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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE JOHN HATZISTERGOS AM
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION HECTOR

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 8 MAY, 2023

AT 12.00PM

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 ENGLISH: Yes, Chief Commissioner, Mr Cox is up at the back of the Commission.

THE COMMISSIONER: Yes. Mr Cox, would you come back. If this witness could be resworn. Yes, can you swear in the witness, please? You'll take an oath, Mr Cox?

10 MR COX: Yeah.

THE COMMISSIONER: Yes.

THE COMMISSIONER: All right, now, Mr Cox, your evidence will be subject to the same declaration which I made under section 38 on the previous occasion. Do you understand?---Yep.

All right, thank you. And Mr Schaudin?

10 MR SCHAUDIN: Schaudin, S-c-h-a-u-d-i-n, Chief Commissioner.

THE COMMISSIONER: Okay, you appear for Mr Cox.

MR SCHAUDIN: Thank you.

THE COMMISSIONER: Thank you. Yes, thank you, Mr English.

MR ENGLISH: Thank you, Chief Commissioner. Mr Cox, I'd like to ask you some questions about the topic of the Christmas party that RJS
20 Infrastructure was either asked to pay for or contribute to in 2020, the Downer Christmas party. You know what I'm talking about?---Yeah.

And you said when you gave evidence on the last occasion that your memory of events in 2020 sometimes isn't the best, is that right?---Yeah, that's, that's, I, I don't have a, I don't have a fantastic memory.

Fair enough. And you were assisted on some occasions by listening to telephone intercepts. Do you recall that with your memory?---Yeah, yeah,
30 yeah.

So there's some calls I seek to have played and hopefully these might assist in you remembering some of the detail regarding that request on yourself and RJS Infrastructure Group. The first call, Chief Commissioner, is from 6/11/2020 at 14:01:57. The session number is 20743 and it is a call between Mr Nguyen and Mr Cox. I hand up a copy of that and tender both the call and the transcript as occurs with evidence of this nature.

THE COMMISSIONER: Yep.

40 MR ENGLISH: I think we're up to exhibit number 284, is that correct?

THE COMMISSIONER: Correct. Exhibit 284.

**#EXH-284 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 20743 ON 6
NOVEMBER 2020 FROM TONY NGUYEN TO AIDAN COX
EXTRACT 14:01:57 TO 14:04:00**

10 MR ENGLISH: Thank you, Chief Commissioner. If the transcript can be brought on the screen and then played, please.

AUDIO RECORDING PLAYED

[12.09pm]

MR ENGLISH: Okay, Mr Cox, so just on page 1 there, do you agree this appears to be the first occasion you were informed about this request for RJS to pay for or contribute for the 2020 TAP Christmas party?---Yeah, it
20 appears to be yeah.

And you see there the first line attributed to Mr Nguyen, “I don’t know if you’re going to like the sound of this but Andrew just called me, Ehm,” and then he goes on. Do you see that?---Yeah.

Did you understand who the Andrew was that he was referring to there, Mr Nguyen?---I’d say it was Andrew Gayed.

30 Okay. When you say “I say”, did you clarify that at any time with Mr Nguyen or are you just guessing there?---Well, no, the only Andrew that we would’ve been dealing with would’ve been Andrew Gayed ‘cause he was the project manager on the, on the project so I, I wouldn’t have clarified that with him.

All right. There was Andrew Bedwani as well?---I, I couldn’t imagine he’d been ringing Tony.

40 Okay. Now you seem from this call that you were against the idea that RJS Infrastructure Group would be paying for this Christmas party. Do you agree with that?---Yeah.

And then if we go to page 2 you're told that the party's, you see down about, just past halfway Nguyen, it's for the whole TAP team? Do you see that?---Yeah.

So it's not just the site. You were working on Wollstonecraft at the time of this call. Is that right?---Yeah.

So it's not just for that site is it?---No.

10 And does that, in that context, cast any light on your assumption that it was Gayed who Nguyen was speaking to here?---I, look who, who he was speaking to you'd have to ask Tony but I would say, my opinion is it was probably Gayed but I don't know.

Sure.---I don't know.

And you've made a reference there to, back on page 1, to, "Them paying us 72 grand for the week we were delayed." Was there some issue on site there?---I think it was more than a week. I think it was, I think it was a couple of weeks of delay, there was, basically we, I think what happened was we mobilised the project and then we had a couple of possessions in October and then there was some issue with the designs or something and everything came to a halt and we had plants and materials and people tied up and it was, basically we were, you know we, we had work that we needed to get through to try and hit the next possessions and we were caught up in the middle of a delay. I think that that's the gist of it I think but I don't know where the value comes from.

30 All right. Well look if we go page 3 you're encouraging Mr Nguyen, the last entry attributed to you, "You need to get us back to plus 75 grand." Do you see that?---Yeah, that must have been a reference to the, the impact. I don't know. I'm not sure what that means.

So, well, it seems like above that you've made a reference to variations for spoil. It seems like you're trying to make up that amount in variations to cover your costs. Is that right?---Maybe, yeah. I don't know. I, it's hard for me to look at a phone call record from three years ago and understand exactly - but there was, there was definitely something in relation to a project getting stopped and we had incurred costs and it was probably a way of trying to recover.

40

All right. I'll play another call, Chief Commissioner. If I can hand this up and tender the call. It's from 9 November 2020, session number 20831, and it's a call between Mr Cox and Mr Nguyen.

THE COMMISSIONER: Yes, all right. That's Exhibit 285.

**#EXH-285 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION TRANSCRIPT SESSION 20831 ON 9
10 NOVEMBER 2020 FROM AIDAN COX TO TONY NGUYEN
EXTRACT 10:15:36 TO 10:19:38**

MR ENGLISH: If that can be brought on the screen, please, and then played.

AUDIO RECORDING PLAYED [12.16pm]

20

MR ENGLISH: Okay, Mr Cox, so you can see on page 1 here Mr Nguyen says, "I don't have a good feeling about this." Do you see that? Do you see that?---Yeah.

And then he says, "Andrew, I was going to shut him down for the Christmas party rather than hanging. I'll shut it down now then." Do you see that? ---Yeah.

30 And you ask him for some more details about the conversation there. I just want to ask you. You seemed in the call which was Exhibit 284 to be dead against the proposition that RJS might contribute or pay for this Christmas party.---Was that the previous call?

That was the previous call, yeah. And here you seem to be at least listening to it as a potential proposition, would you agree?---Yeah.

What swung your mind there between being so dead against it and to being at least open to see if it progressed?---I, I don't know.

40 All right.---Maybe - it, it sounded on this call that it was more like we were one of many.

Well, if we go to page 2, please. You can see there down past halfway you say, "Contribute or fucking pay for the whole thing." You see that?---Yeah.

So, and then if we go to the next page, you say, "If it's a contribution, then that's all right." Do you see that?---Aye. So - - -

10 What was the differentiation you were drawing between a contribution and potentially having to pay for the whole thing?---Well, listening to this transcript, it sounds like I was think, it sounds like I was thinking, you know, if, if it's just us then it's probably not very good, but if everybody's contributing, it's not so bad.

And when you say if it's just us, that's not so good, is that just because you were worried about how much it might cost or were there other - - -?---Or probably both that and the, the look.

The look?---Yeah, the look of, you know, paying for - - -

20 Well - - -?---I, I don't know, look, I'm not sure. It's hard to put this into context now. If you asked me at the time, I'm sure it might - - -

Well, you can see what Mr Nguyen is saying at the last entry there. He said, "If it's to contribute, it's not too bad, 'cause if everyone" - "contributes" it should probably read, with an S - "then it doesn't make us look bad." Do you see that?---Where is that? What line is that?

30 The final entry for Mr Nguyen.---Oh, yeah. Just (not transcribable) "if it's contribution, it's not too bad". Yeah.

And then if we go to the next page, you're talking about a potential audit. "So if Transport would have pushed," at the top of the page, "Downers to audit us, and they find out," and then you say, "This is where it could look bad for us." Do you see that?---Yeah. I don't know.

40 Well, you were consciously aware at the time of this call, on 9 November 2020, that there's a risk that it might come back on RJS Infrastructure if Transport were to audit Downer and they found out that some payment had been made to cover this Christmas party expense by RJS Infrastructure, do you agree?---Yeah, it certain, I suppose it reads like that, yeah.

And then you're sort of acknowledging, it seems, just past halfway on this page, that you can't just give them five grand in the back of a Toyota HiLux. There'd have to be some kind of paper trail. Is that what you understood?---I think, you know, where it's inaudible I think it's, I think I said something like, "It's not like you're giving them five grand in the back of Toyota." I, I don't know what. Sometimes the things I say aren't very, you know, it's not like I've fully thought out a conversation. It's just, I'm talking a lot of rubbish in these calls. I don't know what, I don't know what the, I can't give you an explanation of that. I don't know what that - - -

10

All right. Had you in your professional career ever come across a request like this for a subcontractor to contribute to a Christmas party?---I, you know, sometimes at Christmas you might get vouchers or something, you know like a slab of beer or something but I hadn't seen this, no. I don't, sorry, I don't think. Just in case you're going to play me something.

No, I'm not. You don't have to worry about that, Mr Cox.---Yeah.

20 So you don't think - just continue with your answer, can you?---Yeah. I, I, this would have been probably new territory I would say.

Okay. Commissioner, I've got another call I hand up and tender. It's from 17 November 2020. Session number 23047.

THE COMMISSIONER: Exhibit 286.

30 **#EXH-286 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 23047 ON 17
NOVEMBER 2020 FROM TONY NGUYEN TO AIDAN COX
EXTRACT 18:48:03 TO 18:49:02**

MR ENGLISH: Thank you. And it's a call between Mr Nguyen and Mr Cox again, and if that could be placed on the screen and then played, please?

40 **AUDIO RECORDING PLAYED**

[12.26pm]

MR ENGLISH: All right. So here, Mr Cox, it seems like you're having a discussion with Mr Nguyen to see whether you can include the costs that you are being asked to pay for the Christmas party into a variation invoice to be submitted to Downer, would you agree?---It appears that way, yeah.

And on page 2, Mr Nguyen says to you, second attribution to Mr Nguyen, "Because you said the other guy, the other guy will come in half, so that's three and a half grand, isn't it, each?" and you said, "Oh, is that all? Yeah." Do you see that?---Yeah.

10

Mr Nguyen's referring to you saying the other guy will come in half. Who was the other guys that it seems like you understood was going to come in half on this expense?---It might have been Maize, I'm not sure, but I can't really remember but it might have been Maize.

Maize Group?---Maize Group, yeah.

And how was it that you recall that?---I don't know. I, I don't know but I have - - -

20

They were doing the building package, correct?---They were doing the building package, yeah. So possibly at this stage we were both asked to make a contribution or something.

And while you were certainly asked, that's RJS were certainly asked, now can I ask you this, do you recall speaking with Mr Gayed about Maize contributing?---I, I don't remember. If it did I would tell you but I'm not sure.

30

Sure. What about - Mr Helweh was the president of Maize, wasn't he? Is that right?---What's his first name?

Mal, I think.---Mal, yeah. Mal, yeah.

Did you ever meet Mal?---Yeah, I met Mal, met Mal.

Saw him onsite?---Yeah.

40

Did you ever speak with Mal about Maize Group contributing to the Christmas party potentially?---Not, not to my recollection but that's not to say it didn't happen.

Were there any other workers there from Maize Group that you had a discussing with about them potentially contributing to the Christmas party, or Maize Group contributing?---Possibly. Maybe there's some audio you can - - -

No, no, no. I'm just asking - - -?---All right. I don't know. I, I don't - - -

10 - - - if you can search your memory, please.---Look, going with what, what, what Tony said in that call, he's saying, he said the other guy will come in half, so there's three and a half, so it sounds to me like somebody has told me that Maize are going to pay half.

All right.---Or somebody else is.

All right. I'll hand up another call, Chief Commissioner, and tender the call. It is from 20/11/2020, session number 23568, and it's between Mr Cox and Mr Nguyen.

20 THE COMMISSIONER: Exhibit 287.

**#EXH-287 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 23568 ON 20
NOVEMBER 2020 FROM AIDAN COX TO TONY NGUYEN
EXTRACT 08:07:37 TO 08:08:42**

30 MR ENGLISH: Thank you, Chief Commissioner. If that can be brought on the screen and played, please.

AUDIO RECORDING PLAYED

[12.30pm]

40 MR ENGLISH: All right, so here you seem to be discussing with Mr Nguyen that if you're going to agree to pay for the Christmas party, you want a progress claim paid to RJS Infrastructure Group before you agree to that commitment for the Christmas party, is that right?---It would have been to do with cash flow, I'm sure.

Cash flow, did you say?---Like, 'cause I think, I'd imagine that the costs of those - the possession's a massive outlay and I would say that we probably wanted the first progress claim to be paid because the outlay would have been huge for those possessions.

All right. And if we can go to page 2, please. It is attributed to you, "Well, here's something" - and then it says "indecipherable" - "is to fucking review it and pushing it tight." Do you know what you're referring to there?---Can you play that again?

10

It might assist. Might that be played, please.

AUDIO RECORDING PLAYED

[12.33pm]

THE WITNESS: It's not indecipherable. It's maybe the accent.

MR ENGLISH: So - - -?---I say, I say, "Well, he's got ten days to effing review it." And then I laugh and say, "He's pushing it tight." So it's the, when you put in a progress claim, there's ten days to review and ten days to pay.

20

All right.---I think, yeah.

And you're referring to Gayed there, are you? Is that who you - - -?---Yeah, it must be Gayed, yeah.

30

Okay. The next call is Exhibit 84, Chief Commissioner. It comes in chronologically. Would you like another copy of that?

THE COMMISSIONER: If you have it. 284?

MR ENGLISH: No, 84.

THE COMMISSIONER: Oh, 84.

40

MR ENGLISH: It's a call from 23 November 2020, session number 18937, and it's a call between Mr Cox and Mr Gayed.

THE COMMISSIONER: Yes, all right.

MR ENGLISH: And I played it to you on the last occasion. But just so you've got the context, it's going to play in the order now, Mr Cox. If that could be placed on the screen and played, please.

AUDIO RECORDING PLAYED

[12.34pm]

10 MR ENGLISH: If we go to page 1 there please, is it the case that you were discussing it with Mr Gayed at the top of page 1 that \$72,000 - - -?
---Delay.

Delay cost?---Yeah, it, it appears that way, yeah.

All right. So, and he says it's moving towards a yes and so - - -?---I don't think it did end up a yes though. I, I'm not, I can't remember for sure but I don't think we actually ever got paid that.

20 Okay. But it seems like you were happy enough if that issue got resolved that RJS Infrastructure would then be able to pay for the Christmas party?
---I, it certainly reads that way, yeah.

Okay.---But I don't, I don't think it ended up being a yes. I'm not sure. I can't remember but I don't think it did. I don't think we ever got paid for that delay.

Okay. And just going back to the issue of the progress payment I mean that was the other thing and you just gave evidence about needing the cashflow.
30 ---I would probably, you know like possessions are a huge outlay like you're talking maybe half a million dollars or more in one weekend and - - -

Sorry.---And if you don't get paid your progress claims, you've got no money in the bank. That's what that was all about.

Did you have any understanding that if, and I'm not suggesting you did I'm just asking whether, if you, that is RJS Infrastructure, agreed to pay for the Christmas party some of those progress payments might be paid more quickly?---Well it's hard to answer that because in the end the Christmas
40 party wasn't paid for and I'm not sure when they were paid, the progress claims.

All right. If we go to page 2 please. I asked you some questions about this on the last occasion about adding an extra ten on top.---Yeah.

And I think you said, that's what you were agreeing in this phone call but ultimately it didn't happen?---Well I think what, if you look at the context of that call it looks like it's in relation to that delay claim - - -

10 Yeah.---And well so then I'm, I don't actually think the delay claim got paid. I'm not sure, possibly it was but I have a memory that there was a problem with it and we didn't get, maybe we got the material cost or something but nothing else or you know - - -

But you never had to pay for the Christmas party in any event did you?
---No, we didn't pay for it, no.

That's all right. Okay. The next call, Chief Commissioner, that I hand up and tender is from 27 November 2020, it's session number 19762 and it's a call between Mr Cox and Mr Gayed.

20

THE COMMISSIONER: 288.

**#EXH-288 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 19762 ON 27
NOVEMBER 2020 FROM AIDAN COX TO ANDREW GAYED
EXTRACT 14:27:02 TO 14:27:32**

30 MR ENGLISH: 288? Thank you, Chief Commissioner. If that can be placed on the screen and played.

AUDIO RECORDING PLAYED

[12.39pm]

MR ENGLISH: All right. Mr Cox, you seem by this stage, the 27/11/2020, to have committed to pay for that Christmas party, would you agree?
---Yeah.

40

What had changed from your point of view, looking back over the period of time covering the calls that have just been played, to let you decide in your mind that RJS Infrastructure was going to cover that cost?---Well, just based on the transcripts that you've put in front of me what I would say is that probably at the outset it sounded like it was a party for 40 people and it was going to cost, what was it, 40 grand or something and that became a contribution to a party and it was only three grand by the sounds of it. So maybe the, the scale of the contribution and the fact that other were involved. That's only what I'm saying based on the transcripts that you've played.

All right. So to the best of your understanding and recollection, did you believe as at the 27/11/2020 that you were sharing the cost with another subcontractor?---Yeah.

And that was Maize, was it?---Yeah. To the best of my recollection that's, that's what I think, yeah.

And Maize is a company that Mr Gayed had some association with, isn't it?---Yeah. Well he, yeah, he seemed to have some sort of connection with them all right, yeah.

And just looking back on it that doesn't trigger any memory about whether anything was said to you by Mr Gayed about Maize's involvement in covering half of that expenditure?---He might have, I don't know, I honestly, I cannot remember. I wish I could but I can't. Possibly it was said to Tony. I don't know.

The last call, Mr Cox, I wish to play and hand up and tender, Chief Commissioner, is from 1/12/2020, a call between Mr Nguyen and Mr Cox. Session number 20620.

THE COMMISSIONER: 289.

**#EXH-289 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 20620 ON 1
DECEMBER 2020 FROM TONY NGUYEN TO AIDAN COX
EXTRACT 17:12:47 TO 17:14:28**

40

MR ENGLISH: Thank you, Chief Commissioner. If that can be placed on the screen and played, please.

AUDIO RECORDING PLAYED

[12.42pm]

MR ENGLISH: All right, Mr Cox. So here you're talking about lodging a claim and how that triggers payment obligations under the Building and
10 Contract Security for Payments Act, is that right?---Mm-hmm. Yeah.

And do you remember what the context was behind this discussion you're having with Mr Nguyen about putting in this payment claim?---I would say it's cash flow. I think, just listening to that transcript there, the concern I would have had is that if it doesn't get paid prior to Christmas then it will get pushed out into January and then you're not getting anything until the end of January so I guess it's like if they want us to pay for that Christmas party, then they can pay us the money we're owed type thing.

20 Okay. All right. But the claim hadn't been submitted by this stage, had it?--I don't know. Can you - what does it say on the first page?

You say, "We need to be putting in the claim in this month end." Do you see that?---I - - -

So it looks like you hadn't put it in yet, would you agree?---"Need to put in the claim this month". Yeah.

All right. And you can see there Mr Nguyen references the amount of
30 \$7,900. Do you see that?---Yeah.

Is that still your understanding that was to be split, that cost, fifty-fifty with Maize?---I don't know. It may have been 7,900 each or may - I'm not sure.

Okay. I wonder if transcript page 613 can be brought on the screen, please. Do you understand, obviously the payment wasn't made by RJS Infrastructure Group for the Christmas party, that's right, isn't it?---I think so, yeah. I mean, there was no - - -

40 Was that only because of the search warrants being executed on 2 December 2020, to your understanding?---Probably had something to do with it.

I mean, how did the issue - - -?---I think me personally, I wouldn't, after that there I'd have been saying I don't think it's a good idea to pay for a Christmas party.

Okay. And did you have that discussion with Tony, saying, "Well, we can't pay for this now," or something along those lines?---Probably. I can't, probably, yeah, I'd say.

10 Well, did you tell Andrew Gayed or anyone like that, that "Well, we're not paying for it now that there's been a search warrant executed"?---I never said anything like that to him.

Was there anyone else at Downer you communicated something of that nature to?---I don't know. I don't, I don't recall.

Okay.

20 THE COMMISSIONER: Did anyone from Downer contact you after the search warrants were issued?---See, I think they were dealing with Tony about the Christmas party. I think it was (not transcribable) Laura was speaking to Tony, so - - -

The question I asked you is after the search warrants were executed, did anyone contact you from Downer? That's the question I asked you.---About the search warrants?

30 No, after the search warrants were executed, did anyone from Downer contact you?---Well, I would have spent the next 12 months on that project, so I was in contact with people from Downers all the time.

I see. All right. Did anyone speak to you about the Christmas party?---Not me. To the best of my recollection, I don't think anybody from Downer spoke to me about the Christmas party after 2 December.

40 MR ENGLISH: Did it become well known amongst those you were working with that those warrants were executed at about that time?---I don't know. I tried not to, just, like, obviously Tony knew. I don't know, I don't know, I don't know.

Okay. All right. If transcript page 613 could be brought on the screen, please. This is some of your evidence when you appeared on 27 March before the Commission. And you can see there's a question asked about the Christmas party. This was in the context of a call that was played in relation to Mr Watters that's not relevant for the present purposes. But then you were asked the question in relation to the Christmas party, "Who made that request of you?" and you said, "I believe Andrew Bedwani."---What was this, sorry?

10 This was your evidence on the last occasion.---Yeah, but what was the question? Who made the, like, request of you, was it - - -

Well, you can read it there. "All right." The question starts at "all right" above that at about line 5 or 4. "And this is your, a reference to the Christmas party. You gave some evidence earlier about being requested, that is RJS was to, was to pay for the Christmas function at Downer." And you said, "I, yeah, we were asked to pay for the Christmas party." And you can skip over the next question and what's asked of you at line 12 is "Who made that request of you?" and you said, "I believe Andrew Bedwani."

20 ---Look, I met him one time for lunch and he made an off the cuff sort of remark about a Christmas, he'd made sort of a half joke about, knowing Andrew Gayed, he'd have asked to pay for the Christmas party, something like that. So that might've been what that - - -

All right. And do you have a memory of whether that conversation you recall having with Mr Bedwani was before or after you learnt that it involved a boat?---Oh no that would've been, that would've been, that would've been the extent of the conversation with Bedwani and like it, it would've been, there wouldn't have been any detail and no I don't believe
30 any from Downer has ever spoke to me about boats and stuff. I think it was all through Tony.

All right. Well you can take it from me, we listened to the first call that was on the 6 November 2020. It was Exhibit 284. And you were told then by Mr Nguyen that the request to pay for the Christmas party involved a yacht so - - -?---So that might've been the first time I'd heard of a boat.

Okay. So just by reference to that the 6 November 2020 do you think you had this discussion with Mr Bedwani at lunch or over lunch before or after
40 - - -?---Oh no that would've been before.

Before?---Yeah.

Okay. And how are you able to reference that in your mind?---Because I think he, he met, he met me to see if we had the capacity to undertake the work at Wollstonecraft so I think, so it was prior to the contract award.

I see. And in that context he said, made some off the hand comment did he about Gayed might speak to you about - - -?---The Christmas party.

10 The Christmas party and what did you - - -?---Something like that.

What did you understand at the time that he was referring to, Mr Bedwani then?---I didn't, I, like, I don't know whether he, it could've been a joke it could've been a, I don't know whether he, I don't know if it was, like, they were at that stage planning, booking a 40- person yacht and looking for somebody to pay for it or was it an off the cuff remark. I don't know.

All right. Did you raise that with Mr Nguyen, what Mr Bedwani had told you as an off the cuff remark?---Probably, yeah.

20

All right. And do you recall what he said in response when you told him that that's what you'd been told by Mr Bedwani?---No. I can't remember.

Okay. I wonder if we can go please to transcript page 2035.

THE COMMISSIONER: What page?

MR ENGLISH: 2035.

30 THE WITNESS: Is this - - -

MR ENGLISH: I'll just wait for the Chief Commissioner to bring out his copy.

THE WITNESS: Yes.

MR ENGLISH: This is Mr Nguyen's evidence on the 28 April.---Right.

40 And so you can see he's asked a question, "Right, and do you recall how you responded? Is that the first you had heard about RJS paying for the Christmas party?" He says, "Yes. Yes. Oh, well, I think from what Aidan

told me from when he had a meeting with Andrew Bedwani, Andrew mentioned about a Christmas party at the end before they departed.”
--- I don’t know if it was in the middle of or at the end.

Okay. I’m just trying to test your memory here, that’s all.---All right.

I’m not suggesting anything, okay - - -?---Yeah.

10 - - - Mr Cox. The question is, “Right, Aidan told you that Mr Bedwani had said something to him about a Christmas party,” and Mr Nguyen answered, “Yeah. Just said jokingly about, yeah, you, and you guys will pay for the Christmas party.” “Right.” “In a joking manner, yeah.” And then another question, “Right. And did Mr Cox, well, do you recall when Mr Cox told you that?” And he said, “Straight after he met up with Andrew Bedwani, yes.” And the question is, “And do you recall him being surprised about that or” - “Oh, no. He just said it as a passing comment.” Do you see that?
---Yeah.

20 Does that help refresh your memory in any way about the - - -?---Well it sort of, it sort of reflects what I said I think. It was a sort of the cuff remark and I obviously have mentioned it to Tony here but I don’t think we’ve had any in depth conversation about it.

Well, here Mr Nguyen says, attributing words to you at line 9, just said jokingly about, “Yeah, and you guys will pay for the Christmas party.”
---Yeah but I, I think it was more like jokingly something like knowing Andrew Gayed, he’d have already tabbed you up for the Christmas party or something like that there.

30 Oh, I see. All right. Well, it can’t have been a surprise then when you started to Mr Gayed about in fact paying for the Christmas party. Is that right?---Yeah. So I think Tony spoke to somebody first, so, and he was telling me about it on that first call.

And who did you understand Tony might have spoken to it about first?--- Did it say in the call? I don’t know. Was it Laura or was it Andrew? I’m not sure.

40 Well, no, this is, this is just transcript from the public inquiry, this isn’t about a call.---No, but you played the calls earlier, the first call where Tony talked about a boat.

Yeah. Look, there was a reference to Laura, that's right.---Yeah.

And there was a call, there were two calls where you spoke with Mr Gayed.
---Yeah but weren't they after? Didn't you say you played them in order?

Yep.---So I think the first person that probably spoke to me about it was Tony.

10 All right.---So I would have, you know, been aware of it from that.

Well, it's first, isn't it, in time that you've had this off-the-cuff remark from
- - -?---Yeah, yeah, yeah.

- - - Bedwani. You've mentioned it to Nguyen.---Yep.

And then what do you say happened next?---Well, I, just basically based on
the calls that you just played, there was a call there at the start I think where
Tony said, "Oh, they want us to pay for a boat." So that would have been
20 the next - - -

Well, that I understood was, your evidence was he was speaking with Mr
Gayed.---Yeah.

And then after that Ms Inglis has become involved, is that right?---Who is
Ms Inglis?

Laura.---Oh, right. Yeah. I guess.

30 And you're still speaking with Mr Gayed along the way about - - -?---So
then I think I, it sounds like from those calls that you played, that I am
basically asking Gayed about, like, there was works that we had to do.
There was a transformer slab where we had to do all this extra work and
really, really what I want to talk about is that transformer slab but I'm just
throwing the Christmas party into the conversation, I guess, is - - -

Okay. I just want to ask you about one other matter, Mr Cox. I said on the
last occasion that there will be no comment suggesting other than you're a
skilled and technical engineer. You recall that?---Say that again, sorry?
40

I said on the last occasion you were here I said I won't be suggesting anything other than you are a very skilled and competent engineer. Do you recall me saying that to you?---Okay.

And I think you agreed to some questions asked of you that that's the case. ---Yeah, okay.

Is it fair to say you're a hard-working person when you're onsite?---Oh, I'd like to think so.

10

And you get on reasonably well with people when you're onsite?---Actually I can fall out with people too, yeah.

I just wonder if you can assist. If you're skilled and competent and you're a hard worker and you're reasonably okay to get along with, although you might fall out with people from time to time, why is it that you thought you needed to have someone on the inside corrupting the tender process to assist RJS Infrastructure to get work on these TAP projects?---I'm not, I'm not really sure. I don't think we would have got a proper crack at it maybe without, without somebody favouring you.

20

Well, when you say favouring, I mean, we listened to those calls where you were trying to get, I think, Gayed onboard pursuant to some kind of payment. Do you remember that?---Like, I might have said something like it but it, it never actually happened. I, I never had any conversations with him about it.

Well, what I want to ask you, did you need someone to favour RJS Infrastructure, i.e. be partial towards RJS Infrastructure's interests, or did you just need the pricing information so you could ensure that your bid would come in the cheapest? What were you thinking at the time?---I think, I think, like, it's hard to, you know what, I guess things were busy, you know, you've got a lot going on, and I think that maybe if I had the pricing of the competition and the budget then we were going to be best placed to win the work.

30

All right. So if you had the pricing and the budget then that would leave you as being best placed, why did you need to involve anyone else to bring them into your side so they were assisting your company along the way?

40

---I'm not sure. Maybe, is it, is this a trick question or something?

No, it's not a trick question. You seem skilled at your job. You're a hard worker and you seem like someone who's not unpleasant.---I don't know how their evaluations go, how they decide who gets the work. I figured, you know, if you have the budget and the competitor pricing, then you're going to be in the best position possible to get the work but - - -

All right, but you got a job at Mount Vic by just tendering in a professional sense, correct?---Yeah.

10 Mount Victoria. And did you not have the confidence that if you tendered in a similar manner as the way you did for Mount Victoria, that you might get further work from Transport for NSW down the track?---Like, I don't know. It, it, there seemed to be a bit of favouritism towards (not transcribable) probably on the projects. And if, you know, if somebody was pushing for your case, then, no, I guess, but, is that, that's, isn't that sort of the case in all walks of life where, you know, somebody has a, you know, positive opinion towards a particular company then they'll push their case?

20 But that might be so, but you didn't think that you could garner that positive opinion just through your ability and hard work?---We have to do the hard work first. You have to get the work.

I see.---I don't know.

All right. Thank you, Chief Commissioner. That's the examination.

THE COMMISSIONER: Can I just ask a question. The meeting that you had with Mr Bedwani where you had this discussion about potentially funding a Christmas party, was that the introductory meeting?---Yeah, it
30 would have been I think, 'cause we, you know, that was a substantial piece of, that was a massive job. That Wollstonecraft job - - -

But this was at a point in time just after you'd been awarded - - -?---No, I don't think it was, I think it was - - -

Do you remember when it was?---I don't know exactly the date of it and I don't if it was prior to or after the contract award but I thought it might have been sort of him vetting to see whether, you know, you know, who they were talking to, whether the person had the skill to deliver the work.
40

Oh, I see. All right. Well, if we could go back to Exhibit 284. This call takes place on 6 November 2020. I take it that the meeting that you're referring to occurred before that day.---Yeah, I think it happened in September.

Okay.---Or October, sometime around then, because it was, it was, I'm pretty sure it was prior to us starting Wollstonecraft.

10 Mr, I think Mr Nguyen suggested it was about two weeks before 6 November. But, in any event, have a look at the call Exhibit 284. Accepting what you've just told me, at the time that this call takes place, 6 November, you were already aware of the suggestion that RJS would be asked to fund the Christmas party. Would that be accurate?---Yeah. Yeah.

20 If you just see the front page of that call. You see your reaction when the matter is raised with you. Mr Nguyen says to you, "I said I'll speak to you." I said, "Well, what do you have in mind?" And he said, "A yacht." "A yacht. For how many people?" "40 people." "Fuck, expensive."---Sorry, what page is this? Oh, yeah, sorry.

And then you say, "Are you fucking serious?" And he says, "Deadset, yeah." "Sorry, what?"---Yeah. Like, normally at Christmas this will be made by a box of beer - not - - -

I'm sorry?---Normally at Christmas this will be made by a box of beer, you know? The same, is - - -

30 But the suggestion that you have a Christmas party had already been ventilated prior to this call, hadn't?---Yeah, but probably not a, probably not a yacht, you know? It's - - -

I'm just trying to ascertain in light of the fact that you knew something about this before this call, what it was that led to you to respond in the way that you did.---Yeah, well, I didn't know about the yacht 'cause 40 people on it, it's quite - - -

I see. You didn't know the details. Is that - - -?---Yes, but it's, it's - - -

40 I see. All right. Anything arising out of that?

MR ENGLISH: No, Chief Commissioner.

THE COMMISSIONER: Has anyone else sought leave?

MR ENGLISH: No.

THE COMMISSIONER: All right. Well, can Mr Cox be - - -

MR ENGLISH: He can be released from his summons.

10 THE COMMISSIONER: Yes. All right. You're discharged from your summons. You're free to go.---Okay. Thanks.

Thank you.

THE WITNESS EXCUSED

[1.07pm]

AT 1.07PM THE MATTER WAS ADJOURNED ACCORDINGLY

20

[1.07pm]