we can live up to your expectation of finishing the witnesses before the luncheon adjournment.

MR ROBERTSON: I call Robert Vellar.

40 THE COMMISSIONER: Thank you. Please come forward, Mr Vellar. Do you wish to take an oath or make an affirmation?

MR VELLAR: An oath, please.

THE COMMISSIONER: An oath?

MR VELLAR: Oath, please.

THE COMMISSIONER: There's a Bible next to you. Please listen to the officer.

THE COMMISSIONER: Please be seated, and there's some water and a glass there in the witness box.---Thank you.

MR TYSON: Commissioner, may I just announce my appearance. My name is Tyson and I appear for Mr Vellar.

10 THE COMMISSIONER: Yes, Mr Tyson. And have you explained to Mr Vellar his rights and liabilities under the Independent Commission Against Corruption Act?

MR TYSON: Yes, I have, Commissioner, and I am instructed that he will be seeking a declaration under section 38.

THE COMMISSIONER: Thank you, Mr Tyson. Mr Vellar, will you please listen very carefully to what I'm about to explain to you.---Yes.

20 As a witness you must answer all questions truthfully and produce any item described in your summons or required by me to be produced. You may object to answering a question or to producing an item. The effect of any objection is that although you must still answer the question or produce the item, your answer or the item produced cannot be used against you in any civil proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings.

The first exception is that this protection does not prevent your evidence from being used against you in a prosecution for an offence under the
30 Independent Commission Against Corruption Act, including an offence of giving false or misleading evidence, for which the penalty can be imprisonment for up to five years. The second exception only applies to New South Wales public officials, which I understand you to be one.

Evidence given by a New South Wales public official may be used in disciplinary proceedings against the public official if the Commission makes a finding that the public official engaged in or attempted to engage in corrupt conduct. I can make a declaration that all the answers given by you and all items produced by you will be regarded as having been given or
40 produced on objection. This means you do not have to object with respect to each answer or the production of each item. I understand from Mr Tyson that you wish me to make that declaration.---Yes.

Very well. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on

objection, and there is no need for him to make objection in respect of any particular answer given or document or thing produced.

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO
10 **BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION, AND THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Can you state your full name, please, sir.---Robert
20 Vellar.

You were the chief of staff to the Honourable Anthony Roberts from October of 2014 to October of 2018, is that right?---October '14 to '18, yes.

In 2017, Minister Roberts was the Minister for Planning, is that right?
---Yes.

He had a number of other portfolios at that time, including Housing and Special Minister of State, is that right?---Yes, and Leader of the Legislative
30 Assembly.

Is it right that one of the reforms that were brought in in relation to the planning system while Minister Roberts was the Minister for Planning was the introduction of what were called Independent Hearing and Assessment Panels?---It was. It was our signature reform piece.

Is it right to say that that was at least in part an anti-corruption measure with a view to dealing with sensitive, complex and high-value development applications?---Indeed it was.

40 And was part of the background to that particular signature policy measure a concern as to risks in relation to corruption when sensitive, complex and high-value development applications are dealt with on the local council level, rather than by an independent panel?---Yes.

Those panels I think are now referred to as Local Planning Panels, rather than Independent Hearing and Assessment Panels, is that right?---I understand that's the case, yes.

And I think the language at the time, at least, was IHAPs, is that right?
---That's right.

Did you have any communications with Mr Maguire in relation to applicants for IHAPs when they were first being set up?---Yes, I did.

10 And what communications were they?---Mr Maguire sent an email – oh, well, we had a media officer who sent out a press release in relation to the IHAPs, and Mr Maguire returned an email to that officer and suggested that there were dodgy people that were applying or inappropriate people that were applying or being appointed to the IHAPs, and that email was forwarded to me.

Did Mr Maguire ever identify why he said that particular people were dodgy or inappropriate?---He told me in the email that he had been notified by a friend.

20 But other than saying he'd been notified by a friend, did he identify the basis on which certain people were said to be dodgy or inappropriate?---No.

So no indication that they were dodgy or inappropriate because they were, they've done a particular thing in a particular area, or anything of that kind?
---No.

And no basis was identified, whether in writing or orally or anything of that kind, is that right?---Ah - - -

30 Other than that, as it were, "a friend has told me so."---Yes. Only what was in the email that he sent me.

Did he identify the particular friend who had identified that to him?---No.

If we can go to the emails themselves, volume 14, page 184 to 187, it's Exhibit 274. Now I take it before this email chain you'd met Mr Maguire before, is that right?---We had a passing interaction, mmm.

40 Did you have any interaction with him in relation to any matters of planning, do you remember?---No. The, the entire, oh, oh, I think I received three text messages and these emails that are on the screen now in a two-week period, and I had not had contact with Mr Maguire before or after that.

Do you recall whether prior to this exchange of emails or the two or three-week period that you're now referring to whether Mr Maguire was seeking to encourage the minister's office to get involved in relation to any particular development projects?---No.

Do you recall ever being sent correspondence from Mr Maguire in advance of this email chain marked to your attention and asking you to take any steps in relation to any matters of planning or development?---No. I don't.

So looking at these emails – it's an email chain so we'll go from the bottom and go up.---Yes.

10 So this email of 1 November, 2017, 8.03am, is that the first, is that the email that you're referring to in response to the media release from, forwarded by Mr Lipson?---That's right.

Mr Lipson was a media officer within Minister Roberts' department, is that right?---He was.

You obviously worked closely with him in Minister Roberts' office?
---Quite closely.

20 And I think both closely in the theoretical sense of working together, but also in the physical sense of having workspaces very close to one another, is that right?---Indeed. I think we would have been breaching the COVID rules on this day.

And so you there see Mr Maguire says to Mr Lipson, "I am told there are a lot of shifty characters applying, beware Will Robinson."---Yes.

30 If we then go back to the previous page, the bottom of that, so that we can see – so back a page, so that we're going forward in time. Mr Lipson says, "Just wondering how you know about this, or how you know this. Are you aware who the applicants are, et cetera. ICAC investigations have," shown, it should be - - -?---Mmm.

- - - "that there have been many shifty folk who have sat on councils and made major decisions." And then the next email from the chain seems to be you getting involved. Is that right?---Yes.

40 So what happens in this email chain? Does Mr Lipson forward you Mr Maguire's email, or does he swivel around in his chair and say, "Look what Mr Maguire's had to say," or how does it play out?---Mmm, yes, he swivels around in his chair and he alerts me to this email from Mr Maguire. We had a conversation about that. The IHAPs were, as you said, was our signature reform piece, our anti-corruption piece, as we, we called it. So we were pretty, we were pretty intent on the integrity of the process being upheld. So this was a process that was administered by the Department, not the minister's office. There was an assessment process, there were applicants that were being called for, through external advertisement. And there was an assessment process conducted by the Department. Now, that was all at arm's length in the sense that it was not done by the minister's office. And, and that's because it was to depoliticise the, the process in council. So we

didn't want to have any suggestion that there had been politics brought into it, other than these names going ultimately to council, oh, to, sorry, to Cabinet. So we were, so we were intent on preserving the integrity of this process, and Mr Lipson was well aware of that. He turned around and showed me this, and sought my advice and steps for the, the rest of the chain of this email.

10 It's fair to say you were pretty annoyed that Mr Maguire had sent this email, is that right?---Most definitely. I thought it was a very cheap shot to the process that was a pretty robust one.

Well, it's a little bit - - -

20 THE COMMISSIONER: Were you also concerned because the minister's office wasn't even supposed to know who the applicants were?---Well, not at that stage, no, I didn't know, and I say that to him in an email, and so that's the first one I fire back and we suggest to him how does he know and he said, you know, he's got some friends that are telling him, and then I tell him, "That's just ridiculous," and to stay out of it. The other thing about - - -

Because it's cutting across this arm's-length process that had been part of the construct of the anti-corruption nature of the new measure.---Yes. And they had nothing to do with regional New South Wales. IHAPs were for the boundary of Sydney as defined by the Greater Sydney Commission, with the exception of Wollongong.

30 MR ROBERTSON: And so part of the reason why this was, to use your words, ridiculous, indeed I think you used the phrase, "Bloody ridiculous," was that the whole purpose of this exercise was an anti-corruption measure, keeping it at arm's-length from the political process, and you've got a politician trying to, as it were, lobby the minister's office to say there's particular individuals who should be disqualified from the process. Is that right?---Yes, and he was calling the process into question.

Well, he was calling the process into question but he was also putting, as it were, a hand grenade into the process itself.---Indeed.

40 If we just scan up a little bit further. Now Mr Maguire saying, "No, I'm not joking. My friends are chatting about some of the nominations because they know stuff." And then we scan up a little bit further. "That's bloody ridiculous. Stay out of it." That's the email that you had in mind when you're referring to it being ridiculous. Is that right?---Yes.

But if we then go up a little bit further, you'll see "RV" at the bottom, but if you have a look at the email from you, 3.43pm, it looks like you've then got a change of heart because Mr Maguire may have given you a bit of a ticking time-bomb by suggesting that there might be some people who are

inappropriate. And is it right that you ultimately came to the view that that matter at least needed to be brought to the attention of the Department so that if Mr Maguire did have some tangible information about either the process generally or in particular about particular individuals, that was brought to bear within the process that had been set up?---That's, that's right. I was, because Mr Lipson was in such close proximity, we were talking about what next steps that should be undertaken. I discussed with him the possibility that Mr Maguire did in fact have confidential information that could have only come from the bureaucracy and in order to, if this led to some investigation to determine how Mr Maguire might have come into the knowledge of names of people who had applied or were being considered, then it would be necessary or it would be very helpful for any impending investigation if we were to induce the names that Mr Maguire had. So it was my intent then to get those names. I wanted those names. I picked up, before Norm Lipson writes back to Mr Maguire I picked up the telephone to a fellow by the name of Stephen Murray, and Stephen Murray was an executive director, he's no longer with the agency, but he was the person who was in charge of the assessment process for these IHAPs. So I rang him and told him what had occurred and that - - -

20

THE COMMISSIONER: This is within the Planning Department I take it? ---Yes, he was in the Planning Department. And that I was going to go back to Daryl and seek the names so if there was any investigation that was required that the Department had a point of reference, so would have some names to commence investigation on, and I was familiar with how those investigations might roll out, so there might be an assessment, an analysis of emails. So there were 500 people that had applied I think by this stage and there were 300 positions, so I wanted to narrow the scope of any possible investigation.

30

MR ROBERTSON: So is it fair to say there was really two aspects of your concern, one aspect is that there may have been a flaw in the process in the sense that someone from the bureaucracy may have leaked the names of one or more people who have been applicants in circumstances where that process was, at least at that point in time, supposed to be confidential. ---That's correct.

That was one aspect of the concern.---Yes.

40

But I take it one of the other aspects of the concern is the possibility that there were one or more applicants in respect of whom there is information which suggests that they should not be appointed, which Mr Maguire might have and which therefore should be fed into the formal process.---Yeah, that's right.

Because obviously enough you wouldn't want to be in a position where Mr Maguire has identified with proper grounds that there are particular individuals who shouldn't be appointed, for them to be appointed and for

that ticking time-bomb I referred to before to blow up, because you've been informed of these individuals' names or the possible existence of these individuals, without putting it through the formal process that had been set up in connection with IHAPs.---Indeed.

Is that right?---That's correct.

10 And so just trying to get the timing of what you were just referring to. So we've got your 3.43pm email, when you're asking for the names, and you referred before to a conversation that you had with Mr Murray from the Department. Do you recall whether that happened before or after your 3.43pm email?---Oh, before.

20 So what I perhaps unfairly referred to as maybe a change of heart between "This is bloody ridiculous" and "Give us the names," is it your best recollection that you probably had the discussion with Mr Murray as to what you should do regarding the fact that Mr Maguire had been putting forward information about shifty characters?---I'd already made up my mind what I was going to do. I was informing Stephen that that was going to be my plan.

So probably a brief conversation with Stephen saying, "Mr Maguire's been saying things about shifty characters. I'm a bit concerned about it. I'm going to get the names and I'll come back to you." Something like that. ---That's right. And that was in the company of Mr Lipson.

30 And then if we scan up a little bit further, we now get a couple of names. "Be very aware, Will Robinson. Danger, danger," 4.06pm. That goes, it seems, directly to Mr Lipson and then forwarded to you, and this is happening on 2 November now, so it's been overnight. It's been 24 hours or so since you got the names.---Ah hmm.

40 And then do you recall what you did in relation to the names?---Yes, I gave them to Mr Murray, but it was by telephone call. We've had telephone call, but we also discussed the, this incident at, at face-to-face meetings. We would meet every couple of days, both Stephen Murray and his supervisors, the deputy secretary, and I think I raised it with – my recollection is that I raised it with the secretary at a Monday morning meeting, just to fill the secretary in on what had transpired. Because if I, I had a practice, if I went below the secretary or deputy secretaries, I'd always ensure that the secretary knew that I had done that at the next available weekly meeting.

So if we just scan up on this email chain a little bit further. Now on 14 November, 2017, Mr Maguire has – this is to Mr Murray – Mr Maguire has advised, "That person (not transcribable) might not be suitable. Could you call to discuss?" Do you see that there?---Yes.

And so I take it from what you've now said, there's not radio silence between 2 November and 14 November. You've been in contact with the Department, in particular Mr Murray, regarding this issue, is that right?
---Yes, that's right. My recollection is that I was reminded by, I think it was Stephen, to send him all of the emails. So - - -

10 And can you remember, after 2 November, 2017, what was your next involvement in relation to this issue of IHAP and shifty characters?---Yes, nothing. From a departmental point of view, I think we reached the conclusion that some of the applicants had been spoken to, and the next stage post submitting an application would have been the Department having some interaction with them. So applicants were being spoken to by the Department and therefore it was probably the case that an investigation was not warranted as to how the two individuals in the email – McNamara and Furolo – may have known that they were going to be, their names were going to be put forward, because the Department was talking to those applicants, and therefore there was no confidential information.

20 So you were confident, at least at that point, that one of the aspects that you were concerned about – which was the failure of the process or something going wrong within the process – hadn't arisen in this case?---Okay, well, the, the, the, yes, I was on the basis of the advice that I'd received from the Department to that effect.

Did you ask Mr Maguire to identify not just the names but some reason as to why he thought that these people or putting forward these people as shifty characters?---No. I, I'd moved on.

30 Did he tell you who his friends were who were giving the information?
---No, he did not.

After 2 November, 2017, which was the second-to-last email that you and I saw a moment ago, was there any more communications with Mr Maguire regarding this issue, can you remember?---I think from information that I've been shown from these proceedings, I received a text message from him.

40 Let's have a look at that text message. Can we go to the text messages of 3 November, 2017. So these are text messages taken from Mr Maguire's phone and communications going to your phone. I note that there's some mobile numbers on the page, that's subject to the suppression order that the Commissioner's made. You'll see there "Outgoing." It's sent to you. "G'day, are you around after lunchtime in PH fireside chat?" Do you see that there?---Yes, I see.

PH I take it is Parliament House?---It is.

What did you understand Mr Maguire to mean by "fireside chat"?
---A discussion.

Well, just a discussion or a discussion of a particular kind?---Well, on the, on the back of me sending him a fairly terse email perhaps he wanted to take that matter up with me.

And you seem to come back and say, “Not until about 4.00.” And you’re saying, “Okay. Need to have a quick chat about the names, further info.” Do you see that there?---Yes.

10 So you were asking or you were trying to seek from Mr Maguire, weren’t you, some more information as to why these – I’m so sorry. “Okay. Need to have a quick chat about the names, further info.” It seems that Mr Maguire is trying to proffer to you some further information in relation to the shifty characters issue.---It does, yes.

And then you say, “You’re best emailing the details.” Why did you say email the details rather than having a fireside chat?---Well, I would have had them in writing, there would have been some evidence of them from - - -

20

THE COMMISSIONER: And because of the second sentence, Mr Robertson.

MR ROBERTSON: Quite. So as part of your concerns about the probity of the whole process, you didn’t want to be in a position where you were in possession of information about shifty characters that doesn’t find its way through the process that was set up intended to be dealing with an important anti-corruption measure.---That’s right. I think - - -

30 And as you put it, a signature policy.---Yes. If there was going to be, you know, evidence collated it was best that the information come directly from him.

And then Mr Maguire then says, “Can’t do that.” See that there?---Correct.

Did you have any further communications with Mr Maguire regarding this shifty characters issue?---No, not that I recall, no.

40 Did you end up having the “fireside chat,” for example?---No.

Did you end up receiving any emails with details regarding this issue? ---Don’t think so.

And so far as you’re concerned, your dealings with Mr Maguire in relation to this issue came to an end by 3 November, 2017. Is that right?---Yep.

You were still dealing with the matter on a departmental level, as we’ve seen by reference to some of the other emails.---I was, yeah.

But after receiving this email or this message, I'm sorry, 12.47pm on 3 November, 2017, that's the extent of your involvement vis-à-vis Mr Maguire regarding what I'm calling the shifty character issue.---I think so, yes.

When is the next time you had any dealings with Mr Maguire so far as you can recall?---When he sent a text message to me asking me to come up to his office in Parliament House at the end of the day.

10

So let's have a look at that text message. 15 November, 2017.

THE COMMISSIONER: Did you want to tender that last SMS Mr - - -

MR ROBERTSON: I won't separately, I'll tender a bundle that will have a few SMSs that I'm referring to.

THE COMMISSIONER: Yes, thank you.

20 MR ROBERTSON: So 15 November, 2017, 4.59pm. "Mate, having a drink in my office. Want to join me for a red 1246?" See that there?---Yes.

Is that the message that you're referring to a moment ago?---Yep. I thought it had a time in there, but yes.

THE COMMISSIONER: 4.59.16. Just before 5.00.---I thought he was inviting me at 5.30pm to his office, but anyway.

30 MR ROBERTSON: It says 1246. What does that mean?---Oh, that's his room. So he's up on the 12th level. My, the minister's office was on the 8th. Ministers were on the 8th and then a lot of the backbenchers were on level 12, so level 12, room 46.

So that's his Parliament House, that's his Parliament House office number? ---Yeah.

Now, was that message out of the blue or were some arrangements put in place in advance of that message to the effect that you were going to get together at some point to have a red or have a discussion of some sort?

40 ---I thought there was a text message to say, "Can you come and see me in my room at 5.30 for a glass of red," earlier in the day, but perhaps I'm wrong.

But other than that, that's the only - - -?---No, that's it.

- - - recollection you've got of any pre-arranged arrangements?---Correct.

Did Minister Roberts encourage you to have a discussion with Mr Maguire regarding either the shifty characters issue or any other issue?---No. I briefed him on the, I briefed the minister on what I was doing with the department with respect to the IHAP names but, and I certainly spoke to him after I had had this meeting here that's referred to in that text message, but not before. I wasn't telling him I was going to Daryl Maguire's office before I went.

10 So you ultimately did have a drink with Mr Maguire on 15 November, 2017, is that right?---I would, yes.

Well, you at least went to his office?---I went to his office, yeah, yeah.

But did the minister suggest that you should have a chat to Mr Maguire around about that point in time?---No.

On or around 2 November, at least, you were pretty annoyed at Mr Maguire, I take it?---I was.

20 Something that you'd spent a lot of time on, a signature policy within the minister's office, correct?---That is correct.

One focused on matters of anti-corruption, correct?---Yes.

And you've got a politician getting involved in a process that was deliberately supposed to be at arm's length from politics, correct?---Yes.

30 Why'd you have a drink with him in his office a couple of weeks later?
---Well, because he may have had something else he wanted to tell me.
There were two reasons. One, I thought, well, I didn't know what he wanted. The, it was impressed upon us to provide a level of customer service to backbenchers, and emailing, texting me like this is very unusual. So I thought he may have had a complaint about some of the service that had been provided to him by one of our staff, or perhaps even a matter involving the Legislative Assembly. It was a sitting day. It's not uncommon for backbenchers to talk to someone from our office from a parliamentary perspective. So there was obviously an issue for him to text me, rather than one of the other staff, so I thought I'd go and see what he wanted.

40 So you were in effect saying, you read between the lines of it, or read between the characters a bit, to think, "Hang on, something must be awry. He's messaging me directly on a parliamentary sitting day. There might be something that I want to know, that I want to know or that I need to know."
---Indeed, yes.

And that was the context in which you agreed to attend the meeting, is that right?--- Yes.

Did you tell the minister in advance that you were going to attend the meeting?---No.

Did you tell him after the meeting?---I did.

So soon after, is it right that, soon after receiving this message, about 5 o'clock, you go down to room 1246?---I do go down to, up to, to 1246.

10 Up to, I'm so sorry. To get from eight to 12 requires going up, rather than going down. And I think you said you thought it might have been around 5.30, something like that.---Yes.

You attend directly on Mr Maguire going to his office area, is that right?
---The door was closed. I knock on the door.

And you then, he then opened the door, I take it?---He opens the door.

You go into his office.---I do.

20

At that point in time, is Mr Maguire alone or is he with someone else?---No, there was another man sitting on his lounge, a fellow who was in a white shirt, and in front of him, on the table, was a plastic model of a building.

Do you know who that individual is?---I didn't at the time. I do now.

Who was that individual?---Joe Alha.

30

And so is it right that in advance of you knocking on the door and being let in, you didn't know that there was going to be someone else present in addition to Mr Maguire?---That's true.

So you're quite sure Mr Maguire didn't say in some other way – by telephone, message, or in some other way – “I want you to come and speak to my mate,” something like that?---Definitely not.

You got no indication from anyone else within the minister's office, including from the minister, that that's what Mr Maguire wanted to talk about?---That is correct.

40

Were you ever told before the start of this meeting that Mr Alha was interested in speaking about policy development with the minister?---No, I'd never heard that name before.

You'd never heard Mr Alha's name at all?---Correct.

Had you heard before 15 November, 2017, that Mr Maguire wanted to raise with the minister, if not with the minister's office, questions concerning policy development in the planning area?---No, I hadn't.

Was there some position of policy or practice or procedure as to whether the minister or the minister's office would be prepared to get involved in meetings in the planning area? Was there some rule that said we won't have any meetings at all, or we will have meetings but only of a particular kind? What was the practice or procedure at the time that you were chief of staff?
10 ---Yes. So when the minister, when it was announced that the minister was taking up the Planning portfolio, the minister and I had a discussion that he would meet with developers, because they were significant stakeholders to the portfolio, but only on – they, well, he wouldn't meet, we were backing out of site-specific projects, so the minister would meet and discuss with developers on policy issues, plus, you know, those macroeconomic issues that come, that impact the sector. But not site-specific.

So there was a clear policy in place within the minister's office, you can meet with me if it's about general issues of policy, you can't meet with me
20 in relation to site-specific issues. Is that right?---For the minister.

You can't meet with the minister in relation to site-specific issues, is that right?---Correct. Yes.

And I take it that's in part consistent with IHAPs and other things about keeping from arm's length the political process, sorry, the planning process in relation to issues of planning.---It was a perception. There was no law to say that he couldn't, but it was perception.

30 Did that same policy position apply to people within the minister's office, or was it just in relation to the minister?---No, it did not, just the minister.

In relation to the minister, was there any procedure that was adopted in terms of asking developers who were intending to speak about general issues of policy rather than site-specific issues to give some sort of an acknowledgement or some other document to say that, I'm coming here, and you're allowed to talk about policy issues, but you're not allowed to talk about site-specific issues?---Yes. When you request a meeting with the minister, if it was, if it was granted, then you would be forwarded
40 documents to complete, and those documents would outline that the minister didn't speak about site-specific matters, and that the meeting would be eventually made public as minister's diaries are made public.

And so can we go please to page 58 of volume 15 so we can see what you're talking about, and while that's coming up, you were referring to the practice within the ministry that on a quarterly basis the external meetings that take place are disclosed in a public fashion?---Yes.

And so every quarter, the minister would say, “I’ve met with the following people from the following organisations, and generally speaking, this is what we talked about,” is that right?---Yes.

I’ve now put on the screen a thing called a Meeting Disclosure Form. Is that the form that you were referring to before that people were required to fill out and sign in the event that they were speaking to the minister regarding issues of policy?---Yes, looks like it.

10 I tender Meeting Disclosure Form, page 58, volume 15, public inquiry brief.

THE COMMISSIONER: Exhibit 309.

#EXH-309 – THE HON ANTHONY ROBERTS MP MEETING DISCLOSURE FORM

MR ROBERTSON: But to be clear, that policy applied to meetings with
20 the minister rather than people within the ministerial office, is that right?
---That’s correct, yes.

Now, back to the meeting in Parliament House.---Ah hmm.

You enter Mr Maguire’s room. Mr Alha’s there. He’s got his model. What then happens?---Mr Maguire introduces me to Mr Alha, and they were, they had a glass of wine each. I remember Mr Maguire pouring a glass of red wine. And Mr Alha describes difficulties he was having with his proposal, and I can’t remember whether it was at Campsie or Bankstown or – but he
30 was, he was explaining frustrations and difficulties he had been had by getting approval for his project.

And so I take it that that discussion would fall within what you called a site-specific discussion, as opposed to general issues of policy. Is that right?
---Was, yes, he was having a whinge about planning in relation to a site.
Mmm. Yes.

But I think you’ve drawn a distinction between site-specific issues and general issues of policy.---Yes, that was a site-specific discussion.
40

I’m just trying to understand which of those categories it fit in.---Yes, yeah, yeah.

There may have discussions about general issues of policy in the context of discussing the site-specific issue.---It was in the context of a site. Yes. Correct.

But this is a kind of meeting that, consistent with the policy that you've explained, the minister would refuse to have. Is that right?---Yes, he would not have been able, permitted to have that discussion with the minister.

Now, I take it that when you attended on Mr Maguire, you weren't expecting to have a site-specific discussion, is that right?---I was not.

10 If you knew in advance of a meeting that you were going to be participating or asked to participate in a site-specific meeting, would have you taken any other steps in relation to that meeting? Would you have refused to have the meeting, or would have you taken some other steps, or what would have you done?---I would have taken other steps and, and not had the meeting, but I would, it would have been referred to someone who was far more familiar with the planning process than me, so it would have been allocated to perhaps one of the staff in our office, political staff, but it would have also been allocated to someone from the bureaucracy, someone from the Department of Planning. Now, I didn't get involved in those site-specific meetings, regardless of who came into the office, and I certainly wouldn't have taken one alone when it wasn't my practice but, two, I didn't have a
20 planning background. I was, and although we'd been in the Planning portfolio for six months, perhaps less than half my time was spent on the Planning portfolio. So I had a very basic understanding of the planning practices, and wherever I went on planning matters, I had a, either deputy secretary or executive director level from the Department of Planning with me.

30 What was Mr Maguire's role in this meeting?---Mr Maguire, when he did speak, I recall he was critical of the bureaucracy in the Department of Planning.

Was Mr Maguire, as you saw it, attempting to advocate for Mr Alha's position? Was he there supporting his position?---Oh, clearly he was, yes.

What was Mr Maguire's interest in this issue, as you understood it? Noting that I think you said it might have been about a Campsie project. At least so far as I'm aware, Campsie is nowhere near Wagga Wagga.---Indeed. Well, walking in on their office, seeing them drinking, you know, wine, I, I could put two and two together to work out they had some sort of friendship.

40 So that was the best you understood why Mr Maguire was interested? It was a friendship between him and Mr Alha.---Yes.

As opposed to assisting a constituent or doing something by way of some other forms of portfolio responsibilities?---Yes. But I didn't ask if he was a constituent. He could have been a constituent, I guess, that had property dealings in Sydney, but I didn't ask.

Did Mr Maguire indicate to you that he had some hope or expectation that, in the event that one or other of Mr Alha's projects were successful, that he might have some interest or stand to gain in relation to that project?---No.

10 If he did, what would you have done?---Oh, I probably would have gone back to my office – not probably, I'll tell you what I would have done, I would have gone back to, would have terminated the conversation, gone back to my office, made a file note, put it in the system so it was time and date stamped, and sent it to the Premier's Office and/or to the Secretary of Planning.

And/or to this Commission?---Indeed.

20 And have you now told us everything you can recall about the meeting itself? So you come in. Mr Alha's complaining about particular projects, site-specific issues. Mr Maguire is supportive of Mr Alha's position in relation to what Mr Alha's saying. What else happens during the meeting, so far as you can recall?---So I listen. I don't offer an opinion other than to say, "Look, why don't you write to me?" I think I mentioned one of the deputy secretaries, that if he wrote to me, I would put him in contact with someone in the bureaucracy and provided him with my business card. I remember thinking it was probably going to offend Mr, Mr Maguire, but at that point I really didn't care. I remember sliding the glass of wine just away from me and I left.

30 This was a pretty unusual sort of meeting, was it not?---Oh, by this time I was pretty cranky with Mr Maguire. You know, two weeks ago he'd had a go at our signature reform policy, and I felt like I'd been, I'd been asked to, I was up there on the basis of false pretences. He could have just said I had a developer there. The developer would have got a hearing with the Department of Planning and probably got some advice on the spot. But because I was there, he'd wasted my time, he'd probably wasted Mr Alha's time. I wasn't the person to help Mr Alha.

So it was pretty unusual and annoying and frustrating course of events. Is that fair?---I was very annoyed with Mr Maguire. He wasn't my favourite person.

40 Have you had a meeting like that before?---No.

Have you had a meeting like that since?---No.

And have you now told us all you can recall about the meeting?---Yes. I left. I gave him my business card and left.

And did Mr Alha then take the opportunity that I think you offered, which was for him to send information to you?---Yes, I understand he did send an email through to my email address, yes.

And what did you do in relation to that information that was forwarded, can you remember?---So that is a class of document – so I should start by saying, other people had access to my, my emails. I received a lot of emails, very high volume, and that class of document where people would write in, constituents or members of the public would write in, that was cleared from my inbox by other people who had access to my inbox. One was the office manager and one of the departmental liaison officers from time to time, because they kept changing over, had access to my emails, and at least for part of the time, the DI, and that class of document was moved on, out and into the bureaucracy so the bureaucracy could reply, and they would often reply on the basis that the minister’s office has asked me to reply to your inquiry.

So are you saying it’s possible that such an email was sent and received in your inbox, but never actually seen by you?---Correct.

It must have been at least a little unusual for a site-specific email to be sent to you including one that referred specifically to being given the opportunity to discuss projects of a developer?---Not, not - - -

Is that right or - - -?---Look, not unusual. The minister and I would attend lots of functions, we would attend lots of, so public gatherings. It wasn’t uncommon for someone to see the minister and I was with him nine times out of 10, and say, “Oh, look, I’ve got a particular issue about a planning issue,” it might not be a development, might be a dividing fence or something that’s a council matter, but I would step in and say, “Look, what’s the problem,” a bit of triage, customer service, “Here’s my business card, write to me.” And those things would float into the, either the email box or our – we had a standard email box for the minister, so if you go online it would appear in this email box, but because I was always with the minister and handing out my business card, the office manager triaged my inbox as well as the main one.

So let’s just have a look at the email itself. Volume 14, page 235. It will just come up on the screen in front of you in a moment. Volume 14, page 235. Commissioner, this is already Exhibit 285 as well.

THE COMMISSIONER: Thank you.

MR ROBERTSON: So this appears to be an email from Joseph at J Group to you. “Thank you very much for giving me the opportunity to discuss J Group’s projects.” And then it says a number of things, including some that seem to be of a site-specific nature. Do you recall seeing this email around about the time that it was sent, which seems to be about November of 2017? ---No, I don’t.

And you're saying it's quite possible that it hit your email box but you never actually saw it because of the system that you had in place with your office staff?---Yeah. I wouldn't, yeah, it's not a class of document I'd read.

Even to the point of scanning it with a view of tasking it, you've already got in place a procedure where you might not even have to look at it at all, that happens with others viewing your email box. Is that really what you're explaining?---Yeah.

- 10 You mentioned before that the project that may have been raised during the meeting was a project in Campsie.

THE COMMISSIONER: Or Bankstown.

MR ROBERTSON: Or possibly in Bankstown. I think you had at least some reference to Campsie. Is that right or have I - - -?---In Campsie. Canterbury-Bankstown was the priority precinct I think this fell into.

- 20 Do you recall whether prior to the meeting with Mr Maguire and Mr Alha you had any involvement in any of Mr Alha's projects in or around Campsie, any requests for assistance or anything of that kind?---No. There was a, there was a document in the planning process that was created by the Department of Planning that one of the staff in our office identified an anomaly with, and that was that Mr Alha's sites were specifically mentioned in a document and that was unusual, and that staff member came to me, put that to me, that there were some documents from the Department involving one of Mr Alha's sites. I asked that, for that document to be given to another fellow in our office to sort of corroborate that view. They both came back to see me and said yes, that was indeed the case, that this
30 document involving some of these premises were unusual in nature because they referred specifically to the document where they were supposed to be more of a high-level instrument, and I raised that with the then, it was one of the deputy secretaries, I think he was relieving as the secretary at the time, and then that, those papers, we, we met, we had a meeting out of that, a physical meeting, and those papers were ultimately referred here.

- 40 And so just so I'm clear about that, there was a document that was, that you might describe as a high-level document of a kind that's unlikely to identify particular projects and particular individuals, is that right?---Yes.

More a general planning-type document as opposed to an individual, for example, development application.---Yes.

And it would be unusual for a document of that kind to refer to a specific project, rather than general concepts of planning in a particular area, is that the idea?---Yes, the identification of a specific address in there was the anomaly.

And that raised some red flags and it was then dealt with in the way that you've just identified, is that right?---Yes.

Can you recall any other involvement that you had in any of Mr Alha's projects?---No.

10 You referred a little while ago to, in a sense, members of parliament being potential customers. Was Mr Maguire, as you understood it, a repeat customer of the minister's office?---Not a, not a repeat customer. Well, he might have been in there once or twice before, perhaps, when we were in the Mining portfolio, but not, not that I – no, I, if he said he's been there before, that's quite possible. It wasn't always, you know, me that MPs would be referred to. They'd come to the secretary and they at some point might pop their head in to say, "Is there anyone I can speak to about a particular issue?" and one of the staff would go out and address their concern.

20 I'll just show you this document, page 142 of volume 14, please. Here's an email from Mr Maguire's office to an email address called office@roberts.minister.nsw.gov.au. See that there?---Yes.

And that email address, is that that general office address that you indicated a little bit earlier?---Yes.

And Ms Vasey, from Mr Maguire's office, is attaching correspondence received and sending it to the minister's office. But if we can then just turn the page. It's a letter on Mr Maguire's letterhead to the minister, but marked "Attention: Robert Vellar". Do you see that there?---I do.

30 Do you have any idea why Mr Maguire was marking that letter to your attention as chief of staff, rather than just sending it to the minister's office in the ordinary way?---No.

40 And you'll see this is about a project in Campsie, and I can help you by indicating that Matt Daniel of Pacific Planning was Mr Alha's planner in relation to the Campsie site. Does that help at all in refreshing your recollection as to whether you had any involvement in the Campsie project before the meeting of November 2015, and noting that this correspondence is earlier, 26 April, 2017.---No. But irrespective of whether it's marked for my attention, this is not a document that would have been provided to me, brought to my attention.

So this would have been filtered in essentially the way that you've already identified.---Yep. The same way as if it was, if it didn't have me and it was marked for the minister's attention, it wouldn't go to the minister either.

So the fact that it was marked to your attention wouldn't have had any impact on the way in which this particular letter was dealt with, is that right?---Correct.

Commissioner, I tender email from Sarah Vasey to office@roberts.minister.nsw.gov.au, 28 April, 2017, 2.19pm, page 142 through to 144, volume 14, public inquiry brief.

THE COMMISSIONER: Exhibit 310.

10

**#EXH-310 – EMAIL VASEY TO MINISTER ROBERTS OFFICE
DATED 28 APRIL 2017**

MR ROBERTSON: After your meeting with Mr Maguire and Mr Alha in Mr Maguire's office, can you recall having any other dealings with Mr Alha, other than what you've told us about so far?---No.

20 Can I show you this document, page 156 of volume 14. We're now 16 May, 2017. The last letter I showed you was 19 April, 2017. So the end of this chain is an email from you to a Mr Smith. That was one of the staffers within the minister's office, is that right?---That's right.

Someone who reported to you?---Yes.

You'll see there's an email towards the bottom from Mr Hogan to Sue Clark saying, "We've received correspondence from Daryl Maguire," et cetera. Do you see that there?---Yes.

30

Mr Hogan was also a ministerial staffer in Minister Roberts' office. Is that right?---No, he was an officer of the bureaucracy. He was a departmental liaison officer, not a political staffer.

So a departmental staffer, but who was physically located in Minister Roberts' office, is that right?---That's correct.

40 And that's a standard practice within minister's offices, to assist in the communications between the minister's office, in terms of political staffers, and the full-time bureaucracy, is that right?---It, and/or provide that expert advice. We had four, one of which was an executive director.

So then this is going to Sue Clark. Who's Sue Clark?---The office manager, and minister's private secretary.

But it then seems if you look towards the top of the page, you get involved albeit only with five words, "Someone, can you get across this?" Do you see that there?---Yep.

Did you have any involvement in this particular issue and the correspondence from Mr Maguire, other than as it were staffing it out to Mr Smith?---No, that's me farming the job out.

And that's the kind of thing that you do on a day-to-day basis, is that right?
---Yep.

10 Sometimes this sort of communication wouldn't even get to you at all, is that right?---Correct, it would have been moved on by Sue.

But sometimes it would get to you, and you'd deal with it if it was appropriate for you to deal with it. If not, you would staff it as appropriate. Is that right?---Yep.

I tender email from Mr Vellar to Mr Smith, 16 May, 2017, 12.28pm, pages 156 through to 159, volume 14, public inquiry brief.

20 THE COMMISSIONER: That'll be Exhibit 311.

#EXH-311 – EMAIL VELLAR TO SMITH DATED 16 MAY 2017

MR ROBERTSON: So does that now dispose of what you can recall of communications concerning Mr Alha?---Yes.

30 I'm just going to show you this document, page 275 of volume 14. If you just have a look at the subject matter first. Meeting request, Joseph Alha, J Group, Sydenham to Bankstown priority precincts. And we'll just scan down the page just a little bit so we can see the context, so just scan down. Ms Clark's saying, "The MO will not be meeting with this gentleman." MO is minister's office, I take it?---Ah hmm.

"And then Rob had asked me that I provide to," it just says "BOB", but that's Brendan O'Brian, is that right?---That is Brendan O'Brian, yeah.

40 "For the Department's reference," et cetera. If we then just scan up a little bit, you'll see that a little bit later, "Rob has reconsidered this request and Simon and Department staff will take this meeting."---Mmm.

"Please do not send this request (not transcribable) Department." Do you see that there?---I do.

Can you recall the circumstances in which – it seems like, I might have this wrong, but it seems like you changed your mind and decided that this particular matter would be dealt with in a different way to what was originally contemplated that afternoon.---Mmm. I, I don't recall this

correspondence. However, I think the August, 2018, is about the time that we discovered the anomaly, and it may have been to perhaps get an insight as to why the original, why the documents from the Department might have had a site-specific location mentioned. I have the departmental, the departmental staff in that meeting, so – oh, but I don't recall this correspondence.

10 Let me try and help you this way. If we go to page 277, I'll show you what seems to have precipitated this set of communications, and it's a message, effectively an email but using a web form that Mr Alha fills out, and that I take it turns into an email that goes to the email address we can see at the top, webform@roberts.minister.nsw.gov.au. Do you see that there?---Yep.

And so I take it at this point in time, there was a web form on the minister's website that allowed you to put information in and it would turn itself into an email that would then be considered by the minister's office. Have I got that right?---I've never seen that email before. Oh, but I accept what you're saying, yeah.

20 But first on the question of the web form, that was one of the ways that you could communicate with the minister's office at that point in time.---Yeah.

There was a form on the website.---Indeed.

And that would get information that would go through the kind of process that you've already explained, is that right?---Yep.

30 But are you saying you don't recall seeing this particular message from Mr Alha?---Yes, that's what I'm saying.

And we'll just turn the page, just so you can see it. Seeing that doesn't refresh your memory as to the circumstances that led you to saying to Ms Clark, by the looks of it, you've reconsidered the request and Simon and department staff will take the meeting, and Simon will coordinate.---That's, that's right.

40 But looking at this, it doesn't refresh your memory as to the background for this particular communication.---No. And when we would decide, I should say, when we would decide where the meetings would take place, Ms Clark would often have quite a pile of them. She'd often print them out or go, "Is this a yes or a no?" and it was done fairly quickly. So it might have been in that pile, but I, I don't have any recollection of this correspondence.

I tender the email from Ms Clark to Mr Tulloch, T-u-l-l-o-c-h, 7 August, 2018, 5.21pm, pages 275 to 279, volume 14, public inquiry brief.

THE WITNESS: Mr Robertson, I should say that this is the class of - - -

MR ROBERTSON: Just pause for one moment so that the Commissioner can mark that, and then I'll let you say exactly that.

THE COMMISSIONER: That will be Exhibit 212. Sorry, 312.

#EXH-312 – EMAIL CLARK TO TULLOCH DATED 7 AUGUST 2018

10

MR ROBERTSON: I'm sorry for interrupting.---No problem. This is - - -

You can now - - -?---Sorry, Commissioner. This is a class of correspondence that would have gotten Mr Alha a meeting with someone. And my point before was there was no need for Mr Maguire to, you know, have me, from a side door, you know, meet with Mr Alha, because had he gone through the right process, everyone gets a hearing. You don't necessarily get what you want, but you get the hearing.

20

And so are you saying, then, that the what you'd call side-door meeting had no impact on any planning process of any kind?---No, definitely not.

Because those matters that are dealt with in accordance with ordinary procedures at a departmental level or wherever the level happens to be for that particular question.---Indeed. There would have been no capacity to do anything outside the normal scheme.

30

I was showing you there some emails – I think we're in July or thereabouts, July and August, I think. Do you recall whether, around about that time, perhaps in June/July/August, whether you had any telephone communications with Mr Alha or text messages or anything of that kind? ---This year?

In, sorry, 2018.---No, I don't.

I'll try and help you this way. Can we go to the text messages.

40

THE COMMISSIONER: Were you going to tender that last document of 26 July, 2018, Mr Robertson? You only tendered the 7 August one.

MR ROBERTSON: We'll go to the text messages, and while that's happening I will find that. I'm sorry, Commissioner, I thought I had tendered everything that I've gone through but I'll - - -

THE COMMISSIONER: You still haven't tendered those earlier text messages, but that's perhaps because these are going to join the tender.

MR ROBERTSON: Yes, that's right. I might need to check whether I've missed something. I thought I had not missed anything other than the text messages, but - - -

THE COMMISSIONER: Well, it's just the last document you showed Mr Vellar, which he said would have got Mr Alha a meeting, of 26 July, 2018.

MR ROBERTSON: No, that was part of, I thought, part of my tender, pages 275 to 279.

10

THE COMMISSIONER: Oh, I see. Well, there you go. Okay.

MR ROBERTSON: I apologise, Commissioner.

THE COMMISSIONER: No, no.

MR ROBERTSON: I should have made it clearer. So let me make that clear. The tender of the email of 7 August, 2018, included as an attachment an email from digital@dpc.nsw.com.au to webform@roberts of 26 July, 2018. Now, can I draw your particular attention to the message of 5 June, 2018. "Please call him," with an attachment to a card of Joe Alha.---Yep.

20

And then your response saying, "Yes, shall do." Do you recall receiving that email?---I do.

Or, sorry, that message.---I do.

30

What were the circumstances in which you were asked to please call Mr Alha?---I think he was following up the correspondence that had probably been sent to me that Mr Alha probably got no response to. But I think, you know, my view was I just needed Daryl sort of off my back. I was probably giving him the same level of courtesy that he gave me when I walked into his office when there was a developer there. You know, I, I, I don't recall calling Mr Alha and I probably wouldn't have.

You probably wouldn't have called him?---No.

40

THE COMMISSIONER: So this first one, 5 June at 3.07, that's from Mr Maguire, is it?

MR ROBERTSON: Yes, it is. This is from Mr Maguire's phone.

THE COMMISSIONER: I see. Thank you.

MR ROBERTSON: Saying, "Please call him," and it's got an attachment which is a card of Mr Alha.

THE COMMISSIONER: Yes.

MR ROBERTSON: And you then respond saying that you will.---Yeah.

But are you saying - - -?---I didn't.

- - - you probably didn't. Is that right?---Correct.

And you certainly don't have a recollection of calling him.---That's right.

10 And I'll just turn the pages so you can see it. Mr Maguire says, "Ta. He's waiting."---Yeah.

That doesn't refresh any memory as to whether you in fact called him or not. Is that right?---Correct.

But you certainly don't have a recollection of actually calling Mr Alha. ---That's right.

20 And by the sounds of it you think it's most likely that you didn't contact Mr Alha at all.---That's right.

Can we just go back to the previous page. I'll just draw it to your attention because it's part of the email chain. This is back in January of 2018. ---Yeah.

The fox is in the hen house, et cetera.---Yes.

30 You won't be able to see it there, but one of the individuals that Mr Maguire identified as a character who shouldn't be appointed to IHAP is referred to in the attachment to that email, sorry, the attachment to the message. Do you recall receiving that particular message in January of 2018?---No.

And do you recall doing anything in response to it?---No.

And I take it from your answers so far the most likely explanation is that if you received it you would have ignored it?---Yes.

40 You were pretty sick of this customer at this point in time. Is that fair to say?---Oh, look, Mr Maguire was not my favourite person.

I tender the bundle of messages between Mr Maguire and Mr Vellar.

THE COMMISSIONER: That will be Exhibit 313.

**#EXH-313 – CELLEBRITE EXTRACT OF TEXT MESSAGES
BETWEEN VELLAR AND MAGUIRE**

MR ROBERTSON: I now want to move to a slightly different topic. I'm going to move to March of 2018. Do you recall seeing around March of 2018 a ministerial briefing note that came from Dr Hill of the Greater Sydney Commission in relation to a meeting that she had with, amongst other people, Mr Maguire?---I'm not sure of the timeline but I did see a ministerial briefing, a briefing for the minister's office from Ms Hill, yes.

10 And having received that briefing note, is there anything that you did in relation to it?---Yes. It came to me from one of the executive directors on loan from the Department to our office. He raised that with me. We discussed the contents of the letter and I instructed that the letter be forwarded to the Premier's Office.

When you say the letter, what letter are you now referring to?---The memo, the memorandum, the correspondence.

20 So the briefing note to the minister?---The correspondence from Ms Hill, yes, the briefing note.

So I'll just put it on the screen just to make sure we're both talking about the same document. It forms part of document 40, starting at page 69. Commissioner, there's another version of this note in evidence but I'm deliberately using this version that seems to show it being forwarded.

THE COMMISSIONER: Thank you.

30 MR ROBERTSON: And so we might just start on page 71, two further pages along. Is this the ministerial briefing note that you were referring to before?---Yes.

And so I think you might have referred to it as a letter, but are we actually, you and I are talking about the same document.---Correspondence, correct.

It was a briefing note.---Ministerial briefing note.

40 And if we go up a couple of pages you see that someone from your office writes to you and says, "FYI, the Waterhouse brief we discussed is with BOB."---He was the director, executive director in our office.

"And I'll follow this up with him tomorrow," et cetera. Do you see that there?---Yeah.

And so are you saying that the ultimate result of this briefing note was that it was forwarded to the Premier's Office?---My instruction was for this to go to the Premier's Office.

And to the Premier's Office as opposed to the Premier's Department, I take it?---Premier's Office.

And when you say the Premier's Office, what does that mean in a practical sense, who's the recipient of that email, is that the Premier herself or is it chief of staff or - - -?---No, it will go to one of the departmental liaison officers from DPC and then it would be dealt with however that chief of staff wanted it to be dealt with.

- 10 So is it right, then, that the particular individual within Minister Roberts' office would, on your instructions, forward it to, effectively, their counterpart within the Premier's Office, is that right?---Yes.

- Now, why was it that you thought that this was a briefing that needed to be drawn to the attention of the Premier's Office?---Right. Two reasons. Number one, I was reading between the lines there that Ms Hill felt very uncomfortable or thought there had been some impropriety or some other concern she had that gave rise to necessitate the minister to be advised. It involved Mr Maguire. Mr Maguire did not report to Minister Roberts. He reported to the Premier. And the meeting that Ms Hill attended, that was
20 organised by a senior National minister, and if there had to be any matter taken up with that minister, it would have had to have happened by the leader of the Nationals. So, number one, it was my view the appropriate place to go if there was any inquiries to be made with those two politicians. Number two, this was around the time where the Greater Sydney Commission had moved from Planning portfolio to the Premier's cluster, Department of Premier and Cabinet. So if they hadn't already moved, they were, in legislation, they were, or in policy, they were already briefing the Premier's Office. They were already dealing with the Premier's Office.
30 They essentially left us already.

Just to make sure I understand that. One aspect was this was a significant enough issue that it was appropriate that the Premier's Office at least had the correspondence or had the note in relation to the issue, is that right? Is that one aspect of why you thought the Premier's Office should have it? ---Yes. And if there was anything needing to come of that, they were the appropriate office to give those instructions.

- 40 Is that just because of the significance of the matter, or is it also because of the Greater Sydney Commission either forming part of or ultimately to form part of the Premier's cluster of portfolios?---No, both. The significance.

So both?---Both the significance - - -

Dual aspects, as it were.---Yes.

Significance of the matter and as well as general portfolio responsibilities, if I can put it in that fashion.---Yes, it was, right, yeah, correct.

And do you know if anything else happened in relation to this briefing note, following that?---I don't know what happened after the matter was transferred to the Premier's Office.

And so that was, at least so far as you know, that was the end of any communications, at least with Minister Roberts' office, in relation to the concerns that Dr Hill was raising, is that right?---Correct.

- 10 It's possible that the Premier's Office did something, but that would have been a matter for the Premier's Office, rather than for Minister Roberts' office.---Yep, yep, yep. Correct.

THE COMMISSIONER: I thought you said in the course of explaining the first reason you did this, Mr Vellar, that Mr Maguire did not report to Minister Roberts but to the Premier. When you said he reported to the Premier, was that because of his role as parliamentary secretary or for some other reason?---Oh, no, he was a Liberal Party member without a portfolio, he was a backbencher, and the Premier was also leader of the party.

20

Oh, I see. Thank you.

MR ROBERTSON: And by that do you effectively mean that Dr Hill is raising, at least reading between the lines, if not reading the lines, she's had an uncomfortable meeting with Mr Maguire?---Yes.

And if that calls for some inquiry, or perhaps discipline, that's a matter for the Premier, is that right?---It is.

- 30 So that was one of the reasons why you thought it was appropriate that that get to the Premier's Office and not just stay within Minister Roberts' office, is that right?---Correct, yes.

When's the last time you've had any communications with Mr Maguire?
---The correspondence, the correspondence here.

To your knowledge, has Minister Roberts had any communications with Mr Maguire any time more recently than that?---No.

- 40 What was the relationship between Minister Roberts and Mr Maguire at the time of the events that we were discussing? Were they friends, were they just colleagues, enemies, anything in between?---I'll be diplomatic. Neither of us had a high opinion of Mr Maguire.

He was, to use your word of "customer", he was a difficult customer.---Yes.

And that might be a little bit more diplomatic than what you'd put it if you weren't sitting in a public inquiry, is that fair to say?---Yes.

And as you understood it, that was not just your own personal view. That was, at least in general terms, the view of the minister.---It was the view of the minister and the staff in the office.

THE COMMISSIONER: You haven't tendered the last document, Mr Robertson.

10 MR ROBERTSON: I tender pages 69 through to 78 of what I've called document 40, which is email from Ms Nicholls, N-i-c-h-o-l-l-s, to Mr Vellar, 26 March, 2018, 1.19pm, entitled Ministerial Briefing Note – Meeting with Ms Waterhouse and the Honourable Daryl Maguire MP.

THE COMMISSIONER: That will be Exhibit 314.

#EXH-314 – EMAIL NICHOLLS TO VELLAR DATED 26 MARCH 2018

20

MR ROBERTSON: That's the examination.

THE COMMISSIONER: Thank you, Mr Robertson. Mr Harrowell, did you have any questions?

MR HARROWELL: I do have a couple of questions, Commissioner, and I'll try and be short. I note the hour. Mr Vellar, during the course of your evidence you made a number of references to the fact that you didn't trust Mr Maguire, he was a difficult person to deal with and so on. Correct?
30 ---Yes.

And you also gave evidence about the circumstances in which you ended up getting an invitation to have a drink in his office.---Yes.

And that drink took place in his office. The meeting when you first saw Mr Alha.---Yes.

40 As I understand your evidence, it seems to be inferred, although I don't think you've used this exact word, that you were ambushed, if you like, with the presence of Mr Alha in Mr Maguire's office that evening. Would that be - - -?---Yes.

And indeed it was inappropriate to organise a meeting without notice, an ambush, for you to talk to a property developer about site-specific matters. ---I don't know whether I would go as far as say it was inappropriate, it was certainly rude and had I known I was meeting with a developer, well, I probably wouldn't have gone to the meeting and there would have been other more appropriate people to do that, but to not tell me somebody else

was going to be in the room, whether it be a developer or somebody else, was just rude.

And indeed I think in your evidence you said you were a bit, to use your word, “cranky,” about it.---Yes.

10 And you’ve also given evidence about, given the sensitivity of planning issues and the processes that the government had I think signature policies put in place to deal with corruption issues, that was something you personally were very conscious of.---Yes.

And putting in a transparent process was important, it was an important part of government policy which you were seeking to implement.---That’s right.

20 So given all of those concerns, what puzzles me, Mr Vellar, is why didn’t you just leave straightaway?---Once I had worked out what was going on I did attempt to back myself out, I was being polite, I was giving Mr Alha a hearing, very brief hearing, slid my glass of wine across, gave him my business card and said, “Write to me.” I wasn’t there for very long.

How long?---Oh, I don’t know, 10 minutes. I let him exhaust himself telling me what he needed to tell me, I looked for a breath in the conversation and saw it as my opportunity to exit.

And when you got the message from Mr Maguire, clearly there wasn’t a great relationship between the two of you, even at that point, why didn’t you ask him, why do you want to see me? You weren’t friends, were you?---No, we weren’t friends.

30 Not social contacts even really.---Correct.

Had you ever met with Mr Maguire before in these events which occurred on anything, exclude Mr Alha for the moment?---I knew who Mr Maguire was, I passed him in the corridor, we’d perhaps been in the same cafeteria together getting a coffee, but not in any meetings, not in any social settings.

So you suddenly get – and there had been a bit of tension - - -?---There had.

40 - - - which you explained in your evidence before this meeting took place between you concerning the nominees for the IHAPs program, so what puzzles me, Mr Vellar, is why would you have just accepted an invitation from Mr Maguire, given that there was no real relationship, indeed you’d sent him emails saying that his comments about the nominees and so on was, “Bloody ridiculous.” Why would you have then gone to a meeting with him or gone to have a drink with him even?---It was regularly reinforced with us that we were to give good customer service to the backbenchers. I’d already given him, you know, a bit of a slapping down in

the email, it could have been, the possibilities of why he wanted to speak to me were almost endless, so I afforded him the opportunity of a discussion.

But I mean, given the nature of the relationship between the two of you, it was so out of the blue. Why didn't you say, "What do you want to talk about?"---Oh, he would have made a complaint about me had I probably declined to meet with him in any event.

10 But you were wanting to make sure things are done properly, and you've gone through all the various procedures.---Mmm.

So why wouldn't you have just sent a note back, even if a note accepting it, saying, "What do you want to talk about?"---Because he's an MP, and we're in parliament, and the nature of the business is the politicians talk to the staffers, and the politicians talk to the politicians. You know, Parliament House is really a very safe place to have discussions. I wasn't expecting to be in a meeting with additional people. Look, oh, he could have also said to me, and I think the right thing would have been to say, "I've got a developer here."

20

Yes, or one of the other explanations could have been, "Look, let's make peace."---It could have been. He could have been extending an olive branch to what he sent me on the email system. Correct.

But given the tension between the two of you, you just went along to – had you ever been invited to have a drink in Mr Maguire's office before?
---Never. Never.

30 How often do you go and have drinks in MPs' offices?---Oh, rarely, it might be on sitting days, there might have been once every two sitting weeks.

But rarely?---Yeah. Not, not very often.

So, I'd suggest to you that, whilst you complain about the way this meeting was organised, that it's somewhat extraordinary that it's rare for you to have a drink with an MP. You just said that, haven't you?

40 THE COMMISSIONER: Once every two weeks or so in a sitting period, as I understood, Mr Harrowell.---Mmm.

MR HARROWELL: Yes, I'll rephrase that. I accept what you say, Commissioner. Perhaps if I'd ask one more question. So how often though, in a sitting week, how often would you go and have a drink with an MP?
---Oh, oh, look, I, I'd, I'd be guessing, I don't know. It was not, oh, well, was not common, but it was not uncommon. But it was usually, not, not one on one.

So you've said that you felt ambushed, because you didn't know that a developer would be there.---Yes.

And that made you cranky. So did you report the details of the meeting to someone afterwards?---Yeah, I, I, I talked to the staff about it that were in the office.

Is there a written report?---I informed the minister.

10 You've briefed the minister, did you?---I did.

In writing?---No.

Did you prepare a file note, for instance? It's not uncommon in ministerial meetings that ministerial staffers will prepare file notes.---Mmm.

Even though there's not the same formal system for ministers. You're the chief of staff, the most senior member of the minister's office. So did you prepare a file note for the future to explain that you found yourself in a member's room with a developer, and you weren't aware that that developer was going to be there? Did you ever record in writing?---No, I asked Mr Alha to write to me.

Yes, and he wrote to you confirming there'd been a meeting.---Yes.

And when you got that letter too, did you provide, prepare a file note or a report for the record for the future to explain what was discussed at the meeting with Mr Alha and how it came to be that you received the letter that you received from him?---No, I didn't think I had to, because nothing had, inappropriate had happened in the meeting.

But you thought the circumstances of the meeting were inappropriate. ---That I was invited to a room on - - -

Yes.---Yes. And not told who else would be there.

Yes, and one of the things that is a key part of the policy of transparency at the present time in relation to developers is to make sure that there's transparent interactions with developers. Is that a fair summary of the overall policy?---Yes, we try our best to get that transparency.

Yes, so, and you had concerns that the meeting on this evening, that you were in a room, you ended up in a room with a property developer, talking about site-specific matters, and you thought it was rude and it made you cranky, correct?---I wasn't concerned about the content of the meeting. I was just concerned that I hadn't been advised somebody else was going to be in there. Not the content. There was nothing, I just listened.

Yes.---I could have done that in a shopping centre, on the street. That, that, you know, to me that, that was a conversation in passing. I wasn't there very long. I listened to this man's concern for Mr Maguire. This man had come in with his model, I listened, and I left. I gave him my business card and said, "Please write to me." There was nothing concerning about the content. I wasn't compromised in any way.

But you didn't take a record of it. You say you've told staff members, correct?---Yeah.

10

About meeting Mr Alha in Mr Maguire's office.---Well, I told them I'd been to Mr Maguire's office and there was a developer in there. I wasn't happy when I came back. I didn't even record Mr Alha's name.

But did you send a note out so if people came across Mr Alha, that it was on record the circumstances in which you had met with him or the fact that you'd met with him in Mr Maguire's office?---No.

Was that recorded anywhere?---I, I didn't feel the need to do that.

20

Why not?---Because nothing inappropriate had happened.

No. But Mr Alha had written to you and you'd received a letter. Did you record anywhere, "I met this man in Mr Maguire's office over a drink"?
---No. No.

Why not?---Because I didn't see a need for it. I listened to his concern. I didn't provide him any advice.

30

Yes, because I'd suggest that you weren't actually ambushed in that meeting. You went and you were happy to meet with Mr Alha.---I didn't know I was meeting with Mr Alha. I didn't have the opportunity to consider whether I'd be happy to meet with him.

But you were happy to stay once you'd realised he was a developer.---I had to get out of there. I couldn't, I, I, I backed myself out of the meeting as politely and as quickly as I could.

Yes. I have nothing further, Commissioner.

40

THE COMMISSIONER: Thank you, Mr Harrowell.

MR ROBERTSON: Can I just raise an issue. I'm sorry. I think my learned friend needs to be clear on what ultimate proposition he's putting to this witness that might assist the Commission or not. It's not clear to me whether he's suggesting that there was some previous arrangements that were made for the meeting, and therefore it was not an ambush. If that's what he's putting, he should put that squarely so that it could be of

assistance to the Commission to consider it. If it's some other proposition, I'm sorry, it presently escapes me. Perhaps that's just me, but in my submission it's appropriate that I at least raise that point now. It's a matter for my friend, rather than for the Commission, I think, but I thought it was appropriate I should at least raise that, because, at least in my mind, it's not clear what ultimate proposition's being advanced.

10 THE COMMISSIONER: Yes, thank you, Mr Robertson. Mr Harrowell, you've heard what Mr Robertson said. Do you wish to ask any further question?

MR HARROWELL: No, Commissioner.

THE COMMISSIONER: Very well, thank you. Mr Tyson, do you wish to ask any questions?

20 MR TYSON: Just very briefly, Commissioner. Mr Vellar, you gave some evidence about a policy about developers meeting on site-specific issues. Was that a policy applicable to Minister Roberts or was it also applicable to you, yourself?---Only to the minister.

Only to the minister. And there was nothing inappropriate in terms of you meeting with a, or having this conversation with a developer in terms of that policy?---No.

And then just to confirm, the email that Mr Alha sent to you, that was an email that would have been read by a departmental liaison officer, is that correct?---Or the office manager.

30 And also the office manager.---Yes.

So in terms of a record, that email would have been recorded and then it would have been dealt with once it had been received?---Yes.

Thank you, no further questions, Commissioner.

THE COMMISSIONER: Thank you, Mr Tyson. Mr Robertson, did you wish to ask any?

40 MR ROBERTSON: Two very quick matters. First, in answer to one of the questions my friend Mr Harrowell asked, you referred to customer service being reinforced as a matter to be taken into account. Reinforced by who? Is that the minister or is that someone else who has reinforced that desire of customer service?---No, that was regularly discussed.

I'm so sorry?---It was, chief of staffs had I think fortnightly meetings or monthly meetings. The issue of good customer service to the backbenchers would often arise at those meetings.

So there was a whole-of-government approach to giving good, as you've put it, customer service between ministers' officers and member of parliament officers, is that right?---Yes.

10 You also describe Parliament House a little earlier as a "safe place to have discussions". What do you mean by that?---Well, it wasn't, people that come in to Parliament House have to be escorted through and they're there at the invitation of MPs, so it is a, it's the business place of the political wing, and I always found it, you know, much more comfortable to operate in than perhaps being out at formal events. So it's a controlled environment, so - - -

And there's less likely to be a record kept of a meeting of the kind that you had with Mr Maguire and Mr Alha, is that right?---Um - - -

Than if you have one in some other place, for example.---Well, you certainly wouldn't necessarily keep records of interactions with MPs.

20 And it's a kind of environment, in a member's office, where one would be less likely to be seen if one doesn't want to be seen, as it were.---I'm sorry, I, sorry, can you - - -

Having a meeting in Mr Maguire's parliamentary office, for example, behind security, is the kind of location where those involved in the meeting are less likely to be seen by others.---Less likely to be seen by others. I guess so, yep.

30 If you want to have a meeting with other people not knowing about it, one possible place is behind security in Parliament House. That's part of it being a safe place, is that right?---If you're a member of the public?

For a member of the public.---Yes.

Do you agree?---Yep. Very limited access.

THE COMMISSIONER: Thank you, Mr Robertson. Shall I discharge Mr Vellar?

40 MR ROBERTSON: Yes, Commissioner.

THE COMMISSIONER: Thank you very much for attending, Mr Vellar. You're discharged from the summons to attend the public inquiry.---Thank you.

And you may now step down.

THE WITNESS EXCUSED

[1.12pm]

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: That completes the program of evidence for today. I suggest 9.30am on Monday, if that's convenient.

10 THE COMMISSIONER: Yes. Very well. The Commission will adjourn until 9.30 on Monday morning.

AT 1.12PM THE MATTER WAS ADJOURNED ACCORDINGLY

[1.12pm]