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PUBLIC  
HEARING

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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 TUESDAY 26 OCTOBER, 2021

AT 1.45PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: I call Sarah Cruickshank.

THE COMMISSIONER: Ms Cruickshank, do you wish to take an oath or make an affirmation?

MS CRUICKSHANK: An affirmation, thank you.

10 THE COMMISSIONER: Please listen to the hearing officer.

THE COMMISSIONER: Mr White, have you explained to Ms Cruickshank her rights and obligations as a witness?

MR WHITE: Yes, I have, Commissioner, and the witness seeks the usual declaration.

10 THE COMMISSIONER: Very well. Ms Cruickshank, will you listen very  
carefully while I make an explanation of the declaration to which Mr White  
has referred. 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. The first exception is that this  
20 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. 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  
30 answer or the production of each item. I'll now make that declaration.  
---Thank you.

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.

40

**DIRECTION AS TO OBJECTIONS BY WITNESS: 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: Do you understand that, Ms Cruickshank?---Yes, I do, thank you, Commissioner.

Thank you. Yes, Mr Robertson.

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

You were appointed as the chief of staff to Premier Berejiklian soon after Ms Berejiklian's appointment as Premier in early 2017?---Yes, that's correct.

And you continued in office as chief of staff until about the end of February, 2020, is that right?---Yes. Yes, that's right.

- 20 Your permanent position is a position within the Department of Premier and Cabinet, is that right?---That's correct.

And so you took a secondment from a position in the Department of Premier and Cabinet to assume the role of chief of staff, is that right?---That's right.

I take it that at least as a matter of practice while you were chief of staff, you reported directly to the Premier?---Yes, I did.

- 30 And you had a series of directors within the office of Ms Berejiklian who reported to you, is that right?---Yes, that's right.

Now, does that mean that as a matter of practice all, for example, briefings to the Premier would go through you? Or does it mean that, at least from time to time, people at the director level or perhaps at a lower level would be able to brief the Premier directly?---So no one at a lower level was meant to brief the, brief the Premier directly. The rule in the office was that every briefing had to go through either the chief of staff or one of the directors, and from memory there were three, maybe four directors when I was there.

- 40 So in terms of briefings to the Premier, they would all be approved either by you or by one of your directors, is that right?---Yes, that's correct.

I take it as chief of staff you'd have a general idea as to the kinds of issues that are being dealt with at the director level, is that right?---Yes, that's correct.

But in terms of the process of actually approving a particular briefing, that may be approved by you or it may be approved by one of your directors, is that right?---Yes, that's correct.

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

I think you're responsible for a thing called the Transformation Group, is that right?---I am, yes.

10

You're aware that Ms Berejiklian gave evidence before this Commission to the effect that she was in a close personal relationship with Mr Daryl Maguire from at least about the time of the 2015 election or slightly thereafter or thereabouts?---Yes, I am.

You're aware she gave evidence to that effect?---Yes.

20

When did you first become aware that Ms Berejiklian either was or had been in a personal relationship with Mr Maguire?---Well, I think as everyone experienced, I was very surprised to find she'd been in a relationship with Mr Maguire during the time that she was Premier. I did not know that she had been when she was Premier. I did, however, know that there had been a historic relationship, and Ms Berejiklian told me about the historic relationship shortly after Mr Maguire resigned from the, from the Liberal Party, I think.

30

So just to assist in terms of timing there, you're aware that Mr Maguire gave evidence before this Commission in a separate investigation called Operation Dasha in 2018?---Yes, that's correct.

And to assist you in terms of the timing, Mr Maguire gave that evidence on 13 July, 2018, Friday, 13 July, 2018.---Yep.

40

Now, with that bit of information in mind, when did you become aware that Mr Maguire and Ms Berejiklian were in what I think you called a historical relationship?---It would have been that evening. I think when I spoke with you a month or so ago, I thought it might have been the Saturday or the Sunday afterwards, but I, I believe now, having gone back through my records, that it was the Friday night.

Commissioner, just for abundant caution, I apply for the direction made under section 112 of the Independent Commission Against Corruption Act concerning the compulsory examination of Ms Sarah Cruickshank on 22 September, 2021 be lifted insofar as it would otherwise prevent publication of the fact that Ms Cruickshank gave evidence on that date.

THE COMMISSIONER: Yes, I make that order.

**VARIATION OF SUPPRESSION ORDER: THE DIRECTION MADE UNDER SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT CONCERNING THE COMPULSORY EXAMINATION OF MS SARAH CRUICKSHANK ON 22 SEPTEMBER, 2021 IS LIFTED INsofar AS IT WOULD OTHERWISE PREVENT PUBLICATION OF THE FACT THAT MS CRUICKSHANK GAVE EVIDENCE ON THAT DATE.**

10

MR ROBERTSON: You're referring to the fact that you gave certain evidence in a compulsory examination before this Commission?---Yes, that's correct.

But in terms of the information about the historical relationship, what you described as a historical relationship, doing the best you can sitting there now, when was that information imparted to you?---As, as I just said, I believe it was just after Mr Maguire was revealed to have been a person of interest in Operation Dasha.

20

So doing the best you can, it would appear to be on, what, the day that he gave evidence before this Commission - - -?---Yes.

- - - which I've told you was Friday, 13 July, 2018?---Yes, I think that's correct.

30

How did that matter come to your attention?---I had gone out to dinner with friends and I received a phone call from the Premier, asking me to call her, which I thought was a little unusual 'cause she was on leave, but obviously things had been happening that day. And I had a conversation with her that evening, and that's when she told me.

Told you what?---Told me that she had had a historical – and I'm not sure if she used the word “relationship” but I'll use it – historical, she'd been close in the past with Mr Maguire. I think she possibly said “relationship” or “friendship”. And she said it was before she became Premier, and she said that a couple of times to me, and that was when I found out that there had been something in the past.

40

Are you quite clear in your mind, though, that she indicated to you that it was a historical relationship before she had become Premier?---Absolutely clear on that.

Quite clear in your mind of that information?---Quite clear in my mind, yep.

Quite clear in your mind that there wasn't any suggestion of a relationship that was either still in existence or may have been ended in sort of recent

days?---No, quite clear on the fact she said it was before she became Premier.

Did she, in the course of that conversation, did she ask you for any advice as to what you should do if – what she should do, if anything, in light of that information?---No, I don't think she did.

10 Did she seek your counsel as to whether there was anything proactive that she should do in light of the information she was telling you, as in the historical relationship?---No, I don't think she did.

Did you say something like “You need to wait for the process to take its course if you don't have anything to report”?---I, I don't know to be honest. I, I think, my recollection was she was telling me from the point of view that she was concerned people might have seen her out with Mr Maguire. There was obviously a lot of speculation at the time that Mr Maguire had obviously suddenly become under a cloud and that she was concerned that people might have seen her having, you know, lunch or dinner or being out with him and so my recollection is she was telling me at the time so that I was aware in case we got any enquiries through the media about, you know, wasn't Mr Maguire close to the Premier or weren't they friends or something like that.

20 But you weren't asked, at least so far as you recall, for any advice as to what she should do or perhaps what you should do as her chief of staff in light of that information?---No, I don't believe so. I'm not, I'm not going to sit here and pretend I remember every word of the conversation because I, I don't but I don't believe she asked me for that. I believe she was telling me because she felt I needed to know from a, you know, if the media asked a question about was Mr Maguire a friend of hers.

30 I take it there was no advice sought or given as to whether Ms Berejiklian should make any report to anyone in light of what had occurred on 13 July, 2018?---I didn't advise that to her. Is that, is that what you're asking me? Yeah, no, I didn't advise her.

40 And there was no request for advice of that kind, is that right?---No, I don't believe so. It wouldn't have occurred to me to suggest that because she had said it was historic, as in before she was Premier, which means it was before I was her chief of staff, and I had no reason to suggest to there that she needed to do declarations or for that matter to think she hadn't already made declarations that were appropriate, so I didn't raise the issue.

And the evidence that Mr Maguire gave on 13 July, 2018, was a matter of significant political controversy on that day. Do you recall that taking place?---Yes, yes, I do.

What steps, if any, did you take in light of that political controversy?---Are you asking me about the day itself?

10 Either the day or in the wake of that controversy, the wake of that event having taken place.---So my recollection is, I think the Premier was on leave that day and I think as a result I had taken some leave. I'm not sure if I was in the office at all that day. I certainly wasn't there in the afternoon. I do remember the Acting Premier was the Deputy Premier and I remember receiving a phone call late that afternoon from my Director of Strategy and my Director of Media saying, you know, the Deputy Premier needs to go out and do a media statement because of what's just happened with Operation Dasha and we just - - -

MALE SPEAKER: Sorry, I cannot hear this.

THE WITNESS: Oh sorry.

20 MR ROBERTSON: If you wouldn't mind just getting a little bit closer to the microphone.---Sure, I can do that. My apologies.

And if you can just go back a little bit in that answer if you don't mind. So you were giving an explanation as to what steps - - -?---In the afternoon.

30 - - - what steps you took in light of the evidence that, or at least in the wake of the evidence given Mr Maguire on 13 July, 2018.---Yes. So I wasn't in the office at the time but I remember getting a phone call from my Director of Strategy and Director of Media saying the Acting Deputy – sorry, the Acting Premier, the Deputy Premier needs to go out and front the media because of what's happened. We were just talking to him about, you know, what he should say and it's just a usual kind of rehearsal that you go through with any minister when they're about to make a statement to the media. And so I was dialled in on the phone call on that, and if I had to guess I would say it was about 5 o'clock, something like that, because I remember feeling sorry for the fact the Deputy Premier needed to go out into the media in the middle of winter at night in the dark at 6 o'clock, for want of a better word, which is never a good look from a media point of view. So I was involved in a brief conversation with the Deputy Premier and my staff at that stage.

40 And the Deputy Premier at that point in time was Mr Barilaro, is that right? ---Yes, correct. Yes.

And so you were formally on leave but you were assisting in dealing with the immediate aftermath of what occurred on 13 July, 2018?---Yeah. Well, think, yes, it's, it's hard to ever be on leave as a chief of staff. People call you.

The call that you mentioned before, what, as you saw it, were there circumstances that led to that call being made? Was it simply a matter of political controversy that arises and a call was being made immediately to the chief of staff or was there something that caused that call to be made to you, at least as you understood it?---You mean from my staff?

10 No, no. I'm talking about from Ms Berejiklian to you?---Well, my, my recollection of what she said to me was that she was phoning to let me know because a mutual friend had suggested that she needed to tell me because I was her chief of staff and I needed to be aware of the fact there was an historic relationship.

And so at least as you understood it, it was more in the nature of information being given to you so that you would know as chief of staff as opposed to any particular request for advice from you on that occasion. Is that right?---Correct. Yes, that's correct.

20 So 13 July, 2018, you have that telephone call, you deal with the immediate aftermath in assisting the Acting Premier deal with the matter. Do you come back off of leave or do you stay on leave?---So I'm not 100 per cent sure. I think I took a few days leave but, as I said a minute ago, that doesn't mean I was completely out of contact. People would call me. I certainly was in and around Sydney. I know, I know I had a friend come and stay with me sort of halfway through that week and we went and did things during the day, so that suggests to me that I was on leave for some of it but I was, I guess like everybody, around and attuned to the fact that there was a controversy that was underway. And also there's a general rule that when the Premier goes on leave, her staff, particularly her senior staff, are available if the Deputy Premier or whoever the Acting Premier is needs extra support. So I was, I was around, albeit not in the office.

40 Were you involved in any of what I might call the political aspects of the immediate aftermath of Mr Maguire's evidence of 13 July, 2018, such as questions like whether Mr Maguire should remain a parliamentary secretary, a member of the parliamentary Liberal Party or a member of parliament?---I think it would be fair to say probably I had views, as did others in the office, about that. But those are the sorts of things that, frankly, ministerial staff don't make calls on. Those decisions are made by the individuals or the Liberal Party or other colleagues. There were certainly views being expressed about, you know, should he stay in the government, should he go to the crossbench, should he resign – everyone had a different view.

When you say views on your part, I take it that would be a forthright adverse view. Is that fair?---A forthright adverse view?

Adverse view of Mr Maguire and, in particular, of whether or not he should remain in any of the offices we've just identified?---I would have been pretty clear on the fact he shouldn't be a member of the Liberal Party and

probably should sit on the crossbench. It's, I don't remember what my view was as to whether he should resign and cause a by-election. There's always two different views on that. There's a, there's a view that says you've been elected to serve your community, so therefore do your full term. And then there's a view that says somebody has done something adverse and it's better that they are no longer in the position that they're in. I, I don't remember what my view was on that.

10 But in terms of dealing with the mechanics of questions like should he remain a parliamentary secretary or should he remain a member of the Liberal Party, do we take it from what you said before that was matters that were being dealt with by others, you might have had a view about it, you might have been asked your view about it, but in terms of taking the running of those matters, that was dealt with by others rather than by you?---Yes. Well, I think I'm right in saying the only person who has a prerogative in stripping somebody of a title, like a parliamentary secretary role or a ministerial role, is the Premier. More often than not, people see the writing on the wall and they resign rather than have it stripped from them and I, I couldn't tell you which happened then. I, I think Mr Maguire resigned, from  
20 memory.

In terms of things like public statements and the like that was dealt with by others and not by you. Is that right?---No, I would have fed into whatever public statement that Mr Barilaro put out. Again, I think my team would have probably helped him with that or worked with his office on that, given, as I say, from memory, Mr Barilaro had to go out and do a media conference at 6 o'clock or so at night. There would have been a statement issued shortly after, I think. So, no, my team probably fed into that. I would have only fed into it verbally. I wasn't in the office working on it, so  
30 - - -

I'll just show you Exhibit 375 in volume 34, page 103.---Sure.

It will just come up on the larger of the two screens in front of you in a moment.---The larger? Okay.

And if you wouldn't mind just trying again to either put your voice up a little bit more or just getting slightly closer to the microphone although perhaps after you've looked that document on the screen.---I feel like I'm  
40 sitting on it.

Exhibit 375, volume 34, page 103. I'm going to show a public statement of Saturday 15 July, 2018, under the name of Ms Berejiklian. Do you see there a statement regarding Daryl Maguire published 15 July, 2018 saying, amongst other things, "I was shocked by the events of Friday and spoke to Mr Maguire late that afternoon," et cetera?---Yes. Yes.

“To express in the strongest possible terms my deep disappointment”. Do you see that there?---Yes, I do.

Do you recall whether you had any involvement in the preparation of this statement or was that left to others?---I actually don't know. As a, as a matter of course probably given the nature of it I would have seen what had been drafted and I might have commented on it. I doubt I prepared the whole release. I had a very experienced Head of Media, and you spoke with Mr Burden earlier today, but as a matter of course it probably would have been something done between Mr Hazzard and Mr Burden and myself. Sometimes the Premier used to write those as well but I, I don't, I just don't recall who actually wrote it but I probably would have seen it.

What was your next involvement in the aftermath of Mr Maguire's evidence of 13 July, 2018?---Well, I'm not sure of the order of everything that happened, but obviously from a government point of view I think it was several days later that Mr Maguire made the decision to actually step down from parliament altogether and so it became clear that the government would be fighting a by-election. There certainly then were, you know, several weeks of activity as the government tried to work out what it would do, you know, which candidate would run. There were discussions about whether it would be a Liberal Party candidate or a National Party candidate, and this is a little out of my domain because obviously the, the parties take over as well at this point but I think, you know, the Liberal and National Party did polling. I think there was testing of names for potential candidates, all those sorts of things, but meanwhile for our office and for other ministerial offices it became a question of, well, is there anything we should be looking at to propose for the seat of Wagga that we think would be, you know, reasonable announcements for the seat of Wagga. Just the normal – I realise it sounds terrible but it's the normal run of the mill for when a, a government of any persuasion is fighting a by-election. Your attention turns to what do you need to do to convince the constituency of Wagga, that probably felt quite let down by their local member at that stage, that the government was doing everything they could to look after those people. So I was probably in any number of conversations about possible announcements and things like that.

I'll come back to election announcements separately, but before we get to that, did you take any steps regarding the question of whether there was any information that those in government might have that might be of relevance to this Commission, having regard to the evidence that Mr Maguire gave on 13 July, 2018?---I don't fully understand your question. I think the answer is no but I might ask you to say it a slightly differently way.

Mr Maguire on 13 July, 2018 gave evidence before this Commission that resulted - - -?---Oh, yes, I did.

- - - in some significant political controversy. Correct?---Yes, yes.

Did that lead you or, to your knowledge, anyone else in government to in effect stop and reflect and go, well, hang on, do we need to assess whether there are any additional matters - - -?---Yes.

- - - that should be the subject of provision of information to this Commission or perhaps a formal report of some kind to this - - -?---Yes. Yes, it did. Sorry. Now I understand your question. One of the things that I did do, and it was triggered by a phone call from the Department of Premier and Cabinet where they drew my attention to the fact a previous operation of this Commission had meant that there were ministerial officers and staff that may have seen or heard things that concerned them, and so they suggested to me that we put a similar mechanism in place for the ministerial officers in the Berejiklian/Barilaro Government. So at the first chiefs of staff meeting that I had after all of this happened, and I just couldn't tell you precisely when that was but we'll say probably a week after, I said to all my fellow chiefs of staff, "Please make sure that you tell your members of staff that they should feel completely comfortable and in fact should be encouraged to come forward if they have any concerns about Mr Maguire. Obviously we've learnt things that none of us would have expected of Mr Maguire and we want to make sure that everybody knows that if they have things to report that they should." And we set in place a situation that it meant that all ministerial staff, or for that matter anybody but I was communicating with chiefs and through them to their staff, they could go to DPC and pass on any concerns that they had and that DPC would then refer those automatically to the Commission.

And so is that in effect in the nature of an arms-length process at least from the political arms of government - - -?---Oh, absolutely.

- - - if there is any report, if there is any information to be provided that's provided to the Department of Premier and Cabinet. Is that right?---Correct.

Do you know whether that discussion actually lead to the making of any reports or provisions of information?---I learnt subsequently that it had, I forget which inquiry or something that I attended, but somewhere I have learnt that, yes, it did. Apparently, I think there were two, two separate reports given by two different staff, two staff members, and at least one of them was the subject of the discussion we had this time last year when I was here.

I'll just show you a document that might be relevant to that evidence you've just given. Can we go please to page 451 of volume 33. Volume 33, page 451. If we zoom into the top half of the page, please. Do you see a document there entitled Briefing for the Premier?---Yes.

Do you notice that it appears to have been printed on pink paper?---Yes, I do.

Is there any significance in the fact that it's printed on pink paper as opposed to some other colour?---I can't speak to why it's pink but what it means is it's an official brief that's come from the Department of Premier and Cabinet to the Premier.

Does that mean to the Premier's Office or to the Premier her or himself?

10 ---So the normal course of events would be that briefs would come through the office before they went to the Premier, but there were a handful of exceptions and this was one of those ones that I think comes from, usually would come from the secretary's office, and therefore when it comes from the secretary's office it would go straight to the Premier, given the nature of the information.

So is this right – a what's sometimes referred to as a ministerial pink is a brief for the minister or the Premier, as opposed to just general information for the office more generally, is that right?---Yes, that's correct.

20 Sometimes it goes through the office, it might come from, for example, the department to someone within the office, perhaps the chief of staff, and then onto the minister or the Premier, is that right?---No, well, I can't speak for every ministerial office, but certainly from the Premier's Office we have what's known as departmental liaison officer, and the DLO is actually an employee of the Department of Premier and Cabinet, and the DLO is the person that all the briefs go to, the pink briefs, and then he or she would then distribute them to the relevant adviser, depending on the subject matter. And then, as we discussed before, more often than not those briefs would eventually come through me, but not every one of them would. But this one, this is different, this is one that has come from either secretary's office  
30 or potentially the legal counsel, and so this would have gone direct to the Premier's Office, as in her actual office.

So is this right, there's a category of pinks that will come from the department, in effect, directly to the Premier as opposed to in the slightly more circuitous route that you just identified?---Yes, if they're regarded as, I suppose sensitive would be the way to put it.

40 And is this right, briefs – I withdraw that. Why does this particular one fall within that special category of being sensitive? Is that because it's coming from the legal group or is that for some other reason?---It could have been either. I'm not sure whether it's possible to scroll down.

Yes, we'll just scroll down.---Because if I can see who it comes from, I'll be able to answer that as well.

If you just scroll down, please, to the bottom half of the page. See where it says "DPC Final Approval"? See that there?---Yes, yes, so it's come from the General Counsel. So, as I said, briefs that usually come from the

secretary or, for that matter, from the General Counsel, not just the broader legal team, usually if they've been signed off at that level it means that those senior people want to ensure the Premier gets that brief.

So does it follow from that that this particular document I've put up on the screen is not a document that you would have necessarily seen at the time, at or around the time it was sent up?---I don't think I did see it at the time, I don't think I did.

10 And so doing the best you can, you didn't actually see it at the time that it came up to the Premier's Office, is that right?---No, but it's consistent with conversations that I had had with them, which I alluded to before.

So let's just have a look at the text of this document. The purpose says "To inform the Premier that the Secretary of the Department of Premier and Cabinet is providing information to the ICAC that may be relevant to Operation Dasha."---Ah hmm. Yes.

Do you see that there?---Yes.

20

Then the first dot point underneath the heading Background says, "Operation Dasha is a current investigation by ICAC into Canterbury City Council and other public officials. Mr Daryl Maguire has announced his intention to resign as a member of parliament as a result of this investigation." Do you see that there?---Right. Yes.

30 So that's the context, is this right, that's the context as you understood it from, as you understand it in relation to this pink that, in effect, by reason of the meeting that you had with the chiefs of staff, there was an invitation for people to make any reports or provide any information that they thought was appropriate in those circumstances, and this is in effect a notification to the Premier that that course has led to an announcement or lead to a report being made or at least information being provided to this Commission. Have I got that right?---Yes, that's correct, that's how I read that brief.

But if you just have a look at Consultation it says, "Legal Branch has consulted with the Premier's Office (S Cruickshank and M Crocker) in preparing this brief." Do you see that there?---Yes, yes.

40 Does that mean that you were consulted in the preparation of the text of the brief or do you read that as meaning something else?---I'm 100 per cent clear we were not consulted on the text of the brief. I believe that relates to the conversation that I told you about where I had a phone call from the Department of Premier and Cabinet suggesting that this would be an appropriate course of action and I said yes.

So at least as you read it, the reference to "consultation" is a reference to that earlier consultation that set up the process as opposed to any

consultation in actually drafting the brief itself, is that right?---Yeah, that's my belief, yes.

In your experience, would the office of the Premier ordinarily be given an opportunity to or not to contribute to the text of a brief being sent up by the General Counsel of Department of Premier and Cabinet?---No. Not, not of it was coming from the General Counsel. I think the general, I wouldn't want to speak for the General Counsel but I would imagine the General Counsel would find it offensive at the idea that ministerial officers might  
10 tell her or him how to write a brief. So, no, I don't believe that, I don't believe the text would have been consulted on.

And then if you have a look a bit further down the page, see there's a box called Premier's Comments?---Ah hmm.

I take it you recognise the signature on the left-hand side as being Ms Berejiklian's signature?---Yes, I do. That's correct.

And the note that we can see on right-hand side, that's, at least so far as you  
20 can ascertain, in Ms Berejiklian's handwriting?---Yes, that is definitely her handwriting.

And it says "The secretary's role in this instance should be replicated for all future declarations." Do you see that there?---Yes, I do.

And so just to understand as a matter of mechanics how a pink like this works, so she, or at least someone, has circled "Approved and noted" and then written "The secretary's role in this instance should be replicated for all future declarations." Who is that an instruction to? Is that an instruction  
30 going back to the department or is that an instruction to her office or how does that work, at least as a matter of practice?---No, that's -- so as a matter of practice, the pinks are always returned to the department. So, I would interpret that as a note to the department. I'm actually not 100 per cent clear on what that means now I read it but, "The secretary's role in this instance should be replicated for all future declarations." Is there a reference to the secretary further up?

Well, if you have a look at the recommendation, "Note the DPC has been  
40 informed that a ministerial adviser holds information that may be relevant to Operation Dasha and that the secretary of DPC will provide that information to ICAC." Do you see that there?---Yes, yes. That makes sense that that's what the note refers to.

So at least as you read it sitting there now, that's an instruction that the secretary should, in effect, continue to provide information to ICAC as it might be provided through the process that you set up?---Correct.

I tender the briefing for the Premier that appears on page 451 of volume 33.

THE COMMISSIONER: Exhibit 480.

**#EXH-480 – MINISTERIAL BRIEFING TO THE PREMIER TITLED  
'PROVISION OF INFORMATION TO THE ICAC' DATED 25  
FEBRUARY 2018**

10 MR ROBERTSON: I think you said that there may have been two  
examples of information that may have been provided as a result of the  
arrangements that you set up following the suggestion from the General  
Counsel, is that right?---I, yes, but I think I learnt that from a different  
forum. I think I learnt that from a related parliamentary inquiry.

Not something that you necessarily knew about at the time, is that right?  
---No, no. I didn't know about it at the time and in fact I'm struggling now  
to remember who the second one was. The first one, the first person,  
without naming them, was someone who you asked me questions about last  
20 year as it related to Mr Maguire's attempt to go to China and I've actually  
forgotten what the second one was, yep.

So you're drawing attention to the fact that during the first public inquiry  
there was evidence regarding Mr Maguire in effect threatening to make a  
trip to China and that was the subject of some intervention, I think,  
including by you, is that right?---Yes, that's correct.

And so at least one of the matters that was reported as a result of the process  
that you set up with the assistance of the lawyers in the Department of  
30 Premier and Cabinet involved providing that information to this  
Commission, is that right?---Yes, that's right.

And can we go, please, to page 475 of volume 33? I'll show you another  
pink. Can we just zoom into that document? We'll see one in a fairly  
similar form to the one that we saw before. Third dot point under the  
heading Background, there's a reference to section 11(2) of the ICAC Act,  
saying that "Ministers and the principal officer of a public authority have a  
duty to report to the ICAC any matter that the minister or principal officer  
suspects on reasonable grounds concerns or may concern corrupt conduct."  
40 Do you see that there?---Yes, I do, yes.

And then if we go a little bit further down.---That seems to be the Minister  
for Trade one that I referred to, yep.

And then see there in the Premier's Comments box, it says, "Noted."---Yes.

Do you recognise the handwriting in that box?---I believe it's, I believe it's  
the former Premier's.

Ms Berejikian?---Yes, it looks like it, yes.

And then if we scroll a little bit further down, see there's a note that says, "Return by Premier's Office."---Yes.

Do you recognise that handwriting?---No, I actually don't recognise it, but as I have said to you, I know from another forum whose it is.

10 There's a little thing that looks like initials there that look very similar to SC. Is that initials that you've affixed or is that initials that may have been affixed by someone else?---No, they're not my initials. It was revealed in another place that they are the initials of the assistant, whose initials are the same as mine, who worked for Karen Smith, who was the Legal Counsel.

So this is not you signing off anything in relation to this particular pink?  
---No.

20 And is this right, as a matter of practice, this isn't something that would be likely to go through your hands in any event, it's a pink of a - - -?---No, I don't think it would have.

- - - to use your phrase, a sensitive nature such that at least as a matter consistent with the practice, it would likely have gone to the Premier herself and back to the Department of Premier and Cabinet without it necessarily going through your hands at all, is that right?---Yes, I think that's correct. And just to be clear, there was an executive officer who sat outside the Premier's Office and so, from time to time, if the secretary of the department or the Legal Counsel area had a sensitive brief to deliver –  
30 disclosures and things like that, for example, come to mind – they would go direct to the executive officer and then into the Premier.

Not through the - - -?---Not through the usual.

- - - ministerial office chain, as it were, through, for example, advisers, directors, chief of staff, et cetera.---No. No, correct.

40 Commissioner, I tender the document on the screen, being document entitled Briefing for the Premier, Provision of Information to the ICAC.

THE COMMISSIONER: Exhibit 481.

**#EXH-481 – MINISTERIAL BRIEFING TO THE PREMIER TITLED  
'PROVISION OF INFORMATION TO THE ICAC' DATED 1  
AUGUST 2018**

MR ROBERTSON: Jumping back to something you started to mention before about the by-election period in the electorate of Wagga Wagga in the light of Mr Maguire's resignation. Who was it within the office of the Premier who took principal responsibility amongst the advisers in relation to things like what election announcements might be made during that period, or by-election announcements might be made during that period?---So there was potentially a couple of people who would have taken the lead on that. I think it probably would have been Brad Burden, who was the Director of Strategy, but I think there's also a chance that it was Neil Harley, who was the head of the Parliamentary Liaison Office. In terms of, I suppose, I wouldn't say decisions but discussions around what would happen, you know, what, what the government might choose to do over the next sort of whatever it was, five weeks, six weeks of a by-election, there would have been senior team discussions about that. So whilst they would have taken the lead, and I do, I think it was, I think it was Mr Burden who would have taken the lead in terms of liaising with the Liberal Party as well about the by-election, but we all would have fed into the conversation, so there would have been, you know, multiple of us, including myself, who would have had discussions about, you know, which ministers are going down, what announcements will be made, those sorts of things.

You're aware, I take it, that one of the by-election announcements that was made during that period was an announcement concerning the Riverina Conservatorium of Music?---I am. But I don't, I don't have clear recollections of the detail of that. I just remember that it was one of a number of announcements. The ones that are the most clear in my mind are we knew that there were concerns about health services in the area, and so the ones that stand out for me the most are actually around the Wagga Hospital, and I think there were also some smaller health services that we announced during that time, and also some road ones, but I know the Riverina one was one of them.

Did you have any involvement in the question of whether the Riverina Conservatorium of Music should be the subject of a by-election announcement or not?---Not beyond what I've just said, which is there would have been a conversation about, you know, we need, need an announcement on this particular day. This is a project that is, whatever, supported by the community or whatever reason would have been put forward as to why it was a good project.

Do you recall whether you indicated any support or otherwise in relation to whether or not there should be a by-election announcement in relation to the Riverina Conservatorium project?---No. No, I don't. I don't remember. I suspect my contributions would have been about we have to make sure we have certain announcements. There was certainly a callout, for want of a better word, to different ministers and their officers to say, you know, "Who has projects in Wagga?" I think I referred to this before. "Who has projects in Wagga? Are there things that we could either bring forward or that are

important projects on the ground?” So I would have been involved at that kind of level, and so in that context absolutely the conservatorium would have come up, but the details of how much and to who and all those sorts of things, no.

10 You certainly don't have a recollection of positively supporting or otherwise the question of whether or not that should be the subject of an announcement, is that right?---No, I don't. I suspect I would have just, as I say, been in the conversation that would have said that looks like a reasonable announcement, happy to put that in the program of announcements but, yes.

20 The running of the question of what announcements might be put forward was dealt with by others such as Mr Burden and Mr Harley, is that right? ---Yes, but in fairness to them, you know, we used to meet as a senior team every few days, if not every day, on just as a matter of course for running of the office. So, you know, whilst they would have, one or both of them would have taken the running with, is this an important project the community and, yes, we think it should be an important part of the by-election, I would have had visibility and I guess been involved in conversations but I didn't have a firm view on the project itself.

30 I take it that the ultimate decision-maker, at least as you saw it, within the office of Ms Berejiklian was, in relation to whether or not there should be an announcement, was Ms Berejiklian herself?---I think that's right because we used to, even outside the by-election we used to sit down as a senior team with the Premier on a weekly basis and go through, you know, what are the media announcements for the government in the week ahead. So, I don't remember specific meetings on it, but my suspicion is that we would have done exactly the same thing throughout the by-election period. So she would have said whether or not she agreed that that was a project that should be announced or not. I'm not sure she did announce it in the end. I think it was actually the relevant minister who announced it. There was a succession of ministers who went down to Wagga during that period of time.

40 There's some evidence that Minister Harwin may have in fact made the announcement, is that consistent with your recollection?---Yes, I think that's probably right. I think that's probably right.

Do you happen to know whether Mr Maguire was consulted on whether or not the RCM project was one that should be the subject of a by-election announcement?---No, I don't know. I'd be surprised if he was. He certainly was a proponent though of the, what I would call the first stage of the project, because I remember the discussions about the conservatorium back early when the Premier first became Premier. I remember that it was one of the projects that Mr Maguire wanted her to go and have a look at the site.

So you have a recollection of Mr Maguire, what, engaging in some lobbying with the Premier's Office in relation to that particular project early in Ms Berejiklian's time as Premier, is that right?---Yes, I do, but along with every other MP who used to lobby the office for their projects and used to lobby for the Premier to come and visit them. But in that context, yes, I remember Mr Maguire talking about the conservatorium.

10 One of the teams within the office of the Premier, at least in the time that you were chief of staff, is a team called the Parliamentary Liaison Office, is that right?---Yes, that's correct.

Is that right that that's the principal place at which members of parliament will ordinarily make contact with the Premier's Office?---Yes, yes, it's not the only place but it's the first point, yeah.

20 So when you say it's not the only place, what are the circumstances in which one might, as a member of parliament, might approach the Parliamentary Liaison Office and instead approach somewhere else within the office of the Premier?---So I'm not saying they wouldn't still approach the Parliamentary Office. I guess what I'm saying is depending on the nature of the issue. If it was a policy position that they felt strongly about, they might go to somebody in the Policy Team. If it was a, I don't know, media issue, they might also go to the Media Team. But certainly the normal entry point, if you like, for backbench MPs who had projects that they were interested in getting support for, they would go through the PLO.

30 Was Mr Maguire someone who sticks out in your mind as being particular vociferous in his - - - ?---Yes.

- - - attention or at least in his advocacy at the level of the Premier's Office? ---Oh, actually, no, I don't think any more or less than other MPs, I think it was his manner was very strident.

40 Was that strident communication always or almost always through the Parliamentary Liaison Office, at least as you understood it, or was that strident advocacy through some other efforts within the office?---I think he spoke to a few people. We had one staffer who had also worked for him in the past, so he certainly spoke to that staff member.

You're referring to Mr Zach Bentley?---Yes, I am. I am referring to Zach. I think, I feel for Mr Burden when I say this, but I have a feeling he used to also speak to Mr Burden and, and obviously spoke to Neil and the PLO. He didn't tend to talk to me very much. I suspect - - -

But you're aware – is this right, you're aware that at least from time to time Mr Maguire was making contact with your staff with a view to pushing particular projects?---Yes.

One of those projects was the early stage, the stage 1 of the Riverina Conservatorium project. Is that right?---Yes. But my recollection of that, as I said, is less the specifics of the project and more about, I remember when the Premier was going down to Wagga for a regional visit and I think she may have gone on to Albury at the same time, what we do, what we used to do was we – we, the PLO – would work closely with local MPs to design what that visit would look like, and my recollection is the conservatorium was one of the sites, if you like, that she was asked by the local member to go and visit, meet with the proponents, just probably do media. I can't remember.

So other than a, in effect, general recollection about that being on the hit list of a visit to Wagga, do you have any recollection of any other involvement in the, what I'll call the RCM project either at that early stage 1 stage, or also at that later stage associated with the by-election commitment?---No. No. Only that it became an announcement but not the details of how it became an announcement.

20 Just pardon me for a moment. Commissioner, I'm told there's some technical difficulty. Can I request a brief adjournment whilst that is investigated and I hope fixed.

THE COMMISSIONER: Very well. We'll adjourn.

### **SHORT ADJOURNMENT**

**[2.31pm]**

30 THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: I'm sorry about that delay, Ms Cruickshank. We were talking about the Riverina Conservatorium project. Have we now exhausted your recollection of any involvement associated with that project?---I think so, yes.

40 So, in effect, a general recollection at what I'll call the stage 1 stage of it being a project that Mr Maguire was attempting to get the Premier's Office interested in. Is that right?---Yes, getting the Premier and the government interested in, yes.

And getting the Premier and the government or getting the Premier to the site itself during the course of one of the visits. Is that right?---Yes. Yes, that's correct.

And getting the government interested in the project more generally?---Yes, that's correct.

And a recollection of some general discussions during the course of the Wagga Wagga by-election but you not being involved in, in effect, the day-to-day. Is that right?---Yes. The way I would characterise it is I, I think I recall being in conversations where one of the announcements we were going to make related to the Riverina Conservatorium, but as to the detail of how much money, whatever the plan was that sat behind stage 2 I think you've called it, I wasn't involved with that.

10 You weren't either pushing stage 2 of the RCM project as I've called it or  
- - -?---I was definitely not pushing it.

- - - pushing against it?---I, I don't recall what I would have said about it but I certainly wasn't pushing for it.

You're aware that one of the other matters that this Commission is investigating is grant funding that was promised and/or awarded to the Australian Clay Target Association 2016/2017?---Yes, I am.

20 Do you have any recollection of any involvement associated with that  
promise or award of funding?---Not very much. And I've obviously learned a fair bit over the last eight days or nine days listening to the Commission. But at the time, no, I don't remember any specific conversations about it. I don't remember anyone, I don't remember Mr Maguire raising it with me. I don't remember the Premier raising it. And I think from what I've learned over the last little while, many of the discussions predated my time in the Premier's Office and, in fact, predated the Premier being the Premier.

30 So but listening to the evidence you've just referred to, does that jog any  
memories at all as to any involvement that you may have had associated with the Clay Target Association, any funding to be advanced to it?---No, it doesn't. I'm not sure whether or not I'm supposed to refer to evidence that I suspect you're about to show me. I have some comments to make obviously on that related to one of the other witnesses which I think is probably helpful, but I'm happy to wait till when suits you.

Well, let me try and anticipate what you're going to refer to. Page 232 of volume 26.6. I'm going to show you an email from a Mr Barnes at that point of Regional NSW within the Department of Premier and Cabinet, 10 May, 2017. Do you see there an email from Mr Barnes - - -?---Yes.

40 - - - to you, copied to Mr Hanger, "Hey, Sarah, as you might have heard, the initial BCR on this project came back well shy of 1.0 which presents a problem as decision was carve out of Restart." See that there?---Yes, I do. Yes.

And then there's a reference to a backup position in the second paragraph, "Backup position will be to take from the new local infrastructure fund." See that there?---Yes.

Now, was this the or at least one of the documents that you had in mind a moment ago when you said that there was something that may be of assistance?---Yes, it, it's one of them. I actually am not sure that I've seen that one before, but I think you've shown me another one, and as I - - -

THE COMMISSIONER: It's addressed to you, Ms Cruickshank.---Beg your pardon?

10 It's an email to you.---Yes, I know. I can see that. I can see that. But I didn't, when we had a conversation last month, I didn't actually recall any emails about that, but I accept this has been sent to me. I can give a bit of background, now that I see this bit, "backup position will come from the new local infrastructure fund". I think there's a little, there's some context that some other people who have appeared have probably alluded to. But from one of things I remember when I first became chief of staff to the Premier, who was a new Premier, and it was a relatively new Deputy Premier, there were quite considerable discussions about how there was a feeling that regional New South Wales wasn't benefiting from the economic  
20 wellbeing that Sydney was, and there was quite a focus on how do we make sure that regional New South Wales feels the benefit of the economic success of New South Wales. I'm using the language of the government at that time. And as a result of that, a series of different funds, the names of which I'll forget, but one of them was focused on regional infrastructure, one was focused on local government, one was focused on cultural institutions, et cetera, et cetera, those funds were established with a view to making it possible for regional organisations to tap into money that was available, and in a way that wouldn't require them to go through the very stringent Restart process that was connected to Treasury, which required  
30 BCRs over 1, which, as I've said before, is not my area of expertise. But there was a general desire to create the opportunity for local communities and organisations to be able to apply for funding. So when I look at that email, I think that's what that second paragraph is referring to, which is that, yeah, the first paragraph talks about how the BCR is less than 1, and therefore we'll look at the local infrastructure fund, which Mr Barnes (not transcribable)

MR ROBERTSON: But what I'm trying to understand is why is Mr Barnes telling you about the status of the initial BCR on the project? He's letting  
40 you know, the chief of staff to the Premier, in circumstances where, as we can see if we scroll down a little bit further, Mr Barnes at that point in time is the Deputy Secretary of Regional NSW, which although it's part of the Department of Premier and Cabinet, it has its own minister, being the Minister for Regional NSW, at that point in time Mr Barilaro.---Yeah, so I'm not, as I said when we spoke previously, I'm actually not sure why he sent me that email. I certainly, I don't believe I asked for it, I don't believe I'd asked for any update on that particular project because I don't think I had any real awareness of it. But what I had been going to say was when I

heard Mr Barnes speaking at the end of last week, something did resonate for me, which was he said something along the lines of as a matter of courtesy he would let the Premier's Office know if there were Liberal members who were receiving funds, and that, that makes some sense to me because most of the regional electorates that were receiving funds were held by National Party. There was only a handful that were held by the Liberal Party, of which Wagga was one. So I guess when I heard him say that, I thought, well, that makes sense as to why he might have sent that to me.

10 But this email seems a little bit more than that or at least a little bit different to that. It doesn't seem to be so much saying, well, there's going to be some money advanced to a Liberal seat, but rather seems to be updating you on the toing and froing of an actual BCR. See that?---Yeah, so I'm, I, I'm not sure why he sent that to me. I just, I can't say. I don't recall receiving it. I can see that I did receive it, but I don't know, I don't know why he was telling me that because, in the normal course of the office, I didn't look after specific projects like this, so - - -

20 And is this right, in the ordinary course of the office, someone like Mr Barnes of Regional NSW would be reporting in to the portfolio minister's office, being the Minister for Regional NSW, rather than the cluster minister's office, being the Premier's Office?---Not exclusively because at that stage he was, as you say, a deputy secretary within Department of Premier and Cabinet. So the Premier used to have semi-regular meetings with all of her deputy secretaries, so I used to see Gary in the context of those meetings, so it's not unusual that he would keep the office informed. I'm not sure why he was telling me about this particular project, though.

30 So at least a little bit unusual keeping you informed as chief of staff, is that right?---Yeah, I do think it's unusual, and as I said to you, I don't recall receiving the emails but I can see it has been sent to me.

I mean, ordinarily if someone like a deputy secretary to Regional NSW, where there's a separate portfolio minister, to the extent that they're giving any updates, they would do it through someone a bit lower down the chain than the chief of staff, is that fair?---Um - - -

40 Perhaps to a policy adviser as distinct from someone at the almost top of the tree?---Well, normally I would say, if it wasn't for this odd exception that Regional NSW at this stage sat within Premier and Cabinet, normally I would say it's a little bit unusual for public servants from one ministerial responsibility to actually be updating any other officers other than their minister, their own ministers, but this is, this is, it is a slightly unusual scenario and I think to be honest is where the genesis of creating a separate department of Regional NSW came from, because it was a little bit off that there was a deputy secretary with a team of people working in regional issues whose primary minister was the Deputy Premier but which technically sat within the Premier and Cabinet cluster.

Do you recall whether anyone within Premier Berejiklian's office indicated either directly to the Department of Regional NSW or perhaps to the portfolio minister's office, in this case Minister Barilaro, any particular interest or priority in relation to the Clay Target Association project?---No, I don't, I don't.

10 Not a recollection you've got one way or the other, I suppose?---Yeah, no recollection one way or the other. Doesn't mean that someone didn't. I mean, I had 35 people in my team but I don't have a recollection of any conversations about clay pigeons.

I tender the email from Mr Barnes to Ms Cruickshank, 10 May, 2017, 9.31am, page 232, volume 26.6.

THE COMMISSIONER: Exhibit 482.

20 **#EXH-482 – EMAIL FROM GARY BARNES TO SARAH CRUICKSHANK REGARDING WAGGA CLAY PIGEONS DATED 10 MAY 2017 9.31AM**

MR ROBERTSON: If we just go to the next page, page 233, I'll just show you your response to Mr Barnes' email. Zoom in to the middle of the page, please.---Yes.

30 And it says, coming back about 14 minutes later, "Hi Gary. Thanks for the updates on the pigeons (!)" Do you see that there?---Yes, I do.

At least as I read it, and I may have this completely wrong, that seems to be a form of punctuation expressed by way of some kind of a surprise. Is that right?---It is, and you have asked me about that before I, I still don't know why I would have put an exclamation mark. The only thing – I don't want to be rude to Mr Barnes. The only thing I wonder is was I being cheeky about the fact he misspelled pigeons but I just, I, I don't know, I really can't enlighten on why I put an exclamation mark.

40 Is it a possibility that you've seen Mr Barnes' email and you're thinking, well, as chief of staff of a government in the 100-odd billions of dollars, the chief of staff of the Premier is spending time looking at things to do with clay pigeons?---I, I could have but I honestly, I just don't remember. I don't remember why I would have, yeah. It, it could well have just been surprise on my part that I was getting the email but I just, but as you have shown me – look, I just don't know. I don't know. The second part of that email makes more sense to me though, and it goes back to what I said earlier, which was there was a high-level view that Regional NSW was not benefiting and so therefore these grants were established. There was also

another discussion that I remember both the Premier and the Deputy Premier being involved in, which was a general one which said, and when these grants programs are established, let's not make organisations have to apply multiple different times to multiple different grants funds, because some of them were reasonably similar in terms of guidelines, let's make sure that, you know, if someone applies for one and they're not eligible for one, that we make it as easy as possible for their application to be transferred to another more appropriate fund. So, so as I say, the second part of my response makes more, makes more sense. And then - - -

10

And so that's - - -?---And then I've left it with Mr Barnes actually. I've said, "So if your view is pigeons fall into this category, I can't see any problem with the approach you suggest." So - - -

But you're not expressing a particular view as to whether what you describe as pigeons is a good idea, bad idea or anything in between?---No. I wouldn't have had the faintest idea about it.

20

If we then just scroll up the page a little bit further, please. Mr Barnes emails back within pretty short order and says, "Thanks mate" colon "I will keep you updated."---Yes. He'll keep me updated. Yeah, I know. I don't know what he, I don't know what - - -

30

Can you assist as to why Mr Barnes appears to think that you're interested in being kept updated on what seems to be the toings and froings on a question of clay pigeons?---No, I, I really don't. I, I don't know, I don't know. I don't believe I ever had a conversation with him, as in a specific one. I don't believe I ever said, "Can you please keep me updated." I don't believe so I ever said "It's very important." But I just don't see how it is very important to be quite frank. No disrespect to the organisation.

40

Well, that's really the question I'm asking you, whether you're able to assist the Commission at all in indicating why it appears, at least from Mr Barnes' perspective, this is an issue he thinks he needs to keep you, the chief of staff to the Premier, the Premier of a very large government, up to date with respect to a particular project in Wagga Wagga?---And I can't enlighten you. I mean, Gary, Gary may well be able to, but I, I wonder whether it's because I knew Gary from my previous role or I was known to be connected to Premier and Cabinet because I was seconded from there, but I really just don't know. I just don't know why he was feeling the need to update me because I don't remember having any specific interest or even passing interest in the Clay Pigeon project. That remains the case today.

I tender the email from Mr Barnes to Ms Cruickshank 10 May, 2017, 10.30am, page 233, volume 26.6.

THE COMMISSIONER: Exhibit 483.

**#EXH 483 – EMAIL FROM GARY BARNES TO SARAH  
CRUICKSHANK REGARDING WAGGA CLAY PIGEONS DATED  
10 MAY 2017 10.31AM**

MR ROBERTSON: Could I just go back to the conversation that appears to have occurred on 13 July 2018 after Mr Maguire gave evidence before this Commission. You've, in effect, summarised it in general terms, but doing  
10 the best you can, can you identify what you said during the conversation and what Ms Berejiklian said during the conversation, appreciating it was some time ago and you're not going to be able to get the words completely right, but at least as best you can, can you identify what words or what words to what effect were said by you and what was said by her?---I will struggle to do that because it was quite a while ago. I know my distinct recollection of the call is I was at dinner, I stepped away to take the call. I don't remember how the conversation started, for all I know we may have discussed, obviously, the happenings of the day, which was the Operation Dasha, I just don't know. What I remember most though was that the Premier said to me  
20 what I said before, that she had a, she definitely used the word historic, I don't know if she said relationship or friendship, but I'm using the word relationship, historic relationship with Mr Maguire, and then she quickly said to me, and it was quick because I remember it pre-empted me asking any questions, and she said, "But it was over before I became Premier," and  
- - -

I just want to be quite clear. You're quite clear that she said to you something like, "It was over before I became Premier"?---I'm quite clear.

30 You've got a clear recollection of that aspect - - - ?---I have a clear recollection of her saying it. And, and I don't, I don't have a clear recollection of what I would have said in response. I could guess what I might have said in response, which probably would have been along the lines of "What on earth are you talking about?" But that's by the by. I don't know that I said that. And then I remember her saying, "This mutual friend said I needed to tell you because you're my chief of staff and you need to know." And then I do remember we had a little bit of a conversation, and by that I mean a few sentences of, you know, "There's a chance somebody might have seen me with Mr Maguire," or with Daryl,  
40 "There's a chance someone might have seen me with Daryl maybe having lunch, maybe having dinner. I just need to let you know." 'Cause from a, from a newsworthy point of view, it's clearly potentially newsworthy if a member of parliament has suddenly been engulfed in a scandal, and then if that person was no longer just a member of the government but actually somebody who was a close friend of the Premier, and so that was my takeout of the conversation as to why I was being told.

But you're quite clear in your mind that the conversation didn't carry with it some request for advice, what do I do with this information - - -?---Quite clear.

- - - do I need to do anything in light of this information? It was more in the nature of information, something that the mutual friend said is something that her chief of staff, being you at the time, should know about, is that right?---That's my recollection, yes.

10 You said before you weren't quite sure whether a word like relationship, friendship et cetera was used. Was anything said about the nature of this relationship, friendship or whatever in the sense of, as you understood it, was it a couple of dinners maybe at some historical time in the past versus something more serious? Did you get a - - - was there a - - - ?---I think - - -

- - - discussion about it or did you get an inclination about that based on what had been said?---I don't remember a detailed discussion about it. I think, I think I would say, I left the conversation with the impression that it was more than just a few dinners, but that it was, it was close but not, how  
20 would I say this, I, I didn't get the sense it was a full-blown intense relationship but, but I'm just reading that. I, like, I don't, I don't know. That was the impression I left, I, I, the, it's awkward talking about this. The impression I had was that it was because she had said it was in the past, she had been close to Mr Maguire, there had been something but what that something was and the extent of the something, I don't know and that, as I say, she was concerned that people might have seen her with Mr Maguire and therefore in the context of him now being engulfed in a scandal that she would somehow be insinuated because of that. That's, that's how I left the conversation.

30 I take it that that information at least came as some surprise to you?---It, it did come as a surprise to me.

And you'd previously given what I might call forthright adverse views to Ms Berejiklian regarding Mr Maguire. Is that right?---I, I did have views on many people, actually, but Mr Maguire was one of them, yes.

And had expressed them to Ms Berejiklian. Is that right?---I had somewhat freely.

40 I take it that you ultimately were surprised when Ms Berejiklian gave evidence before this Commission last year regarding a close personal relationship?---I was very surprised and slightly mortified because I had given some free character assessments of Mr Maguire subsequent to his resignation from parliament.

Is that the only reason you were mortified or was there some other reason you were mortified about that information, as well?---No, that was my main

reason. I was just shocked because I thought, I had no idea that the relationship had according to her testimony here that the relationship had continued into the time that she was Premier or, for that matter, even up until last year, but I'm just quoting what she said here. I just had no idea. And I was somebody who I felt that I had worked closely with her for a period of time after this, so - - -

10 THE COMMISSIONER: And how long had you known Ms Berejiklian at that stage, Ms Cruickshank?---Well, I've actually known Ms Berejiklian since my early twenties but I haven't, we didn't stay in contact for a lot of the period in between. And then when I moved back to Sydney, we crossed paths again because we were working in the same building, so - - -

MR ROBERTSON: So is this right? You had some connection with each other during student politics back in university days.---Yes, that's right.

Is that right?---Yes.

20 And then, in effect, drifted apart for a period of time but then came to know each other a little bit later on?---Yes. And we had some, we had mutual friends and so I would occasionally see her and during, I guess, going back to my earlier comments about what I did or didn't think of what she'd told me about the historic relationship in the time that I had known the Premier, I hadn't actually known her to have a partner during that time at all, so that was part of why I was very surprised.

30 If Ms Berejiklian said to you on or around 13 July, 2018, what she ultimately said to this Commission last year about the nature and duration of a relationship with Mr Maguire, would that have affected anything that you would have done as chief of staff?---Yeah. I would have, it's always a bit difficult to try to say what you would do when you're not that person but I would have, I would have sat down with her and gone through whether or not there were any implications for things that she had done. I wouldn't have had any reason to think there was because I'd not ever seen anything to suggest any favouritism or otherwise of Mr Maguire or the seat of Wagga, but I would have gone through those steps of probably asking a few more questions of her and then I think we would have relatively quickly got to me asking the question of whether or not she'd made relevant disclosures.

40 When you say whether or not she's made relevant disclosures, what do you mean by that?---Well, ministers under the Ministerial Code are required to, I'm actually not an expert in the Ministerial Code but they are required to disclose where they believe there may be conflicts of interest and there's a range of different forums that you can do that. You can either do that in particular meetings or you can do it on a sort of individual register that you have and those are things that ministers do direct with the department, so they're not something I would have visibility of but I probably would have asked her the question, "Have you made those disclosures?"

And presumably got some benefit of some legal advice or assistance as to what, if anything, should be done in light of whatever position you found out about disclosures or absence of disclosures, is that right?---Yes, there's a sequence of steps, if you like, that you would go through, but I, I didn't do those things because I had understood the relationship to be a historic one, not a current one, so - - -

10 You understood it to be in the past before she was Premier, and therefore there were no particular actions that you would have to take, is that right? Or that you should take or recommend should be taken?---No, well, there was no, there was no reason for me to assume she hadn't taken actions in her previous roles, and I wasn't with her at that time. So, no, I wouldn't have thought there was anything. I didn't think there was anything specific that I needed to do on that front, because I believed I was dealing with a historic relationship that predated the time I'd worked for her and predated the time she was Premier.

20 But still, at least on what you were told could have been in operation at the time that she was a minister, albeit not Premier?---Yes, but I had no reason to assume that she hadn't made the right disclosures. I just wasn't the person who would have known about them.

30 Had you found out about the information that Ms Berejiklian told this Commission in the public inquiry last year before Mr Maguire had resigned as a member of parliament, would have that simply led to the kinds of approaches you've just identified about disclosures and the like? Or would have that led you to take any further or other steps?---It probably would have meant I had suggested that there may be optical concerns around anything that, you know, the Premier was involved in that related to Wagga. I don't know that it would substantively have changed anything in terms of decision-making, because as far as I was concerned, any, like the grants we've been talking about today, as far as I was aware those grants were being done in, what do you call it, in accordance with guidelines that were in place and grants. You know, so I wouldn't have thought that there was anything like that, but I would have thought the optics of this is such that you need to be very careful that you're not seen to be potentially doing, making a decision that favours Wagga, and so you manage those things by making sure that if there's a particular meeting about something, then, you know, like a Cabinet meeting or an ERC meeting, that the disclosure or the potential conflict of interest is noted or you would make sure that if XYZ organisation is getting funding, that it's different ministers who sign off. And normally in the course of events it's not just the Premier anyway who would approve something. It's more likely to be the minister or the Treasurer. But you would just, you would put some rigour around those things. So, yes, I think I would have, if I'd known, I would have said we should do more of that.

We should manage this issue in such a way as to avoid any suggestion by anyone that there was anything like improper influence or anything along those lines?---Yeah, correct. And as I say, for optical reasons, not because I thought there ever was any conflict of interest. But I guess that's not for me to make that discernment, but, yeah.

10 Would have you said something like, "You need to tell Daryl that any community organisation who wants to put themselves forward for funding under the myriad of regional organisations funds who we've got going as a government, they can knock themselves out and do that, but you as the Premier will not be able to sign off on those, and you won't be able to be involved in Cabinet"?---I believe you may be quoting me there. Yes, I think that probably is what I would have said.

20 Would have you said something like, or would you have suggested to – withdraw that, I'll start again. Would you have suggested to Ms Berejiklian something like that she suggests to Mr Maguire that she doesn't want to see the specifics of any of the regional development projects concerning Wagga Wagga, and that he should report to the Deputy Premier on that matter and not to the Premier?---Not sure if I did say that, but if I did, okay. Yes, I, well, I just would have said it's important that you just focus your effort. If I had been talking to Mr Maguire about it, I would say make sure that you put your cases forward for whatever particular community projects, but it's very important that you don't seek to involve the Premier in these things. We need to make sure she's always at arms-length, and the end of the day, the relevant minister will make those decisions.

30 Would the information about the relationship – by which I mean what Ms Berejiklian said to this Commission rather than what you say she said to you on 13 July, 2018 – had any impact, at least on your mind, in the way in which the Wagga Wagga by-election should be dealt with?---Probably not because he had resigned from the party followed by parliament. So it's quite – what's the word? It's very legitimate for any government to seek to recontest a seat and to win that seat. So, any decisions that are made around funding projects or announcing plans or initiatives for that region, well, as far as I'm concerned, as far as I was aware anyway, or as far as I'm concerned, didn't involve the former member. So, I don't think there would have been a, a conflict.

40 Would have you had an initial response or reaction along the following lines, "How on earth can we have a by-election if you're dating the fellow who's had to stand aside"?---Sorry, could you repeat that?

Would have you had a reaction along the lines of the following, "How on earth can we have a by-election if you're dating the fellow who's had to stand aside"?---No, I don't think so.

I might just show you an answer you - - -?---Did I say that?

- - - gave in a compulsory examination because I just want to draw - - -?  
---All right. My apologies. I don't remember saying this.

I just want to understand the answer in light of what you've been explaining today.---Yeah.

10 For abundant caution I apply for the direction under section 112 of the Independent Commission Against Corruption Act to be lifted insofar as it would otherwise prevent publication of any question asked or answer given in this inquiry. I think the way in which I formulated the application before lunch was associated with the date of the compulsory examination.

THE COMMISSIONER: After lunch.

MR ROBERTSON: Sorry, I meant, yes, sorry, after lunch when I started the examination.

20 THE COMMISSIONER: Yes. Well, I make that order.

**VARIATION OF SUPPRESSION ORDER: THE DIRECTION UNDER SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT IS LIFTED INsofar AS IT WOULD OTHERWISE PREVENT PUBLICATION OF ANY QUESTION ASKED OR ANSWER GIVEN IN THIS INQUIRY.**

30 MR ROBERTSON: Thank you. Can we go, please to page 3880? I just want you to remind you of - - -?---Yeah, that's all right.

- - - evidence you gave on that occasion just to make sure I understand it at least. Can we zoom into the bottom-half of that page, please? Now if you start at line 44, just to get the context.---Yes, no, I can read that. Yep.

40 I say, "But are you quite clear in your mind that she indicated to you this was a relationship that had come to an end?" And then you're transcribed as saying, "Quite clear because my reaction would have been different if she told me it was ongoing." Do you see that there?---Yes, I do. Yeah.

And when you were saying your reaction would have been different if it had been ongoing, it would have been different in the way that you and I have already discussed this afternoon, is that right, as in the kind of things that you would put in place and the like?---Yes, yes.

Sorry, do I have that right?---Sorry, say that again?

So, I'm just focusing first - - -?---I'm, I'm just reading this, yep.

Yes, I'll come to the comment towards the bottom of the page but I just want to start with the context of line 42.---Yeah.

“But are you clear in your mind that she indicated to you this was a relationship that had come to an end?” And you say, “Quite clear because my reaction would have been different if she told me it was ongoing.” Do you see that there?---Yes.

10 Now, the way in which your reaction would have been different is the way that you and I have discussed this afternoon, is that right? You would have dealt with matters such as disclosures and perhaps seeking legal advice and the kinds of other things that you and I have discussed this afternoon?  
---Yeah, yeah. And I think, I think somewhere in here will be references because I found myself using the same phrase. There's a series of steps that, as I asked various questions, would have taken me down that path I think with her if I had known that's what I was dealing with. I'll be really honest, Mr Robertson, I don't recall saying this but I can see that I've apparently said this, so I suspect it must have been at the end of a rather  
20 lengthy time with you. I don't even know quite what I mean.

Let me just show you, it actually happens to be towards the start of a lengthy time.---Does it?

But in any event.---Oh, really? It was very lengthy, I don't remember this.

But can I just - - -?---How, I don't even know what I meant by it.

Well, I'll just draw your attention to it and you can see if you can assist.  
30 ---Yeah, sure.

So the last question on the page, “It would have been different how?” “To be brutally honest, right in the role I'd had before, my initial response would have been ‘How on earth can we have a by-election if you're dating the fellow who's had to stand’” – and then can zoom to the top-half of the page – “‘aside?’ So my, so I would have gone that first and then probably I would have, I would have gone that first and then probably into other spaces, but because she told me it was in a past – I didn't go into that discussion with her because she was it in the past.” Do you see that there?  
40 ---Yeah, I see it and, and I, I'm afraid I just don't remember what I, what I was thinking when I said that because, as I read it out loud, it doesn't, it actually doesn't even make much sense.

Well, at least so far as you're concerned, it would have been a matter of even more political controversy had it become publicly known in July of 2018 that not only had Mr Maguire given evidence that was of public controversy before this Commission, but that the Premier of the day was in an existing close personal relationship with that individual.---Yes. Yes, that

I would agree with but my sentence is not quite what – I, I don't actually understand what I, what point I was trying to make there. It's, yeah.

But the point I've just drawn attention to was part of the context of the conversation with Ms Berejiklian on 13 July, 2018. As you understood it, this was a bit of information which, even if it was by reference to a historical relationship, may well have been a matter of public controversy. I think you were explaining before - -?---A different, yeah, it was a different, sorry, you go.

10

No, sorry, you go on.---Well, if I'm understanding your question correctly, or your point of clarification correctly, it's a different level of political controversy. I believed I was being told about the historic relationship in case there were photographs that, you know, suddenly appear of "This was a close personal friend of the Premier who is now engulfed in scandal." That is a different situation to the Premier being in a current relationship, which of course I didn't know at the time, but in a current relationship that would then, would then have become a focus, given the scandal that was surrounding Mr Maguire at the time, yeah. But I, I, I'm, I, when I read the words that I've said to you, I'm not really quite sure what I meant by that phraseology, but that's the intent anyway.

20

Historical relationship is something you would want to know about so you can deal with it in the event that there was some article saying, well, look at this member of parliament who's, in effect, come unstuck. And you, or someone with in the Premier's Office, would be able to say, well, maybe there was a few dinners in the past, but that's all over and done with.  
---Correct.

30

That's of a very different character, at least in your mind, as not a historical relationship but a in existence relationship that could be described as a close personal relationship, is that fair?---Yes. And if there's a cloud hanging over the head of somebody and it's someone you are currently involved with, obviously that would have had potential repercussions for the Premier in, in the way that would have been perceived, so, but I'm happy to say I'm sorry, those words don't actually make a lot of sense to me, but that's the gist of what I meant.

40

That's the examination.

THE COMMISSIONER: Ms Cruickshank, I think you said when Mr Robertson first drew your attention to or first asked you about when you became aware of the close personal relationship with Mr Maguire and Ms Berejiklian that you were either shocked or astonished when you heard the evidence last year at the public inquiry.---Yes. Yes, I was. Surprised, I think I said, yeah.

Surprised. And was your surprise because you became aware it was a relationship which had persisted far longer than you'd been told about on 13 July, 2018?---Yes, that's correct. And my surprise that it had been in place during the time the Premier was the Premier, because I'd never seen any hide nor hair of it, and I'd been told it predated her being Premier.

10 And as the passage of the private examination transcript to which Mr Robertson just revealed, you would have been concerned if you'd been aware it was ongoing as at 13 July, 2018?---Yes, because of the questions that had been raised about Mr Maguire and Dasha.

And when Ms Berejiklian divulged what you said she called an historic relationship on 13 July, 2018, did you understand that she was being frank with you?---Yes, I did.

20 You understood that she was seeking your advice as to how to manage an historic situation?---No, I don't think she was seeking my advice as to how to manage it. I think she was informing me for the reasons that I've alluded to, which is that if in the subsequent days somehow media had seen photographs and, because that's the way often the media will operate, photos will emerge of, you know, Mr Maguire and the Premier having dinner at some, you know, undisclosed location five years before sort of thing, that we would have to handle that. And so I believe that's why she was telling me that.

And handling that would have entailed, on the basis of what she told you on 13 July, conveying to the media that this was a historic relationship - - -? ---Correct.

30 - - - a thing of the past?---Yes, correct, that's what I, because that's what my understanding would have been, so - - -

And when you heard her evidence at the public inquiry last year, you became aware, I take it, that she'd been less than frank with you on 13 July, 2018?---Yes, that's correct.

That she'd lied to you?---That's your word, Commissioner, but, yes, I, I did not know what, what the Premier had said last year.

40 She had told you something was historic which it became public last year had been an ongoing relationship between 2015 and a few weeks before the public inquiry.---Yes, that's correct.

Is there any other description of it than a lie?---No, there probably isn't. I'm just uncomfortable using the word. But I accept the word, yep.

Mr Agius, do you wish to seek leave to examine, cross-examine Ms Cruickshank?

MR AGIUS: No. No, we do not, thank you.

THE COMMISSIONER: Mr Harrowell?

MR HARROWELL: No, Commissioner.

THE COMMISSIONER: Ms Callan?

10 MS CALLAN: Yes, Commissioner.

THE COMMISSIONER: On the usual basis, Ms Callan.

MS CALLAN: Yes, Commissioner. Ms Cruickshank, my name is Callan and I appear on behalf of Ms Berejiklian. You were asked some questions about that point in time that the Riverina Conservatorium of Music proposal was being considered in the context of the Wagga by-election. Was it your observation or experience that it's not uncommon to consult with an outgoing member in respect of an election or by-election in terms of gauging from that outgoing person issues or matters of concern or relevant to that electorate?---Yes, I would agree it's not unusual. I think the thing that would surprise me, though, was the nature of Mr Maguire's departure means I'd be surprised if that did happen for him. But it's normal, yes, to speak with members who are outgoing. They know their communities well and that's how you make sure that whoever the candidate is who's going to replace is well briefed, so.

Notwithstanding the cloud which was hanging over Mr Maguire at the time that he resigned, he was someone who knew his electorate well, would you agree with that?---Yes I would, yes.

You were asked whether Mr Maguire was vociferous in his advocacy to the Premier's Office and I think your answer was that it was no more, no less than other MPs although his manner was perhaps more strident.---Correct.

To your observation was Mr Maguire strident or vociferous in his advocacy on behalf of his electorate to other, for instance, ministers and even the Deputy Premier?---Yes, I think he spoke to anybody who would listen. Or even if they didn't listen, actually.

40 In relation to the conversation that you recall having with Ms Berejiklian, you think on reflection on the evening of Friday 13 July, 2018, you've given evidence that it was telephone - - - ?---Yes.

- - - on a Friday night and that you were out for dinner at the time?---Yes, that's correct.

Does it follow that you were not taking any notes when you were having the conversation?---Yes, it does, I didn't take notes, no.

Did you have any subsequent conversations with Ms Berejiklian in the days or weeks following about the fact of what she'd, the information she'd told you or its implications?---Not that I recall, I don't think so, no.

10 It's possible that you did speak to her about it on a subsequent occasion?---I certainly didn't have any conversation with her about any need to disclose things, if that's what the question is that you're asking, and I'm not sure that I remember, I'm not sure that I remember having – sorry, let me rephrase that. I don't remember having any conversations more broadly, but that's not to say I didn't but I don't think I did. I think all the, I was very conscious she had, I believed anyway, spoken to me on a very private matter that wasn't sort of for further discussion, so I hadn't told anybody else about the conversation she had with me and I think we just got on to focusing on the by-election, so.

20 When you commenced your conversation with Ms Berejiklian that evening, to your observation, did she seemed distressed?---Yes she did but I took that distress to be more about the fact, speaking frankly, that this was, I think I'm right in saying the first break she'd taken in 18 months since becoming Premier, and she'd been away for all of one day and then one of her government MPs had had to resign. So, I think she was more broadly exercised about that and then clearly was also concerned, as I was being told anyway, concerned that this historic relationship might somehow surface and she would be dragged into it on the basis of a previous relationship with him.

30 So your impression, from what you knew when the conversation, as the conversation unfolded was that to the extent she seemed distressed, your inference was that that was more because it was something that she suddenly needed to deal with in circumstances where she was finally having a break after 18 months' worth of solid work?---Yes, and I think, now I haven't been a Premier or a member of parliament, but I think it is distressing when you hear that somebody who is a colleague and a friend, notwithstanding also potentially a personal relationship, has actually done something to bring the government into disrepute. And she's the kind of person who that would very much upset, so, yes, I think she was in a state of  
40 distress at the time when she called, yeah.

Was it your sense that she was shocked about the information that had emerged that day from the Operation Dasha hearing?---Yes. Yes.

When you were speaking to her, including her telling you about a friendship or relationship with Mr Maguire, you were shocked to hear that?---Yes, I was.

Would it be fair to say that you may not have taken in all the information she was giving you over the phone that evening?---No. If you're suggesting she told me something different to what I've just said, no. But I didn't take detailed notes of what we talked about. But I do know that the prime reason she was calling me was because a mutual friend had said, "You need to let Sarah know. She's your chief of staff. She needs to know that there was an historic relationship," or friendship, whatever the word was, which I just don't remember.

- 10 I think you've indicated this already that to your observation, Ms Berejiklian was a very private person about her personal life?---Yes. Yes, she was.

In that sense, your impression was that the thing that prompted her to tell you was this mutual friend had urged her to do so?---Yes. Correct. We, even though I had known the Premier for a very long period of time, albeit not closely, it's not the sort of thing that she and I would talk about, like, personal relationships or anything like that, so she's, she is a very private person and I took it that way.

20

Did you press her for information or detail in terms of what she told you about Mr Maguire?---Not really.

In that respect, it was your impression that it was historic?---Yes. Very much so.

And that is it was your impression that it was before she became Premier? ---Well, she told me it was before she became Premier.

- 30 Would you allow, Ms Cruickshank, for the possibility that you misunderstood what she was telling you in terms of the time frame of that friendship?---No. No. She definitely said to me, "It was before I became Premier."

During that conversation or around that time, did Ms Berejiklian tell you she had never had reason to believe that Mr Maguire or Daryl had done anything untoward?---Yes. She said that a number of times. I genuinely think she didn't think Mr Maguire had done anything untoward.

- 40 You recall Ms Berejiklian saying something to the effect of that she was at a loss as to what to do?---No, I don't recall her saying that. No.

You recall her saying something along the lines of that she couldn't remember or didn't pay attention in terms of the conversations that she'd had with Mr Maguire during the course of their friendship?---In, in that conversation or subsequently?

In that conversation or shortly thereafter?---No, I don't remember it in that conversation on the night of the 13<sup>th</sup>. No, I don't remember her saying it at all, actually. Sorry? Could you repeat what you're putting to me?

Yes. That she said words to the effect that she can't remember details of things she discussed with Mr Maguire or wasn't paying attention at the time?---No. I don't think I ever had that conversation with her before she said what she said here at the Commission 12 months ago because I didn't know that, yeah, I didn't know that she had an ongoing relationship.

10

But regardless of the point in time that you thought the relationship was in existence or not, you accept that she may have said something to the effect that she didn't have a recollection of details of things that Mr Maguire may have said to her historically?---No, and the reason I don't have any recollection of that is that doesn't make sense in the time frame of things because at the time that she was phoning me, the only thing that had happened in the context of Mr Maguire was he was implicated in Dasha doing whatever it was, property developer deals in Canterbury Bankstown. She, the, none of the other issues that are being looked into here were even on the radar at that point as something, so, so there was nothing for her to say to me "I didn't know about it" or whatever, whatever.

20

But I think you've indicated that a concern that was expressed to you by Ms Berejiklian was about the suggestion that her association with him may mean the cloud extended over her, my words not yours, and a desire to manage that risk?---Yes, but we, because I believed we were dealing with a historic relationship, we never went further down that path. So, to use your words, the cloud that would have extended in, at my point of view, from my point of view, would have simply been a, what's the word, questions by association, you're connected with this person who over here has been called into question for their activities in, whatever it was, Canterbury Bankstown.

30

Do you recall saying to her something to the effect, "Don't have anything to do with him."---Yes.

I don't know if I said it in that particular conversation. I certainly had conversations after, afterwards, as I say, operating on the understand that it was a historic relationship, it was one of I remember distinctly at least one conversation where my strategy director, Mr Burden, and I were in the office talking to the Premier, giving our free character assessments of Mr Maguire and saying, "Don't have anything more to do with him. Don't talk to him." I think from memory she had said at the time something like, "He texts me sometimes," or something like that and we said, "Don't talk to him, don't have anything to do with him." So, yeah, I certainly said that to her but I don't believe it was the night that we were speaking. It was subsequent to that. It would have been in the week subsequent.

40

You were asked about in the hypothetical world of you knowing or having an understanding that was different to what you've given evidence about in terms of the time frame of the relationship, including I think you spoke about advice you would have given that Ms Berejiklian not sign off on certain things or not be involved in certain decisions or discussions.---Yeah. And, and in the context of that's a hypothetical that I'm responding to, to me, that is one such course of action that I would have put on the table as you could go down this path, completely hypothetically.

10 And that's being alert to – sorry. I cut across you.---No, no. I was just going to say, of course, it's all hypothetical because I didn't believe I was dealing with that scenario that would have warranted those kind of conversations. But, yes, as an experienced public servant, that is one such step. So therefore that occurs to me as something I may well have said to her.

In that respect, you were attuned to the optical dimensions of the situation?  
---Yes.

20 I think you also said in that part of your evidence that it's not that you think there was a conflict of interest. You recall that?---Yes.

That is, the advice that you hypothetically think you would have given was, is this the case, driven by your appreciation of optics rather than whether, in fact, there was a conflict such that - - -?---Absolutely.

- - - Ms Berejiklian, in fact, should not per the Ministerial Code of Conduct make decisions?---Absolutely. It was about the optics because in the three and a bit years that I worked for the Premier, I never saw anything that  
30 would suggest that she was doing anything that was not completely in line with whatever the sort of, what would you call it, recommendations or guidelines or whatever the particular issue was that she was dealing with. I never saw anything that, anything other than somebody who stuck by the rules, so, yeah.

In that respect, was it quite striking to your observation that Ms Berejiklian was a consistent stickler to doing things by the book, doing things according to the rules, making decisions according to whatever the relevant guidelines or framework was that she was operating with?---Yeah, I actually think  
40 that's a hallmark of the sort of person that she is, actually. My experience with her, that's partly why I'm almost surprised to be here today, my experience with her is, not as any sort of innuendo, maybe. My experience has been that she is very, very up-front and very much full of integrity and very – anyway, yeah. I never, I, at no point, I guess the other thing I would say, and I think I did say earlier, each of the issues that I've been asked about related to whether it was the conservatorium or the clay target, whatever it is, clay pigeon target thingy. I don't remember the Premier ever saying anything to me about it, and I guess what crosses my mind is a lesser

person would have asked me to look at those things and would have asked me to keep an eye on them and would have asked me to follow them up but, but she didn't. So, I don't, I don't feel that there was ever any time that I felt she was asking me to do something special for Wagga or something special for Mr Maguire.

10 Having regard to your observation of her as being an upfront person who was full of integrity, were you uncomfortable at the suggestion that, the characterisation of her having been less than frank with you in your conversation on 13 July?---I am but I guess it's because I'm uncomfortable, I'm uncomfortable about saying that but I accept, I accept the Commissioner's point, which is that there's not really a different away to characterise it. The reality is she told me it was a historic relationship and then she has subsequently said it's not. So I can't do much more with that.

20 But do you accept, Ms Cruickshank, that having regard to your experience of her and the integrity with which she conducts herself, that it is a possibility that you did misunderstand the time frame around which she was speaking of the relationship?---No. No. She was categorically clear with me it was before she was Premier.

Thank you, Commissioner.

THE COMMISSIONER: Thank you, Ms Callan. Mr White, do you wish to seek to leave to ask Ms Cruickshank any questions?

30 MR WHITE: Well, Commissioner, if I could just make an observation as -- well, more a comment as to whether any contrary version is going to be put to the witness as to a historical relationship by counsel in the event that other evidence is going to be given, in fairness to my client, Commissioner. I would have thought that should be put to her so she can respond to that. That's the only comment I make. I don't have any questions though, Your Honour, or Commissioner.

THE COMMISSIONER: You've made your point. Thank you, Mr White. Mr Robertson?

40 MR ROBERTSON: No questions on my part. Sorry, no further questions on my part, I should say.

THE COMMISSIONER: All right. Shall I release Ms Cruickshank from her summons?

MR ROBERTSON: Yes, Commissioner.

THE COMMISSIONER: Thank you, Ms Cruickshank. You're released from your summons, you may step down.---Thank you, Commissioner.

**THE WITNESS EXCUSED**

**[3.37pm]**

MR ROBERTSON: Commissioner, that's the program of evidence for today. I propose 9.30am tomorrow with Mr Barnes if that's convenient.

THE COMMISSIONER: Yes. We'll adjourn until 9.30 tomorrow.

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**AT 3.37PM THE MATTER WAS ADJOURNED ACCORDINGLY**

**[3.37pm]**