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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 FRIDAY 29 OCTOBER, 2021

AT 10.00AM

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

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

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: I call Gladys Berejikian.

THE COMMISSIONER: Yes, thank you. Ms Berejikian, do you wish to take an oath or make an affirmation.

MS BEREJIKLIAN: I'll take the oath, please.

10 THE COMMISSIONER: Please listen to the hearing officer.

THE COMMISSIONER: Ms Callan, have you explained to Ms Berejiklian her rights and obligations as a witness?

MS CALLAN: I have, Commissioner.

THE COMMISSIONER: Does she seek a section 38 declaration?

10

MS CALLAN: She does, Commissioner.

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

20

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.

30

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

40

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

**DIRECTION AS TO OBJECTIONS BY WITNESS: PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST**

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

10

THE COMMISSIONER: Do you understand that, Ms Berejiklian?---Yes, I do.

Very well.---Thank you.

Thank you. Yes, Mr Robertson.

20

MR ROBERTSON: Ms Berejiklian, if you were able to have your time again, would you disclose your close personal relationship with Mr Maguire to your ministerial colleagues or any of them?---I didn't feel it was of sufficient standard or sufficient significance in order to do that.

So does that mean the answer to my question is no, if you were able to have your time again, you would not have disclosed your close personal relationship with Mr Maguire?---I would not have.

30

And the reason for not doing so, is this right, is because at least in your mind the relationship didn't have sufficient status, is that what you said? ---Well, the threshold for me was did I feel there was a commitment which I would be able to share with my parents or my sisters, and I didn't feel that there was a sufficient significance in order to do that in terms of commitment.

40

Can we have on the screen, please, page 2585 of the transcript of proceedings yesterday? Ms Berejiklian, yesterday, pursuant to leave granted to me by the Commissioner, I asked certain questions of Mr Maguire as to the nature and extent of the close personal relationship between the two of you. I'm just going to show you what Mr Maguire said in response to certain questions I asked of him. If you have a look near the number 30, do you see there a question starting with "You and I both"? I'll zoom in in a moment. If you just look to your right, there's a larger screen that might make life a little bit easier, Ms Berejiklian. Just the larger screen in front of you might - - -?---It's actually not active.

I see. Are you able to - - -?---It's very small, I can't read that, yeah.

THE COMMISSIONER: We usually need to turn that screen on. - - -?---It's larger now, thank you. Yeah.

MR ROBERTSON: May I approach - - -

THE COMMISSIONER: Yes.

THE WITNESS: Thank you.

MR ROBERTSON: Counsel Assisting and IT support, apparently. Do you  
10 see now on the larger screen the number 30 towards the left-hand side of the  
page?---Yes.

And the first question I asked, to which I'm drawing your attention now, to  
Mr Maguire, "You and I both used the phrase close personal relationship."  
Do you see that there?---Yes, I do.

Can I just ask you to read the question from line 29 through to the bottom of  
the page and just let me know when you've done that.---Ah hmm.

20 And can we turn the page, please, to page 2586? I'd just like you to read  
from the start of the page down to line 31.---Mmm.

Do you agree or disagree with what Mr Maguire said in relation to what I'll  
call the hallmarks of your personal relationship with him?---I agree, I agree  
to those comments.

30 So Mr Maguire talked about some feelings that he had for you and some  
feelings that he understood you had for him. Did you have similar feelings,  
by which I mean feelings of love and the like, as to those that Mr Maguire  
identified in his evidence?---I had those feelings but I was never assured of  
a level of commitment which, in my mind, would have required me to  
introduce him to my parents or introduce him to my sisters or regarded as  
sufficiently significant to declare.

You and him at least discussed introducing Mr Maguire to your parents as,  
in effect, a boyfriend or a close partner. Is that right?---I'm sure we did  
discuss it.

40 At least at one point in time during the course of the close personal  
relationship, you regarded Mr Maguire as part of your family?---I'm sure I  
had feelings that I would, would, would hope that was the case, yes.

Does that mean you're agreeing with me that at least at one point in time  
during the course of the relationship, you regarded Mr Maguire as part of  
your family?---I never regarded him as family in terms of the Ministerial  
Code. We didn't share any finances. He would be - - -

Well, let's not worry about - - -?---Oh.

Just pausing there.---Right.

Let's not worry about the terms of the Ministerial Code, at least for the time being. At least in your mind, did you regard Mr Maguire as part of your family?---Not in the legal sense, no.

Well, when you consider whether someone's in your family or not, do you only consider that through a prism of a legal code or do you have - - -?  
---But I would - - -

10

- - - a separate concept, just let me finish my question. Do you have a separate concept, at least in your own mind, as to whether or not someone is part of your family or not?---But I would regard close friends as part of my family if you took that definition. I would regard my best friends or extended friends or associates as part of my family. It's, that is a very loose term and, and I would regard, as I said, my best friends as part of my family if you took that definition.

20

Let me try this this way, then. Can we go please to telephone intercept 8007. I'll show you an exchange of 12 April, 2018, by way of text messages. 8007, please. Now, I'll show you a few in relatively quick succession. Do you see there a date of 12 April, 2018, towards the top of the page. Do you see it towards the top of the page, there's a reference to the call date/time?---The 12<sup>th</sup> of the 4<sup>th</sup>, 2018?

The 12<sup>th</sup> of the 4<sup>th</sup>, 2018. See that?---Yeah. Yes.

30

And then that's an intercepted communication by way of SMS between Mr Maguire and you, "I am busy killing MMC. You do your job and lead the state." Do you see that there?---Yes.

And then jump to 8008. Your response as intercepted is, "I can't without you." See that there?---Yes.

And then if we jump to 8010.---Right.

"I'm your biggest supporter! Go back and do your job." See that one?  
---Yes.

40

And then 8011, please. 8011. Your response, "But you are my family." Do you see that there?---Yes, I do.

So at least as at 12 April, 2018, you regarded Mr Maguire as part of your family. Is that right?---Well, in terms of my feelings but definitely not in any legal sense and definitely not in terms of anything that I felt I needed to put on the public record.

We'll let the lawyers argue about the law, but is this right, at least in terms of your feelings, you regarded Mr Maguire to be part of your family as at April of 2018?---Well, there's no doubt I had strong feelings for him but I wasn't assured of his commitment.

Does that mean the answer to my question is yes?---Can you repeat the question, please?

10 At least as at 12 April, 2018, you regarded Mr Maguire as part of your family?---I had very strong feelings for him but I did not, I wouldn't have regarded him as a relative.

As at 12 April, 2018, you regarded Mr Maguire as part of your family. Correct?---I had very strong feelings for him, yes.

So is the answer to my question yes?---No, I did not regard him as a member of my family. I had strong feelings for him.

20 So as at 12 April, 2018, you did not regard Mr Maguire as part of your family, is that what you're saying?---I would not have introduced him or, or, or regarded him as, as, as a member of my family.

30 So does that mean that as at 12 April, 2018 you did not regard Mr Maguire as part of your family? Is that your evidence?---I don't want to undermine, I don't want to diminish the strength of feeling I had for him, and I don't want to diminish that in any way. I had very strong feelings for him. But I didn't feel the relationship was at a stage where I would introduce him necessarily to my parents or my sisters or need to declare it, but I don't want to underscore what I felt. But I didn't always feel that was reciprocated and I didn't feel a level of commitment.

So what's the answer to my question, then? Did you or did you not regard Mr Maguire as part of your family as at 12 April, 2018?---I didn't regard him as a member of my family in the same way that I regard my parents or my sisters. I regarded him as a, part of my love circle, part of people that I strongly cared for, but I, I wouldn't have put him in the same category as my parents or my sisters.

40 I'm sorry, I still don't understand what your answer is to my question. Did you regard him as or as not part of your family?---Not in a sense that there was a significant, a significant declaration to be made. I had strong feelings for him. I don't want to doubt, I don't want to underscore that.

Don't worry about declarations and things at the moment.---Right.

I just want to know whether you regarded Mr Maguire as part of your family or not as at April of 2018?---In the same category that I'd regard my best friends, that I'd regard people who gave me emotional support, who

made sure that I was taken care of. There were, if, if you're going to ask me that question, I would have also included my best friends and others in that category.

So does that mean the answer to my question is yes or no or something else?---Well, if I define, if you accept my explanation in terms of how I'd regard my other friends and how I'd regard other people in my life, yes, but not in a sense that I regarded it as, the relationship, as anything more significant than what I took it to be.

10

So Mr Maguire was of no different status to any of your other friends, is that what you're saying?---No, I'm not saying that at all. But I, what I am saying is in my mind he, whilst I expressed that from an emotional perspective and for someone from whom I derived emotional strength, I wouldn't have put him in the same category as my parents or my sisters.

No doubt you have different relationships, as anyone does, with parents, siblings and things of that kind. But I just want to be clear. I think what you're saying, but tell me if I've got it wrong - - -?---Yep.

20

- - - is that at least as at April of 2018, you regarded Mr Maguire as part of your family, albeit Mr Maguire was of a different kind in that he had a – he was in a personal relationship with you as distinct from a familial relationship of a kind that a parent might have with a child, is that fair?---I'll accept that, yep.

Now, you saw in Mr Maguire's evidence he referred to the fact that he had a key to your, I think it's your current house, is that right?---He had, yes.

30 He was given that key soon after you moved into your current house, is that right?---I can't recollect exactly the time.

Or did he have key to your preceding house?---No, not that I'm - - -

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

I take it you've changed your locks since giving the key to Mr Maguire? ---I have. I have. I have.

40 You didn't change those locks, though, until last year, is that right? ---Correct.

You would accept, I take it, that a significant aspect of public trust in government is that public moneys be spent in the public interest? Do you agree with that proposition?---Absolutely. And can I stress, Mr Robertson, that every decision I've made has been in the interests of the public or the interests of the community or the interests of the government.

And does it follow from that that you would agree that probity in decision-making regarding the use of public funds is important in the public interest?---I have lived my life by that. Every day that I have spent in public life I have done so, to the best of my ability, putting the public interest first, basing all of my decisions on what I regarded as in the interests of a community, of the state or the government, and I stand by that so strongly.

10 Do you agree that Mr Maguire, throughout the time of your close personal relationship with him, was a vociferous advocate for projects in Wagga Wagga?---Absolutely. He was extremely active, and I suspect he was as vigilant with many other colleagues as he was with me. But I also would like to state, Mr Robertson, so were a number of other colleagues. I don't think a day went by in public life - - -

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

Could I ask you to just answer Mr Robertson's questions and not make speeches.---Certainly, certainly.

20 MR ROBERTSON: Despite the answer that you were just starting to give there, I suppose you would accept, wouldn't you, that Mr Maguire, during the course of your close personal relationship with him, had greater access to you than what other backbenchers or parliamentary secretaries would have?---I wouldn't agree with that. I think if you asked my colleagues, they would all feel that I was very accessible. When parliament was sitting, they would drop into my office and push their projects. They would ring me, they would text me. I would say that all of my colleagues had equal access to me, especially when they were pushing things in their electorate or if they were concerned about something in the community. So I would argue very  
30 strongly, and I would be very pleased for you to take a straw poll of all my colleagues, that I provided, I, I really prided myself on being a leader, on being a Treasurer, being a senior minister, that was accessible to all of my colleagues. All of them had my ear, to an extent.

THE COMMISSIONER: Ms Berejiklian, I don't think you are heeding the message I just communicated to you.---I appreciate that. Thank you.

40 MR ROBERTSON: Even accepting or assuming what you've just said, you would have to agree, wouldn't you, that Mr Maguire had a greater level of access to you during the course of the close personal relationship than other colleagues, even though those other colleagues might have had a good level of access. Do you agree?---I wouldn't agree with that statement because I felt, and I still believe, that any colleague that wanted to raise anything with me or had a concern with me, whether through correspondence, through meeting with me, through talking to me, would have had access and, and I would be very pleased for, for, for that to be put to any of my colleagues, that I tried at all times, to the best of my ability, to the best of the time constraints I had, to be accessible to all of my colleagues.

Commissioner, before I get too much further, I should tender the telephone intercepts I took the witness to a little while ago. I'll do it as a bundle, intercepts 8007, 8008, 8010 and 8011, all of 12 April, 2018.

THE COMMISSIONER: They will be Exhibit 521.

10 **#EXH-521 – TELEPHONE INTERCEPT 8007, 8008, 8010 AND 8011 -  
SMS CONTENT BETWEEN MAGUIRE AND BEREJIKLIAN  
DATED 12 APRIL 2018**

MR ROBERTSON: Commissioner, I'm told that there is some technical issue in relation to the live stream, and given that this is a public inquiry to be conducted in public, I think that means an adjourn will be necessary while that matter is dealt with.

20 THE COMMISSIONER: Very well. I'll take an adjournment. Let me know when it's fixed.

**SHORT ADJOURNMENT**

**[10.22am]**

THE COMMISSIONER: Yes, Mr Robertson.

30 MR ROBERTSON: I'm sorry about that delay, Ms Berejiklian. Immediately before that adjournment I think your evidence regarding access was to this effect, but can you just confirm whether or not I've got it right? I think you deny the proposition that Mr Maguire had more access to you than other backbenchers or parliamentary secretaries, is that right?---I, I would say that all of colleagues had equal access in relation to matters regarding their electorate. No doubt about that.

40 So does it follow from that that you deny the proposition that Mr Maguire had more access to you than other backbenchers or parliamentary secretaries?---In, in terms of fighting for their electorates or fighting for their communities, I would regard that all of colleagues had equal access, including Mr Maguire.

So does that mean you deny the proposition that Mr Maguire had more access to you than other backbenchers or parliamentary secretaries?---Yes.

Mr Maguire did in fact advocate to you directly in relation to projects that he was advancing, is that right?---But so would all my other colleagues.

So does that mean the answer to my question is yes?---The answer is yes, but so would all my colleagues.

He didn't restrict his advocacy to you just through formal channels, such as written correspondence and communications with parliamentary liaison officers, is that right?---He advocated in exactly the same way that other colleagues would have.

10 In exactly the same way?---Well, in terms of, if you mean by verbal, by, by discussing matters, I have colleagues drop in without notice pushing things in your electorate.

Are you seriously saying that Mr Maguire communicated with you as to projects in exactly the same way, that's your phrase not mine, exactly the same way as all of your other colleagues?---No. What I would say is that all of my colleagues had access to me in relation to advocating for their projects.

20 Well, are you saying that Mr Maguire advocated for his projects in exactly the same way as others?---I don't understand the question, but what I, what I am saying to you, Mr Robertson, is that every colleague has their own style and way of advocating, if that's what you're getting at, and certainly all of my colleagues would have felt they had access to me – I hope they did, I hope they felt that – in relation to advocating for their projects, and that could have been through formal correspondence, through dropping into my office, through calling me, through a number of different means.

30 But Mr Maguire's access was no greater or less than anyone else within members of parliament within your party, is that what you're saying?  
---That's how I felt.

Well, not just how you felt, that is the fact according to you, is that right?  
---That is, that is a fact, that is a fact, and I would ask, I would, I would ask you to consider the fact that many of my colleagues would often strongly advocate for things in various ways. Every colleague had a different style, every colleague had different methods, but in the main they would all strongly advocate for their electorates.

40 Mr Maguire would inform you from time to time regarding the progress of projects that he was advancing, is that right?---Yes, but so would other colleagues.

He would, for example, complain to you about roadblocks to other impediments that he saw being in the way of the projects that he was seeking to advance, is that right?---But so would other colleagues, all the time.

Are you having some difficulty with my questions? I'm trying to frame them in a precise a way as possible so that you're in a position to answer them yes or no. Is there some difficulty with understanding my questions?  
---Mr Robertson, I'm just concerned that you are skewing the fact that all of my colleagues rightfully deserved my attention and my advocacy and my support for things that mattered in their communities.

It's not about skewing or not. You understand your role as a witness is to direct yourself to the questions that are being asked, you understand that?  
10 ---Yes, I do. Yes, I do.

You have Senior Counsel briefed to represent you, who will have an opportunity to ask any questions by way of clarification, you understand that, don't you?---Yes, I do. Yes.

You would from time to time keep Mr Maguire informed of the status of his projects within the executive government when that was known to you, correct?---To the extent it was known to me, yes.

20 If you knew that a particular decision had been made or something along those lines, you would inform him of matters of that kind, is that right?  
---Yes.

You would intervene from time to time in government processes so as to fix problems that Mr Maguire complained to you about, is that right?---What do you mean by intervene?

30 You would find out about, for example, a roadblock or concern and you would intervene so as to fix it, you would take steps so as to fix the problem that Mr Maguire has identified to you, is that right?---Only through the appropriate channels.

So does that mean the answer to my question is yes?---Yes. Through the appropriate channels.

40 Would you do that in a preferential fashion, by which I mean are you saying you would do that in exactly the same way, intervene to fix problems in exactly the same way for Mr Maguire as compared to anyone else who might address questions, complaints or concerns with you?---Yes, absolutely.

Mr Maguire was of no difference or put in no different or preferential position as compared with any other member of parliament, is that what you're saying?---Correct. In terms of my public responsibility, absolutely.

Are you giving that qualifier for a particular reason or – I'm just trying to understand why you added that qualification to that last answer.---Only to

say that I was always able to distinguish between my private life and my public responsibilities. I just wanted to make that distinction.

So, is this right, to the extent that you intervened so as to fix any issues that Mr Maguire raised with you, the kinds of steps that you took were equivalent to the kinds of steps that you would take in relation to any other member of parliament, is that what you're saying?---Yes, yes.

10 Can we go, please, to volume 38, page 133? We'll put a document up on the screen for you, the larger screen. Let me show you a text message exchange from 16 May, 2018. Can we zoom in please to the top half of the page and, for your assistance, the document that I'm showing to you is viewable to you on the screen but not through the public stream. Now, do you see the phone number next to your name. I won't read it out but that was your telephone number at that point in time. Is that right?---I think so, yeah. Yeah.

Adjacent to number 1?---Yeah, yeah.

20 And you'll see this is a text exchange between, or an instant message exchange between Mr Maguire and you. He says, "I just went to see Treasurer staff! No money for stage 3. Wagga Hospital needs 170 million? No money. Tumut Hospital! No money North Wagga School, just piddling sum for graffiti removal? Gee." Do you see that there?---Mmm.

And then in the second message, which is about three minutes later, he says, "No line items." Do you see that there?---Yes.

30 Did you take those messages as a request to intervene or fix some issue or concern that Mr Maguire was raising in relation to the stage 3 of the Wagga Wagga Base Hospital?---I took that as his frustration about those matters, and I would have assumed he'd be pursuing those with the Minister for Health, as well as the Treasurer.

So matters of this kind, as in needing a particular amount of money for a hospital, at least in the appropriate course, should be raised through, at least as you see it, through the Treasurer and the Minister for Health. Is that right?---No. I, I would have colleagues even as recently as a few weeks ago texting me directly for hospitals or schools. This is what colleagues do.

40 And I would be able to produce numerous texts from other colleagues who'd push for hospitals or schools in their electorates.

But I just want to understand one of your previous responses. I think you were saying, in effect, that if one of your colleagues raises a concern of the kind that we can see on the screen, your immediate reaction would be to say, "Thanks for bringing this to my attention. Go and see or speak to the Treasurer or the Minister for Health." Is that right?---It would depend on the circumstances. Sometimes, for example, if there was an election

commitment and a colleague would have frustration that a minister wasn't delivering their election commitment and they would say, "Why isn't this happening? I promised my community," in that instance, I would raise it with the minister, and that's what I would do for all my colleagues.

So what about this particular one? Do you recall receiving this message and taking any steps with respect to it?---I don't recall receiving the message but I do recall, I don't, I don't recall the message but I think there was an issue with the Tumut Hospital during the by-election but I can't be certain.

10

So here, we're in May of 2018. You're referring to the by-election by which I take it you mean the Wagga Wagga by-election?---Correct. Yeah.

Which was held in September of 2018?---I, if that's the date, yes. I can't recall, yeah.

Because we're now in May, so we're before the by-election period. Do you have any recollection of taking any steps in relation to either the Tumut Hospital or stage 3 of the Wagga Hospital during around May of 2018?---I may have. I don't recall.

20

Is it right from an answer you gave before that at least in the usual course, and accepting that every particular case turns on its own circumstances, if you received a message of the kind that we can see on the screen, your first port of call would be to say, "Go and see or speak to the Treasurer or the Minister for Health"?---Not necessarily. I may have assumed they've already done that.

But in relation to this particular issue, is this right? You don't recall one way or the other whether or not you took any steps in relation to the complaint or concern that Mr Maguire is raising to you by way of this text? ---I don't recall.

30

I'll try and assist this way. Can we play, please, the extract of telephone intercept 8921. This is 4.38pm on 16 May, 2018, so on the afternoon of the day in which these messages appear to have been sent. While that's coming up, Commissioner, I tender volume 38, page 133, items 1 and 2 only, with the remainder of the document redacted and the telephone numbers redacted as well.

40

THE COMMISSIONER: Exhibit 522.

**#EXH-522 – TEXT MESSAGES BETWEEN MS BEREJIKLIAN AND MR MAGUIRE 16 MAY 2018 DATED 16 MAY 2018**

**AUDIO RECORDING PLAYED**

**[10.49am]**

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

Do you recall hearing yourself saying something along the lines of "I will deal with it. I will fix it"?---Mmm, yes, that's what I said.

10 Do you recall whether you took any steps to deal with it, the "it" apparently being a reference to stage 3 of the Wagga Wagga Base Hospital and/or the Tumut Hospital, or taking any steps to fix it?---I don't recall that, and, but as I said earlier, I recall some announcement at the Tumut Hospital, if I'm not mistaken, during the by-election. But I don't recall anything before that.

But here we're not in the by-election period.---No, but that, I'm just telling you what I recall. I don't recall this conversation and what happened subsequently.

20 You don't recall a conversation, you don't have any specific recollection sitting there now, of dealing with it or fixing it, is that right?---I don't. Doesn't say that I may not have, but I, I don't recall, yep.

Let me try and assist this way, then. Intercept 8928. Can we please play, in succession, extracts 1, 2, 3, 4, 5 and 6. It's an overall lengthy call, Ms Berejiklian, which I'm not going to play in total. The whole call's about 17 minutes in length. But can we please play extracts 1, 2, 3, 4, 5 and 6 in succession. And while that's coming up, Commissioner, I tender intercept 8921, 16 May, 2018, 4.38pm.

30 THE COMMISSIONER: Exhibit 523.

**#EXH-523 – TELEPHONE INTERCEPT 8921 BETWEEN  
BEREJIKLIAN AND MAGUIRE DATED 16 MAY 2018 AT 4.38PM**

40 MR ROBERTSON: And for your assistance, Ms Berejiklian, this next telephone intercept is at about 6.30pm, which is within two hours of the last one that I just played to you.---Ah hmm.

**AUDIO RECORDING PLAYED [10.52am]**

THE COMMISSIONER: I'm sorry, Mr Robertson, but can we pause the - -  
-

MR ROBERTSON: Can we pause, please.

THE COMMISSIONER: What is being played isn't according with the transcript which is on this page on the screen at the moment.

MR ROBERTSON: Thank you. Thank you, Commissioner. We'll just pause and we might just start that one again for that reason.

10 THE COMMISSIONER: The first part of the conversation did, but either we're playing something you didn't want played or it's – I just don't know what's happened.

MR ROBERTSON: I'm grateful, Commissioner, for drawing that to attention.

**AUDIO RECORDING PLAYED [10.55am]**

20 MR ROBERTSON: And then can we play the second extract, please?

**AUDIO RECORDING PLAYED [10.57am]**

MR ROBERTSON: And we'll play extract number 3, please. I'm just trying to avoid playing the whole 17-minute call.

30 **AUDIO RECORDING PLAYED [10.58am]**

MR ROBERTSON: Extract 4, please.

**AUDIO RECORDING PLAYED [10.59am]**

MR ROBERTSON: And then the next excerpt, please.

40 **AUDIO RECORDING PLAYED [11.00am]**

MR ROBERTSON: And final extract number 6, please.

**AUDIO RECORDING PLAYED [11.01am]**

MR ROBERTSON: I take it, Ms Berejiklian, you agree that one of the voices on that recording or those recordings was yours and one was Mr Maguire's?---Yes, I do.

Is the effect of what we've just heard this, that Mr Maguire makes contact with you at about 4.38pm on 16 May to complain about the state of the budget insofar as – or at least the draft budget – insofar as it pertains to the electorate of Wagga Wagga, and within, to use your phrase, five minutes, or perhaps more accurately within about two hours, you fix it by taking steps to have the budget papers changed? Is that how we read those two exchanges?---Not at all. I wouldn't read that. That would have been impossible to do unless the project was already ready to go, unless there'd been a lot of discussion within government already. You can't just add items in like that. There would have been a process behind that, and I envisage Mr Maguire was referring to that process. Because if there was a tender and there was a hole in the ground, sometimes, from time to time, there are issues which have been progressed in government which, for one reason or another, have been omitted.

20

You told Dom and he does what you say when you're Premier, correct?  
---That's not, that's not the case.

The reference to Dom, I take it, is a reference to the Premier, Mr Perrottet, is that right?---Yes. But none of, neither of us would have done, would have done anything which was not appropriate.

Well, do you at least accept that within that short period of time you made contact with the then Treasurer with a view to having changes made to the then in draft budget papers?---I can't confirm that because I don't remember.

30

It's possible that you did take that course, is that right?---I can't remember.

Do you at least accept that if it was someone else other than Mr Maguire raising these kinds of concerns, you wouldn't have taken the steps that you apparently did, namely get on the phone or otherwise make contact with the Treasurer within very short order and seek to get some very significant figure put in the budget papers?---I don't accept that. I'd often, if a, if a colleague contacted me and there was a project or something which they felt so strongly about had been omitted inadvertently or that they were pushing, I would often immediately or, or, or text the relevant minister if there was a problem. Often in this period of time, all colleagues would be sensitive to what they promised in their communities. So whatever action I did or didn't take would be similar to what I did for any other colleague.

40

Are you saying it would be similar for any other colleague to, to use your phraseology in this call, get \$170 million in five minutes?---Well, I doubt

that that was what occurred. Often you cannot just allocate money without there being work done and without there being something in the pipeline already, and I suspect a lot of that work had been done and a lot of that, that had already taken place.

You at least made a request of the then Treasurer to have a look at the budget papers in relation to the issues that Mr Maguire was raising with you, you agree?---I can't recall that.

10 It's possible you did that, you just don't recall one way or the other, is that right?---I just don't remember, yeah.

But do you maintain that you would have done exactly the same thing whether it was Mr Maguire on the phone as opposed to any other backbencher?---Yes, if there was an irate colleague who was concerned that something they'd committed, which had progressed, had been inadvertently left off or inadvertently not progressed, I would absolutely do that, and there'd be plenty of colleagues that would be able to verify that.

20 So are you seriously saying you would take exactly the same course as you apparently did on 16 May, 2018, if it was anyone else other than Mr Maguire?---I often advocated for my colleagues on things they were concerned about and often at short notice.

Does that mean the answer to my question is yes?---Can you repeat the question, please?

30 Are you saying that if it was not Mr Maguire but someone else making the same telephone call to you, as he appears to have done on 16 May, 2018, you would have taken exactly the same steps as you apparently did on that afternoon?---Yes, I'm confident I would have.

There was a reference before to "so-called key seats". Do you remember a reference to that?---Ah hmm.

40 What did you mean by "so-called key seats"?---I, I think the concern was, or the context was, that there were certain seats which the government was sensitive about from a political perspective in terms of providing all the commitments, and at that time I know that all the country colleagues were very sensitive to issues in the bush and so, and, and so I think, I shouldn't speculate, but it refers to the margin of the seat.

So a key seat, at least in the context in which you were using that phrase there, would not have included Wagga Wagga as at May of 2018, is that right?---I, I'm not sure whether or not that was the case. It, at, at that time I suspect it didn't and perhaps that was part of the frustration, that things had been promised that needed to be delivered.

Commissioner, I tender the six extracts from telephone intercept 8928, 16 May, 2018.

THE COMMISSIONER: Exhibit 524.

**#EXH-524 – EXTRACTS OF TELEPHONE INTERCEPT 8928  
BETWEEN BEREJIKLIAN AND MAGUIRE DATED 16 MAY 2018  
6.30PM**

10

MR ROBERTSON: Ms Berejiklian, when you were a minister you understood that you had a duty under the NSW Ministerial Code of Conduct to disclose to the Cabinet or a Cabinet committee any conflict of interest and duty that arose in relation to any matter before Cabinet or a committee of Cabinet?---Yes.

You were aware of that duty?---Yes, yes.

20 You were aware that you had a duty to ensure that any such disclosure was recorded in the official record of proceedings of the Cabinet or the committee of Cabinet?---Yes.

A duty to abstain from participating in any discussion of any matter in respect of which you had a conflict of interest or from any decision-making in respect of it?---Yes.

30 And that you had a duty to not be present at the meeting of Cabinet or committee of Cabinet unless it was approved by the Premier of the day or the chair of the particular meeting concerned, is that right?---Yes.

As you understood it at the time that you were a minister, those duties extended to disclosing any substantial personal connection that you had in relation to a matter if that connection was one that could objectively had the potential to influence the performance of your public duty, is that right?  
---My, my understanding was a conflict of interest related to some personal benefit, some private, personal benefit you might get, especially in relation commercial matters.

40 I see. So as you understood it, is this right, there would be no conflict of interest for the purposes of the NSW Ministerial Code unless there was a potential private benefit either to – potential private benefit to you as the minister, is that right?---A personal benefit, yes.

A personal benefit to you as the minister, is that right?---Yeah, yeah, yeah. So for example, building a hospital is not a personal benefit to me, it is a community asset. It is something the electorate needs. I would gain nothing

but political favour or support from the community by supporting that project.

So why then did you formally disclose under the Ministerial Code the fact that two of your cousins were employed in the New South Wales public service?---Because they, they were family members of mine and they worked in departments where I may have been making decisions and they may have been involved in providing advice or otherwise.

10 So what personal benefit did you think that you might get as a result of any exercise of functions associated with your cousins?---Oh, well, I would have been concerned that they may be treated in a particular way or that they may, or, or it might be assumed that they're getting favour because they're related to me.

So the reason that you at least made that disclosure was to avoid any suggestion that the cousins might get any favour by reference to any exercise of public functions by you, is that right?---Well, I just wanted to make sure that I fulfilled my obligations.

20

No, but back to my question. Do I understand your evidence correctly to be that the reason that you disclosed, under the Ministerial Code, that two of your cousins were employed in the NSW public service was to avoid any suggestion of there being any favour – that was your word – any favour to them in the exercise of your public functions?---I think it was a bit more than that. They were paid a salary to work in those agencies, they earned their profit and keep. It was a direct financial interest and it was beyond, beyond that notion of favour. It was more about they earned their living by working in those agencies for which, at certain times, I may have had authority or responsibility.

30

So is this right? That was a disclosure because you saw that those individuals, what, could get a private benefit through the exercise of your functions. Is that what you're saying?---I just wanted to make clear that there was nothing untoward in relation to those matters.

Nothing untoward including because you wished to avoid any suggestion that any decision-making function that you're involved in may have acted by way of a favour to those individuals. Is that right?---Well, it was more broader than that. I didn't want them to have any adverse impact because of anything that I did or said or acted upon.

40

It might have been broader than what I just put but at least included what I put to you?---Yeah, it would have included that, yes.

Is that the reason why you also made disclosures from time to time regarding people who you knew when those individuals were being put

forward for potential things like committee appointments and the like?  
---Yes, if I, if I knew them, if, if I felt, if I felt that there was an appointment made, to avoid any sense of favouritism or, or not so much that word, but to avoid any perception that everything was done aboveboard, I would have declared that.

Why didn't you declare your close personal relationship with Mr Maguire with a view to avoiding any perception of favouritism, to use your phrase, in relation to Mr Maguire?---We didn't share finances, we didn't live together.  
10 I was not confident in his level of commitment. I did not regard him as a member of my family and I did not regard there to be any impact on my public responsibility. And I did not think the relationship had a sufficient status for me to disclose it. And had I been in a position where I thought it was significant enough, I would have. But I didn't have confidence, I didn't have confidence that was the case and I didn't think it was significant enough for me to have to disclose.

I take it, you don't share finances with the cousins in respect of whom you made a declaration?---I'm, I'm a, they're, they're my blood, though.  
20 They're my family.

I take it that you don't share finances with those cousins. Is that right?  
---No, I don't.

You don't share finances in relation to the individuals who you knew who were put forward in relation to committees associated with the government?---That would be the case, yeah.

You don't live with the cousins or with those other individuals, I take it?  
30 ---No.

I'm still trying to understand how you draw a distinction between making declarations in relation to people who you know. There was one declaration, for example, where you said, "I know this person because of attendance at functions," but not in respect of someone who, you confirmed this morning, you loved, you understood that he loved you, he had a key to your house and you had, for example, an emotional attachment. How do you draw the line between those two propositions?---Because for me, a, for me, a relationship which required declaration would have had more status in  
40 my mind. And I was very uncertain as to the status of that relationship. It was not, for me in my mind, it wasn't significant enough because I didn't know where it was going I didn't feel comfortable with his level of commitment. He would sometimes even be in Sydney and I wouldn't even know. I didn't feel that level of, that level of commitment or that level of status that would require me to disclose it.

Can we go, please, to volume 33, page 253. Using the redacted version, please. I'm going to show you an extract from the 2012-2020 report of

matters abstained by government, the extract relating to your personal declarations. Now, do you see there in relation to the first matter, you declared an interest in this appointment, it's an appointment to a board, but we've redacted the name of the board, due to attendance with that person at functions. Do you see that there?---Yes, I do.

Now, presumably, to use your term the status of your relationship or friendship or knowledge of that particular individual was a much lesser status than the status of your relationship with Mr Maguire. Would you agree with that?---Yes, but making an appointment is very different to providing a community project. A community project is in the interests of the public. This is, this is a personal matter where somebody's being appointed to a board and I would have wanted to make sure as other colleagues do, to make sure that there was no perception that I'd done anything wrong.

But why wouldn't you be concerned about the same perception in relation to Mr Maguire, a potential perception that you might be influenced, whether consciously or subconsciously, by the existence of your personal relationship with him? Why wouldn't you be astute to avoid any suggestion of a lack of probity in circumstances where, as you admitted before, you regarded it as a significant aspect of public trust in government that public moneys be spent in the public interest and that there be probity in decision-making?---Because, Mr Robertson, at all times, every decision that I participated in or every decision I took in public life was in the interests of the community and the interests of the public or the interests of the government. I was very, very conscious and very able to separate what occurred in my private life with what I, I exercised in my public responsibilities and my public duties.

So do you say you drew a bright line between the public and the private, as it were, with Mr Maguire, and you didn't allow the public to interfere on the private and the other way around? Is that what you're saying?---Well, that would have also applied with close friends I had in the parliament, with, that would have – I mean, this is the issue. For many of us, we deal with colleagues on a day-to-day basis. For some of them we have affection, for some of them we don't. But at the end of the day, we need to make decisions that are in the best interests of the community, and if that means building a community, an asset, or providing support for a community organisation, those decisions are based on the merits of those proposals. Those decisions are based on the merits of what they provide to the community.

Presumably the decision as to whether or not to appoint a particular person to a committee is also made on the merits of that appointment, correct? ---Yes, but that's a very different – appointing somebody to a body is, is a, gives them particular rights and obligations, which is different to making a decision on providing a community project. That is, to my mind, a

distinction. You always make decisions when you're exercising your duties in relation to projects about is it in the community's interests to build this asset or provide this support? Is it in the government's interests to make sure that we are cognisant of community support? So that for me was a very clear distinction.

10 So you were not concerned, even now, with the benefit of hindsight, of a concern that there may be some suggestion or perception of influence in relation to the decision-making that you were involved in in relation to projects that Mr Maguire was advancing, is that what you're saying?  
---Yeah, Mr Robertson, I always made decisions based on merit. Anybody who's worked with me, alongside me, would know that I would always work within the rules, that I would always make sure that every decision I took was based on what was in the best interests of the community, but also in the best interests, from time to time of the government. It was important for us to maintain community support.

20 I take it you're aware that a number of your colleagues have given evidence before this Commission during the course of the public inquiry to the effect that, at least in their view and at least as a matter of prudence, this relationship should have been disclosed to them. You're aware of evidence to that effect?---But respectfully, they wouldn't have known - - -

Are you aware of evidence to that effect?---I am aware of the evidence.

And I take it you disagree with the view that's been expressed by your colleagues in relation to that matter?---Well - - -

30 You don't see, even with the benefit of hindsight - - -?---Yes.  
- - - you don't see any reason why you should have disclosed this relationship, including for the purposes of avoiding what you described before as a perception of influence or favour?---Respectfully, they weren't in it, so they wouldn't have known my state of mind or what I assume the status of the relationship to be. I respect them, they're entitled to their opinion, but it is just that. They were not in what I was, they were not in my situation, and I was the only one that could determine what I felt about the status of that relationship. But I doubt any of them would disagree with the fact that in all of my dealings with any of them or in all of my dealings with  
40 public life I always did what was best, in my view, for the community and, from time to time, for the government based on what the community mood was.

You're aware that when you were a minister you had a duty to notify this Commission or a head of an agency responsible to you of any matter that you suspected on reasonable grounds concerned or may concern corrupt conduct?---Of course.

You understood that that included a duty to report any submission – I’ll start that again. You understood that that included a duty to report any suspicion that you had on reasonable grounds that a member of parliament was misusing his or her own office for their own benefit or for the benefit of persons close to them?---Of course.

10 I just want to remind you of some of the evidence that was before this Commission in the first public inquiry as a lead-in to some further questions that I want to ask to you. Can we go, please, first to page 1392 of the public transcript in relation to the first public inquiry, please?

THE COMMISSIONER: You mean last year?

MR ROBERTSON: Last year. It was 12 October, 2020. And I should note, Commissioner, that one of the documents I referred to before was Exhibit 373.

20 THE COMMISSIONER: Do you want to narrow it down and tell me which one?

MR ROBERTSON: That was volume 33.

THE COMMISSIONER: Volume 33.

MR ROBERTSON: Page 253.

THE COMMISSIONER: And that was Exhibit?

30 MR ROBERTSON: That was Exhibit 373.

THE COMMISSIONER: Thank you.

MR ROBERTSON: It was one of the documents I tendered during the course of my opening, or at least immediately afterwards. Ms Berejiklian, can I just ask you to have a look at around line 26 of this document, being the transcript? Do you see there you say after I played you a telephone intercept that as at 1 September, 2017, you had at least some idea as to Mr Maguire’s debt position. Do you see that there?---Yes, I do.

40 And then you said, “Well, clearly but I, I wasn’t concerned by it, or it didn’t interest me.” But then you and I have a discussion over the course of a page or so, where if you have a look at around line 38 or thereabouts there’s a reference to \$1.5 million.---Ah hmm.

You said, “Well, that, that was his, yeah, that was his business, yep.” And then if we turn through to the next page, please. Ultimately after a series of questions you’ll see at about line 13 my question was “But you were at least

aware as at 1 September, 2017, of Mr Maguire's debt position, would you agree?" Do you see that there?---Yes, I do.

And your answer was "Well, according to him, yep." Do you see that there?---Yes.

10 So, is this right, your recollection was that as at 1 September, 2017, you were aware of what Mr Maguire said his debt position was, namely about \$1.5 million?---Well, my position is the same as when I gave evidence last year.

Yes, I'm just reminding you of the evidence you gave last year.---Yeah, yeah, yeah. Yeah, I don't, yeah, I don't have any different position to what I articulated, yeah.

Now, can we play, please, telephone intercept 1199? This is one that I played you during the course of the last public - - -?---I'm sorry?

20 This one I played you during the course of the last public inquiry, just to assist you. 1199, please.

THE COMMISSIONER: If that's the case, is it already in exhibit, Mr Robertson?

MR ROBERTSON: It is, Commissioner. Exhibit 330.

THE COMMISSIONER: Thank you.

30 **AUDIO RECORDING PLAYED** **[11.23am]**

MR ROBERTSON: And can we now, please, play the excerpt of telephone intercept 1355, which is Exhibit 324? First call, Ms Berejikian, 1 September, 2017 and the one I'm about to play is 5 September, 2017.

**AUDIO RECORDING PLAYED** **[11.24am]**

40 MR ROBERTSON: Now, Ms Berejikian I think you accepted in the last public inquiry that, as you understood it, at least according to Mr Maguire, he thought that he may be able to get a deal done as at about September of 2017, which would give him enough money to pay off his debts of \$1.5 million. Do you recall giving evidence to that effect?---Yeah, I stand by everything I said at the last public hearing.

That information coming to your attention as at about the middle of September 2017, did you suspect that Mr Maguire was or may have been engaged in correct conduct?---I did not.

10 Well, how did you think a member of parliament was capable of earning a commission something in the vicinity of \$1.5 million in relation to a land deal?---I did not pay too much attention to that because he was always talking big and I didn't pay too much attention to that, but I trusted him as a colleague and as a close personal friend and I, I never, I never thought that he was doing anything untoward.

20 But you said in that telephone intercept that you can believe it, you can believe the proposition that \$1.5 million might be able to be earned by way of a commission. Why did you believe that \$1.5 million might be able to be earned by Mr Maguire?---I have no recollection of what I thought at the, or what I, what I, what the context was of that telephone conversation. But the general, my general response, Mr Robertson, is I never suspected that he was doing anything untoward. I also assumed he was previously the whip and was very well aware of his disclosure requirements. I assumed that any interests he had which were of a private nature would have been appropriately disclosed, and at that stage I had no reason to consider that he was doing anything untoward.

Well, let's put aside the disclosure requirements for a moment. Did it at least strike you as strange that a member of parliament would somehow be able to make the very large sum of \$1.5 million as, in effect, a secondary employment job whilst being a member of parliament?---I don't think I took it too seriously.

30 Did it not at least cross your mind Mr Maguire must be getting something for his \$1.5 million? It must be something more than simply introducing someone to a particular site. It's not \$10,000 as a finder's fee or \$50,000. It's \$1.5 million, at least according to Mr Maguire. You might not have known whether or not Mr Maguire was engaged in inappropriate or corrupt conduct but you must have at least suspected that having regard to that information, didn't you?---No. I don't think I would have paid it any attention. I don't even know if I listened properly.

40 Well, as at September of 2017 and perhaps even to the present day, the questions as to the way in which land around Badgerys Creek is a matter of political controversy or at least a matter of community debate?---I've not paid, well, I've not paid too much attention to what you're referring to specifically.

What I'm suggesting to you is that, at least in the vicinity of Badgerys Creek, questions about things like where roads might be built or what zoning might take place are matters which, to your knowledge as a minister,

are matters that could affect things like the commercial value of land.  
Correct?---Well, I wasn't across any detail of that.

You might not have been across the detail but you at least knew enough to know that that was a matter of at least significant community debate and, in fact, at least to some extent continues to be?---I wouldn't have said, I wouldn't have said known enough about it but, no doubt, some people didn't want the airport, so that was certainly controversial. But I wouldn't have paid too much attention to detail that I didn't need to pay attention to.

10

But I'm trying to understand why would you believe, because that's your words, he says, "Can you believe it in one sale?" And you say something like, "Yeah, I believe it," or, "I believe it," or something along those lines. Why did you believe that Mr Maguire might make \$1.5 million off a land sale?---I can't confirm that I was even paying attention or listening properly to that conversation.

20

But the answer, as I showed you, it wasn't just a "mmm" or, you know "whatever, whatever, I've got to go" it was something, like, "I can believe it," or "Can believe it," or, "I believe it," something along those lines.---I may have just been polite.

By saying, "I believe it"?---Well, I wouldn't take my words literally. It was literally I had no understanding of the context, I doubt I would have paid much attention to it and I certainly wouldn't have taken it seriously.

30

So are you saying it didn't even cross your mind that it was strange that a sitting member of parliament was suggesting to you that he might be able to make something like \$1.5 million in relation to a property deal?---I would have disregarded it, dismissed it or not taken it seriously or not thought about it, to be honest. If I was very busy, I would have just been obliging and, and let the conversation continue, but I, I wouldn't have taken it seriously or at least assumed that anything untoward was happening. He was someone I trusted and I also believe he was someone my colleagues trusted.

40

Does that mean the answer to my question is no? It didn't cross your mind that it was strange or unusual or unexpected that a sitting member of parliament expected or thought or was suggesting that they could make some \$1.5 million in relation to a property deal?---Well, he was always talking about pie-in-the-sky things, so I don't think I would have given it any degree of importance or relevance.

Does that mean the answer to my question is no or is it some other answer?  
---I'm sorry, can you repeat the question, please?

It didn't even cross your mind, is this right, it didn't even cross your mind that it might be strange or unusual or unexpected that a then sitting member

of parliament was saying to you that “I’m expecting to make some \$1.5 million in relation to a single property deal”?---It wouldn’t have crossed my mind that it would materialise. I would have assumed it’s pie in the sky, and I wouldn’t have given it any other thought.

10 I’m sorry, I still don’t understand your answer. Is the answer to my question no, it didn’t cross your mind that it was somehow unusual or strange that a sitting member of parliament would think that they could earn \$1.5 million in relation to a land deal in or around Badgerys Creek?---Well, I wouldn’t have thought that – I can’t remember what I was thinking when we had that conversation. But I, if you’re asking me whether I suspected he was capable of doing anything untoward, my answer to that is no, I did not, I did not have that understanding or appreciation.

20 I’m asking you whether it stood out to you as strange or unusual or unexpected that a sitting member of parliament thought, at least according to him, that he could make something like \$1.5 million out of a property deal in relation to land.---I just can’t recall what I thought at the time. I did, I would have dismissed it. It would, it wouldn’t have been something that I would have given a second, second notice to. But obviously any financial gain outside of one’s role as a member of parliament would have required all those processes of disclosure and, and making sure it was dealt with appropriately by the relevant member.

So does that mean it’s something that you may have found strange at the time, you just don’t recall one way or another, sitting there now?---Yeah, I just don’t, I just don’t have a recollection.

30 But it was at least not regarded as sufficiently strange that you decided to make any notification to this Commission or to an agency responsible to you, is that right?---That’s correct.

Can we now please play intercept 1096. This is Exhibit 320, Commissioner.

THE COMMISSIONER: Thank you.

MR ROBERTSON: I’ll give an offensive language warning in advance of this being played. Mr Maguire’s offensive language, I hasten to add.

40 THE WITNESS: Is this a new transcript? Is this new?

MR ROBERTSON: I’ve played this one to you before.

THE WITNESS: Okay, thank you.

**AUDIO RECORDING PLAYED**

**[11.33am]**

MR ROBERTSON: And can we play, please, telephone intercept 1161, which is Exhibit 321, the excerpt of that, please? And for your assistance, Ms Berejikian, this is one I've played you before as well.---Thank you.

**AUDIO RECORDING PLAYED**

**[11.37am]**

10 MR ROBERTSON: Ms Berejikian, at the time of these telephone calls did you suspect that Mr Maguire may have been engaged in corrupt conduct?  
---No, I did not.

Do you at least agree that as at the time of having the first conversation you regarded it as strange or at least stood out in your mind that Mr Maguire was dealing with a matter that was not in his electorate?---No.

Well, you remember that one of the things that you said in the first call was something like "They think it's in your electorate, I didn't say anything"?  
20 Do you remember hearing that?---I do remember hearing that.

Why didn't you say to Mr Maguire something like "Why the hell are you concerned about this issue that is not even in your electorate?"---Well, I, I, again, I can't recall the conversation or what I thought at the time but presumably it was about regional jobs and in any event I'd asked him to contact my office. I didn't have a good understanding of what it meant.

But Mr Maguire's interest in a particular project beyond his electorate must have at least struck you as something that was a little bit strange that he was  
30 getting so closely involved in, do you agree?---I, I can't recall what was going through my mind but if it was an adjoining electorate or regional jobs, members might have an interest in what's happening in terms of regional jobs and that's why I referred him to my office. I didn't, I didn't have any other information.

So did you ask Mr Maguire any questions to satisfy yourself that that was the interest, it was just an interest in regional jobs generally rather than any interest on his part to attempt to obtain a benefit for himself or persons close to him?---No. I, I think from evidence last year that I said that I'd referred  
40 him to my office and asked my office to deal with it.

But why didn't you at least say to Mr Maguire something like, "Why are you so interested in something outside your electorate?"---I wouldn't have had an interest in it or the time to worry about it and I would have felt, if I had referred him to my office, I would have expected my office would have dealt with it appropriately.

One of the things that was discussed there is the risk or possibility of Mr Maguire going feral. Do you remember hearing reference to that?---(No Audible Reply)

Sorry, you need to answer out aloud.---Yes, I do. Yes, sorry.

10 Why didn't you at least intervene and say, "I don't want you going feral and thereby potentially having an adverse effect to an important trade mission for the government"?---That was a turn of phrase he used often so I, I doubt that I would have paid any extra attention to that.

Well, in the context of that you said, "It's none of my business," but wouldn't you agree that it was your business as the head of government to try and encourage a sitting member of parliament to not go feral in relation to an important trade mission?---Well, that's why I would have referred him, I suspect, to my office. I can only speculate because I can't remember the, the context or the conversation unless what, apart from what was played. But in any event, I referred him to my office and I had full confidence that my office would deal with it appropriately.

20

But why didn't you do it? You're the head of government, tell him to pull his head in.---Because I, I would have a lot of things on my plate and I would ask my office to deal with it to see if there was any merit in the concern about job losses, and that was something my office would have dealt with and, and the minister's office would have dealt with.

It doesn't take a lot of time or effort to simply say, "I don't think it would be in the interests of the state for you to go feral in relation to an important trade mission."---I didn't think to do that.

30

Is that a convenient time?

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

I'll now adjourn.

40 **SHORT ADJOURNMENT**

**[11.44am]**

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Ms Berejiklian, in relation to the Jimmy Liu matter, the UWE matter that we started discussing just before that last adjournment, was the fact that you didn't intervene when Mr Maguire threatened to go feral, was that in any way affected by the fact that you were in a personal relationship with him and you didn't want to affect that relationship?---No.

Commissioner, during some of the previous telephone intercepts just before morning tea, there was a reference to the Premier, Mr Perrottet, and to Minister Hazzard. I just want to make clear that there's no suggestion on any of the material before this Commission in this investigation of any improper conduct on the part of those individuals. I just thought I should make that clear.

THE COMMISSIONER: Yes. Thank you, Mr Robertson.

10

MR ROBERTSON: Ms Berejiklian, do you agree that in early December of 2016, you asked for a submission concerning the Australian Clay Target Association to be put on the Expenditure Review Committee meeting agenda for 14 December, 2016?---I have no recollection of that. Obviously, it was on the agenda but I have no recollection as to how it got onto, onto the agenda.

20

If I try and assist you this way. Can we go, please, to volume 26.2, page 8, which is part of Exhibit 415. And while that's coming up, a person in your office as at December of 2016, that's your office as Treasurer, was a Mr Zach Bentley?---Yes.

Mr Bentley was a Wagga Wagga native?---Mmm.

He used to work for Mr Maguire. Is that right?---Mmm.

And you ultimately employed him in your office. Is that right?---That's correct.

30

Now, can you see here on the screen an email, 2 December, 2016, 4.08pm from Mr Bentley to ERC Coordination?---Yes.

And Mr Bentley says, "The Treasurer has requested this issue be put on the agenda for the ERC meeting on 14 December"?---Mmm.

40

In relation to Expenditure Review Committee meetings, the agenda, is this right, is in the gift of the Treasurer of the day?---How it works normally is that ministers put up what they would like to put on the agenda and then the Treasurer can say no, but generally speaking I would allow all matters to come forward and let the meeting take its course.

At least to get a matter on the agenda urgently, that would require the Treasurer, her or himself, to make a decision to put the matter on the agenda. Is that right?---Well, firstly, I don't accept that it was urgent as in nothing was done here - - -

No, I was asking you a question in the abstract.---I'm sorry.

THE COMMISSIONER: Ms Berejiklian, could you please listen to the question and answer the question?---Yes, of course.

MR ROBERTSON: At least to have a matter on an Expenditure Review Committee meeting agenda urgently, it would require the intervention or at least the agreement of the Treasurer. Correct?---Yes.

10 As a matter of practice, the Treasurer, at least in your time in the ministry, is responsible for the agenda, by which I mean deciding whether things go on or off the agenda?---Generally speaking, it's put forward on the basis of what ministers put forward, and then, obviously, if there's something I didn't want on the agenda or the Premier didn't want on the agenda, that would happen. But, generally speaking, ministers would be able to put up their submissions and we would then have the meeting.

20 But the decision as to whether or not a particular item goes on the agenda is a matter for, at least in your experience, the Treasurer of the day. Is that right?---Yes, although, although there is no one way of getting matters on the agenda. It could be a minister putting something on there, Treasury may have agreed. So there's a number of ways in which. But, obviously, a Treasurer or the Premier can veto anything on the agenda.

At the very least, it wasn't up to Mr Bentley to decide whether or not the particular agenda item referred to on the screen - - -?---No.

- - - should go on the agenda or not?---No.

Is that right?---I'm sorry?

30 At the very least, it wasn't for Mr Bentley to decide whether or not the agenda item for Wagga clay target shooting should go onto the agenda or not?---I presume that he was, I presume my office asked me on, on that issue and I would have agreed.

40 And so we can take it from that, can't we, that within some relatively short period of time of 2 December, 2016, 4.08pm, you gave a direction either directly to Mr Bentley or perhaps to someone else in your office to put the Wagga Wagga clay target shooting agenda meeting item on the ERC agenda for 14 December?---Yes, although 12 days is more than adequate timing. Sometimes matters would be decided on the way into a meeting. So this is no way irregular.

I didn't ask you anything about the timing.---All right.

My question was whether we can infer from the document on the screen that sometime on 2 December, 2016, you gave a direction for the Wagga Wagga clay target shooting matter to get onto the ERC agenda?---I can't recall. It

may have been before then. It may not have, not have – I, I can't recall. I can't remember.

Well, Mr Bentley was a fairly efficient employee in your office. Is that right?---Yes, indeed.

He wasn't one who would, as it were, drag his feet in complying with your directions, correct?---That's my experience, yes.

10 And so doing the best you can, and noting that you weren't copied to this email, it appears, doesn't it, that you gave a direction for the Wagga clay target shooting matter to get on the ERC agenda perhaps on 2 December, perhaps maybe on the preceding day, the 1<sup>st</sup>?---I honestly can't remember.

I'm not suggesting you necessarily remember, I'm just asking you about the practices and procedures in your office. The decision - -?---With all due respect, you asked me a question as to whether I asked for something to occur and I'm telling you that I can't remember.

20 Yes, but what I'm drawing to attention is, firstly, I think you agree, that the matter of whether it gets on the agenda or not was a matter for you as the Treasurer, correct?---Not always but, but obviously a Treasurer could decide if something wasn't going to go on the agenda but I don't know if the minister may have suggested this beforehand. The minister may have requested this months ago and then I may have agreed, because often what happens is ministers might put requests in for a long period of time and then eventually the Treasurer might say there's a slot here, put it in on this item, on this day. So without knowing the context and what happened beforehand, I feel limited in the way in which I can answer your question.

30 THE COMMISSIONER: Ms Berejiklian, you're being asked a very simple question.---Okay, thank you.

Did you ask Mr Bentley to put this matter on the ERC agenda?---Well, I can't remember.

MR ROBERTSON: You're not resiling from the proposition, I take it, that at least in your time as Treasurer it was up to you, subject to any contrary direction from the Premier of the day, to decide what matters go on or not on the agenda for the ERC meeting?---That's correct, that's correct.

40

And at least as a matter of practice in the office, if you gave a request or direction that a particular item get on the agenda, in your experience as a matter of practice, that would ordinarily happen within short order?---Yes.

It might happen in the day, it might happen the day before but it wouldn't take weeks and weeks, for example?---Yes, that's correct.

Do you agree that the request that appears to have been made, perhaps on 2 December, perhaps on the 1<sup>st</sup>, was a request that you only made after Mr Maguire raised the Wagga Wagga clay target shooting proposal with you?  
---Oh, no.

10 So does that mean you don't have a recollection of Mr Maguire raising the Clay Target Association shooting proposal with you in advance of 2 December, 2016?---Well, I don't remember whether another minister or another colleague may have raised it with me, whether the relevant minister may have been pushing this and I just don't recall whether the relevant minister raised it with me or else the local member raised it with me or somebody else raised it with me, but there would have been a process because the proponent, the relevant minister, has to go through various channels to get something on the agenda.

20 So does it follow from what you just said that it's possible that one of the inputs to factors in the request that we can see on the screen requesting that it go on the agenda was Mr Maguire raising it with you? That's a possibility, you just don't know one way or the other?---It's a possibility but it's an equal possibility that the minister may have raised it, or a consequence of another, another reason.

Let me see if I can assist in this way. Volume 26.12, page 11, also part of Exhibit 415. I'll show you a copy of what appears to be a briefing note from Mr Bentley marked as "Date received, 21 November, 2016." Page 11, volume 26.12. Do you see there a document entitled Office of the Treasurer and Minister for Industrial Relations, followed by the words Zach, Z-a-c-h, Bentley. See that there?---Yes, I do see that.

30 And then if we can just zoom in under the heading Issue, see there's a reference there to "Minister Ayres' office has developed a submission for ERC's consideration." See that there?---Yes.

Now at this point in time, November 2016, Mr Maguire was a parliamentary secretary but not a minister, is that right?---That's my understanding, yes.

40 And is it right that it follows from that that it wasn't within Mr Maguire's power, as it were, to put forward a Cabinet submission, rather Cabinet submissions can only be put forward by ministers, is that right?---That's correct.

And then if you have a look a little bit further down underneath the heading Background, see there is 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, I do.

Does that refresh your recollection as to having a meeting with Mr Maguire concerning the Australian Clay Target Association?---I actually don't

remember this meeting, but I note the next sentence, which says he'd had discussions with Minister Ayres' office for months.

But on the question that I'm asking you regarding prior to him meeting with you, do you have a recollection of having a meeting with Mr Maguire concerning this matter?---I actually don't recall the meeting, no.

10 It's possible that there was one. You just don't recall one way or the other, is that right?---Absolutely. Absolutely. If, if this says there was one, well, obviously there was one, but I don't remember it.

If you look at the next dot point, you've drawn attention to a reference to Stuart's office.---Yep.

"They've been in discussions for months. They only discussed the issue with us after Daryl raised in late last sitting week." Do you see that there? ---Yes, I do.

20 Do you have any recollection of Mr Maguire having a meeting with you where he's asking you to fix a problem here? This problem being the fact that he wants a particular ERC submission on the agenda.---I can't recall that meeting or remember that meeting.

So it's possible that that took place, you just don't recall one way or the other, is that right?---Yeah, I just don't remember it, yep.

And then you see towards the fourth dot point there's advice being given that the only possible date is 14 December, see that there?---I do.

30 So is this right? It's possible, although you don't recall one way or the other, that Mr Maguire made, had communications with Mr Bentley and with you, with a view to getting you to give a request or direction that this matter get on the ERC agenda?---That's correct. But I, what I don't also remember is whether the minister had already that intention or wanted to do that himself as well.

40 But one possibility that you're not excluding, sitting there now, because you don't recall about it, is that it proceeded in a way that I've suggested to you it may have proceeded, do you agree?---Yeah, I just don't remember, that's correct, yep.

Now, do you agree that in advance of the Expenditure Review Committee meeting of 14 December, 2016, you indicated to the Treasury, to NSW Treasury, that you supported the submission?---Yes, and that's not uncommon. Often what we try to do in the Expenditure Review Committee process, even to this date, is try and ascertain before every meeting what people's positions were on various things to make the meeting run as smoothly as possible.

So does that mean the answer to my question is yes?---Yes.

Now, was that indication of support before or after you were given any advice from Treasury regarding the submission?---I can't remember.

Do you recall requesting or receiving advice from Treasury in relation to this agenda item?---I can't remember, although ordinarily advice would come ahead of the meeting on all matters.

10

So you're drawing attention to the fact that, at least as a matter of practice as Treasurer, you will always have the benefit of Treasury advice in relation to items before the Expenditure Review Committee of Cabinet?---Usually, yes. That's usual process.

At least in the ordinary course it would be a rare occasion to not have advice of that kind, is that right?---That's correct, yep.

20 Do you recall what the advice was from Treasury in relation to this proposal? Was it supported or not supported or what's your recollection?  
---I don't remember, no.

Let me try and assist this way, then. Page 252 of volume 26.3. It's part of Exhibit 423. If we just go up to the top of the page, do you see there a document entitled Treasury Advice for Expenditure Review Committee on SC0999-2016?---Yes, I do.

30 Do you recognise the document on the screen as being in the kind of form in which you received advice from Treasury as Treasurer?---Yes.

And if you have a look underneath the heading Recommendations and Actions, do you see there that the Treasury says - - -?---Yes.

- - - "not support the recommendation in the submission as a net benefit to the state has not been adequately demonstrated". Do you see that there?  
---Yes, I do.

40 So does that refresh your recollection that at least the advice from Treasury was that this was an item that should not be supported because of the failure to identify a net benefit to the state?---Well, I wouldn't have remembered until I saw this document. And I think all Treasurers would note that that was normally Treasury's default position on matters such as this.

Your indication of support to Treasury for the proposal, was that made before or after you received this advice?---I can't remember.

Is it possible that you indicated that support before you received any advice?---It could have been, and, and I should also say, Mr Robertson, top

of mind would have been at that time the Orange by-election and, and potential repercussions on that front.

So is that the reason why you indicated your support to NSW Treasury in relation to this item?---Not necessarily. I can't remember.

10 Well, why did you indicate support in relation to this item?---I suspect the same reason that every other member of the Expenditure Review Committee provided support in that it was regarded as a project which would raise our stocks in the regions and would also demonstrate to the community that we were cognisant of providing jobs and tourism opportunities.

I just want to understand, I'm not so concerned about what other members of the committee might have thought, why were you supporting this particular item as you recall it?---I suspect for those reasons, I can't remember. I, you're asking me to speculate and my speculation would be that it was a project to demonstrate to the regions, given the angst that was in the regions at that time, that we were - - -

20 I'm sorry. I'm sorry, keep going.---I can't recall the exact reason but I'm only speculating.

I'm not asking you to speculate, I'm asking you what your recollection is, if any, of your reasons for supporting this particular proposal. Are you saying you don't recall one way or the other as to why you supported this particular proposal?---My only distinct, I distinctly recall the Orange by-election, I distinctly recall that and I distinctly recall the need to demonstrate to rural and regional communities that the New South Wales Coalition Government had not abandoned them in the face of a number of issues that they were  
30 concerned with and which they had assumed that we had turned our back on the bush.

Including by supporting submissions in respect of which a net benefit to the state has not be adequately demonstrated according to the experts in New South Wales Treasury?---That would often occur, and obviously in addition to a business case, you also have to consider other items which would, would cause us to support a project.

40 Does that mean the answer to my question is yes?---Can you repeat the question, please.

Your view at the time was that by reason of the aftermath, as it were, of the Orange by-election, it may be appropriate to support a submission in relation to matters in a regional area even if that submission didn't demonstrate a net benefit to the state?---I can't, I can't remember exactly what I was thinking, but the only thing I recall when I heard about this grant through this process was its proximity to the Orange by-election, and that

was my only definite recollection and I can't recollect the specific processes or what it took or how this, this matter was dealt with.

So is this right, the only recollection you have sitting there now as to why you might have supported this particular submission is the desire for what I'll call electoral popularity, in light of the loss by the Coalition of the Orange by-election?---What would I would also additionally say - - -

10 No, don't worry about additionally say, just focus on my question first.---Oh sorry.

Am I right in understanding that the only reason that you can identify, sitting there now, for supporting this particular submission was the desire for attempting to obtain or engender electoral support for the Coalition in circumstances where the Coalition had lost the Orange by-election?---Can't say it was the only reason, no.

20 That's the only one that you can identify and think of sitting there right now, is that right?---But obviously - - -

No, no, is that right? Just answer my question first.---Sorry, yep.

Is that right?---Yes.

30 Thank you. Can we go, please, to page 186 of volume 26.3. Now is this right, Ms Berejiklian, along with advices of the kind that we can see on the screen at the moment, Treasury would ordinarily provide, in effect, something in the nature of a summary advice in relation to the individual items before an ERC agenda?---Yes.

And do you see on the screen an example of a matter of a spreadsheet or at least a table of that kind?---Yes.

If we just zoom in there so we can see that a little bit closer. We have the particular item here "Development of" – zoom out just a little bit more if we can, please, see so we can see the left-hand side – "Development of sporting infrastructure at the Australian Clay Target Association Facility in Wagga Wagga." Do you see that there?---Ah hmm, yes, I do.

40 Then they say, by way of Treasury position, "Treasury does not support providing a grant to the Australian Clay Target Association, as a net benefit to the state has not been adequately demonstrated." Do you see that there? ---Yes, I do.

"Should a grant be supported, it should be funded from within the cluster and be made subject to the ACTA providing greater assurance on the delivery and cost of the project." Do you see that there?---Yes, I do.

On the face of that advice, why didn't you simply say, "Go back, do some more work, confirm a net benefit to the state, and if it comes up trumps, then the ERC might support it"? Why wasn't that your view?---That may have occurred in the meeting. I, from the evidence that I understand was provided last week, those discussions may very well have occurred in the meeting. I have no recollection as to - - -

10 About rejecting the proposal. Well, you're aware, aren't you, that a decision favourably to the Australian Clay Target Association proposal was made in the ERC meeting on 14 December, 2016?---Yes, yes.

I think you might be drawing to attention the fact that there were some conditions added to deal with that matter?---That's right. Perhaps some conflating too.

20 What I am directing your attention to at the moment is why didn't you, as Treasurer, the person who is the effective chair of the committee, say, "Well, I want to be satisfied that there's a net benefit to the state and so the resolution should be rejected now, everyone should go away and if they can demonstrate a net benefit to the state, then we might have another look at it"?---Look, I can't remember that but obviously decisions we take as a government don't always follow the Treasury advice. If we follow the Treasury advice, no rail or road or project would get built because public good, providing public funds means you're providing a benefit to the community and that's not always going to give you a financial return. So, whilst Treasury has its job of alerting myself and the rest of the government at senior level what their view is, ultimately it's the decision of government as to whether a public good or a public grant or a public asset should be invested in.

30 It's certainly up to the elected ministers to make a decision on the matter, but what I'm drawing particular attention to is why would you, as Treasurer of the state, one of the most senior Ministers of the Crown, be happy to support a proposal in circumstances where a net benefit to the state has not been adequately demonstrated?---I may have been adequately persuaded by the minister who was the proponent, by other members of the committee or by my own decision making insofar as we needed to appease the rural and regional communities. And we would have gauged whether there was community support and I think the government was very sensitive and very  
40 frightened or scared about the prospect of certain parts of the community in rural and regional New South Wales turning away from the government. And perhaps this was seen as a way in which we could provide support to the community under those difficult circumstances.

The answer you've just given, I take it, in the way that you phrased it, that's based on you speculating now as to what you may have been thinking, rather than a recollection of what you were in fact thinking, is that right?  
---Correct, yeah.

You ultimately do have a recollection, though, is this right, of supporting the ACTA submission in the ERC meeting itself?---The recollection only came after being presented with, with the documents. I, these grants, this grant didn't stick out to me and my only recollection of it was the context of the Orange by-election.

10 Well, you indicated before that one possibility was that the minister may have convinced you on the proposal or put forward some good arguments on the proposal during the course of the ERC meeting itself. Have I got that right?---Yes but I would have, but according to what you've said, I formed a view beforehand that I supported it coming on the agenda and I supported -  
--

Do you have a recollection of whether the relevant minister, the proponent minister, Minister Ayres, was within the ERC meeting itself?---That's usual practice but I, I can't remember.

20 So is this right, the usual practice is that the proponent minister of a particular item will be present in the room during the time that it's being discussed and decided upon, is that right?---Yes. Unless it's what we call a tick and flick, unless it's something so obvious that everybody supports where the minister isn't required to attend.

Was this one a tick and flick?---I can't remember, I, I don't think so, no.

30 Is part of the reason why you don't think it's a tick and flick the fact that it appears that there may be some additional conditions that were added in the room, as it were?---Possibly, yes.

Now, Treasury says that the submission doesn't demonstrate a net benefit to the state. In the face of that, why, at least in your mind, was it in the public interest to support this proposal?---?---Well, Treasury - - -

40 Is the only matter that you can identify there the concerns, I think you said being scared within government or concerned within government, as to the consequence of the Orange by-election. Is that the only matter of public interest that you can identify?---No. I think the public interest would have been that this would have kept a proportion of the community pleased because they wanted this facility. I'm sure the relevant minister would have put a case up in, in relation to the benefits of tourism, or hosting an, an event, which was, I understand, of global import or some kind of world event. So there would have been a, a range of factors. I just don't have any recollection of what I participated or what I said in the meeting.

That event that you've just referred to, was that, as you understood it, what I'll call a must-have, we need this proposal to get through in order to secure the event for the state of New South Wales? Or was it what I'll call a

would-like-to-have, we've already got the event but it would be good to have a good facility in place when the event is in operation?---I don't classify things in my mind in that way, but, but my only recollection is the context that we'd just lost a seat to the Shooters Party, that the government was very keen to demonstrate to rural and regional New South Wales that we weren't ignoring them. And as I understood it, this project had significance beyond one area. It was something which many people who were interested in that type of activity would have, would have been supportive of in the community. But the context of the Orange by-election is my strongest recollection.

So the Coalition had lost the Orange by-election to a representative from the Shooters Party, so therefore let's have a facility associated with Shooters?--- Well, my, my only recollection in my mind was that there were massive issues which, you know, literally, in political speak, the bush was on fire in terms of their attitude to the government, and this was regarded as perhaps a way in which we would support a section of the community, who would change their opinion that we'd turned our back on the bush.

20 But I just want to go back to an answer before last. I think what you were saying, but tell me if I get it wrong, the Coalition had lost a seat – in that case a Nationals, previously Nationals representative seat – had lost a seat to the Shooters Party and therefore, in your mind, it was a good idea to spend some money on something to do with shooters. Have I got that right? ---Well, partly. That's my vague recollection. But I would have given good consideration to the submission. I would have read it and I would have participated in the appropriate way. But I probably would have let the meeting conduct itself and then come to a collective conclusion.

30 But at least sitting there now, other than identifying the Orange by-election and things connected with it, you don't recall any particular matter weighing on your mind in favour of the particular proposal, is that right?---That's my strongest recollection. I'm not saying it's the only one but it's my strongest recollection.

You referred to a world event before, and I won't use my dichotomy, I'll put it differently. The world event you referred to, had that already been secured as at the time of the ERC meeting of 14 December, 2016, as you understood it? Had it already been secured or won or was it something that

40 was hoped to be the subject of a bid, as you understood it?---I can't remember that, but I understand Minister Ayres may have shed some light on that topic. It was not something that I – I wasn't across the detail.

No, but you raised the concept of the world event in answer to a previous question. I just want to understand what your understanding was as to the relevance or otherwise of that world event.---All, all I, all I understood was it was to host a major event, but I don't have any greater detail than that, I'm afraid.

But I'm just trying to understand what you mean by "to host". Does that mean we need the money or we need the facility in order to host? Or does it mean something else?---Oh, I can't remember. Minister Ayres would have much more detail about that. I did not, I was not aware of the, of the, I can't remember the specific detail, so I – it's some years ago. I can't remember.

10 Was your support for the Australian Clay Target Association submission influenced by the fact that it was a project being advanced by Mr Maguire?  
---It could have been part of the consideration, but the absolute consideration for me, the strongest consideration, was the consequence of the Orange by-election. That's the strongest recollection I have. I don't remember meeting with him. I don't remember the meeting.

So it was a possible factor, but at least the dominant factor, at least so far as you can recall now - - -?---In my mind, yeah.

20 - - - is the Orange by-election in the way that you and I have been discussing over the last few minutes, is that right?---Yeah. Yeah.

Now, after the ERC meeting itself, it remained – by which I mean the Australian Clay Target Association project – remained a project in respect of which you showed an interest within government, do you agree?---I don't actually have a, I don't actually have a recollection of that. I don't remember that.

30 Well, can I just show you this email with a view to attempting to assist you on that. Volume 26.7, page 327. This is not an email to which you're a party, but I want to draw it to your attention. Now - - -

THE COMMISSIONER: Mr Robertson, that one that was 26.3, 186, you didn't say that was an exhibit already.

MR ROBERTSON: No, it wasn't, Commissioner. Thank you. I tender page 186 of volume 26.3.

THE COMMISSIONER: Exhibit 525.

40 **#EXH-525 – EXTRACT FROM EXPENDITURE REVIEW  
COMMITTEE 14 DECEMBER 2016 FINAL TREASURY SUMMARY  
ADVICE**

MR ROBERTSON: I'm showing you an email here from Mr Barnes to Mr Mathieson, 20 June, 2017, 5.23pm. Do you see that there?---Ah hmm. Yes, I do.

At this point in time, Mr Barnes was the Deputy Secretary of Regional NSW, correct?---Ah hmm.

Sorry, you need to answer out aloud, I'm sorry.---Oh, yes, I'm sorry, yes.

At that point in time, Regional NSW was a group within your then department, the Department of Premier and Cabinet, is that right?---That's what I understand, yes.

10 But the portfolio minister for Regional NSW was the then Deputy Premier, Mr Barilaro. Is that right?---That's correct.

But you were what's known as the cluster minister- -?---Correct.

- - - because at that point in time, Regional NSW fell within the Department of Premier and Cabinet. Is that right?---That's correct.

20 Ultimately, a new department was created under your premiership called the Department of Regional NSW. Is that right?---That's correct.

And at that point in time, that department also became its own cluster, such that the Premier was no longer the cluster minister but rather the Minister for Regional NSW was the cluster minister. Is that right?---That's correct.

There's a reference there to Mr Mathieson. Mr Mathieson was one of your advisers as at 20 June, 2017. Is that right?---Yes.

30 And do you see there Mr Barnes says that he is keeping Mr Mathieson informed. He says, "Just wanted to keep you in the loop given the Premier's interest." Do you see that there?---Mmm.

Now, does that assist you at all in recalling whether this was a project in respect of which you had a particular interest that you may have communicated to either or both of Mr Barnes and Mr Mathieson?---No. It could have been my office. But any, if I had indicated any interest, it would have been via my office but I don't have any, I don't remember that.

40 When Regional NSW was in the Department of Premier and Cabinet, there would be regular I think fortnightly meetings with the key executives within the Department of Premier and Cabinet. Is that right?---Can you ask the question again, please?

When Regional NSW was part of the Department of Premier and Cabinet, it was practice to have regular meetings at which you would attend as Premier along with senior executives within agencies within the Department of Premier and Cabinet. Is that right?---I wouldn't say it was regular practice, but it occurred from time to time.

So it was only from time to time? It wasn't a regular fortnightly meeting or anything like that?---It may have been initially but in recent years, it certainly hasn't been the case.

Do you recall, at least in relation, well, I'm not worried about recent years at the moment.---No.

I'm worried about, for example, in 2016 and 2017, at which point in time, Regional NSW was part of the Department of Premier and Cabinet.---Yeah.

10

So during that period of time, was that the practice as you recall it?---Yes, although I can't, like, I can't, I can't exactly remember all the, the frequency of those meetings or how often I would have met with those - - -

At least there was meetings, from time to time, where you were given updates regarding - - -?---Yes.

- - - particular projects being considered by the executives within the Department of Premier and Cabinet?---Yes. Yeah. Yeah.

20

Now, are you saying you just don't recall one way or the other whether this was a project in respect of which you signalled interest, you personally signalled interest, either to your department or to your office?---That's correct. It could have been because the local member was calling up, it could have been the minister's office following up, I just don't have a recollection of it. It didn't stand out for me beyond the decision of the ERC meeting.

30

So are you saying, what, a possibility is that you indicated an interest because Mr Maguire was making contact with your office. Is that what you're saying?---No, my office may have. I, I certainly, that's not my recollection.

So are you saying it's possible that you gave an indication to people within your office or department of interest in this particular proposal but that you just don't recall one way or the other?---Correct.

40

Do you have any recollection of it being a project that you would raise from time to time with the then Deputy Premier, Mr Barilaro?---I actually didn't have any memory of that. I had no memory of that, no. I may have but I don't, I don't remember that, no.

You said you didn't have a memory of that.---Yeah.

Are you drawing attention to the fact that you might not have in the past but something may have come to your attention that might have jogged your memory?---Only if, my, my colleagues might have a different, my

colleagues may remember something, I didn't, but I certainly didn't remember raising it frequently if that's the question.

But I'm just wondering why you're saying you didn't remember as opposed to don't remember. Is it something you didn't remember up until a particular point in time but something's recently jogged your memory?---No, I'm not trying to be semantic. I'm just saying I don't remember.

10 Is it possible that you had conversations with Mr Barilaro when Deputy Premier following the Expenditure Review Committee decision meeting of December 2016 during the course of which you indicated support for the ACTA project?---That could very well be the case, yes. I, I just don't remember.

Is the ACTA project one that Mr Maguire kept you up-to-date with from time to time?---I can't recall. It didn't, it didn't stick out for me.

20 So it's possible that it was a project falling within that category and you just don't recall one way or the other?---That's correct. He may very well have been engaging with my office, as well. I just, I just don't remember.

Well, let me try and assist this way. Page 101, volume 26.5.

THE COMMISSIONER: Are you going to tender that last document, Mr Robertson?

30 MR ROBERTSON: Pardon me for a moment, Commissioner. I'll check whether it's already been marked. It may well have been. Yes. So that's Exhibit 491, Commissioner.

THE COMMISSIONER: Thank you.

MR ROBERTSON: Page 101 of volume 26.5. Now I'll show you first an email from Mr Turner to Mr Maguire to which you weren't copied, where it says, "I've been advised late last week by GHD that the Department of Industry has accepted a quote for them to prepare another business case study taking into account the tourism aspect to the ACTA proposal for the function centre." Do you see that there?---Yes, I do.

40 What was your understanding, at least as at the time of the December 2016 ERC meeting, as to, in effect, why was this proposal being put forward? By the sounds of one of your previous answers it was all about, in effect, looking after the shooters, it was Australian Clay Target Association shooters proposal and so it was about the shooters. Is that what you had in your mind or was it more associated - - - ?---No - - -

- - - with things like tourism in some broader fashion?---Look, I'm sure the, I'm sure the relevant minister would have put that case. I, I wouldn't have

been across specific details unless I had to and beyond what I've read in the Cabinet minute.

10 So you don't recall one way or another what, the way it which it was being forward, whether it was being put forward in terms of a, in effect, for the shooters, improve the shooting facilities, as opposed to something more broadly such as the tourism aspect?---That was just my, that was just my, that was just my recollection. I'm sure that the relevant minister would have argued as appropriately, as it was, that this would have brought tourism benefits to the regions and possible jobs, and that was, that would have been a given, given the nature of the proposal.

But I'm only asking about your understanding and your recollection, and by the sounds of it, at least in your mind, it was focused on shooters facilities in circumstances where a representative of the Shooters Party had won the Orange by-election?---That was, that's the strongest recollection that I have about this issue now.

20 If I can then just go up a little bit further on the page, please. Do you see there Mr Maguire says – again, parental advisory – “Typical of our bullshit government,” to you. Do you see that there?---Yes, I see that.

That's to what I think you and I described last year as your direct email address?---That's the email address all my colleagues have access to, yes.

The one that your colleagues would use in order to send you emails as opposed to - - - ?---Yes.

30 - - - the public at large, is that right?---Yes, although some members of the public occasional get through as well.

But that's the one that I think you, you said last year, you monitor yourself rather than your staff?---Colleagues and staff, yes.

Now did you take Mr Maguire's email of 6 March, 2017 as a request or invitation for you to take some action in relation to what he described as being typical of your and his bullshit government?---I can't remember what I did, if anything, as a consequence of this.

40 So does that mean you may well have taken some steps in light of this matter drawn to your attention - - -?---I could have.

- - - you just don't recall one way or the other?---That's correct, yes.

Did you request that either in the wake of this email or at any later stage, did you request that further work be done on things like business cases with a view to assessing whether or not or demonstrating or not whether or not the benefits to the state would exceed the cost?---I don't remember whether I

did or whether the minister did, I don't have any recollection of those details.

It's possible that you did, you just don't recall one way or the other, is that right?---That's right.

10 Is it possible that it came to your notice that a cost-benefit analysis had been performed showing a benefit-to-cost ratio of less than 1, and that you made a request that an updated business case be assessed with a view to seeing whether an analysis could be performed showing a business-to-cost, sorry, benefit-to-cost ratio of more than 1?---I don't remember that but it wouldn't have been unusual to have supported something which was towards 1 and not 1. So, that's not unusual to support a project which don't have positive return because there may be other factors why the government thinks that's a good reason to proceed.

20 But focusing on my question, is it possible that it came to your notice that a cost-benefit analysis had been performed showing a benefit-to-cost ratio of less than 1, and that that analysis was revisited following a request by you personally?---I just don't remember.

You don't remember but it's possible that that occurred, is that right?---Yes, that's right.

30 Back to some questions about the Australian Clay Target Association later but I just want to raise some matters concerning a different project in the time that we've got before lunch. Do you agree that funding for the Riverina Conservatorium of Music is a matter that Mr Maguire raised with you over a period of many years?---Yes, and in fact the current member, independent member Dr McGirr, also kept raising it with me as well.

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

Can we go, please, to page 59 of volume 31.0. Just to try and assist with the timeline, I'm going to show you a letter of 11 May, 2016, at least according to the stamp in the top right-hand corner. Do you see there a letter coming back on your letterhead, then as Treasurer, to Mr Maguire, 11 May, 2016? ---Yes.

40 Now you're there referring to correspondence regarding funding for the Riverina Conservatorium.---Ah hmm.

And advising that the matter is, will be referred to the appropriate minister, being the then Minister for Education. See that there?---Yes, I do.

But you then go to a handwritten note. You say, "Daryl, rest assured I am aware of the merits of this proposal." Do you see that there?---Yes, I do.

That's in your handwriting, I take it?---Yes.

What were the merits of any proposal associated with the Riverina Conservatorium that you were referring to as at 11 May, 2016?---Well, generally speaking I was of the view that arts and culture should be supported in the regions and that's, yeah.

10 But here you're saying, "I'm aware of the merits of this proposal," not "I'm aware of the merits of supporting music and conservatoria generally."  
---Right.

So I'm just trying to ask why, in what way were you aware, as at 11 May, 2016, of the merits of the particular proposal the subject of your letter to Mr Maguire?---I don't remember. It could have been a variety of ways.

20 So you don't remember - - -?---I remember meeting with the organisation. I remember they, I remember they wrote to me and I remember meeting with them. But I don't, I don't have a recollection of the timeline as to whether those meetings occurred before this or whether it was after this time.

So is this right, at least sitting there now, you don't recall what the merits of the proposal you had in mind when you wrote the note back to Mr Maguire saying that you were aware of the merits of the proposal?---That's correct. I'd only be speculating as to what merits I was referring to.

30 But you do have a recollection of, what, visiting the Riverina Conservatorium from time to time?---No, I wouldn't say from time to time. You, you raised it with me in a private hearing, the run sheet, and, and brought to my attention the meeting. And I remember, I remember vague details of that meeting.

I'll show you that one in a moment just to make sure we're both talking about the same document. But before I do that, I tender the letter from Ms Berejiklian to Mr Maguire, 11 May, 2016, page 59, volume 31.0.

THE COMMISSIONER: Exhibit 526.

40 **#EXH-526 – LETTER FROM GLADYS BEREJIKLIAN TO DARYL MAGUIRE DATED 11 MAY 2016**

MR ROBERTSON: Can we go, please, to volume 31.0, page 80, which is also Exhibit 509. Ms Berejiklian, is this the document that you were referring to before?---Yep. You brought it to my attention, yes.

Entitled Premiers, without a possessive apostrophe - - -?---Yep.

- - - Visit to Wagga Wagga, 10 February, 2017.---Yep. That's correct.

You were first appointed Premier on 23 January, 2017, is that right?---Yep, that's correct.

And so I take it that this was one of your early visits to a regional area?  
---Correct.

10 And so what you were drawing attention to before, is this right, is your meeting with the Riverina Conservatorium of Music that appears to have occurred on 10 February, 2017?---That's correct.

Now, is that a meeting that allowed you to become aware of the merits of any particular proposal associated with the Riverina Conservatorium?  
---Well, I certainly gathered a deeper understanding of what they were seeking. But, again, I know they wrote to me. I just can't remember whether they wrote to me before or after this meeting. But certainly I do recall receiving correspondence and I do recall having this meeting with them.

20

So you said that helped you understand what they were seeking. What did you understand that they were seeking as at February of 2017?---Well, obviously they wanted new premises and they wanted extra facilities, and I – I'll leave it there. I'm assuming you're going to ask me more questions. I'm just sticking to the, to the question you've asked me.

30 Well, but what I want to understand is, as at February 2017, what was the at least key elements of the proposal as you understood it? You said before that gave you an understanding of what they were proposing, by which I think you mean the Riverina Conservatorium.---Yep.

What was it in your understanding that they were proposing?---They wanted to relocate their premises and they also wanted extra facilities to perform and have a performance space, was my understanding.

40 So is this right, at least as you understood it as at February 2017, the proposal from the Riverina Conservatorium had at least two elements to it. One was let's not be homeless, let's have a new premises - - -?---Yep.

- - - because we can't continue to use the old one.---Yep.

But it had a second component, which was the construction of a further performance space, is that right?---That's my vague recollection from that meeting. I know subsequently I was aware of that, but I'm assuming that I was made aware of that in that meeting.

During the course of that visit on 10 February, 2017, did you give any indication to those present as to your level of support or otherwise for the proposal as you then understood it?---Yes. And the – yes.

10 And in what fashion did you give that indication?---I was very concerned. The reason why this, I have a recollection of this meeting is, I was very concerned at the advice they'd been given and I was quite upset and incensed that they had been asked to follow a particular course of action to get support when I knew that that would have set them up for failure, and I was upset that a community organisation had spent considerable time and money putting together proposals and had put them in a form which would have ultimately resulted in it getting nothing, and I was very upset about that.

So are you referring to the fact that it came to your notice that an application had been made through the unsolicited proposals process that was then in place?---Correct.

20 And I think is still in place in one form or another within government?  
---Correct, yep.

30 And that was not an appropriate procedure, or at least was not a procedure that was likely to result in any positive decision in relation to a project of this kind?---Correct. And I was – yes. Yes, and the other recollection I have is that when I finished the meeting, I was concerned that this was happening all across the regions, that regional organisations and communities were being given advice which ultimately would mean they'd spend time and money and energy for a process that would have a nil result, and that made me feel very upset because it also fed into the narrative that we weren't taking care of communities in the regions.

So one of the things that you were concerned about, including in calendar year 2017, is worthy projects missing out, not necessarily because they're not the best available project but because an application might be made through an inappropriate form of procedure within government?---Yes. And also concern that people were being given the run-around and was, was wasting time and money on a process that wouldn't have had success.

40 And so, is this right, do you have a recollection that during the course of the visit of 10 February, 2017, expressing, what, that concern to those present, is that what you're saying?---I just want to make sure that's exactly what I remember and not a subsequent memory but that's my vague recollection, yeah.

So doing the best you can, that was probably communicated at that meeting but I - - -?---Yeah, that's my best memory but it may or may not have been the case.

But I think you're saying it's at least possible that you've got the timeline slightly wrong and - - -?---Correct, yep.

- - - that understanding might have been later, is that right?---Yep, yep.

But is this at least right that in terms of the substance of the proposal of the Riverina Conservatorium, you indicated at least a level of government support during the course of the visit?---Yeah, yeah. I felt sorry for them, yep.

10

And when you say government support, is that in relation to both of the two aspects that you and I have already discussed, I don't want you to be out of a home or - - -?---No, my recollection is that we needed to put them on the right path so they could at least get consideration by the relevant process, as opposed to the one that had been suggested to them. I was quite upset that they'd been given forms to fill out, they had spent money binding project summaries and all of that stuff, which I knew would amount to nothing because the unsolicited proposal process was for large projects like toll roads and railway stations. It was not intended for small community – well, relatively small community organisations who were trying to pursue matters such as this.

20

In particular large commercial projects, for example?---Correct, yeah.

But in terms of the support, I just want to understand it, support for what? Is it support simply for I don't want you to be out of a home or is it also for the performance-based aspect that you and I discussed before?---Again, I can only go by a vague recollection but obviously relocation would have been the priority because they wouldn't have had a home.

30

Well, do you recall whether you gave any indication or support or otherwise for any suggestion of constructing a world-class recital hall at the proposed site of the Riverina Conservatorium?---I just can't remember whether that was aired at that meeting.

So it's possible that you did, you just don't recall one way or the other? ---That's correct.

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

40

Now, was the RCM proposal a proposal in respect of which Mr Maguire was in regular contact with you personally?---He was definitely in contact with my office and, yes, he did raise it with me on a number of occasions, as has the current member, Dr McGirr, and Dr McGirr has written to me met with me and - - -

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

Just please answer Mr Robertson's question.---Yep.

MR ROBERTSON: Did Mr Maguire complain to you about roadblocks that he thought had been put in place by the government in relation to the RMC proposal?---I'm sure he did.

Just have a look at example of that, if we go to page 115 of Volume 31.0, also Exhibit 464.

10 THE COMMISSIONER: What was that – that last document was also an exhibit, the itinerary I think.

MR ROBERTSON: The last one was volume 31.0, page 80, which is also -  
- -

MS CALLAN: 509.

MR ROBERTSON: - - - Exhibit 509.

20 THE COMMISSIONER: Thank you, Ms Callan.

MR ROBERTSON: I'm grateful to my friend. You see there Ms Berejiklian, "Here we go on the merry-go-round again!"---Yes.

Sent to you and to Mr Barilaro?---Yes.

If we then turn to the next page you see there a reference to the unsolicited proposals process in the second paragraph, do you see that there?---Yes.

30 Do you see that in the second paragraph?---Yes, I do.

That's the process that you and I discussed before as being the inappropriate process for a - - -?---Yes.

- - - application or at least a project of this kind?---Yes.

And then you see that Mr Hanger is said to be going to make contact to discuss a range of potential funding application opportunities, do you see that there?---Yes, I do.

40

Now did you take this email from Mr Maguire as an invitation or request to intervene in any way in the process?---No, I took – again, vague recollection would have been I would have taken it as his frustration on the process.

But do you at least accept that this particular proposal was a project, or at least this proposed project was one that, as you understood it, Mr Maguire had a particular passion for?---Yes.

It's one that he raised with you on many occasions?---I don't know how many but, yes, he raised it with me.

It's one that you gave him updates with respect to from time to time as to what was happening within government insofar as you were aware?---I may have, yes, but I would have also assumed he may have asked the same of other relevant ministers who were involved in the project.

10 But you at least have a recollection of Mr Maguire keeping you up to date -  
- - ?---Yes.

- - - and him and you keeping Mr Maguire up to date?---Yes, this was something that I knew that he felt strongly about as a local member of parliament.

20 Just so I can see an example of that, can we go extract 2, please, of intercept 1297. Commissioner there's two documents that I would like to try and get to before lunch, which may be sitting into lunch briefly, if that's convenient to the Commission?

THE COMMISSIONER: Yes.

MR ROBERTSON: Extract 2, intercept 1297. It's 4 September, 2017. And to assist with your bearings, Ms Berejiklian, the letter I last showed you was 7 July, 2017.

**AUDIO RECORDING PLAYED** **[12.58pm]**

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

Does this provide an example of the kind of communications that you had with Mr Maguire from time to time regarding the Riverina Conservatorium Project?---Yes, I'm sure he had, had other ways in which he made myself and my office know that that was something that he cared about.

40 But something that you and he had communications directly with each other, is that right?---Yes, yes, as I would other local members on projects in their electorates.

You at least agree, don't you, that in relation to Mr Maguire's projects you gave them a particular attention over and above attention you might give to other projects?---I do not agree with that.

Did Mr Maguire's desire to procure a new home for the Riverina Conservatorium of Music or perform other work, building work associated

with the Riverina Conservatorium ever have any influence in any decisions that you were making, that you had made or were considering making regarding the hiring or firing of any senior government officials?---I, you played something to me in the private hearing regarding an official I made reference to. Is that what you're asking me?

10 No, well, I'm asking you the more specific question whether Mr Maguire's desire to procure a new home for the Riverina Conservatorium ever influenced the exercise of your public functions associated with the hiring or firing of any government official?---No. That was my own decision. No.

20 No influence at all?---No. What, what I was influenced by was seeing genuine and earnest community groups being given information which was setting them up to fail. And I, I was incensed by that. I was upset. And I assumed that public servants were providing information to community groups which was essentially giving them the ring around or run-around and that made me very upset. And not only did it make me upset because community organisations were given incorrect guidance, in my opinion, but also because I thought it was feeding into the notion that we didn't care about rural and regional projects. And both those things gave me enormous concern and that's why I, I did at the time, I, I think more generally, I don't know if that was the trigger but I certainly had a conversation with my office and my staff to say, "I hope this isn't happening all across the state." And, subsequently, we, the government since made decisions to make processes more transparent for community organisations seeking various funding through appropriate sources.

30 Let me try and ask it this way. Can we please have ready to play the excerpt of telephone intercept 4018. So this is the last matter I'll go to before lunch if that's convenient, Commissioner?

THE COMMISSIONER: Yes.

40 MR ROBERTSON: Before that's played, can I make an application. In the intercept I'm about to play, there's a reference to a name of a particular official. I apply for a direction to be made under section 112 with respect to the name of that particular official. In our respectful submission, it would not be in the public interest for the name of that official to be the subject of public exposure in circumstances where that may cause reputational or other damage to that particular individual and in circumstances where there is no suggestion or allegation of conduct or otherwise inappropriate conduct with respect to that particular individual.

THE COMMISSIONER: Yes. Being satisfied that it's necessary and desirable to do so in the public interest, I declare that the name of the official to whom Mr Robertson referred not be disclosed.

**SUPPRESSION ORDER: BEING SATISFIED THAT IT'S NECESSARY AND DESIRABLE TO DO SO IN THE PUBLIC INTEREST, PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT THE NAME OF THE OFFICIAL TO WHOM MR ROBERTSON REFERRED NOT BE DISCLOSED.**

10 MR ROBERTSON: If it please the Commission. I think though that I'll ask at least in this hearing room and now that direction having been made for the transcript to include the name of that particular individual, although on the recording that I'm about to play, the recording will have the name itself redacted, so there'll be a short bit of silence and the bit of silence will be the name. Ms Berejiklian will be able to just see the name on the screen, although those who are watching on the live stream will not be able to do so and, of course, you've made the section 112 direction by way of a suppression order.

20 THE COMMISSIONER: Yes. Very well.

MR ROBERTSON: Can we play that recording please and please ensure that (not transcribable)

**AUDIO RECORDING PLAYED**

**[1.03pm]**

30 MR ROBERTSON: So is this right, Ms Berejiklian? You decided to delay a decision to sack a particular individual because you wanted the RCM matter to be dealt with first, on Mr Maguire's request, and then after that had been fixed, you intended to sack him. Is that how we read that call? ---No. No. That person is still in the public service today.

But at least in your decision what at that point in time was an intention to sack someone, you took into account the fact that Mr Maguire wanted him to fix his conservatorium, do you agree?---No, that person is still in the public service, so obviously I didn't do it.

40 No, no, direct yourself to my question.---Yes.

As at the time of that call, you considered delaying something that you were at least considering doing – namely sacking a particular public official – so that he had time, that particular individual, had time to fix Mr Maguire's conservatorium?---I don't remember thinking that. I don't remember.

THE COMMISSIONER: That's what you said, Ms Berejiklian, didn't you just - - - ?---I'm sorry?

That's what was just played to you, that's what you said to Mr Maguire?  
---Yes, but the person is still in the public service.

You're being asked about what happened on 22 November, 2017, Ms Berejiklian, not what is happening today.---Okay.

10 MR ROBERTSON: Let's put the extract back on the screen so we can make that clear. As at 22 November, 2017, you were considering sacking the particular individual who you can now see on the screen, is that right?  
---Yes.

And one of the influences, one of the factors as to why you decided not to sack that individual immediately, was that Mr Maguire wanted him to fix his conservatorium, do you agree?---I can't say that was the main reason.

So it's possible that was at least one reason, is that right?---It could be one of the reasons, yes.

20 I tender extract number 1 of telephone intercept 4018, 22 November, 2017.

THE COMMISSIONER: It will be Exhibit 527.

**#EXH-527 – EXTRACT OF TELEPHONE INTERCEPT 04018  
BETWEEN MAGUIRE AND BEREJIKLIAN DATED 22  
NOVEMBER 2017 10.33AM**

30 MR ROBERTSON: Is that a convenient time Commissioner?

THE COMMISSIONER: Yes. Ms Berejiklian, we're going to take an adjournment for an hour for lunch, so please return just after 2.00pm.

THE WITNESS: Thank you.

**LUNCHEON ADJOURNMENT**

**[1.06pm]**