

OPERATION KINGFISHER

WRITTEN STATEMENT BY JOSHUA CERAMIDAS DATED 5 SEPTEMBER 2023

On 6 September 2023, I, Joshua Ceramidas solemnly and sincerely affirm:

Introduction

1. My name is Joshua Ceramidas. I have previously been privately examined as part of Operation Kingfisher on 6 May 2022 and 13 February 2023. At those private examinations, I was asked – among other things – about communications between me and “John Green”. I am providing this written statement responding to a precondition imposed by the Commission on my counsel’s application for leave to cross-examine Mr Green.
2. I am told by my solicitors that the precondition states that I must provide:

“a detailed account of the communications between Mr Ceramidas and Mr Green, including the times and circumstances in which they occurred”.
3. I am also told by my solicitors that this account should include all communications occurring in periods of time relevant to Operation Kingfisher.
4. This statement reflects as at 6 September 2023 my best recollection of my communications with Mr Green following his appointment as Secure Local Jobs Code Registrar (**Registrar**) in around August 2018 until January 2021 when I resigned as Chief of Staff to Deputy Chief Minister Yvette Berry MLA.

Communications with Mr Green

5. While I understand Mr Green’s appointment as the Registrar commenced in around August 2018. I do not recall meeting him until he took up an senior executive role in the Education Directorate (**Directorate**) sometime around September 2019. Prior to this, I do not recall being aware of Mr Green by name or to look at and did not have specific knowledge that he was the Registrar. It is possible but unlikely I saw him in the Legislative Assembly building. I do not recall any specific instance when this occurred.
6. I first recall meeting Mr Green at a MINSET meeting in around September 2019 when he commenced with the Directorate as the senior executive responsible for business services. He had joined the Directorate to backfill for Rodney Bray. I do not recall being aware of these arrangements prior to Mr Green attending this MINSET meeting. This was not unusual. Changes

in senior executives were inconsistently brought to my attention, most commonly when involving the most senior leaders.

7. I do not recall anything remarkable about my first meeting with Mr Green in September 2019. I had no pre-formed view or knowledge of him, either personally or in his nominal capacity as Registrar. My typical approach when interacting with public service officials was to take them at face value with professionalism and courtesy, and endeavour to form constructive relationships. I do not recall taking any different approach to Mr Green when he joined the Directorate in September 2019.
8. Sometime in the second half of 2019, after I became Chief of Staff, I recall a conversation at a MINSET meeting with the Directorate about implementation of the Secure Local Jobs Code (Code). I do not know if Mr Green was present for that meeting and cannot recall the specific timing. I recall the discussion being about how the directorate was implementing the requirements of the Code. Sometime around this point in time the Directorate, David Matthews as I recall, had argued that the Code required no more than that tenderers hold a valid certificate. I do not recall this discussion going to the specifics of evaluation criteria weighting.
9. Having looked at old text messages with Mr Green, I recall making a phone call to Mr Green at around 5pm on 15 October 2019. This was the first occasion that I phoned Mr Green. Mr Green was unavailable because, as his reply message stated, he was at a presentation with the Head of Service (Kathy Leigh) so did not answer. When he later attempted to return my call, I was unavailable. I do not positively recall the reason for the call but I think it was about combustible cladding panels in ACT public schools. The ACT Government had decided that combustible cladding should be removed from all buildings in response to these panels causing fires in other jurisdictions and overseas. We had already been working with the Directorate on a plan to remove these panels from ACT public schools. A proposal was being developed, I think via Major Projects Canberra, that there be a centralised project to remove these panels from all government buildings but the timeframes were slower than what we had planned for schools. The interaction on 15 October 2019 was close to Mr Green's return to his nominal role as Registrar.
10. I do not recall any interaction with Mr Green following his return to this role until he moved back to the Education Directorate at the start of 2020.
11. At the start of December 2019, I accompanied the Minister on a business trip to Alice Springs and then took annual leave immediately on our return. I was not due back at work until after the Christmas shutdown period but I was notionally working from the end of December 2019 while Minister Berry was Acting Chief Minister.

12. During December 2019 to about February 2020, there were catastrophic bushfires along the South Coast that were causing very poor air quality in the ACT. On about 2 January 2020, while Minister Berry was still Acting Chief Minister, a State of Alert was issued due to the extreme fire risk to the ACT. The fires and the air quality problem being experienced in the ACT worsened over this period.
13. Due to these circumstances I recall during January 2020 having some interactions with Mr Green, though I do not recall specifically when and whether in person or by phone. The context was management of air quality in ACT public schools. I think these were mostly conversations involving other people, I think Mr Matthews. Among other issues in response to the fires, the Minister had asked that the Directorate consider how to manage poor air quality in school buildings in preparation for the start of the 2020 school year at the beginning of February. I recall someone in the Directorate had been approached with an offer of donation of a hundred or more Dyson air purifiers. I think it was Mr Green but it might have been Mr Matthews.
14. Early in February 2020, the Minister's staff and I began reviewing business cases for the upcoming budget process. This work had been delayed due to the fires. It is possible, although unlikely, that I spoke with Mr Green during the first few weeks of February 2020 about Education Directorate capital works business cases. The budget associated with these business cases did not eventuate due to the COVID-19 pandemic.
15. I recall in late January or early February 2020 raising the Code at two MINSET meetings. During the first meeting I recall the Directorate stating a similar view to that Mr Matthews put late in 2019, being that the Code required no more than that tenderers hold a valid certificate. It was at this meeting that I think I gained the impression that there was only a binary evaluation and no weighted, qualitative assessment of any aspect of the Code. I think it was Mr Matthews and Mr Green who advanced this view.
16. Assisted by the dates provided by the Commission, I can date a memory of a second MINSET around this time during which the Code was discussed as occurring on 24 February 2020. I have a screenshot of part of the Code among my phone's photos dated 11:25 pm, 20 February 2020. I recall taking this screenshot in preparation for an upcoming MINSET after a discussion at the first meeting around this time where I recall being told the Code involved a certificate only with no qualitative evaluation.
17. At the meeting on 24 February 2020, I recall reading from my screenshot of the Code with specific reference to a requirement in the Code, clauses 10(1)(c) and (d). Clause 10(1)(c) is about consideration of labour relations plans in tender evaluation, and it was in this context that I now

recall being told that the labour relations plans had a 10 per cent weighting in tender evaluation. I think I confused this issue when giving evidence to the Commission at private examination; I incorrectly recalled that safety was a weighted criteria and the Code was not, when in fact safety only required that a tenderer was 'pre-qualified' and the Code involved qualitative assessment of the labour relations play with a 10 per cent weighting.

18. However, I recall a robust discussion at the MINSET on 24 February 2020 about the requirement in the Code, clause 10(1)(d). This clause required directorates to consider in tender evaluation a report from the Registrar about a tenderer's prior conformance with the Code or their labour relations plan. The Education Directorate had not established a process to comply with this clause of the Code. I recall a robust conversation with Mr Matthews, and to a lesser extent with Mr Green, about this requirement of the Code. The conversation was tense because I was demonstrating by direct reference to the text of the Code that their advice at the prior meeting was incorrect.
19. The next memory I have of an interaction with Mr Green occurred in late March 2020. Some of the first confirmed COVID-19 cases in the ACT arose among school communities late in February 2020 or during the first few weeks of March. The context of at least one of these cases was a diplomat family. Sometime during the week beginning 16 March the ACT Government, led by Minister Berry, announced that ACT public schools would "close" from 24 March 2020. There was a press conference after a National Cabinet meeting on 22 March 2020 where the then Prime Minister Scott Morrison cast some confusion about arrangements for ACT public schools. This corresponded with much wider community lockdown.
20. On 20 March 2020, the ACT Chief Minister announced the first economic support package in response to the COVID-19 pandemic. Immediately following the government began work on second and subsequent fiscal and economic responses. Assisted by reference to old text messages and some of the chronology identified in transcripts of Mr Green's private examination, I recall a phone conversation with Mr Green on about 25 March about Directorate's capital works budget, how much it could accommodate new 'screwdriver ready' projects and what those projects might be. I do not recall the Campbell Primary School project (**CPS Project**) arising in this conversation. It is unlikely this project was discussed because I do not think it constituted a 'screwdriver ready' project.
21. From late March 2020 until the end of the year, meetings with the Directorate rarely occurred in person and the ACT was subject to lengthy lockdowns. There was no occasion when I individually met with Mr Green and I think it is highly unlikely that I met with him together with other people. The one in person meeting I recall was a group meeting at the Headly Beare Centre

in Spence about school arrangements in response to the pandemic. I do not recall when this occurred and I am uncertain about whether Mr Green was present.

22. From late March 2020 I recall the subject matter but not timing of several phone conversations I had with Mr Green. The subject matter included:

- a. screwdriver ready capital works projects
- b. opportunities for school cleaners and business services officers to contribute to COVID-19 response activities
- c. soap and other sanitary supplies in schools during the COVID-19 pandemic
- d. replacement of combustible cladding at public schools
- e. roof replacement at public schools
- f. transportable classrooms
- g. installation of battery energy storage at public schools
- h. lead paint at Yarralumla Primary School
- i. asbestos remediation at several schools, such as Turner Primary School.

23. I recall phone calls with Mr Green about the following subject matter on the following dates:

- a. 25 March 2020 – stimulus capital works projects (text message and short phone call).
On 20 March 2020, the ACT Government announced its first COVID-19 stimulus program. On 22 March 2020, the ACT Government announced remote learning for schools. After a phone conversation between Ms Haire and I on the evening of 25 March 2020, Mr Green called me about possible projects and reprofiling the Directorate's capital works budget as part of developing a screwdriver ready package of works for the COVID-19 stimulus program. We discussed some of the options that could be included and how we could maximise the opportunity to benefit public school infrastructure. This call followed a meeting I attended the same day with various directorates and ministers about proposed COVID-19 stimulus measures, in particular around support for vulnerable people. Ideas were being generated on the run at this time at both the ministerial and public service levels. At the time of this conversation with Mr Green the long-term nature of the COVID-19 pandemic had not been fully appreciated and so I recall some reluctance among some in the Directorate,

such as the CFO, Lynette Daly, to rearrange the Directorate's capital works budget in a way that might undermine existing budget planning. At 11:00 pm on 25 March I sent Mr Green a text message enquiring about the status of the list of projects we had discussed earlier that evening.

- b. 31 March 2020 – screwdriver ready projects (text message). This text message followed up the conversation between Mr Green and I on 25 March 2020. This was in advance of the ACT Government announcing its second COVID-19 stimulus program on 2 April 2020. I include this here because it was not included in the texts provided by the Commission.
- c. 1 April 2020 – 'Jobs for Canberrans' (text message and phone call). This call was about an idea that Mr Green had to leverage the recently insourced school cleaning workforce and existing school maintenance staff to provide employment during the pandemic. I remember that Mr Green was seemed eager about the idea but do not recall the specifics of what we discussed.
- d. 22 April 2020 – combustible cladding removal (text message and phone call). The first engineering assessments had been received and I had some questions about them. The gist of the conversation was that the Directorate would need to wait for a whole of government arrangement other than some of the simpler or smaller projects.
- e. 24 April 2020 – batteries at schools (text message and phone call). The gist of the conversation was that I wanted to discuss an idea I had been working on about the wider installation of solar panels at schools as a way of reducing operating overheads. I think that it was Mr Green who drew my attention to a local company that had developed technology that used arbitrage to manage the sale of battery stored power when the price was advantageous.

24. I understand from information provided by the Commission that on 10 June 2020 at 8.15pm Mr Green attempted to call me to discuss results received from the tender evaluation. I don't remember speaking with him on or about this date about these results. I have no record in my text messages of a missed call from Mr Green on or about this date.

25. I do not recall the CPS Project, Manteena, the Code, or discussions I had with Ms Haire forming part of any discussion between Mr Green and I.

26. I do not recall any individual or separate conversations with Mr Green about the CPS Project, Manteena, the Code or discussions I had with Ms Haire at any time, that is, any communications outside of meeting settings such as MINSET.

27. I do not recall giving any “direction” to Mr Green about the procurement process for the CPS Project. I did not give a direction to Ms Haire or Rebecca Cross about the procurement outcome for the CPS Project. I never implicitly or explicitly stated a view to any of Mr Green, Ms Haire or Ms Cross about the outcome of that process. It is highly unlikely that I would have given such a direction. That is because I understood the importance of allowing an arm’s length conclusion for this and other procurement processes to be reached.

Text messages provided by the Commission

28. I have reviewed the eight groups of text messages provided by the Commission. I comment on each below by reference to the date in the file name for those groups of texts.

Text messages on 27 October 2019

29. In these text messages, Ms Berry asks for “Zach’s” phone number. This is a reference to Zach Smith, a CFMEU official. I reply providing his Mr Smith’s mobile number. I also send a text to Ms Berry that starts “Mel rang Jason...”.

30. All of these text messages relate to discussions occurring within ACT Labor in advance of an election for the position of party secretary. “Mel” is a reference to Melissa James, who was elected as party secretary in December 2019. “Jason” is a reference to Jason O’Mara, a CFMEU official. The CFMEU is an affiliated union under ACT Labor rules so participates in internal elections for positions like party secretary.

Text messages on 11 December 2019

31. These are texts between Rebecca Hobbs and I and begin with a text saying “Megan and I went to the cladding meeting...”. Ms Hobbs was another staffer in Ms Berry’s office and the education adviser when I was Chief of Staff. “Megan” is a reference to Megan Cursley. Ms Cursley was a media advisor who worked with Ms Berry’s office. There is also a reference in these text messages to “Brooke”, which is to Brooke Muscat. Ms Muscat is an elected official of the Community and Public Sector Union, a union affiliated with ACT Labor.

32. These text messages relate to two issues. One is the combustible cladding issue that I refer to above at paragraph 9. The other is an internal ACT Labor factional election. None of these text messages relate to issues being investigated by the Commission.

First string of text messages on 24 February 2020

33. These are texts between David Ferguson and I and begin with a text saying “[Mr Green] is a dick”. At the time these texts were sent, Mr Ferguson was a staffer in Suzanne Orr MLA’s office and Ms Orr was – among other roles – Minister for Employment and Workplace Safety. The references to “Bec” in these texts is to Ms Hobbs.
34. These texts express my frustrations at Mr Green following the MINSET meeting on 24 February 2020, discussed above at paragraphs 17 and 18. They do not relate to the CPS Project specifically, rather, they relate to the disagreement with the Education Directorate over the proper interpretation of the Code.

Second string of text messages on 24 February 2020

35. These are further texts between Mr Ferguson and I and begin with a text saying “Yvette will play intermediary...”. The references in these messages to “Zach” and “Brooke” are to Mr Smith and Ms Muscat.
36. The first part of this string, before the text saying “Also tell him I chewed that cunt [Mr Green] out”, is unrelated to issues being investigated by the Commission.
37. The balance of the texts in this string relate to the MINSET meeting on 24 February 2020. They do not relate specifically to the CPS Project or Mr Green’s role in relation to that Project.
38. What I meant about “chewing out” Mr Green – expressed with, looking back now, unnecessary bravado – was that I had told Mr Green that he needed to go and actually look at the issue I had raised about the evaluative approach to past performance under the Code described above at paragraphs 17 and 18 and this had been done in such a way that he could not delay or avoid doing it any longer.
39. What I meant by the text including “a different game to play” was a reference to my motivations in pushing for these questions to be properly addressed. Those motivations were to see the Government’s policy properly implemented and implemented in a timely way.
40. I’m not certain now what I meant by the text starting “And by the way. Contracts are being negotiated”, but given these texts followed the 24 February 2020 meeting I do not think this was a

reference to the CPS Project. Rather, I think this was a reference to other contracts that were being discussed around this time.

Text messages on 25 February 2020

41. These are further texts between Mr Ferguson and I and begin with a text saying “Is there any legs to an idea that [Mr Green] should be conflicted out if he issued a firm their [Secure Local Jobs] cert?”
42. By that text, I meant to raise for discussion a possible way to resolve the disagreement that had arisen over the interpretation of the Code. My frustration with Mr Green was very high at this point so I was considering possibilities that in hindsight do not hold weight. I never pursued this possibility and I do not recall discussing it after this with Mr Ferguson or anyone else.

Text messages on 26 February 2020

43. These are further texts between Mr Ferguson and I and begin with a text saying “I had this idea talking to Zach earlier...”. As best I can recall, the next text starting “I’m racking my brain...” is unrelated to issues being investigated by the Commission.
44. By these texts, I meant to raise for discussion possible ways to improve tendering processes generally so that they required more comprehensive consideration of industrial and safety issues. In particular, to put in place a mechanism that allowed for the assessment of historical issues affecting tenderers, such as wages underpayments.
45. The messages that include “I think I’ll ask education to just fucking do it themselves...” and “fucked with the wrong min...” express my frustrations with the Directorate and with Mr Green in relation to the disagreement about the interpretation of the Code and the lack of progress on this disagreement. They did not relate to the CPS Project specifically or Mr Green’s role in relation to that Project.
46. I do not recall further pursuing with the Directorate or Ms Berry the possible tendering process improvements raised in these text messages with Mr Ferguson.
47. As best I can recall, the part of the text that includes the words “not out of the woods yet...” was only meant to express that that disagreement was still being worked through and was as yet unresolved.

48. I never communicated the sentiments expressed in these messages to Mr Green, or other similar sentiments such as that his job was 'on the line'.

Text messages on 20 March 2020

49. These are texts between Ms Hobbs and I and start with a text sent by Ms Hobbs that includes "And I just don't think [Mr Green] listens or takes ministerial direction seriously".

50. These texts are about an issue unrelated to those being investigated by the Commission.

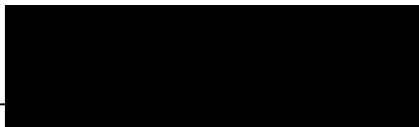
51. One text from me says "There's a reason [Mr Green] isn't in his old job...". Here I was referring to Mr Green no longer being in the role of Registrar. I understood in a general sense that this was because of delays implementing the Code. I don't recall having any specific information about why or how Mr Green came to leave the role as Registrar. Looking back, I think I meant it only as a throwaway line coming from my existing frustrations with Mr Green about the issues discussed above.

Text messages on 15 April 2020

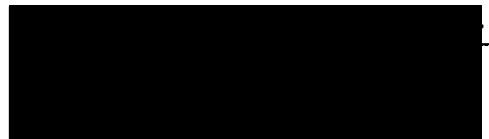
52. These are texts between Ms Berry and I and begin with a text saying "I'll dial in and come in after lunch if that's ok?" One of the texts says "There is a catch up with Jason O'Mara in for 11am".

53. As best as I recall, these texts are about issues unrelated to those being investigated by the Commission. I do not recall whether or not I attended the catch up referred to in these text messages.

Affirmed at Canberra by:



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