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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE RUTH McCOLL AO SC
COMMISSIONER

PUBLIC HEARING

OPERATION KEPPEL

Reference: Operation E17/0144

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 28 OCTOBER, 2021

AT 10.00AM

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THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Commissioner, in a moment I'll call Mr Daryl Maguire but I'm informed that my learned friend, Ms Callan, has an application to make. It might be convenient that she makes that application first.

THE COMMISSIONER: Yes. Yes, Ms Callan.

10 MS CALLAN: Yes. Commissioner, I have an application to make for orders under section 31(9) and 112 of the ICAC Act. I am advised by Counsel Assisting that in the examination of Mr Maguire and in his examination of my client, Ms Berejiklian, he intends to adduce evidence which raises personal privacy concerns of the highest order for my client. Mr Robertson tells me he intends to question both witnesses about details of their close personal relationship, seemingly to scrutinise the level of commitment or substance of that relationship. Commissioner, you have a discretion under section 31(9) to conduct a private session during this public hearing. It is a discretion you exercised several times last year when Counsel Assisting dealt with private, personal and intimate matters.

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THE COMMISSIONER: On his application.

MS CALLAN: On his application, yes, I recognise that. On his application last year, Counsel Assisting indicated his position that the public interest favoured preserving the privacy of Ms Berejiklian and Mr Maguire in respect of such matters. As I understand it, this year his position has changed such that he considers there is a proper basis for exposing such intimate, private details in this public forum. In my submission, nothing which has emerged to date indicates any principled basis for that change of position, and my application today is made in the context of what has already been established in the evidence adduced last year. In my submission there is no public purpose served by plumbing the depths of the private life of my client about intimate details of this relationship, which she has already stated in evidence was a close personal relationship, which she did not assess was of sufficient substance for it to be made public. Your Honour, ICAC's principle object is to expose and combat corruption. The Commission may, for the purpose of an investigation, be satisfied it's in the public interest to conduct a public hearing such as this one, but before doing so the Commission must consider the benefit of exposing to the public corrupt conduct and whether that public interest is outweighed by the public interest in preserving the privacy of the persons concerned. Even when ICAC decides, as it has done here, to conduct a public hearing, you, Commissioner, always enjoy a discretion to hold part of that hearing in private session if you consider that that is in the public interest. In my submission, the factors strongly favour adducing evidence in relation to private details of this relationship in private session, noting that doing so in public will inevitably lead to intense and irremediable publicity and public scrutiny, along with humiliation and harm.

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THE COMMISSIONER: This may be difficult, Ms Callan, but are you prepared or able to define what you regard as the private details of the relationship?

MS CALLAN: Your Honour, I am hamstrung in the sense that I have a sense of what it is that Counsel Assisting is proposing to adduce by reference, for instance, to what occurred during the private examination. Making this application in public, it would defeat the purpose of the application for me to refer to those particular - - -

THE COMMISSIONER: No, that's why I asked you very tentatively.

MS CALLAN: - - - details but in my submission it would pertain to matters which some might regard as hallmarks or indications of the level of commitment or standing that that relationship enjoyed

THE COMMISSIONER: Yes. Yes, that's helpful, thank you, Ms Callan.

MS CALLAN: Yes. Your Honour, to the extent that Counsel Assisting - - -

THE COMMISSIONER: You should call me Commissioner, Ms Callan.

MS CALLAN: Sorry, Commissioner. Maybe I'll manage to keep track of that. To the extent that Counsel Assisting regards it as relevant and legitimate to use this Commission's investigative powers to scrutinise the details of the relationship, notwithstanding all that has already been explored in evidence on the topic, in my submission such evidence can and ought properly be dealt with by the Commission in private session, similar to the manner that occurred last year. And for these reasons, and those developed in my written outline of submissions of yesterday, as I said, I seek an order, or orders, under section 31(9) of the ICAC Act that the Commission hear evidence from Mr Maguire and Ms Berejiklian as to the details of their close personal relationship in private session. And I recognise, Your Honour, that such an order may need to be crafted with a greater level of specificity to define appropriately where the public interest and the balance lies, but accompanying such an order, I would seek a direction under section 112 for non-publication of such evidence adduced in private session. I should say, Commissioner, without in any way pre-empting your decision on this matter, if you are not persuaded to make such orders, I don't propose, as it were, to jump up and down in respect of individual questions. I recognise that to do so would be unnecessarily interruptive of Counsel Assisting's flow. I will be guided by Your Honour's decision and your reasons, to the extent they're expressed, as to whether and to what extent I seek to deal on an individual basis with any particular matter.

THE COMMISSIONER: Thank you, Ms Callan. Mr Harrowell, did you wish to say anything in relation to Ms Callan's submission?

MR HARROWELL: I will be very brief, Commissioner. Firstly, we support the application made by Ms Callan on behalf of her client. We also submit, as Ms Callan's done, that a private hearing is more appropriate and that it would also be appropriate to make an order under section 112 for all the reasons that my learned friend Ms Callan has set out admirably in her written submissions.

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THE COMMISSIONER: Thank you, Mr Harrowell. Yes, Mr Robertson?

MR ROBERTSON: In our respectful submission, the applications that have been made should be refused, not by reason of any change of position on my part or on Counsel Assisting's part more generally, but by way of applying the same approach to the question of private details and privacy as was applied in the first public inquiry. I'll explain that in a little bit more detail in a moment. But can I start with dealing with the structure of the way in which we say you, Commissioner, should deal with the present application.

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In our respectful submission, the starting point is really section 31(8) of the Independent Commission Against Corruption Act. That subsection in very simple but emphatic terms says that, "A public inquiry is to be held in public." In light of that, in our respectful submission, generally speaking, it would not be an appropriate exercise of this Commission's admitted discretion to hold part of a public inquiry in private by holding a significant portion of a public inquiry in private. That would risk, depending on the circumstances of the particular case and accepting that no bright lines can necessarily be drawn in this area, that would create a risk of a public inquiry becoming a public inquiry in name only.

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The particular discretion that you've been asked to exercise today is in the context of a series of decisions that have already been made by this Commission, and to which my learned friend Ms Callan drew some passing attention a moment ago. This Commission has already decided, pursuant to section 31(1) of the Independent Commission Against Corruption Act, that it is in the public interest to conduct a public inquiry for the purposes of this investigation. Before doing so, the Commission was required to, and of course did, have regard to the various factors in section 31(2) of the Act.

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They relevantly include "The benefit of exposing to the public, and making it aware, of corrupt conduct, the seriousness of the allegation or complaint being investigated, any risk of undue prejudice to a person's reputation" – I note the word or the adjective "undue" in that phrase – "including any prejudice that might arise from not holding a public inquiry." And, importantly for the purpose of the present application, "Whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned."

So this public inquiry is being held in circumstances where the Commission has been bound to and has considered each of the four matters I've just drawn attention to, including importantly whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned. Those factors help explain why there was at least some period of delay between the decision of this Commission to commence an investigation into allegations concerning Ms Berejikian and any public statement in relation to that matter, in particular a decision to conduct a public inquiry.

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What should be apparent, we hope, from what's occurred over the past week and a half or thereabouts is that the Commission has done very significant work in private over many months with a view to reaching a conclusion as to whether it is in the public interest to conduct a public inquiry. That decision having been made, that provides a framework in which the discretion under section 31(9) should be exercised.

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As Ms Callan correctly identified before, during the course of the first public inquiry, I made various submissions with a view to attempting to protect the privacy of Ms Berejikian and Mr Maguire as much as could sensitively be achieved in the context of the allegations that were being investigated in the first public inquiry. As Ms Callan correctly observed, that led to on a number of occasions certain material being dealt with in private rather than in public. The analysis, in our respectful submission, is different in relation to this public inquiry having regard to the expanded scope of the allegations being considered in the public inquiry during the course of this week and last week.

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In the first public inquiry, it was sufficient to describe Ms Berejikian and Mr Maguire's relationship as a close personal relationship without any further exploration in public in circumstances where the allegations were focused on Mr Maguire's conduct and to at least some extent on conduct connected with that conduct. But in the present inquiry, Ms Berejikian's conduct is of central relevance to this investigation, and associated with that is a core relevance to the nature and extent of Ms Berejikian and Mr Maguire's relationship. In particular that is relevant to the question of whether Ms Berejikian was relevantly in a position of conflict within the meaning of the NSW Ministerial Code of Conduct. On that topic, with great respect, it seems my learned friend Ms Callan's written submissions have proceeded on a misapprehension as to the relevant law and the correct construction of the Ministerial Code of Conduct. Can I have the Ministerial Code of Conduct up on the screen, please. It was attached to the opening statement that was made on Monday of last week. But it appears, with great respect to my learned friend, that there's been a misreading of the definition of conflict of interest in clause 7(3) of the Ministerial Code of Conduct. That definition relevantly says, "A conflict of interest arises in" - - -

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THE COMMISSIONER: Wait for it to come up on the screen, Mr Robertson.

MR ROBERTSON: Yes. Can we go, please, to clause 7(3) of the Ministerial Code of Conduct, conveniently or not attached to the written opening, which for those who are not in the hearing room can have that available to them through the Commission's website or otherwise on the Legislation NSW website. The short point that I'll expand upon at the moment is that it appears that at least in the written submissions advanced on behalf of Ms Berejiklian, there's an elision of two separate concepts that appear in the NSW Ministerial Code of Conduct. First, the concept of a private interest on the one hand, and secondly a private benefit on the other.

THE COMMISSIONER: That's taking a while. I think you should proceed, Mr Robertson.

MR ROBERTSON: The Ministerial Code of Conduct being an attachment to the regulation, please.

20 THE COMMISSIONER: Yes, we're on clause 7 at the moment, the one about corrupt conduct.

MR ROBERTSON: Yes. We'll take that off the screen, please. I'll read it out.

THE COMMISSIONER: I think it would be more convenient if you just read it out, Mr Robertson.

MR ROBERTSON: Thank you, Commissioner. Clause 7(3) of the Ministerial Code of Conduct, which is quoted in the written opening and attached to the written opening, provides that "A conflict of interest arises in relation to a Minister if there is a conflict between the public duty and the private interest of the Minister." Now, pausing there, the phrase relevantly used there is "private interest", not "private benefit". Then, importantly, it says, "In which the Minister's private interest could objectively have the potential to influence the performance of their public duty." So that's the core definition. Is there a conflict between the public duty and the private interest in which the minister's private interest could objectively have the potential to influence the performance of their public duty. The use of the word "objectively" is an important one. Ms Callan referred to evidence given by Ms Berejiklian in the first public inquiry to the effect that, according to her – that is to say, according to Ms Berejiklian – she didn't see the relationship of being of sufficient substance. That's not the test that the definition of conflict of interest invokes. It's an objective test. And to assess as to whether a particular interest is one in which the minister's private interest could objectively have the potential to influence the performance of their public duty, one needs to understand with some degree of detail – and I'm not suggesting for a moment that we or that the

Commission should go into what I think my learned friend described as plumbing the depths of the detail of the relationship, that's not the suggestion at all. But the Commission needs to understand to at least some degree what my friend I think described as the hallmarks of the relationship, in order to assess that question of objectivity. To take an example. If in truth the nature of the relationship was along the lines of what Ms Cruickshank said in evidence this week she thought it was, a historical relationship that was not what Ms Cruickshank described as "a full-blown intense" one, then it is much less likely that any conflict of interest would exist than if, for example, the relationship was such that it was, to use Ms Cruickshank's phrase, "a full-blown intense" one.

The concept of private benefit, which seems to be the one underlying what Ms Callan says, in particular in paragraph 15 of her written submissions, is one that becomes invoked in a deeming provision that is allied to and appears in the next sentence after the sentence of the definition of conflict of interest that I read out a moment ago. That says, "Without limiting the above", which plainly enough is a reference to the definition of conflict of interest that I read out before, "a Minister is taken to have a conflict of interest in respect of a particular matter on which a decision may be made or other action taken if (a) any of the possible decisions or actions, including decision to take no action, could reasonably be expected to confer a private benefit on the Minister or family member of the Minister and the nature and extent of the interest is such that it could objectively have the potential to influence the Minister in relation to the decision or action." Importantly that sentence starts with the phrase "Without limiting the above", so clearly we say as a matter of construction one can't use the second sentence to read down or limit the preceding one. And further, it's in the nature of a deeming provision, "is taken to have a conflict", such that if one as it were ticks the boxes in those sentences, then a conflict of interest is deemed to exist, but it doesn't follow from that – as our friends submit in paragraph 15 of the written submissions – that if you can't tick the box or the boxes, then no conflict of interest relevantly exists.

In our submission, in the way that we sought to explain in our opening statement, in particular paragraph 32 thereof, it's apparent from the way in which the NSW Ministerial Code of Conduct is drafted that, and I'll quote from paragraph 32 of my opening statement, "It is sometimes necessary for a Minister to disclose any substantial personal connection that she or he has to a person relevant to a proposed decision even if the Minister would not her or himself receive a private benefit if the decision is made." So the opening statement at the very start of this public inquiry sought to make clear what at least Counsel Assisting regard as the correct construction of the Ministerial Code of Conduct in the relevant sense. If we're right about that, then that question of objectivity, by which I mean could a particular private interest, including a substantial personal connection, objectively have the potential to influence the performance of their public duty, if we're right, that question is an objective matter that this Commission has to

consider as part of the consideration of the allegations that are the subject of this public inquiry.

10 In the face of that, in our submission the same kind of approach that we advanced in the first public inquiry is appropriate, namely, that the privacy of Ms Berejiklian and Mr Maguire should be sought to be protected as much as reasonably can be possible but without in such a way as to distract from or minimise this Commission's principal functions and the discharge of its duties in the context of a public inquiry. As a matter of practice what that means, in our submission it is appropriate for you to permit me to ask at least some questions concerning what Ms Callan describes as "the hallmark of the relationship" because those matters are relevant to that objective consideration of the kind that I have identified. It's not to say I make clear that there should be something in the nature of what my friend described as "plumbing the depths of the relationship", but the Commission does need to inform itself, and it's appropriate in the context of a public inquiry that was only decided to be conducted after the Commission considered whether the public interest in exposing the matter is outweighed by the public interest in preserving the privacy of the persons concerned, for at least those matters of
20 hallmarks of the relationship to be dealt with in public.

One other matter I'll just deal with in passing, and this is principally relevant to the position of Ms Berejiklian but not relevant to the position of Mr Maguire. Soon after Ms Berejiklian gave evidence in the last public inquiry, she made a number of public statements concerning the nature and extent of her relationship. There was an article, for example, that said something like "I was going to marry him but I won't speak to him again," something along those lines. There is a bundle of material which I tender in support of the submission that that I am now making, a bundle described as
30 volume 36. The short point is that whilst, as I said in opening, generally speaking one is entitled to keep their private life private, the public duties ultimately come first and that may then cut away from that right in relation to privacy. But secondly, in relation to Ms Berejiklian, she has of course chosen, and I don't say this critically at all, but she has chosen to say at least some things in public with respect to her relationship. In any ruling that you make, you wouldn't put any impediment at all in me exploring the nature of comments of that kind because Ms Berejiklian has chosen to make comments of that kind in public. That's a matter relevant though I say to Ms Berejiklian's position, not to Mr Maguire's position, and so it's a factor
40 to be taken in to account but it's a relatively weak factor, we accept, because one matter that is properly considered and should be considered in deciding whether or not to accept or reject the application is the position of Mr Maguire, and at least so far as I'm aware, Mr Maguire has chosen to make no public comments regarding his personal relationship. So at least insofar as Mr Maguire's position is relevant, the last point that I have made in passing is not a weighty factor at all.

THE COMMISSIONER: Mr Robertson, have you considered adopting the approach which was taken in relation to some aspects of the evidence last year of actually hearing it first in a private inquiry and there then being a debate within that context as to whether or not all or some of it could be used in the public inquiry?

MR ROBERTSON: Yes, is the short point but I need to qualify that in at least two ways. First, in relation to what I might describe as the hallmarks, in my submission it's going to be necessary for me to deal with those matters and it's appropriate that I be permitted to do that in public, in effect in a form of propositional form and so the kind of procedure that you've indicated, Commissioner, that was adopted in the first public inquiry is not suited for questions of that kind.

THE COMMISSIONER: Ultimate questions, in effect?

MR ROBERTSON: Ultimate questions, in effect, or at least close to ultimate questions, one level down, as it were. In relation to, for example, telephone intercepts, I apprehend that there may be circumstances in which the appropriate course will be to play those, or parts of them, in private first – as was done, for example, in the first public inquiry – then having any necessary debate as to whether they can and should be played in public and then that can be resolved. It'll depend on the particular case, of course. You recall, Commissioner, there was an example where a telephone intercept was played in private. It wasn't repeated in public, but the core, in effect, propositions or indicia that came out of the telephone intercept were then dealt with in public. So procedures of that kind may well be appropriate. The second qualifier that I wanted to make clear though is that whilst we say the same kind of approach that was adopted in the first inquiry should be conducted in the second inquiry, the way in which that analysis arises in the second inquiry is different because of the nature of this public inquiry. In particular the allegations against Ms Berejiklian and the relevance of the Ministerial Code of Conduct, it was sufficient or at least largely sufficient in the discharge of this Commission's functions in relation to the first public inquiry to use the phrase close personal relationship without going into any particular details as to what that meant, because that was sufficient to deal with the allegations that were there being investigated against Mr Maguire. Applying the same approach to this public inquiry we submit will require at least some additional material becoming known in public that might not necessarily have been dealt with in public in the first public inquiry.

Now, I appreciate I'm being a little bit cryptic in the way in which I put, as it were, the line between the two categories. It's not a matter, we say, that one can draw necessarily a completely bright line because it will depend in part on what evidence Ms Berejiklian gives. If she gives evidence that seems to be consistent with material that I have that I haven't dealt with either in public or private, it may be that that's simply the way in which that

evidence can be left. In the event that Ms Berejikian gives evidence in respect of which it may be appropriate for there to be an explanation by reference to other material, then that might then make it necessary to invoke the kind of procedure that you indicated a moment ago, Commissioner, or it may be necessary to ask Ms Berejikian or Mr Maguire for an explanation regarding that particular matter, perhaps in private in the first instance, and then hear any necessary debate in relation to whether or not that matter is deployed in public.

10 One other matter I should indicate as a matter of practice, practical and procedure, as I understand it, the public stream is the subject of a delay between it, as it were, coming out of my mouth and going out into the public. It's always open to either me or anyone else in the room to ask for the stream to be stopped for the purposes of making an application such as, for example, an application of the kind that Ms Callan has made today and/or an application under section 112 of the Independent Commission Against Corruption Act for a suppression order.

20 THE COMMISSIONER: Thank you, Mr Robertson. Were you going to tender volume 36?

MR ROBERTSON: Yes. I tender volume 36.

THE COMMISSIONER: The entirety of it?

MR ROBERTSON: The entirety of it. I think it's pages 1 through to 41, volume 36.

30 THE COMMISSIONER: 1 to 41. That will be Exhibit 497.

#EXH-497 – MEDIA AND INTERVIEWS GIVEN BY MS BEREJIKLIAN ABOUT THE RELATIONSHIP

MR ROBERTSON: Unless we can assist further, those are our submissions.

40 THE COMMISSIONER: Thank you. Ms Callan, did you wish to say anything in response?

MS CALLAN: Only this, Your Honour. In my submission, Mr Robertson has not advanced any cogent or persuasive reasons to proceed other than the approach that was taken at times in the first hearing and upon which you asked him a question, that is, in respect of evidence which is in the terrain, as he puts it, of assessing or addressing, my words, hallmarks or what may be perceived as hallmarks of a relationship. That, in my submission, can and should be dealt with initially in private, and insofar as it is proposed that

any aspects of that evidence ought be, as it were, ventilated or made clear in public session, that can be dealt with as it arises.

10 In my submission, the strong public interest in preserving the privacy of these two individuals lend themselves strongly to such a mechanism, which would, if Your Honour's not with me as to the general approach, at least enable you to make considered decisions in circumstances where there is necessarily a level of uncertainty and fluidity as to what it is Counsel Assisting anticipates doing and, in fact, does by way of questions asked or matters raised, documentary or otherwise.

THE COMMISSIONER: Thank you, Ms Callan. Mr Harrowell, did you wish to say anything?

MR HARROWELL: No, Commissioner.

THE COMMISSIONER: Very well. I'll take a short adjournment to consider that application, short or long, depending.

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SHORT ADJOURNMENT

[10.34am]

THE COMMISSIONER: I reject Ms Callan and Mr Harrowell's application that evidence as to the details of Mr Maguire and Ms Berejiklian's relationship be heard in private pursuant to section 31(9) of the Independent Commission Against Corruption Act. In my view it is not in the public interest that I make such an order. I will publish my reasons for refusing the application in due course. Yes, Mr Robertson.

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MR ROBERTSON: I call Daryl Maguire.

THE COMMISSIONER: Mr Maguire.

MR MAGUIRE: Good morning, Commissioner.

THE COMMISSIONER: Good morning. You wish to make an affirmation, I understand.

40 MR MAGUIRE: Yes, please.

THE COMMISSIONER: Very well.

THE COMMISSIONER: Thank you, Mr Maguire. Mr Harrowell?

MR HARROWELL: If we could have a section 38 declaration please, Commissioner.

10 THE COMMISSIONER: Very well. Yes, Mr Harrowell. Mr Maguire, will you listen very carefully to the explanation I am about to give you as to the section 38 declaration to which Mr Harrowell just referred?---Yes, Commissioner.

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
20 disciplinary proceedings. The first exception is that this protection does not prevent your evidence from being used against you in a prosecution for an offence under the Independent Commission Against Corruption Act, including an offence of giving false or misleading evidence, for which the penalty can be imprisonment for up to five years. The second exception only applies to New South Wales public officials, and you're no longer one of those. I can make a declaration that all the answers given by you and all the items produced by you will be regarded as having been given or produced on objection. This means you don't have to object with respect to
30 each answer or the production of each item. I will now make that declaration, Mr Maguire.---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 him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection, and there is no need for him to make objection in respect of any particular answer given or document or thing produced.

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 HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION, AND THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF**

ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

THE COMMISSIONER: Do you understand that, Mr Maguire?---Yes, Commissioner.

Thank you, Mr Maguire. Yes, Mr Robertson.

10 MR ROBERTSON: Mr Maguire, can you hear and see me clearly?---Yes, I can, Mr Robertson. Good morning.

Mr Maguire, you'll recall that last year you and I discussed certain steps that you took to assist a Mr William Luong in relation to certain land deals.
---Yes.

Including in connection with certain land in Badgerys Creek.---Yes, yes.

20 You accepted last year that in performing those steps you were seeking to obtain commissions or other payments?---Possible, yes.

Well, not just possible. One of the reasons why you took those steps was with a view to obtain commissions or other payments, is that right?---Yes.

You accepted last year that you used your position as a member of parliament to gain benefits for you and persons close to you, correct?---Yes.

30 Did you also take steps of that nature in relation to certain land in Cawdor?
---I made enquiries, yes.

Well, you made enquiries with a view to assisting Mr Luong in a potential land deal in relation to land in Cawdor, do you agree?---Yes.

You took those steps with a view to seeking to obtain commissions or other payments, is that right?---I had no agreements with him, but yes.

40 You might not have had anything in the nature of a formal agreement but you were doing that work or taking those steps with a view to seeking to obtain commissions or other payments, do you agree?---Yes, I agree.

But for that profit motive, you wouldn't have taken those steps, do you agree?---Oh, not necessarily.

Well, why was a member of parliament with responsibilities in Wagga Wagga seeking to assist someone in relation to land in Cawdor?---He was a good friend.

You're at least accepting that at least one aspect of that work was with a view to obtaining commissions or other payments, is that right?---Oh, yes, yes.

Do you agree that to attempt to assist Mr Luong, you attempted to obtain confidential information that was of potential commercial benefit to Mr Luong?---Yes.

10 Do you accept that you did that by taking advantage of relationships that you had with then sitting members of parliament?---I made inquiries with them, yes.

Well, when you say you made inquiries, you made an inquiry with a member of parliament with a view to obtaining confidential information to assist the commercial interests of Mr Luong. Correct?---Obtaining their view, that's correct.

20 Well, more than just obtaining their view, obtaining confidential information not known to the public with a view to assisting Mr Luong. Correct?---I asked their view. I asked their view on what they thought would happen.

But it's more than their view, wasn't it. You wanted to get information from a member of parliament, information that was confidential and not known to the public with a view to advancing the commercial interests of Mr Luong and ultimately with a view to advancing your own commercial interests. Correct?---Yes, yes.

30 Can we play, please, telephone intercept 4700 which is relevant to the questions that I've just been asking you, Mr Maguire.

AUDIO RECORDING PLAYED

[11.06am]

MR ROBERTSON: Mr Maguire, do you agree that one of the voices on that recording was yours and one was Mr Luong?---Yes.

40 The friend that you refer to towards the end of that call that friend was a then sitting member of parliament. Is that right?---Yes.

That friend was someone who you had in effect inducted as a member of parliament in your capacity as whip for the Coalition. Is that right?---Yes.

The map that you're referring to in that conversation was a map of a potential or proposed route on the M9 Orbital. Correct?---Yes.

That potential or possible route of the M9 Orbital was not to your knowledge publicly available information. Correct?---Yes. At the time, yes.

The information was in effect a draft of a potential route that was subject to consultation with people, including for example members of parliament. Is that right?---Yes, and residents and a whole raft of people, yes.

10 THE COMMISSIONER: Mr Robertson, we might just note, I don't think you have, that that conversation took place on 18 December, 2017.

MR ROBERTSON: Yes. Mr Maguire, you saw that that conversation was 18 December, 2017, you saw that on the transcript that came up on the screen?---The transcript was not quite large enough but anyway, yes, it's there. I can see it now. I agree.

20 But in any event, to be clear, to your understanding as at 18 December, 2017, the map that you referred to in this conversation was map that was not of public knowledge. Correct?---Correct.

It wasn't a map that you personally had access to. Correct?---Yes.

You knew that it would be quite wrong for you to make that map available to Mr Luong. Correct?---Yes.

30 And is this right? You took advantage of your relationship with the member of parliament that you describe as your friend with a view to getting information about the map that you could provide to Mr Luong?---Yes, I made inquiries. That's true.

You did that with a view to obtaining commissions or other payments for yourself. Is that right?---I had no agreements, but, yes, that's a possibility.

Not just a possibility. That was at least one of the factors exercising your mind in taking the course that you took. Is that right?---Yes, I'd agree with that.

40 Commissioner, I tender telephone intercept 4700, 18 December, 2017, 5.25pm.

THE COMMISSIONER: Exhibit 498.

#EXH-498 – TELEPHONE INTERCEPT 4700 BETWEEN MAGUIRE AND LUONG DATED 18 DECEMBER 2017 AT 5.25PM

MR ROBERTSON: Can we then please play or at least get ready telephone intercept 5171. Now, Mr Maguire, do you accept that after the telephone call that I've just played to you, you obtained information about the possible route of the M9 Orbital and provided that information to Mr Luong?---Yes.

And you obtained that information from the friend that you referred to before, who was a then sitting member of parliament. Correct?---Well, it wasn't detailed. It was, the information he gave me was a, it was a discussion. We had a discussion about it. That's my recollection.

10

Well, it was at least enough information to identify whether or not the then proposed route of the M9 Orbital was one that would dissect the land in respect of which Mr Luong had options. Is that right?---I can't recall the detail of that.

Well, it was at least some information that, as you understood it, was information of commercial benefit to Mr Luong. Is that correct?---I don't know, and I can't recall the information that was, that, that I'd obtained from Mr Luong. I can't remember it in detail.

20

Well, let's try it this way. Can we play telephone intercept 5171, 12 January, 2018.

AUDIO RECORDING PLAYED

[11.12am]

MR ROBERTSON: Mr Maguire, I take it you agree that one of the voices on that recording was yours and one was Mr Luong's?---Yes.

30

Does that refresh your memory that one of the bits of information you obtained from your friend, a then member of parliament, was information about the general proposed location of the M9 Orbital including whether or not the road would be likely to dissect land associated with Mr Luong? ---Yes.

You passed that information onto Mr Luong because you thought it might be of commercial benefit to him, correct?---Yes.

40

And with a view ultimately to earning a commission or other payment for yourself, is that right?---We had no agreement.

You had no agreement, but one of the objectives exercising your mind was the possibility of expectation of a commission or other payments from Mr Luong by reason of assisting him with that information, correct?---That was a possibility, yes.

I take it you would accept that by providing that information to Mr Luong, you were misusing your position as a member of parliament?---Well, yes.

You're aware I take it, Mr Maguire, this Commission is investigating grant funding promised and/or awarded to the Australian Clay Target Association

THE COMMISSIONER: I'm sorry to interrupt you, Mr Robertson. Do you want to tender that last - - -

10

MR ROBERTSON: I do. I tender telephone intercept 5171, 12 January, 2018, 2.48pm.

THE COMMISSIONER: Exhibit 499.

#EXH-499 – TELEPHONE INTERCEPT 5171 BETWEEN MAGUIRE AND LUONG DATED 12 JANUARY 2018 AT 2.48PM

20

MR ROBERTSON: Mr Maguire, you're aware that this Commission is investigating grant funding promised and/or awarded to the Australian Clay Target Association and to the Riverina Conservatorium of Music?---Yes.

Is this right, you were a vociferous advocate for building projects advanced by both of those two organisations?---I think the term was "pain in the arse", yes.

30

You're prepared to adopt the "pain in the arse" term, is that right?---Yes, and vociferous. Yeah, enthused.

You had a long-term association with both of those two organisations, is that right?---Yes, that's correct.

Would you agree with the proposition that you were the principal proponent within government, at least as you understood it, for the projects advanced by the Australian Clay Target Association and the Riverina Conservatorium of Music in and around 2016 to 2018?---Yes.

40

As part of being a pain in the arse, you raised those projects with multiple people within government, including ministers, ministerial advisers and departmental officials. Is that right?---certainly, yeah.

I think you might have been a patron of the Australian Clay Target Association at one point in time. Is that right?---I was the patron of Clay Target NSW, yes. Very proud of it.

Did you raise the Australian Clay Target Association and/or Riverina Conservatorium of Music building projects directly with Ms Berejiklian?
---Through the office process I would have raised it with a number of ministers, including Ms Berejiklian.

But in addition to that you raised it directly with her. Correct?---Yes, on a visit to Wagga. I took her to show her the site, yes.

10 Not just at a visit to Wagga. From time to time you would keep her up to date with your desires and concerns concerning those two projects.
Correct?---Yes, correct.

She would from time to time keep you informed of things that she knew about those two particular projects. Is that right?---Yes.

20 Would you agree that at least so far as you were concerned you didn't seek to compartmentalise the public and the private? Just let me explain what I mean by that. You didn't in relation to, for example, the ACTA project or the RCM project only liaise with Ms Berejiklian through formal channels such as writing letters and speaking to ministerial staffers, you also engaged with her directly in the context of your private life with her. Is that right?
---Yes, I would have discussed it for sure.

Not just discussed it but asked her to take steps in aid of the ACTA proposal and the RCM proposal. Correct?---I would have encouraged her to take a close interest in it, yes.

30 And she would keep you informed from time to time as to things that she knew regarding those two projects. Is that right?---Yes, from time to time.

Can we go, please, to Exhibit 372. Now, I'm sorry to have to do this but I'm going to ask you some questions about the nature of your relationship with Ms Berejiklian - - -?---Yes.

40 - - - pursuant to the ruling of that the Commissioner made a moment ago. I just want to start by reminding you of the evidence that you gave on that topic in the first public inquiry so I'm going to take you to Exhibit 372 on that topic, which is a document that's been publicly available since last year. Exhibit 372. We'll go first to page 1714. Exhibit 372, page 2 of that exhibit which is page - sorry, page 1 of that exhibit which is page 1714 of the public transcript. If you just look above the black box. We'll just zoom in to the middle of the page, please. Just a little bit further down, please, just above the top of the box. Can you see there I say, "Would it be fair to say that you were in a close personal relationship with Ms Berejiklian in calendar year 2014?" And you say, "Yes." "What about 2013?" And you say, "Yes." Do you see that there?---Yes, I see that.

But then I should draw your attention to some further questioning on that matter. If we go to the next page of the exhibit, which is page 1805. The next page of the exhibit, please. And if we can zoom in around line 40, which is a little bit further down on the page. Do you see an answer at about line 39 you said, "But we had a relationship in '14, but I would call it a very close personal relationship definitely developed into '15." Do you see that there?---Yes.

10 And then there's some further questions going both ways from you and me. But if we go to the next page just to close off that questioning. Do you see there, "At least from your perspective were you in a close personal relationship with Ms Berejiklian at some time in calendar year 2014?" Do you see that there?---Yes.

The answer was, "At some time." And then I make clear, "That's obviously from your perspective." And you say, "Yes, yes." Do you see that there? ---Correct.

20 You and I both used the phrase "close personal relationship" and I think you used the "very close personal relationship" from 2015.---Ah hmm.

And I think your evidence in the public inquiry was, at least so far as you were concerned, you remained in a close personal relationship until briefly before the last public inquiry last year. Is that right?---Yes.

It at least continued during the second half of calendar year 2018, from your perspective. Is that right?---That's correct.

30 You and I both used the phrase "close personal relationship" or in your case "very close personal relationship". I take it that that included a close emotional attachment?---Yes. We had our moments, but, yes.

You loved her?---Yes.

So far as you as you could ascertain, she loved you as well?---Yes.

You would stay with her, from time to time, when you were in Sydney? ---Yes.

40 She would stay with you from time to time when she was in Wagga?---Yes.

You holidayed together from time to time?---Yes.

You had a key to her house?---Yes.

Did she ever ask for that key back?---No.

Do you recall approximately when you were first given a key to her house?
---No, I don't know. I don't recall.

I'm sorry, Commissioner.

THE COMMISSIONER: No.

MR ROBERTSON: Well, doing the best you can, we were talking
2014/2015, something around there?---I don't recall. I don't know.

10

You contemplated marriage - - -?---Yes.

- - - with her?---Yes.

There was discussion about potentially having a child?---Yes.

It was a relationship, I take it, that was attended by a level of physical
intimacy?---Later, yes, yes. That's correct.

20 No doubt the relationship, like any relationships, had its ups and downs. Is
this right, at least so far as you're concerned, the close personal relationship
with the features that I've just identified or the hallmarks that I've just
identified - - -?---Yes.

- - - that was a continuous relationship from and including 2015 up to and
including 2018 at least so far as you were concerned. Correct?---Yeah, we
had a couple of spats in, in between, but, yes.

30 No doubt you had spats but not spats so as to say, well, the relationship's
off, as it were, we can go and see other people? Nothing in that nature?
---Never. No.

Focusing on the Australian Clay Target Association matter, when did you
first become involved in seeking funding from the NSW Government in
relation to a building project for the benefit of the Australian Clay Target
Association?---It was after a meeting with I think the chairman of Clay
Target and the CEO, where they discussed the future plans for the national
headquarters here in Wagga Wagga and they laid out the plans of what they
wanted to achieve. I, I can't remember what year it was, but it was pretty
40 exciting.

You can't remember what year it was, but can you give us a rough
indication? Are we talking about many number of years ago or, or what kind
of time frame?---They won, they won, they won the right to host the Down
the Line Traps, the World Down the Line Traps, which is basically the
Olympic Games of clay target shooting. It, it might have been 2015. It
might have been '16. But it was, it was a, a plan that would cement the clay
target here forever and a day.

And this was after they had already succeeded in securing the 2018 World Down the Line Championship event. Is that right?---That's correct, Mr Robertson.

10 So is this right. There was never any suggestion that we need a building in order to win the event, what I might call a must-have. It was only ever a suggestion that we've won this event, let's have a good building for that purpose?---Yes. When they, well, when they won the event, I think there was a shock and then it was a case of hosting 800 people in a tent or trying to do something about it and really showcase Wagga Wagga and the home of clay target in Australia.

Before the concept of a new clubhouse was at least put forward in relation to the Clay Target Association, were you also involved in attempting to seek government funding in relation to the shooting facilities?---Yes. Yes. I always supported all facets of shooting in this region.

20 And that's something that you sought to advance over a period of quite a number of years, is that right?---Always. Whether it, all the different facets, whether it be pistol shooting, whether it be long bore, whether it be clay target, I supported them all, SSAA and Clay Target.

And so just to get some timing around that, if we go, please, to volume 26.0, page 1. I'm going to show you an email way back in 2011. Do you see there an email from the parliamentary email address to a private email address of yours?---Yes, I see that.

30 8 September, 2011, there's an attachment described as an "Initial meeting of the working party for ISSF facilities at Wagga Wagga." See that there? ---Yes, I see that.

40 So is it consistent with your recollection that over a period of quite a number of years, from at least 2011, you were involved in attempting to procure ISSF facilities for the Clay Target Association?---Well, certainly I was being, I think I was being briefed and kept up-to-date on what it was that they were planning but it wasn't until much later that they had the drawings done and, and, you know, the final plan in place. But, yes, I would agree with that.

It refers here to ISSF facilities. That's talking about facilities of a particular standard to allow International Shooting Sport Federation events, is that right?---Yes, and to upgrade the, the grounds.

I tender the email entitled "Initial meeting of the working party for ISSF facilities at Wagga Wagga", 8 September, 2011, 4.36pm.

THE COMMISSIONER: Exhibit 500.

#EXH-500 – EMAIL TITLED ‘INITIAL MEETING OF THE WORKING PARTY FOR THE ISSF FACILITIES AT WAGGA WAGGA – DELEGATED’ DATED 8 SEPTEMBER 2011 4.36PM

MR ROBERTSON: Can we then go to page 3 of the same bundle? We’re now moving to August of 2012. Do you see there a letter from you to then
10 Minister Annesley, then Minister for Sport and Recreation, drawing attention to the proposal for new facilities. Do you see that there in the first paragraph?---Yes.

“Concerning the development of the ISSF infrastructure at the national grounds in Wagga Wagga.” See that there?---Yes.

And so is it consistent with your recollection that from at least as early as 2012, you were seeking government funding and assistance to the
20 Australian Clay Target Association in relation to building facilities at the Clay Target Association in Wagga?---Yes.

I tender the letter from Mr Maguire to Minister Annesley, 9 August, 2012, page 3, volume 26.0.

THE COMMISSIONER: Exhibit 501.

#EXH-501 – LETTER FROM DARYL MAGUIRE TO MINISTER GRAHAM ANNESLEY DATED 9 AUGUST 2012

30

MR ROBERTSON: Now, do you recall whether you were successful in obtaining funding through Minister Annesley in relation to building work, including any facilities at the Clay Target Association?---Oh, I don’t know what the outcome of that was. I, I, I couldn’t tell you the, the, how much money flowed into Clay Target through grants and things. I can’t recall.

But in relation to the ISSF facilities themselves, is it consistent with your recollection that your representations, at least to Minister Annesley, were
40 not successful?---I don’t recall what happened from, from there with Minister Annesley. I can’t be clear.

Well, let me try and assist this way. Volume 26.0, page 313, Exhibit 404. Minister Annesley writes to you and says, see in the second paragraph, for example, “List of funding priorities included the proposal to build the facility at Wagga Wagga” and next paragraph, “I regret to inform you funds have not been available to assist with this project.” Do you see that there?
---Yes, I see that.

Now, you then ultimately made some representations to Minister Ayres, is that right?---Yes, I would have. I would have approached a number of ministers.

But you've got a recollection, is this right, of approaching Minister Ayres after he had become the Minister for Sport?---Yes, absolutely.

10 Did you approach Ms Berejikian as well in connection with either or both the proposed ISSF facilities and/or a new clubhouse?---I would have approached a number of ministers through, through correspondence, which is fairly standard.

Only through correspondence in the case of Ms Berejikian or contacted her directly in the sense of seeking to lobby her directly?---Oh, I can't remember what conversations we may or may have had at that time, but all I know is there's a standard procedure and a number of letters are sent to a number of ministers that were in the cluster that ultimately had a say in, you know, moving projects forward.

20

But are you saying in relation to the Clay Target Association, the only way you approached Ms Berejikian was through what I think you described as the official channels or the formal channels?---Well, I can't recall what conversations we may or may have had. It's 2013. I, I have no idea.

So it may have been done through official channels or it may have been done through what I might call unofficial channels, is that right?---It would have been done through official channels. My office was meticulous in the way they constructed correspondence when we were lobbying or working towards a project.

30

But there may have also been communications through non-official channels, is that right?---It's possible but I can't recall.

Commissioner, I just see there's a problem with my camera. I'll just pause to see if it can be fixed on the run, as it were. While that's being done, if Exhibit 405, volume 26.0, page 146, could be readied, please.

40 THE COMMISSIONER: I think we've fixed it, Mr Robertson.

MR ROBERTSON: Do you see there a letter from you to Minister Ayres, 27 January, 2016?---Yep. Yes, I do.

And do you see there, "I've also approached the Treasurer." See that there?---Yes.

The Treasurer at that point in time was Ms Berejikian?---Yes.

Is it possible that you approached Ms Berejiklian through what I've so far described as unofficial channels, as in approached her directly with a view to lobbying her, as distinct from simply by way of correspondence to her office?---Oh, I can't recall that I did. I may have, it's possible. But, you know, this is standard procedure. I would have written to a number of ministers from time to time. Depended who was in the cluster. We all did it. The more doors you knock on, the more letters you write, the better your chances of securing something.

10 But you would accept, wouldn't you, that at least during the period from 2015 to 2018, you had closer and more regular available contact with Ms Berejiklian than you would have had available to you in relation to other ministers?---Yes.

Now, you explained a little while ago, when we were back talking about 2011-2012, that an idea of a clubhouse and plans and the like only came into existence at some later stage? Have I got that part of your evidence right? ---No, I think that there was a grand plan but it wasn't constructed in, in maps and drawings, et cetera. It was, there were goals that the club wanted to achieve, but that was formulated around the time that Mr Turner wrote to me.

When you say the time that Mr Turner wrote to you, what are you now referring to? You're referring to the correspondence from Mr Turner that's attached to your letter to Minister Ayres?---Yes. The ultimate plan. It was, it took a while to develop, if I remember rightly, because you've got a whole board involved and there was a lot of work that went.

And so just to assist you in your recollection of the state of play as at 2016, let's just turn to the next page, please, of this document. Mr Turner's email to you refers to an attached preliminary drawing of the new clubhouse, do you see that there?---Yes.

If we then turn to the next page, I'll show you the front cover of a proposal document, World Championships 2018 National Ground Development. Do you see that there?---Yeah. I see it.

And so that was, what, in effect a proposal being put forward by the Clay Target Association as at January of 2016?---Yes.

40 Do you recall whether that particular proposal found favour within government?---No, I don't think so. No.

So you don't recall or you recall that it didn't?---I recall, I recall that I'd taken the minister to look at the site on a couple of occasions, but I can't be sure of the timeline of what was happening.

When you say the minister, you're referring to Minister Ayres now?---Yes. But I can't recall the timeline of how the events unfolded.

But this particular proposal do you recall whether at least initially it was the subject of approval or agreement by government or rejection by government?---I don't know. I don't recall finer details to the events.

10 Well, let's go to page 174 of volume 26.0 to remind you of what's going on in 2016, Exhibit 407. So this is a letter where Minister Ayres refers to your representations of 27 January, 2016. He says he "understands that stages 1 and 2 of the project have been completed, and stage 3 has been estimated to cost around \$6.1 million with the ACTA committing \$1.2 million". Do you see that there?---Yes, that's right.

And then Minister Ayres says, "The project falls outside the scope of current sport and recreation funding programs." Do you see that there? ---Yes.

20 And then second to last paragraph, "Unfortunately it's not possible to meet all requests for assistance." Do you see that?---Yeah, that's right.

So does that refresh your recollection that at least in the first instance the proposal that you advanced to Minister Ayres by way of your representations of January 2016 was rejected?---Yes.

30 Can I then show you volume 26.1, page 1. That last letter was 14 March, 2016 and I'm now going to show you a letter of 3 August, 2016. Minister Ayres refers to a further representation on your part, 24 March, 2016, but he then says in the third paragraph, "I am pleased to confirm that I have approved funding of \$40,000 to ACTA to assist in the preparation of a business case to support its funding request for the stage 3 project." Do you see that there?---Yes, I see that.

40 So how was it that between March of 2016 and August of 2016 there was, at least as you understood it, a change from what seemed to be an outright rejection, by which I mean the March 2016 letter from Minister Ayres, to only a few months later a cheque or at least approved funding of \$40,000 in relation to what seems to be the same project? How did that change come about at least so far as you can recall?---Serial pest. I brought the minister to meet and actually visit onsite and see for himself the plans, view what Clay Target proposed and the reasons why so he understood the project, and, and agreed with me that there was terrific benefit for the community in it. So that's what happened. I pestered them till, and brought them here, and I'd show every minister that visited here, every one of them.

So do you say at least so far as you're concerned the way in which a change from rejection of funding proposal in March of 2016 turned into at least a \$40,000 cheque or approval of funding was you being a serial pest to the

minister and the minister's office?---And him also visiting the site and understanding the proposal. Very hard to make decisions in glass towers in Sydney when, when it comes to a project you need to visit and look and understand it. He did it.

Was this proposal a proposal that you spoke specifically and directly to Ms Berejiklian about?---I would have mentioned it perhaps but I certainly would have included her in correspondence. That was office procedure.

- 10 Well, not just including her in correspondence. Did you engage in direct communications with her concerning this proposal with a view to lobbying her?---I, I can't recall what exact conversations I may or may have had. I can't remember.

Let me try and assist this way. If we go to volume 26.12, page 11 and this is part of Exhibit 415. I'm going to show you a briefing note from a Mr Bentley to the then Treasurer. Mr Bentley was someone who used to work for you. Is that right?---He did. He's a Wagga boy.

- 20 He I think might have worked for you when you were whip, is that right? ---That's right.

And ultimately he got a job in Ms Berejiklian's office, is that right? ---Correct.

And so do you see there, 22 November, 2016, it says, "Issue. Minister Ayres has developed a submission for ERC's consideration"?---Yes.

- 30 "They would like the matter to be dealt with by ERC this year in order for the Australian Clay Target Association to commence capital works in the 2017 financial year." Do you see that there?---Yes, I see that.

And if you have a look at the background, Mr Bentley says, "This issue came to a head during a discussion I had with Daryl last week prior to him meeting with you." Do you see that there?---Yes.

So does that refresh your recollection as to a meeting with Ms Berejiklian in which you were advancing the ATCA project?---No.

- 40 I'm sorry, Mr Maguire, I didn't hear your answer.---No. I, I don't recall that I had a meeting but I may have.

So it's quite possible that there was a meeting of the kind that Mr Bentley seems to be reporting by reason of this document, is that right?---It is possible, yes.

There's a reference to an ERC consideration or ERC submission. How did that come about so far as you can recall?---Oh, through the minister's office, I expect, Minister Ayres' office.

Is that something that you sought to procure specifically, the attention of the ERC by way of your steps, as what I think you described as a serial pest?

---No, the minister was in charge of managing that issue and there was a deadline that we were all working towards, which was for the Clay Target Down the Line Championships. That was all done through his office.

10

So are you saying you weren't involved in the question of whether or not there should be, for example, an ERC submission or a matter going before the ERC or anything of that kind?---I may have been advised that that was going to happen but that's a matter for the minister with regards to putting forward a submission. I don't know that I had a lot to do with it at that point.

20

Is this right, in relation to the ACTA project in the second half of 2016, you were being a serial pest both to Minister Ayres and to Treasurer Berejiklian associated with that project?---Yes. Every minister, that's true.

Is that your best recollection as to how it seems that this particular proposal gets rejected, then it gets \$40,000 and it gets onto the ERC agenda all in the space of a single calendar year?---Well, there was the timeline, there was a timeline and already Premier Baird had agreed to the proposal. That, that, that was already in, in train. He already had agreed to pursue it. That's my recollection.

30

When you say Premier Baird had agreed with the proposal, he had agreed to it in what way? How had he agreed to it?---Well, there was an enormous amount of lobbying and discussion but basically Premier Baird made the decision. That's the best recollection I have, that we join in partnership with the Clay Target Australia.

Well, when did that agreement come about, so far as you can recall?---Some point in time. At some point in time. Certainly before he ceased to be Premier, that's my recollection.

40

Well, try and assist me with the timing. I showed you a 3 August, 2016, letter from Minister Ayres advising of a \$40,000 grant to in effect prepare a business case. Do you remember seeing that letter before?---Yes, I do.

This agreement that you're referring to, did that happen after or before the advice regarding the \$40,000 grant?---After, I think. I think, I, I just can't be sure.

But how did this agreement come about? I'm just trying to understand that. ---I had made representations, I think, to Premier Baird about it. I'm sure that I did.

Are you saying you had some sort of, what, written assurance or indication from Premier Baird, are you?---Oh, I, I know that there were discussions with him and his office about the project and its urgency. So, but I can't remember the, the, the date line and stuff, it's just too long ago.

10 Are you saying that you have a recollection of Premier Baird's office supporting the ACTA proposal as an ERC decision?---Well, the Premier certainly had given me the indication that, that they would partner. That's my recollection. And then the, the wheels of government turned. You know, you're not, you're not involved in every single discussion that happens in backrooms, et cetera, with one of these projects but, but I can't, I just can't remember the time line.

Well, let me try and assist this way. Volume 26.1, page 202. There's a cover email to an article that has been marked as Exhibit 421. So we're
20 now 14 November, 2016. Subject heading "City Shoots for Invictus Games: We Need Our Building to Host It". See that there?---Yes.

And then, is this right? As part of you being a serial pest, you're sending this to Minister Ayres, Treasurer Berejiklian and others?---Yes, that's right.

You're sending it to Treasurer Berejiklian using what I'll call her direct email address, is that right, not her open, public-facing one, her direct email address?---Yes, and members of the Premier's Office.

30 And then if I show you the article itself, if we turn to the next page, please. Do you see the headline there, "Wagga will bid to host the Invictus Games' clay target shooting event." See that there?---Yes. Yes, that's right.

Now, that was the Invictus Games that was ultimately held in Sydney. Is that right?---That's right.

It was just held in Sydney. It wasn't held in New South Wales more generally. Correct?---Well, the proposal was that they would hold games in the regions, and cities could make bids to host certain games, and that was
40 then changed by the Invictus Games Committee. But, certainly, it was indicated that there would be regional games. That's correct.

But in the Invictus Games themselves that were held in Sydney, there was no shooting events. Is that right?---No. But we wanted to propose it.

We'll then just go to the next page, please. So was that one of the reasons why or one of the justifications that you were putting forward as at the second half of 2016 as to why this proposal should be supported with a view

of convincing the Sydney Invictus Games to have events in Wagga including a shooting event. Is that right?---Perhaps partly, but the overriding issue was the Down the Line Trap Championship. This, this was perhaps a side event but, again, we, we felt that Wagga had what it takes to host that kind of sport for the Invictus Games, and the connection with the army and the services made it logical. Each, I understand that each region was free to put in bids to host particular games. We talked about it and we certainly wanted to do it.

10 Now, I'll just show you what you're quoted to have said in the article. Do you see there in the second paragraph under some photographs of people holding clay targets, "I spoke to the Premier, who told me to go hard." Do you see that there?---Yes.

And so when you're referring to support from the Premier before, is that just a reference to general support of the kind that you're quoted as saying here? Is that what you were referring to before?---Sorry? Can you repeat that?

20 You were saying a little while ago that this particular proposal, as you understood it, had the support of Premier Baird. Have I got that right? ---Yes. Yes, that's correct.

Is this right? That wasn't support in any formal sense. That was in the more generic supportive sense of the kind that you were quoted to have said in the article we can see on the screen?---No, I think, I think the support was more concrete from the Premier regarding the proposal, from, otherwise, otherwise we wouldn't have been pursuing it.

30 Did you have any involvement in procuring the Australian Clay Target Association proposal being put on the Expenditure Review Committee agenda meeting for December of 2016?---I don't know.

You don't know?---Well, I don't run the ERC. I don't recall. I would have thought the minister would have put it forward or someone from the Premier's Office.

40 Well, I showed you the briefing note from Mr Bentley that referred to a conversation between you and, in fact, I think it referred to a meeting between you and Ms Berejiklian and a further communication between you and Mr Bentley. Were part of those communications part of you being a serial pest with a view to getting a government decision as soon as possible?---Yes, that would be right.

THE COMMISSIONER: Mr Robertson, is it appropriate to take a short adjournment?

MR ROBERTSON: Yes, Commissioner.

THE COMMISSIONER: Maybe just 10 minutes?

MR ROBERTSON: Thank you, Commissioner.

SHORT ADJOURNMENT

[11.55am]

10 THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Mr Maguire, we got up to towards the end of 2016. I take it it ultimately came to your notice that the Expenditure Review Committee of Cabinet had made a decision favourably to the ACTA proposal that had been advanced through Minister Ayres' office?---Yes.

Minister Ayres was the proponent minister as you understood it for that particular Expenditure Review Committee decision?---Yes.

20 At that point in time you were a parliamentary secretary but not a minister. Correct?---Yes.

And because you weren't a minister you weren't able yourself to put forward a submission to the Expenditure Review Committee of Cabinet. Is that right?---That's correct.

But you were pushing for steps to be taken by Minister Ayres' office with a view to the ACTA proposal receiving formal government support. Is that right?---Yeah.

30 Do you recall how it came to your notice or how you were informed as to the decision made by the Expenditure Review Committee of Cabinet?---No.

What was your understanding of the nature of that decision, was that as it were money in the bag, it's been approved and the money is definitely going to flow, or as you understood it was it subject to any conditions such that the money might not flow?---You're talking about the \$40,000?

40 No, I'm now talking about the \$5.5 million. So maybe I'll deal with it in parts then. I was asking about an Expenditure Review Committee decision. Is this right, it came to your knowledge towards the end of 2016 that the Expenditure Review Committee of Cabinet had made some decision in relation to not just a \$40,000 for a business case but the actual development and construction of a clubhouse and conference facility. Is that right?---Oh, I don't know how it came to my attention, whether it was Minister Ayres or, I can't recall.

But in terms of the decision itself, what was your understanding of the decision? Was that we're definitely going to build this building or was that,

as you understood it, subject to some kind of conditions or other process that the proposal may or may not ultimately pass muster through?---My recollection is that Premier Baird gave the authority to proceed with this particular project, he was supportive, and that the wheels of government had to turn to fund it. I was under no illusion that the former Premier was supportive and encouraged the, the project.

10 Well, let me try it this way. Let's go to Exhibit 397, volume 26.4. That's Exhibit 397. I'll show you a media release embargoed to 2 January, 2017 and this is the covering email. We'll just go to the next page, please. Do you see that there you're making an announcement towards the start of 2017. It says, "\$5.5 million in NSW Government funding for the Australian Clay Target Association headquarters located in East Wagga Wagga." Do you see that there?---Yes.

20 Now, as at the date of this press release what was your understanding of the status of the \$5.5 million? Was that in effect money had been secured perhaps subject to doing some paperwork, or was it subject to going through some government processes that may or may not involve the \$5.5 million flowing?---My recollection is that the government had agreed to partner with Clay Target and that the money would flow with some paperwork. I can't recall there ever being strings attached to it.

30 When you say the government to act in partnership, what do you mean by that in this context?---Well, Clay Target were to submit 1.2 million or 1.5 million and the government would partner in funding the balance and that, you know, it was a process of filling out the paperwork and the money would flow. That was my understanding otherwise I wouldn't have put out a press release.

That was your understanding based on what? Just fill out the paperwork and get the money, that was an understanding based on what?---Well, my recollection is this was authorised or this was approved by Premier Baird. He was supportive of this. That's my recollection.

Go, please, to page 68 of volume 26.4. 2 January, 2017, 6.48pm. Page 68, volume 26.4. Do you see there an email from you to Ms Berejiklian, 2 January, 2017, 6.48pm?---Yes, I see that.

40 And if we go to the next page you'll see the attachment, or at least the document referred to, it seems to be a report based on the press release. See that there?---I can see that.

Why were you sending that to Ms Berejiklian?---Oh, I was probably very happy that this was happening, sharing the good news.

I take it that you didn't seek to compartmentalise the public and private in the way that I discussed this morning, you didn't seek to avoid directly

lobbying Ms Berejiklian regarding electorate of Wagga Wagga issues?
---No, I, I, I lobbied everybody. Anyone that had a, a slightest attachment to whatever it was I was proposing, I lobbied them.

Including Ms Berejiklian, is that right?---Of course, of course.

I tender the email on the screen of Mr Maguire to Ms Berejiklian, 2 January, 2017, 6.48pm.

10 THE COMMISSIONER: Exhibit 502.

**#EXH-502 – EMAIL FROM DARYL MAGUIRE TO GLADYS
BEREJIKLIAN TITLED ‘GOOD NEWS’ DATED 2 JANUARY 2017
6.48PM**

20 MR ROBERTSON: If we can go then, please, to volume 26.5, page 101. If you can have a look first at the email from Mr Turner to you, 6 March 2017, if we can just zoom into that document, please. Do you see there, “I have been advised late last week by GHD, the Department of Industry has accepted a quote from them to prepare another business case study taking into account the tourism aspect of the ACTA proposal for the function centre.” Do you see that there?---Yes.

30 But if we then go a little bit further up the page, and I’ll give a strong language warning before I draw attention to the email at the top of the page from you to Ms Berejiklian, 6 March, 2017. Do you see that there?---I see that.

And your text to Ms Berejiklian is, “Typical of our bullshit government.” Do you see that there?---Yeah, that’s typical Daryl. Yes.

What was typical Daryl seeking to communicate by complaining about what you’ve there described as “our bullshit government”?---Bureaucracy at work.

40 Well, what do you mean by that?---Bureaucracy at work. It’s a merry-go-round. We’ll make a commitment to something and then there are a zillion roadblocks put in place to make it happen. And there was a time, look, there was a time, there was a time factor in this. We needed to get it finished. The agreement had all been made, as in the Premier had, Premier Baird, had sanctioned it, the announcements were made. This needed to happen.

But as you understand it, the bureaucracy was seeking to satisfy itself that the benefits of building this facility would be equal to or exceed the cost to

the state, is that right?---Well, yes, that's correct. There's also an urgency to it as well.

So are you taking issue not with wanting to prepare the business case study but rather the length of time necessary to do so?---The urgency, that's correct. There was a construction timeline that needed to be met, otherwise we would be meeting in a tent for the World Championships and not in the building that was proposed in the finished grounds. That's what the urgency was.

10

Now, by sending this email to Ms Berejiklian, were you in effect asking her or seeking for her to intervene in relation to the ATCA project?---I was venting my frustration at the, at the, the, the bureaucracy and the way the government's tied itself in knots.

Is it not more than that, are you not seeking her intervention in relation to a project that you're advancing?---Well, I kept her informed. I didn't ask that directly in there but I certainly kept her informed. She was the Treasurer, she needed to know the rubbish that was going on.

20

In relation to projects that you were advancing from time to time you would ask Ms Berejiklian to intervene, correct?---I would, I would tell her what was happening.

You would tell her what was happening and invite her to intervene, is that right?---No, I wouldn't invite her directly, that was up to her.

30

Are you seriously saying that you haven't, in relation to the projects that you were advancing, you weren't inviting her to intervene at any point in time?---You could read that as an invitation.

Well, not just read it as an invitation but that was your intention in sending emails of the kind that we can see on the screen to invite her to intervene. Is that right?---I, I say it more as me venting about the government but you could interpret it as that.

40

Well, not just interpret it as that, that it was at least one of your objectives in sending emails of the kind that we can see on the screen. Is that right?---I couldn't say with that particular one. I, I still think it was more me venting about the, the procedure and, and what had actually occurred.

So you accept then, is this right, that at least some of the communications that you had with Ms Berejiklian in relation to projects that you were advancing were done with a view to having her intervene?---Well, to take an interest, to take an interest and to understand the, the, the, the mess that the government had got itself in trying to, you know, get projects up and running, tied up in, tied up in red tape and rubbish.

To take an interest and to take steps. Correct?---Yes, I'll concede that.

I tender the email from Mr Maguire to Ms Berejiklian, 6 March, 2017, 10.19am, page 101, volume 26.5.

THE COMMISSIONER: Exhibit 503.

10 **#EXH-503 – EMAIL FORWARDED FROM DARYL MAGUIRE TO GLADYS BEREJIKLIAN REGARDING DEVELOPMENT OF ACTA CLUB HOUSE/CONFERENCE CENTRE AT WAGGA WAGGA DATED 6 MARCH 2017 7.52PM**

MR ROBERTSON: And then go please to page 115 of volume 26.5. I'll start with the email on the bottom half of the page. That's the email from Mr Turner to you. You then respond, if we go up a little bit further, or at least forward it to Ms Dewar, D-e-w-a-r. She was the chief of staff to the Deputy Premier at that point in time. Is that right?---Yes.

20

And then further up, you see there it says, "Peter Minucos from our office has spoken to Tony and the department to work through this." Do you see that there?---Yes.

What was Mr Minucos' role in this matter, so far as you can recall?---He, he, he, he was involved somewhere in the offices doing the background work or whatever it was that they wanted to, to allow the club to be funded. I, I can't recall exactly what he did.

30 Well, I can help you by indicating that he was an adviser in Deputy Premier Barilaro's office. Does that help you?---Okay. Well, there were lots of advisers in there, so - - -

Was he your principal contact within Deputy Premier Barilaro's office in relation to the ACTA project?---No, I don't think so. I think it was Mr Barnes. I dealt mostly with Mr Barnes.

So Mr Barnes was a person who worked in the Regional NSW aspect of government. Is that right?---Yes, that's right.

40

So is that your recollection? Your principal contact in relation to the ACTA project was with Mr Barnes?---Yes, but there were a number of PLOs that all had a finger in the pie. Minucos may be one. There were a number in then Premier Baird's Office, as well. A whole raft of people, you know, had their fingers in the pie.

What about in now Premier Berejiklian's Office, noting that we're now in 2017?---Well, I can't be sure.

Well, who was your principal contact within Premier Berejiklian's office in the time that she was Premier?---Now I think back, it might have been Zach Bentley, that's possible, or there was a PLO. There's, there, I can't remember the PLO's name but certainly Zach Bentley would have been there.

When you say "PLO", you're referring to a parliamentary liaison officer. Is that right?---Yes. Yes.

10

THE COMMISSIONER: Mr Minucos wasn't a PLO, though, Mr Maguire, was he?---No. He, he had some other role in, in Barilaro's office but normally you'd deal with PLOs but, I don't, can't even recall that I had a lot to do with the man. He may have given me a briefing. I just don't recall.

20

MR ROBERTSON: Well, you issue your media release in January of 2017 and we've seen some communications where you're concerned with, well, in relation to this email, you describe as "BS". What was your involvement in moving from your concern about the BS to actually getting funds flowing?---I would have, I would have given everyone the rounds at the table, whether they be, you know, Premier's staff or PLOs, everyone would have got what for because, because we had a time line and the project was being hampered. It needed to be completed.

And that includes the Premier herself directly, Ms Berejiklian, is that right? ---One and everyone would have got a serve, I can guarantee you.

30

Everyone and everyone, including Ms Berejiklian herself, correct?---Most, yeah, most likely.

Well, not just most likely, you have a recollection of raising the ACTA project directly with Ms Berejiklian as distinct from her staff or other people within government, is that right?---I don't have a recollection of it, but I probably did.

40

And not just for information purposes but with a view to having her take steps in relation to the ACTA proposal, is that right?---Well, she would be one of the people involved. There'd be a number of them that would have to, you know, make, make that happen, but she would be just one of them.

No doubt, but are you accepting my proposition that one of the things that you did with a view to avoiding what you described as BS was make direct communications with Ms Berejiklian with a view to having her take steps in relation to the projects that you were advancing?---Well, I may have done that.

Are you saying you don't recall one way or the other, but you may have done that, is that right?---No not in detail, I don't recall in detail, but I may have.

You're not denying that you did, you're just saying, sitting there now, you don't recall one way or the other, is that right?---Can't think that I did, but I may have.

Can we go to page 214 - - -

10

THE COMMISSIONER: Do you want to tender that last email, Mr Robertson?

MR ROBERTSON: I do, thank you, Commissioner. I tender the email from Ms Dewar to Mr Maguire, 7 March, 2017. 26.5, page 115.

THE COMMISSIONER: Exhibit 504.

20 **#EXH-504 – EMAIL CHAIN ENDING WITH FIONA DEWAR TO DARYL MAGUIRE REGARDING DEVELOPMENT OF ACTA CLUB HOUSE/CONFERENCE CENTRE AT WAGGA WAGGA DATED 7 MARCH 2017 2.02PM**

MR ROBERTSON: Page 214, volume 26.9. I'm going to jump forward to 28 July, 2017. Daily Advertiser article of that date. Now can we zoom in to that so we can see it a little clearer. Do you see there in the second column, we just might zoom in to the second column if we can, towards the bottom.
30 You see there you're noted as saying that "The government heavy-hitters were impressed by the predicted benefit-to-cost ratio in the order of \$2.80 returned for every \$1 invested"? See that there?---Yep. Yep.

Where did you get the idea that there were heavy-hitters that had a predicted benefit-to-cost ratio of \$2.80 for every \$1 invested?---Oh, through discussions that I would have had with various ministers and others that were involved in the process.

40 But where did the idea of a \$2.80 return for \$1 invested come from?---The standard economic figure that you can use. Economics, particularly local council, use those figures. There's a, there's a figure you use for job creation. There's a figure you use for tourism, and also for job loss. They're multipliers.

So are you saying this is what you understood to be a general multiplier - - - ?---Yes.

- - - that could be described as a benefit-to-cost ratio rather than anything that has anything, rather than a specific analysis pertaining to this particular project?---They're, they're numbers that are traditionally used when councils and others are calculating cost-benefit ratios and job loss for every dollar invested.

But a figure not specifically calculated by reference to this particular project, is that what you're saying?---Well, I, I can't be sure whether they used that figure, but certainly it was my figure.

10

But when you say it's your figure, by the sounds of it this is a figure that you would use for any project, be it an ACTA project or any other project? ---Well, it's a standard, accepted figure. That's my understanding. It was \$2.80 for every dollar invested, and job losses were something like \$3.50 for every dollar lost.

So it doesn't matter what you spend the dollar on, if you spend a dollar in a building, you get a \$2.80 return no matter what the building is and for what purpose, is that right?---Well, well the council figures that were traditionally used was that, and that's a figure that I always quote.

20

But have I summarised your understanding correctly or have I got something wrong about that?---No, I, I think that's my understanding. I've always, I've always used that figure.

But have I summarised your understanding correctly or have I got that wrong?---Would you like to summarise it again?

I think what you're saying, but I may have it wrong is that at least so far as you were concerned, if you spend a dollar on any building, you get a \$2.80 return, at least roughly, regardless of what the building is and for what purpose, et cetera.---No, not only the building, it's what goes into the building and the activities that are created. So that's - - -

30

But this isn't a figure that, at least as you understood it, was calculated by reference to the ACTA facility itself, is that right? It was just a standard figure?---Yes, in my understanding. It's an accepted figure.

Just a standard figure rather than pertaining to the particular project, is that right?---It's an accepted figure by industry, that was my understanding.

40

I'm sorry to keep to keep coming back, not with respect to this particular project, a standard figure in industry more generally?---I can't recall. I, I just can't recall that, fix that detail of what was in that proposal but if it says \$2.80 then that's what was in it.

I tender page 214, volume 26.9.

THE COMMISSIONER: Exhibit 505.

#EXH-505 – WAGGA WAGGA DAILY ARTICLE DATED 28 JULY 2017 'FACILITY RECEIVES GLOWING REVIEW'

MR ROBERTSON: I'll come back to clay targets a little bit later but I want to move in the time before lunch to the Riverina Conservatorium.---Yes.

10

You're aware that that's one of the matters that this Commission is investigating, namely allegations – or in fact, before I do that, just to confirm one matter. In the first public inquiry there was evidence to the effect that G8way International assisted in the purchase of furniture for the Clay Target Association?---Yes.

Do you remember giving evidence about that matter?---Yes, that's right, I remember.

20

And so is this right, the Clay Target Association building was constructed but G8way International assisted in the purchase of furniture for that building?---Assisted them to introduce contacts where they could buy direct from the manufacturer to save the gun club money. Yes, that's right.

That was done in exchange for a commission, correct?---I don't know what Mr Elliott did in regards to that.

30

THE COMMISSIONER: Mr Robertson, at the moment one of the screens has frozen. I know mine and I don't know if that's the public screen.

MR ROBERTSON: Yes. Mine have as well, at least in the one in front of me.

THE COMMISSIONER: I think it's fixed now.

40

MR ROBERTSON: G8way International was a business in respect of which you were in substance a director, is that right, albeit not formally appointed as such?---No, I wasn't a, I wasn't an appointed director, I wasn't a director, but I did give advice.

But it was a business where in substance you acted as a director would act. You accepted this in the first public inquiry, correct?---Well, I acted and I gave them advice, yes.

That was an entity through which you were seeking to make profits for yourself, correct?---Not necessarily.

Well, when you say not necessarily, that was at least one of the objectives for your involvement in G8way International, correct?---Oh, it's more technical than that but - - -

Are you trying to change any of the evidence that you gave in the first public inquiry?---For the argument, I'll accept that.

10 Well, no, not for the purpose of the argument. Are you trying to change any of the evidence that you gave in the first public inquiry regarding your association with G8way International?---No.

G8way International assisted ACTA in furniture for this building with a view to making a commission, is that right?---Well, you would have to ask Mr Elliott. I had nothing to do with it.

20 Well, you're not aware of whether or not Mr Elliott and G8way International were assisting with or without the view of obtaining a commission?---Mr Elliott acted and assisted the gun club to save money on the purchase of the goods and equipment. I don't recall what the washout of it all was and I had nothing to do with it.

Well, it was at least with a view to obtaining a commission, correct?---Well, to cover his costs, I would imagine so. Nobody - - -

Not just cover the costs, with a view to obtaining a commission.---Nobody works for nothing.

I'm so sorry?---No-one works for nothing, Mr Robertson.

30 Exactly. In relation to the Riverina Conservatorium, I take it that that was a project that you were seeking to advance?---Yes.

Would you agree that you were, at least so far as you could see it, the principal proponent of that project within government?---Yes.

40 At least one aspect of that proposal involved, in effect, seeking to find the Riverina Conservatorium a new home in circumstances where the Charles Sturt University gave an indication that it would no longer be able to provide a home for the Riverina Conservatorium, is that right?---Yes, yes,

But the proposal, at least as you understood it, was broader than that, is that right? It wasn't just replace a like facility with a like facility?---It became broader as, as discussions and site benefits were uncovered, yes.

Now, did you provide any input into the development of at least the initial proposals as to what the Riverina Conservatorium might propose to government?---Yes, I certainly did.

Now, is this right, what was proposed by the Riverina Conservatorium by way of an unsolicited proposal to government was not just a like-for-like facility but rather was to build amongst other things a recital hall in Wagga Wagga?---That's correct.

Also some commercial premises through which the Riverina Conservatorium might be able to gain a revenue stream?---That's correct.

10 And so was this you providing advice as to a possible proposal including that commercial aspect and the aspect of the recital hall?---This was the board and the chairman and myself and the CEO working through a plan to develop a world-class facility in Wagga Wagga, of which a recital hall and having some opportunity to raise some income, because the Department of Education is ultimately the sponsor of the Conservatorium of Music. Its income is limited and the recital hall was a key part in the next phase so that they could bring world-class acts to Wagga Wagga and have a recital hall that was built to a standard that a major regional inland city like Wagga Wagga deserves.

20 So is this the idea, build or give a facility or build a facility for the Riverina Conservatorium but allow it to make the revenue from commercial spaces within the building?---Eventually, eventually it would have needed to because the discussions had with government originally were that the conservatorium should pay a commercial type rent which was unaffordable to them. They lived from hand to mouth. They teach 250 students music. They're not flush with money. That's why they needed a new home. That's why they needed a grant because they just didn't have the capital to replace what they had.

30 Did you ever make any suggestion that the new Riverina Conservatorium of Music facility should be built a larger size than is necessary with a view to having extra space that could then become a commercial space which could then become a revenue stream?---Yes, of course. We had lots of discussions about what's possible and what's not once the site was identified. There were a number of sites that we discussed around the city from a green space, a greenfield to what eventuated was the location on the lagoon, which had lent itself to a perfect, a perfect environment for a conservatorium to be built.

40 So you're now referring to the 1 Simmons Street site, which was a building formerly associated with transport organisations. Is that right?
---Mr Robertson, yes.

Who identified that as a candidate site for the Riverina Conservatorium?---I think it was me.

Can we go, please, to volume 31.0, page 50, to try and get some timing around the things you and I have started to discuss.---Ah hmm.

I'll actually start at page 54 of volume 31.0. Now, this is a letter from you to the Minister for Education. This is 7 August, 2015. Do you see that there?---Yes, I can see it.

And then if you have a look at the fourth paragraph, "The attached correspondence explains the proposal which will require some funding from the government." See that there?---Yes.

10 "And attached is a proposal for further investment which will allow the Conservatorium of Music to relocate to a new conservatorium constructed with government funding at this point next to the playhouse in the cultural precinct of the city." Do you see that there?---That was the greenfield site that I referred to.

So there was an original suggestion of the playhouse but ultimately, is this right, you fixed upon in conjunction with the Riverina Conservatorium the 1 Simmons Street site?---Well, the building became available in between the time this correspondence was written.

20

So ultimately the 1 Simmons Street site became a building that was no longer being used for government. Is that right?---That's correct.

But I think your idea was to, in effect, gift the 1 Simmons Street building to the Riverina Conservatorium. Is that right?---That was one of the suggestions, yes.

I tender the letter on the screen, letter from Mr Maguire to Minister for Education, 7 August, 2015, page 54, volume 31.0.

30

THE COMMISSIONER: Exhibit 506.

#EXH-506 – LETTER FROM DARYL MAGUIRE TO MINISTER ADRIAN PICCOLI DATED 7 AUGUST 2015

MR ROBERTSON: We'll then go to page 57 of the same volume, volume 31.0. See there a letter from Ms Berejiklian to you of 15 October, 2015?

40 ---Yes.

And she says, she's referring your correspondence of 11 September to the Department of Education, do you see that there, or at least the Minister for Education?---Yes, I can see that.

And you see there, there's some handwriting there, "I appreciate receiving this information." See that there?---Yes.

I take it you recognise that as Ms Berejiklian's handwriting?---I do.

I tender the letter, 15 October, 2015, the letter from Mr Maguire – sorry, I withdraw that. From Ms Berejiklian to Mr Maguire, 15 October 2015, page 57, volume 31.0.

THE COMMISSIONER: Exhibit 507.

10 **#EXH-507 – LETTER FROM GLADYS BEREJIKLIAN TO DARYL MAGUIRE DATED 15 OCTOBER 2015**

MR ROBERTSON: We're now in 2015. Is this a project that you've advocating for directly to Ms Berejiklian or at this point in time is it only being done through formal correspondence of the kind that we can see on the screen?---Formal correspondence. There was a process the office followed. We would write to any minister we thought relevant. There's probably a letter to the Minister for Arts, as well, somewhere in there.

20

So does that mean the answer to my question is that at least as at 2015, in terms of lobbying Ms Berejiklian, you're doing it through the formal channels of writing letters and the like - - -?---Yes.

- - - but not through a more informal channel of making contact with her directly. Is that what you're saying?---Yes, that's, yes, I'd suggest that, yes.

And can we then jump forward, please, to volume 31.0, page 63. And do you see there a further letter now attaching correspondence from Dr
30 Wallace, 27 June, 2016?---Yes.

And so at this point in time, you say you're still just engaging in formal channels of the kind that we see on the screen or are you also engaging in what I've described as informal channels?---Oh, I don't know. I can't recall what I would have said. I'd imagine that that letter, a similar letter would have went to a number of ministers, as well. I would have lobbied anybody that would listen. So I, I can't be clear.

Well, at least, this is in June of 2016, at least once Ms Berejiklian became
40 the Premier, you assisted in organising a visit to Wagga Wagga. Is that right?---Yes, that's correct. Yes.

In fact, I think one of her first visits to a regional area as Premier was a visit to the electorate of Wagga Wagga. Is that right?---That's, yes.

During the course of that visit, you arranged for Ms Berejiklian to visit the Riverina Conservatorium site. Is that right?---That is correct.

If I could just tender that letter before we get lost, Commissioner, letter from Mr Maguire to Ms Berejiklian, 27 June, 2016, page 63, volume 31.0.

THE COMMISSIONER: Exhibit 508.

#EXH-508 – LETTER FROM DARYL MAGUIRE TO GLADYS BEREJIKLIAN DATED 27 JUNE 2016

10

MR ROBERTSON: And if we go, please, to volume 31.0, page 80.

THE COMMISSIONER: Which volume?

MR ROBERTSON: 31.0, page 80. I'll just show you a document entitled "Premiers Visit to Wagga Wagga" with a missing possessive apostrophe. See there, "Fly to Wagga. Daryl to collect from airport. First event meet with Riverina Conservatorium of Music," and then a series of other events, including tour Wagga Wagga Rural Referral Hospital, community afternoon tea" - - -?---Yes.

- - - and things of that kind. See that there?---I recall that.

"Private dinner with Daryl, Phil Elliott and Karen Barbey at Daryl's house."---Yes.

See that there?---I recall that.

30 And then you'll see some events on Saturday, including a visit to industrial area and then drive to airport after that?---Yes.

That was part of you seeking to lobby Ms Berejiklian for her support in relation to the Riverina Conservatorium of Music project. Is that right? ---And all of the projects that I showed her while she was here, yes, that's correct.

I tender the document entitled Premier's Visit to Wagga Wagga, page 80, volume 31.0.

40 THE COMMISSIONER: Exhibit 509.

#EXH-509 – ITINERARY OF PREMIER'S VISIT TO WAGGA WAGGA ON 10 FEBRUARY 2017 AND 11 FEBRUARY 2017

MR ROBERTSON: Can we then go, please, to Exhibit 464, volume 31.0, page 115. See there an email entitled "Here we go on the merry-go-round again!"---Yes.

And if we then just turn to the next page, do you see there, there's a letter to Dr Wallace, Riverina Conservatorium of Music, which says that, it says, "Unfortunately, the submission has not met the very high requirements put in place under the unsolicited proposals guide." Do you see that there?
---Yes, that's, yes.

10

So what was the particular merry-go-round that you were concerned that you were on or perhaps the Riverina Conservatorium was on as at 18 July, 2017?---Well, my understanding is and my recollection is we were advised to make an unsolicited proposal as the best avenue to secure the building, and it was rejected or didn't meet the guidelines, and I, I recall that I wasn't happy about it, nor was Dr Wallace. It costs a lot of money to put those submissions together, and they're saying, the, the suggestion there from me is, you know, that the merry-go-round is at work. You know, it costs a lot of money for the conservatorium to do this. They're poor, they've got no
20 money, and, you know, to waste time when, when it didn't meet it was frustrating.

What steps, if any, did you take to assist the Riverina Conservatorium getting off the merry-go-round?---Oh, I probably would have torn strips off people and made a mongrel of myself. I can't remember exactly but I bet you I would have.

30

Was one thing that you did arranging a dinner with the Premier and the Treasurer at Parliament House?---Well, I think that was a different issue compared to this unsolicited proposal. I think it's a different issue.

Well, let me try and assist this way. Page 129, volume 31.0. Do you see there an invitation, 7 September, 2017? So that's the RSVP date, 7 September, 2017, but for a dinner with the then Premier and the then Treasurer at Parliament House on 12 September, 2017?---I see that.

And if we then go to the next page, I'll just show you the guest list. Do you see that one of the individuals there at line 22 is a Mr Neil Mangelsdorf?
---Yes.

40

Did Mr Mangelsdorf have anything to do with the Riverina Conservatorium project that you and I are discussing?---Yes, he was very, very helpful to the board and to Andrew Wallace, who was putting together the plans and submissions, yes.

What was his role, at least as you understood it?---Well, he built a conservatorium in Tamworth, and he was helpful finding appropriate people

that we could consult with so that we could put together a plan and a proposal. So he was very helpful.

Was one of the reasons you asked Mr Mangelsdorf to attend to procure him to try and encourage the then Premier and the then Treasurer to support the RCM project?---Oh, yes, but also there were a lot of people there that are involved in business and industry, and Mr Mangelsdorf's a very successful businessman. So there are a lot of people there that are successful in the city, and it was a networking night. Yes, so you could say that.

10

Obviously one of the attendees was Mr Luong, the gentleman that you and I discussed this morning. Do you see that there?---But he didn't attend. My recollection is he didn't come.

So, what, he was invited to attend but didn't in fact attend, is that what you're saying?---That's my recollection, yes.

20

Can we play, please, telephone intercept 3944. It's extract number 1 to start with. And I want to play you a recording between you and Mr Mangelsdorf, although I note that there is now an echo in the room.

THE COMMISSIONER: What was the date of this, Mr Robertson?

MR ROBERTSON: 20 November, 2017.

AUDIO RECORDING PLAYED

[12.51pm]

30

MR ROBERTSON: And then we'll play the second extract, please. I'm trying to not play you whole recordings, Mr Maguire, so that we can save a bit of time.---I'm sure everyone will appreciate that.

AUDIO RECORDING PLAYED

[12.52pm]

MR ROBERTSON: And we'll now play extract 5.

40

AUDIO RECORDING PLAYED

[12.52pm]

MR ROBERTSON: I take it you agree that one of the voices on those recordings was yours and one was Mr Mangelsdorf?---That's right.

And in the excerpts you've heard you were talking about the RCM project. Is that right?---That's correct.

What did you mean when you said to Mr Mangelsdorf, “I’ve got money put away in the investment infrastructure fund, ah, tens and tens and tens and tens of millions.”---Well, that was my recollection after poles and wires, and there was a fund and those funds were allocated to the regions, my recollection is, and it was tens and tens and tens of millions of dollars. And the indication was that that may be where the funds could come from, from my best recollection.

10 But why is it your money? You refer to it in that extract as your money. You’ve got money put away in the infrastructure fund, investment infrastructure fund tens and tens and tens of millions of dollars.---My recollection is that each region was allocated some funds. I can’t be sure what the fund was called but there were projects that could be funded out of that, so that’s just my speak saying I’ve got.

Well, are you saying to your recollection you had in effect tens and tens of millions, sorry, tens and tens and tens and tens of millions of dollars that you could in effect spend as you saw fit?---That we could apply for. That was my recollection after polls - - -

Well, that’s not what you say to Mr Mangelsdorf. You’re talking about your money that’s been put away, that you have tens and tens and tens and tens of millions of dollars.---Well, that’s, that’s Daryl speak.

I tender those extracts of telephone intercept 3944, 20 November, 2017.

THE COMMISSIONER: That will be Exhibit 510.

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#EXH-510 – TELEPHONE INTERCEPT 3944 BETWEEN MAGUIRE AND MANGELSDORF DATED 20 NOVEMBER 2017 AT 6.38PM

THE COMMISSIONER: You didn’t actually tender the item about the dinner, the guest list for the dinner.

MR ROBERTSON: Thank you, Commissioner. I do tender that item.

40 THE COMMISSIONER: It was page 129, volume 31.0.

MR ROBERTSON: I’m grateful, Commissioner. I do tender that document. Page 129, volume 31.0, 12 September, 2017.

THE COMMISSIONER: Exhibit 511.

**#EXH-511 – LIBERAL PARTY FUNDRAISER DINNER
INVITATION WITH BEREJIKLIAN AND PERROTTET ON 12
SEPTEMBER 2017 AND INVITATION LIST**

MR ROBERTSON: And can we now play extract 1 of telephone intercept 4205. This is now 30 November, 2017.

10 **AUDIO RECORDING PLAYED** [12.55pm]

MR ROBERTSON: So, Mr Maguire, this is you and Mr Mangelsdorf talking about the RCM project, is that right?---Yes. My recollection is that was when we were discussing handing it, through council having it, through Wagga City Council, if I remember rightly.

So is this right, the idea, at least in your mind, was to have the RCM gifted the whole of the building by the council in exchange for a peppercorn?

20 ---Yeah, that, that was one of the discussions that were had as a way of solving the, the occupation and ownership issue, yes.

But what you were proposing, is this right, is that the building should be built too big, bigger than was necessary, such that there'd then be commercial space available which could then be subletted, is that the idea? ---Well, the idea was to ultimately have the centre, the recycled centre, which could be multifunctional. It's in a fantastic location on the lagoon. And, yes, some commercial space that the conservatorium could generate income from, yes, that's correct.

30 No, but do you say specifically to Mr Mangelsdorf, "Let's build it too big, then put in some commercial stuff"? Do you remember hearing you say that on the telephone intercept?---Yes, I remember.

And so was the idea to, in effect, tell the government – or at least those that are funding – we need a site of a particular size that actually happens to be bigger than what would be necessary for the Riverina Conservatorium, and then use it in order to obtain a revenue stream for the RCM?---That was one of the discussions that were had, yes.

40 Is that the part of the story with the Clay Target Association as well? Let's build a facility or clubhouse that may well be bigger than absolutely necessary, with a view to having a revenue stream for that organisation? ---Well, they all need revenue streams, and you only get a chance to build them once, do it well, and do it right.

But build it bigger than what is necessary in order to, in effect, cause the government to procure a revenue stream for a private organisation, is that

what you're saying?---But ultimately the Conservatorium of Music, whilst it's got a board, is responsible to the Department of Education. They really should be funded by the Department of Education 110 per cent.

But neither ACTA nor the RCM are a government agency, is that right?
---But the RCM teaches music to schoolchildren, even in public schools, and they come under the umbrella of the Department of Education. They should be funding the conservatoriums and providing buildings at nil cost to the conservatoriums. That's my opinion.

10

But this is a – is this right, this is in effect another way to try and get funding of the kind that you're talking about. Build the facilities too big and therefore have a funding stream for one or other of these private organisations.---We discussed a lot of options when we were trying to develop a way to get ownership for the Conservatorium or occupation, and that is one of them, yes.

THE COMMISSIONER: Are you going to tender that - - -

20 MR ROBERTSON: Can we then go, please, to volume 31.0, page 170, and while that comes up, I tender telephone intercept 4205, extract 1.30, November 2017.

THE COMMISSIONER: Exhibit 512.

**#EXH-512 – TELEPHONE INTERCEPT 4205 BETWEEN
MANGELSDORF AND MAGUIRE DATED 30 NOVEMBER 2017 AT
9.12PM**

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MR ROBERTSON: And if it's convenient, Commissioner, I'll just do two further things before the luncheon adjournment?

THE COMMISSIONER: Yes, certainly.

MR ROBERTSON: So do you see there now a press release New Home for the Riverina Conservatorium of Music, 16 February, 2018?---Yes, I see that.

40 And you there say, "The Member for Wagga Wagga, alongside RCM Board Chairman Dr Wallace, have announced that the RCM has secured a permanent new home at 1 Simmons Street, Wagga Wagga." Do you see that there?---Yeah. Correct. Yes.

Is it right, though, that at that point in time, nothing had in fact been secured at all, rather the position was that there was an agreement within government to work with a view to potentially achieving a like-for-like facility at the 1 Simmons Street site?---My recollection is that the building

had been secured and allocated to the conservatorium. I think there was a function held when that was put out. And that press release was done in conjunction with the Conservatorium of Music. My recollection is there was a, a key handing over and a, a small musical event if I remember rightly. But, obviously, funding was to come.

Well, have a look at the third paragraph, for example. It says, "The building will be redeveloped to house a world class music recital space." Do you see that there?---Yes, I see that.

10

There'd been no agreement or promise or otherwise within government to house a world class music recital space by that point in time. Is that right? ---Well, I believe there had been otherwise I wouldn't have announced it.

Well, you believe based on what?---Well, through the system, through what had, had been indicated to me and I, I can't be clear about that. Dr Wallace would be more clear because he certainly wrote all the proposals. And I'm sure that once the, once the keys were given to the RCM, there was a process that we were confident that we would be funded.

20

Were you, in effect, over-announcing with a view to putting pressure on government to ultimately agree to construct a world class music recital space?---Well, I may have been. It's possible.

I note the time, Commissioner.

THE COMMISSIONER: I think that media release is already in, isn't it, Mr Robertson?

30 MR ROBERTSON: It is, Commissioner. It's Exhibit 436.

THE COMMISSIONER: Very well. Mr Maguire, we're going to take an adjournment of an hour for lunch.---Thank you, Commissioner.

So please return if you're going anywhere at 2.00pm.---Thanks.

LUNCHEON ADJOURNMENT

[1.03pm]