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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE JOHN HATZISTERGOS AM
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION HECTOR

Reference: Operation E19/1595

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 11 APRIL, 2023

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. Thank you. Yes.

MR ENGLISH: Chief Commissioner, Mr [REDACTED] is up the back of the Commission with his lawyer.

THE COMMISSIONER: Yes. Ms Hughes?

MS HUGHES: Yes, Commissioner.

10 THE COMMISSIONER: Yes. All right. Thank you. Before we
commence with the witness's evidence, I should announce that in lieu of the
direction that was made on 24 March 2023, the Commission now makes the
following direction. Being satisfied that it's in the public interest to do so,
the Commission hereby directs pursuant to section 112 of the Independent
Commission Against Corruption Act 1988 that all references to [REDACTED]
[REDACTED] and any images of his person in relation to Operation Hector shall
not be published or otherwise communicated to anyone pending but not
including the presentation of the report to Parliament, pursuant to section 74
20 of the Independent Commission Against Corruption Act 1988 except by
Commission officers for statutory purposes and between witnesses, their
legal representatives and other parties who have sufficient interest in the
subject matter of the investigation for the purpose of receiving or providing
legal advice and representation in relation to the appearance or reasonably
anticipated appearance of the witness at the public inquiry in Operation
Hector or pursuant to further direction of the Commission.

**SUPPRESSION ORDER: BEING SATISFIED THAT IT'S IN THE
PUBLIC INTEREST TO DO SO, THE COMMISSION HEREBY
30 DIRECTS PURSUANT TO SECTION 112 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT 1988 THAT ALL
REFERENCES TO [REDACTED] AND ANY IMAGES OF
HIS PERSON IN RELATION TO OPERATION HECTOR SHALL
NOT BE PUBLISHED OR OTHERWISE COMMUNICATED TO
ANYONE PENDING BUT NOT INCLUDING THE PRESENTATION
OF THE REPORT TO PARLIAMENT, PURSUANT TO SECTION 74
OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION
ACT 1988 EXCEPT BY COMMISSION OFFICERS FOR
40 STATUTORY PURPOSES AND BETWEEN WITNESSES, THEIR
LEGAL REPRESENTATIVES AND OTHER PARTIES WHO HAVE
SUFFICIENT INTEREST IN THE SUBJECT MATTER OF THE**

INVESTIGATION FOR THE PURPOSE OF RECEIVING OR PROVIDING LEGAL ADVICE AND REPRESENTATION IN RELATION TO THE APPEARANCE OR REASONABLY ANTICIPATED APPEARANCE OF THE WITNESS AT THE PUBLIC INQUIRY IN OPERATION HECTOR OR PURSUANT TO FURTHER DIRECTION OF THE COMMISSIONER.

10 THE COMMISSIONER: The direction does not apply to (1) the making of a complaint to the Inspector of the ICAC or disclosure of information documents or things to the Inspector or (2) the publication of any evidence, contents of a document or information to a registered practitioner or registered psychologist for the purpose of that health practitioner providing medical or psychiatric care, treatment or counselling, including limited psychological counselling to a person who has given or may be about to give evidence at the public inquiry. So, just to be clear, although the name will be mentioned and the image will be shown on the live stream, neither the name nor the image should be published beyond that.

20 MR ENGLISH: Thank you. May it please, Chief Commissioner.

THE COMMISSIONER: Yes. Thank you.

MR ENGLISH: There are some materials to tender before - - -

THE COMMISSIONER: I should just indicate reasons for that direction and for the direction which was made on 20 March 2023 will be uploaded onto the restricted portal.

30 MR ENGLISH: Thank you.

THE COMMISSIONER: Thank you.

MR ENGLISH: Is it convenient to tender the brief items for Mr [REDACTED] now?

THE COMMISSIONER: Yes.

40 MR ENGLISH: I tender, Chief Commissioner, volume 4.1 of the [REDACTED] brief.

THE COMMISSIONER: 1.4 is it?

MR ENGLISH: 4.1.

THE COMMISSIONER: Sorry. 4.1. That's Exhibit 131

**#EXH-131 – PUBLIC INQUIRY BRIEF VOL. 4.1 [REDACTED]
BRIEF**

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MR ENGLISH: thank you. I tender volume 4.2 of the [REDACTED] brief.

THE COMMISSIONER: Exhibit 132.

**#EXH-132 – PUBLIC INQUIRY BRIEF VOL. 4.2 [REDACTED]
BRIEF**

20

MR ENGLISH: I tender volume 4.3 of the [REDACTED] brief.

THE COMMISSIONER: Exhibit 133.

**#EXH-133 – PUBLIC INQUIRY BRIEF VOL. 4.3 [REDACTED]
BRIEF**

30 MR ENGLISH: I tender volume 4.4 of the [REDACTED] brief.

THE COMMISSIONER: Exhibit 134.

MR ENGLISH: 134?

THE COMMISSIONER: Yep.

**#EXH-134 – PUBLIC INQUIRY BRIEF VOL. 4.4 [REDACTED]
BRIEF**

40

MR ENGLISH: And I tender volume 4.5 of the [REDACTED] brief.

THE COMMISSIONER: Exhibit 135.

**#EXH-135 – PUBLIC INQUIRY BRIEF VOL. 4.5 [REDACTED]
BRIEF**

10

MR ENGLISH: Thank you, Chief Commissioner.

THE COMMISSIONER: Yes.

MR ENGLISH: Should Mr [REDACTED] come up to the witness box?

THE COMMISSIONER: Yes. Ms Hughes, have you explained to the witness the provisions of section 38?

20 MS HUGHES: I have, Commissioner. And I can also indicate he'll take, give evidence under oath.

THE COMMISSIONER: I'm sorry.

MS HUGHES: I can indicate he'd also give evidence under oath. He does want a declaration and he will take the oath.

THE COMMISSIONER: Thank you. Come forward, please. Yes, the witness can be sworn.

30

THE COMMISSIONER: Now, Mr ██████████, as a witness you must answer all questions truthfully, produce any item described in the summons that you've receive or required by me to be produced. You may object to answering a question or producing an item and the effect of any objection is 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
10 proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings. The first exception is this protection does not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, including an offence of giving false or misleading evidence, for which the penalty can be imprisonment of up to five years. The second exception only applies to New South Wales public officials. Evidence given by a New South Wales public official may be used in disciplinary proceedings against the public official if the Commission makes a finding that the public official engaged in or attempted to engage in corrupt conduct. I can make a declaration that all answers given and all the items you
20 produce will be regarded as having been given or produced on objection. This means that you do not have to object with respect to each answer or the production of each item. Ms Hughes tells me that she's explained the provisions of section 38 to you and you wish for me to make a declaration under that section. Is that the case?---Yes, sir.

All right. 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 this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been
30 given or produced on objection and there is no need for the witness 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 THIS WITNESS DURING THE COURSE OF THE
40 WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON**

**OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO
MAKE OBJECTION IN RESPECT OF ANY PARTICULAR
ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes, thank you.

MR ENGLISH: Thank you, Chief Commissioner. Sir, can you just state
your full name and age for the record, please.---[REDACTED], 53.

10

What tertiary qualifications do you hold?---I've got a degree, a bachelor's
degree in engineering and a graduate diploma in management.

All right. Did you obtain that bachelor's degree of engineering in around
1995?---Yeah, correct. Somewhere around there.

And the graduate diploma in management around 2002?---Correct, yeah,
yeah, from memory.

20

Have you been working since that time in various roles for different
companies or organisations as a project manager?---Yes, yes.

And that's always been linked to engineering, has it?---Yeah, it's been
linked to the engineering field in general.

All right. Is there a particular field of engineering that you specialise in?
---Well, I, I, I, I studied chemical engineering, so I started working in plants
and the manufacturing of plants, processes in manufacturing industries, and
touched on construction projects within those industries.

30

All right. Did you join Transport for NSW in January 2017?---Correct.

And what was the role you first commenced in that organisation?---It was
deputy project manager.

Okay, and what were you working on as a deputy project manager?---It was
the Wynyard Station upgrade.

40

At some stage, did you become a project manager?---I became an acting
project manager for the Edgecliff project with, you know, probably about
six months into, into the role.

Okay. Is that a TAP, Transport Access Program?---Yeah. Yeah, it was. Yeah.

And was that putting lifts and disability access at Edgecliff train station, was it?---Yeah, the, the standard stuff. It was a bit more complex. You know, there were certain upgrades that needed to be done, electrical updates, so, it was, it was an underground station so it was more risky.

10 Okay. And what other stations have you worked on in connection with the TAP program?---Hawkesbury and Warrawee, Wollstonecraft, Canley Vale and I, I did some geotechnical panel. It was just an exercise to get people onto a panel, so we can bid for, we can use them for, for our projects, to discover geotechnical information and, and inform the projects to reduce the costs over time.

So you said you did some work for the geotechnical panel. Was that separate to working on TAP or was that as part of your responsibility?---It was to inform, it was twofold. It was to inform TAP projects because
20 before you, if you got geotechnical information, you, you, you can inform, you can feed in to the project information in, in order for the contractor to reduce their price. If they don't have this information, then they can, they can do their geotechnical investigation or they can do some guesswork, yes.

So is it right to say that you were assisting, is it in the tender of geotechnical work out to a specific panel who'd then advise back on those issues to Transport for NSW?---Yeah, so it was a range of services contractors who would provide their rates and then we would, then review them with a team and it goes back and forth with the procurement manager and then
30 eventually we settle on, on the best group of people who would be used as a panel to be used to procure geotechnical work.

Okay. And so were you involved, once the panel was established, were you still involved with the people who were successfully admitted to the panel? ---Look, they referred to me to understand who to contact and then I would leave it with them. But the panel wasn't very successful because it was, it was something that the executive director wanted to promote the TAP program. So it became very expensive. And I remember when I was doing some geotechnical investigations for Hawkesbury River and Warrawee, the
40 prices were just blown out. So I agreed with my project or senior project manager that it was, it was probably better just to, for them to tender this

competitively and the price just came in cheaper. So it was, it was a, it was a bit of a gimmick, to be honest with you. But it was something I got involved in because I didn't have a lot of work to do.

All right. And you said your executive director. Who was that?---Peter Church.

10 And your senior project manager you mentioned. Who was that?---I can't, the surname started with B, I can't, I can't, I can't recall his name, I'm sorry.

Okay. Can I just ask you this. You said the cost was more expensive when you went through the specialist panel. Did that have anything to do with, were the geotechnical specialists on that panel what one might call a tier 1-type operator and was it the case that if you went direct to subcontractors, they might not be tier 1 operators and that's why it was coming in cheaper? I'm not suggesting it was. I'm just asking for your view on that.---No, see, the, the, the panel itself, we had to try and make scenarios for each tenderer of this panel. And because we were working on rates, they put in so much
20 risk into each line item and we tried to think of many different scenarios, that it inflated the rate for an activity. So when they were going to apply this, they would use those rates and it would become very expensive. They, I don't think I would call them tier 1, 2, 2, 3, 3. They, they were just consultants who hired other people to do geotechnical investigations and then those results would be analysed by the services provider.

30 So the methodology, the methodology and pricing this work by the Geotechnical Panel appointees worked out to be higher than what general subcontractors were doing, did it?---Yeah, because they priced in a lot of risk and it was, I was, I was told that it was just pretty much a show to show the rest of Transport the capabilities of the TAP program.

All right. You received some fraud and corruption online training when you joined Transport for NSW, is that right?---Mr English, I can't remember what I did when I first started, so - - -

Sure. Let me bring up a document - - -?---Yeah, sure.

40 - - - that might prompt some memory for you. If we can go to volume 4.1, page 48, please. You can see here it spans over three pages, this document,

but you can see it's identifying you, and it says, "Delivery method, face-to-face or eLearning." Do you see that?---Yep.

And there's some other matters there. But just, I know it's not highlighted, but if you just keep it - two above where it says "N/A", if we go to the next page, which is page 49, you can see that there it identifies fraud and corruption awareness online. Do you see that?---Yep.

10 And then if we go to the next page it says - and take it from me it says "they also completed".---Ah hmm.

And it's 17/8/2017.---Ah hmm.

Do you recall receiving that training at all?---I don't recall.

Okay.---I don't recall. But I trust that is probably correct.

20 Sure. What about when you did training, online training at Transport for NSW, was that just a sort of a tick or were there questions involved that you had to answer correctly? Do you have any recollection of that?---I think it, I think it depended on what type of training you did. Some would be more involved, like safety, for example, and others would be a whole lot of information on the page, and then you weren't allowed to go through to the next page unless you were, you read it or there was a time period where they allowed you to read it. And then you would go towards the end and there could be a few questions or something like that. But I, I don't know, I, I, because I, I do a lot of induction training onsite, the safety ones who call out to me, because they were more lengthy.

30 Okay. And you resigned from Transport for NSW on 11 June 2021.
---Mmm.

Was there a particular reason why you left that organisation?---I, I couldn't, I couldn't stay there anymore. I, I was getting sick.

Okay. We received some correspondence on your behalf that indicates you may want to clarify some things with this Commission, is that right?---Yes.

40 Well, can I invite you to do that?---Can I read - - -

You've prepared a document, have you?---Yeah.

What exactly have you got there, Mr [REDACTED]? It looks quite lengthy as in
- - -?---No, no, it's - - -

- - - more than five pages.---It's not War and Peace. It's, it's, it's with
regards to my employment with Chandler Macleod.

Sure. The Chief Commissioner's in charge. Ordinarily it would be up to
him as to whether he's content for you to read something out.

10

THE COMMISSIONER: Do you want to say something?---Yes.

Yes, all right.---Okay. "Mr Aziz rang me and informed me of a technical
manager role working for him, as he needed to take care of some work. I
think this was full-time role and I meant I had to, and this meant I had to
quit my Transport for NSW job. I had a week to think about it but declined
on our second call as my long-term, as long-term I didn't want to be a
technical manager. I really cannot remember when this was, but my
estimation is that it was before I was hired with Chandler. This was, this
20 was a genuine position. This was a genuine position. Some time after this,
Mr Abdi approached me saying that he had an idea and I wouldn't have to
do anything. He wouldn't tell me immediately. I cannot remember when,
but he described the idea with me being signed up for a contract in a
technical manager role but receiving the income and splitting it to him and
Mr Aziz. At first it sounded like a joke and it didn't feel right, so I didn't
say anything or agree to it. I was a little shocked by the baldness of it and
amused by how he or others, I'm not sure who, came up with the idea. I let
it run silent, as I usually do, to let something I don't want to disappear.

20

"I think after some time, two or three weeks maybe, I was venting
30 my frustration to Mr Abdi about either Transport for NSW interview that I
was rejected for or an internal promotion that someone got with little
experience. I really can't remember but I was in a depressed ranting state.
He, Mr Abdi, later rang me and started the conversation about the matter.
He asked if I was okay with it and for Mr Aziz to ring me to run through the
job role and process. I did mention that I wanted to do work, but Mr Abdi
said, 'Yeah, maybe Aziz can give you something.' Aziz soon called maybe
a day or two later, describing the role very professionally without any
reference to the plan. I think Chandler Macleod rang me or I did, I don't
recall. I only recall the lady saying that I had been speaking with Mr Aziz.
40 I told my then manager that I was going to accept the work opportunity for a
brief period of time and he had no issue with it as long as I didn't, it didn't

40

affect my current role, which I was doing with very little work, which I was doing and there was very little work in this case. Mr Aziz did not provide me with any work.

“After the first week of the Chandler employment, I entered what I thought were reasonable hours for someone working during the weekend and after business hours. However, Mr Aziz and I think through Mr Abdi asked me for my password and started changing the time sheet. He regulated the time sheet either from the first week or the second week, I can’t remember. I was paid weekly and withdrew 85% of the net income earnings to give to Mr Abdi and I don’t know what he did with it. Just calculating from, just calculating from a tax record, I would have kept \$2,300 of the net income after tax, and \$2,064 from the super portion after tax, amounted to 24.5% of the net payment, and then the remaining \$13,105 I gave to Nima. I did not start this idea nor plan the process, nor did I know what the source of funds was originating from. This happened for a brief period of about six weeks before it stopped. I felt that the little money I had kept didn’t change anything for me and I did feel guilty as it was, as it was, as it was a wrong action to take and an unfavourable secret to keep.

“The guilt became particularly profound when I would visit my ailing father who had, despite our fractious, like, relationship through my younger years, taught me in his own way to be a decent human being. The decisions I made could have been very different if my career fortunes were more prosperous in Transport for NSW without the discrimination and disenfranchisement I faced, which had affected my mood, making me vulnerable to rhetoric on the ideas of others. I also realise that this short-term fix I did to also please others, to be accepted where I wasn’t in the workplace and to maintain my acquaintance with Mr Abdi where I had nobody else to confide with. Although I went through with it, I felt taken advantage of, which started my ambivalence towards my association with Mr Abdi. I then began to lobby with project directors on upcoming projects in order to put my case forward to lead a project and to move on with my career.”

Is there anything else you want to say?---This is in relation to the bill of quantities.

Yes.---“Mr Abdi rang me several times over a number of weeks or days. I cannot remember exactly but I wasn’t returning his calls. I was genuinely busy and I was working on two projects, had an assistant who knew nothing about projects in general, so I had to cover for him, to do my own work. He eventually caught me and sounded desperate, asking either for the budget or

information. But it wasn't for any station I was working on. I think it was either for Birrong or Banksia. I was confused because I didn't know what more he was up to. I said, 'They are on the R drive but they are useless because they don't offer scope breakdown or packages.' He understood and agreed that the BOQs were useless. I cannot remember but I think he was after some information. I'm not sure. I don't really recall.

10 "He at least wanted me to download them and I got angry and I said, 'Nima, come on,' something like that, in a raised voice. It was a refusal from me. His motive was not to be linked and I said then, 'What about me?' He lowered his tone. I said to him in words to the effect, 'I will think about it but if I do, it's for your information only and references for your Transport for NSW projects, right? Nothing else, right? And do not share them with anyone.' I was clear on this. He sounded reluctant on the BOQs because it had limited information. He said he just wanted to look at them, but I'm not sure if it was for the rates, I really don't recall. He agreed, then I ended the call. I was conflicted, as he had been a consoling person who helped me during, who helped me during periods of my depressive moods, frustrations regarding my career in Transport for NSW and he shared his insights on interview skills and how the organisation worked. I later sent
20 the BOQs to him via a WhatsApp text message."

Is there anything else?---That's all.

I'm sorry?---That's all.

Thank you. Yes.

MR ENGLISH: Chief Commissioner, I'm in your hands as to whether the Commission would be aided by a copy of what's just been read out?
30

THE COMMISSIONER: Do you have a copy of what you've just read out?

MR ENGLISH: I mean, a copy could be made for the Commission and marked as an MFI. It's something that's been before the witness.

THE COMMISSIONER: Yes. All right. Perhaps it could be given to Ms Hughes and she can - do you - - -?---Yeah, it's, it's got a bit of scribble on it, so I can - - -

Well, perhaps you can show it to your solicitor and if she's happy, the Commission can make arrangements to have a copy made? I'll adjourn briefly - - -

MR ENGLISH: Thank you, Chief Commissioner.

THE COMMISSIONER: - - - and allow you to do this.

10 **SHORT ADJOURNMENT**

[10.35am]

THE COMMISSIONER: Thank you. Yes.

MR ENGLISH: Chief Commissioner.

THE COMMISSIONER: Are you ready to resume?

20 MR ENGLISH: Yes, we are. Mr [REDACTED] has been able to isolate those parts of his notes that he read out.

THE COMMISSIONER: All right. Well, perhaps I can give a direction that he produces the text of the document which he's read from.

MR ENGLISH: Yes, and then if that could be MFI, I believe we're up to number 15.

30 THE COMMISSIONER: Have you got the document there that you read from? Okay. That will be, you're producing that to the Commission at my direction.

MR ENGLISH: Yes, please.

THE COMMISSIONER: So that will be pursuant to section 35. So that will be marked for identification 15.

40 **#MFI-015 – NOTE 1 PRODUCED BY [REDACTED] IN PUBLIC INQUIRY**

MR ENGLISH: And might copies at a convenient time be run off of that and - - -

THE COMMISSIONER: Yes.

MR ENGLISH: - - - one can be given back to Mr [REDACTED] and - - -

THE COMMISSIONER: Yes, that can be done straightaway.

10 MR ENGLISH: - - - and those, thank you, Chief Commissioner, those at the bar table. Mr [REDACTED], you mentioned in what you just read out Nima Abdi.---Yes.

How did you meet, how did you meet Mr Abdi?---I used to scantily see him at Wynyard Station upgrade in the Transport house where we had our site office and there was some interface issue that I asked him about, but I had no direct, you know, relationship with him. And then he handed over, he was, he was doing the, he was assigned to do the Edgecliff project upgrade. And I can't remember. I think I was going to assist him or I, I don't know, 20 but he, he handed that over to me and I ran that for about six months.

Was your office in, main office in Chatswood?---First year, no. 2017, 2018 and '19, yes.

Did you have any interaction with Mr Abdi in that environment?---Yeah. Well, after I got, it was after I finished with Edgecliff I, I went into Chatswood because I was, I went there to do scoping designs and when I went in there I, I tried to find a seat and I saw Nima and I, and, and he said, "Come sit over here." He was just in the corner so I just started sitting in 30 the corner with him.

And so you shared a desk close by to Mr Abdi in, in that Chatswood office. ---Yeah.

How long was that for?---Maybe a year and a half or something.

Okay.---Something like that.

40 And you mentioned you were feeling at times that there was discrimination against you and, and you were feeling disenfranchised at Transport for NSW. Is that something you discussed with Mr Abdi?---Yes. Yes.

What did that lead to in terms of your discussions with him?---Well, it was, it led to banter about how the organisation functioned, how managers target people, you know, the favouritism that happens in the place. And I guess being new to Transport, relatively new, you know, provided me with some answers, whether they were correct or not, that I couldn't understand.

10 So when you say he provided you with some answers, was that just in oral form or did he give you guidance or instruction to do things to combat the issues as you perceived them?---I don't, I can't remember but it was more verbal, I would say.

Okay. And did you become friendly with him, as in you might see him outside of that work environment from time to time?---No.

Okay. Did he ever tell you about his, about his life, that's Mr Abdi?---No, he was very, he kept things to himself.

20 Okay. Did he ever tell you, for example, that he might have been working on other businesses? Oh, no, no, definitely, definitely didn't, didn't say anything like that.

He never said that he was a silent partner in a business that was contracting with Downer or Transport for NSW?---I got that impression in 2020 I think it was, mid-2020. But prior to that I would try and probe into his life but he was pretty much unwilling - - -

What was it - - -?--- - - - to tell anything.

30 I'm sorry. What was it that gave you that impression in mid-2020 that he was a silent partner in a business that was contracting with Downer or Transport for NSW?---I guess his, I, I don't, I don't remember exactly but I guess it was his, he may, he may have inadvertently told me or I, like, worked it out through conversations I had with him. But he wasn't, you know, open about it.

40 Did that take you by surprise that your colleague was a silent partner in that way in a business that was having those dealings with Downer and Transport?---I, I thought it was quite bald and - I always thought he may have been up to something, but that was just my suspicion. So yes and no. Yes and no. But, yeah, yes and no.

It wasn't - well, let me ask you this, did you disclose that to anyone else at Transport for NSW that you'd either formed that perception or he may have told you that?---No, I, I, I kept it to myself.

You said at one point when you read out your note that I think you were wanting to maintain your acquaintance with Mr Abdi. What was it about Mr Abdi that made you want to maintain an acquaintance with him?---I just, I just thought he was a, a good guy. He helped people who needed help. He
10 helped me. He was a, he was a consoling type of figure, you know, sharp reality towards his understanding of, of things. He was an intelligent guy. And, you know, I, he was, he was someone, someone I could confide to about my anguish in the place.

And how did he, how did he help you? That's Mr Abdi.---Well, I, I was, I was planning to leave TAP, you know, and I wanted to get into, say, Sydney Metro role or something like that, so we would sometimes, I would apply for jobs and we'd have mock interviews and get feedback from those mock
20 interviews sometimes. Just those type of general things. He, he never helped me particularly with, you know, anything construction related or anything like that because my, my knowledge of, you know, the heavy civil construction was very limited. So I was learning and I wanted to learn. So it was, and also the politics of, of the place and the decision-makers, or what he thought were the decision-makers. And, and that's, that was all opinion. It wasn't based on any fact.

So is it fair to say he helped you with recruitment and HR issues? Recruitment issues generally within and external to Transport for NSW and HR issues generally within the organisation?---No, yeah, look, I, I don't
30 think - it was fairly benign stuff. It wasn't anything, it was something I guess a, a mate would do.

Yep.---It wasn't anything - - -

But a mate's someone you might spend time with outside of the work environment. I mean, was he a mate to you?---I guess at work he was someone I, an acquaintance.

Yep. You said he helped other people as well. What did you see him do for
40 other people - Mr Abdi?---Oh, just, just, you know, with their CVs and he

called me up and I would them, you know, with their CVs. You know, genuine people who, who wanted to progress with their careers.

So the same assistance he was offering to you he was offering to others within Transport for NSW?---I think, I think it was, it wasn't anything he was looking for. I guess people gravitated towards him and would ask him certain questions and he just wanted to help out.

Okay.---You know, that's, I just remember a couple of occasions.

10

When you found out that he was a silent partner in a company or a business that was dealing with Downer or Transport for NSW, did you know which company that was?---Yeah, RJS.

Okay. And how did you learn that?---I think he eventually, he may have eventually told me, yeah.

Okay.---But I can't remember when. It was somewhere in mid-2020.

20 Did you, and at that stage were you aware that RJS was tendering for Wollstonecraft or looking to tender for Wollstonecraft?---Oh, I think, I think maybe in May 2020 or April or somewhere like that, but I, I wasn't sure because the design, sorry, the design phase of Wollstonecraft hadn't finished yet so I don't know if they, they were going to select who, which contractors they were going to select.

But you eventually came to learn that, didn't you, that RJS was tendering for Wollstonecraft?---I did, yes.

30 And a number of other stations. Is Birrong one that RJS was - - -?---Oh, I didn't, I, I actually didn't know about other stations at all.

Okay.---No.

Did Mr Abdi ever ask you to assist RJS specifically in relation to Transport work?---No. No.

40 Did he ever say, for example, "Can you put in a good word here," or anything along those lines?---I think the only thing he asked was, like, maybe, "Can you find out who the preferred contractor is."

Okay.---Something like that.

And did you do that?---Yeah, I told him. Yeah.

And how did you find that information out?---Oh, look, I had a few conversations with Andrew Gayed, you know. What he, who he thought he was, you know, who are the runners up. And, you know, they were just informal conversations I had with him.

10 And was that information you then passed on back to Mr Abdi?---Yes.

And when do you recall doing that?---Maybe late 2020.

All right. And in those discussions with Mr Gayed, what did Mr Gayed tell you? 'Cause there was more than one package at Wollstonecraft, wasn't there? I think there was four, wasn't there?---Oh, there's multiple ones. Yeah, look, there was a building works and I think three other civil type of packages.

20 There was, there was piling, station, platform and building. Does that sound right?---I think it was three.

Three, was it?---Three of those. Oh, yeah. No. No. No, you're right. You're right. Yeah.

Did Mr Gayed tell you how those packages were to be awarded?---How do you mean how?

30 Well, when you had that conversation with him had he, had he made a decision as to who was going to win those packages and did he tell you - - - ?---Oh, no. No. No. No, he didn't make any, he didn't make any, he was going through his, their own process of evaluation.

And so did he say anything about the building package, for example, who might be looking good there?---I think he, it was all up in the air until the, the last minute or the last month or so because the, everything was under procurement and going through a process.

40 All right.---So I wasn't, I wasn't a hundred per cent clear. All right. Well, so, I think I asked you this, but I don't recall getting a straight answer to it, I don't mean to be critical, but what was it, is it just because Mr Abdi, you

saw him as a mate, that you wanted to maintain that acquaintance or - - -?---
I just didn't have anyone there to talk to.

Okay. And then you also said when you were reading that part of your note out, that you felt like you'd been taken advantage of. Is that something that today, looking back, you feel like you've been taken advantage of or was that something you were feeling at the time?---I got that feeling then, but I dismissed it. But now, yes.

- 10 And what was it that you perceived, either then or now, that makes you feel like you were taken advantage of? Is this by Mr Abdi, just to be clear?
---Yeah, in general, yeah.

Well, what were the facts that led you to form that view that you were being taken advantage of?---The fact that I agreed to this Chandler thing and the fact that, you know, he requested this information.

- All right. I might ask if volume 4.1, page 241 can be brought on the screen? Here, you can see this is a series of emails from 6 December 2019 where an
20 Andrew Smith sends you an email with the subject "Wollstonecraft REF RFI for Wollstonecraft". What's an REF?---Environmental factors, it's like, it's like an environmental report, it's a large environmental report, Review of Environmental Factors.

Okay. Review of Environmental Factors. And what's RFI?---Request for information.

And you forwarded that to your Hotmail account?---Mmm.

- 30 Why was it that you did that on 6 December 2019?---Look, I, I never used to take my computer home and I would just review it at home. I think it may have been an, a, a request and, you know, those documents are quite lengthy and I would probably just keep it to myself and just review it at home and have, and note all these questions and then go back to the office and then just complete it.

All right. So is this done in connection with Mr Abdi's requests?---No, no.

- 40 Why are you able to be certain about that, Mr [REDACTED]?---I, I just can't remember any, anything.

Okay. But when you say you can't remember anything, was it your practice to send documents home, to your personal email address from work?---I, I occasionally did that, yeah.

And what was it that prevented you from taking your laptop home to review those, your work laptop home?---I just didn't want to carry it. I used to leave it in the drawer or on the desk.

10 Okay. If we go to the next page, you can see what the attachment is. This is the REF. Is any of this confidential, do you say? We can scroll down further if you like. There's one more page.---If you, can you go back up, please? Yeah, they're just responses, maybe from external parties or, that may have made comments for the REF, 'cause that REF goes on public display and then you get various communities, councils come back with questions and then you close it off by answering them.

I see. If we go to page 344. Sorry, 244. This is the other attachment.---Oh, okay.

20 Is any of this confidential material insofar as concerns Transport for NSW, to your understanding?---I don't know. I guess at the time it depends. It's fairly stock standard items in hindsight of the TAP projects.

Okay.---Like establishing the site. Lift works, which was common. Stair upgrade. Ramp upgrade, that's very common. Commuter car park upgrades, yeah, in close proximity. DDA requirements. Station building works. Platform modification works.

30 All right.---Yeah, so I think from memory, I'm just going by essence here, I probably had to review and see if this is all correct.

And did you pass this on to Mr Abdi?---I, I don't recall passing it on. I don't believe so.

All right. When you sent this to your Hotmail, you said so it could be reviewed at home. What, did you have a computer or a laptop at home or something, your desktop or a laptop?---Yeah.

40 Which one was it?---A laptop.

A laptop. And so that would be your practice, would it, to look at that rather than take your work?---I just needed more time to think about certain things. So in order for me to review, I didn't have that solid construction experience and I had to, and for my comfort I would give it a second look or give it a detailed look at home.

All right.---Feel satisfied.

10 Just, Chief Commissioner, I seek relief in relation to transcript pages PT1255, from lines 14 to 40. If I can hand that up, please to the Chief Commissioner. This is Mr [REDACTED]'s compulsory examination transcript. And tender that, please, subject to you granting the application, Chief Commissioner.

THE COMMISSIONER: The application is granted. Page 1255 of the transcript of the compulsory examination of Mr [REDACTED] from line 14 to 40.

20 **VARIATION OF SUPPRESSION ORDER: THE SECTION 112 ORDER IS VARIED WITH REGARD TO PAGE 1255 OF THE TRANSCRIPT OF THE COMPULSORY EXAMINATION OF MR [REDACTED] FROM LINE 14 TO 40.**

MR ENGLISH: And is that then Exhibit 136?

THE COMMISSIONER: Do you want to tender it?

30 MR ENGLISH: Yes, please.

THE COMMISSIONER: Exhibit 136.

#EXH-136 – COMPULSORY EXAMINATION TRANSCRIPT OF [REDACTED] DATED 19 OCTOBER 2022, PAGE 1255, LINES 14-40

40 MR ENGLISH: Thank you, Chief Commissioner. If that can be brought on the screen, please. This is an extract of your transcript from your

appearance on 19/10/2022 before the Commission, Mr [REDACTED], and you say here, you can see the first question you're asked, "So would you have any reason to send work documents from your Transport for NSW email address to your personal address?" And you can see the answer you gave there and then you say that you wanted to look at these materials on a library computer. Do you see that?---Yeah.

Was that true?---Yeah, yeah. Because they were in an email, I could look at them on a bigger screen at the library.

10

Okay, but you just gave evidence that it was your practice to do this and look at it on your laptop at home.---Whatever, it was sent to my Hotmail address, and if I looked at it on a laptop or looked at it on a bigger monitor somewhere else, inconsequential I think.

All right. You gave some evidence today that you weren't that busy at Transport for NSW, is that right?---Yeah.

20 Down the bottom of this transcript you're saying, "Because at the time if I'm correct, if I remember, I didn't want to take my work home, so this was kind of like, let's call it extracurricular activity for myself, to learn more about the project as my, my desire wanted to outside of the core hours I was working." If, if you didn't want to take work home why did you do it?---If I didn't want to take work home, well, what I meant by that is, oh, that doesn't, that doesn't sound right. I probably, I mean, what I, what I, what I really probably meant was that like I'm, I don't know. I don't know what I meant there, to be honest, but my evidence is that I'd take it home so that I can either do work, review the work, or try and understand the work in my own time.

30

All right, but if you, if you're not too busy at work - - -?---Yeah. No. No, you've got to understand the time period, Mr English. I was not busy at work during 2018. This happened while I was assigned, I'm assuming this happened while I was assigned the Wollstonecraft project, so then I was busy.

All right. It was just you who viewed these documents at the library, if you ever did. Is that your evidence?---Yeah, that's what I remember, yeah. I can't remember the actual, I can't visualise the actual time.

40

Sure. How far is the library from your home?---It's about a 25-minute walk.

So you - - -?---Let's call it 2.5 kilometres, 3 kilometres.

You say it's more convenient to walk 2.5 kilometres to look at these documents at the library than it is to see them on your laptop at home. Is that your evidence?---Well, it could be, it could be on a weekend. I'm relaxed. I wanted to go there, have a cup of coffee, review it, something like that.

10 Okay. If we can go please to volume 4.1, page 253. If we can just go up, oh, well, you might not be able to, or blow it up a bit so we can see the bottom email. It's from you on 21st of April 2020 to Brenden Wakim. Who was Brenden Wakim?---He was my manager at the time.

Okay. And you say there, "Brenden, with regards to the allocated PM," is that project manager?---Correct.

20 "For Wollstonecraft, I would like to highlight the following concerns I have regarding the nomination." And, and you go on to make some reports there about his work, and then you say in relation to his style, "He's argumentative and is frequently absent from site even during critical activities." It goes on, and you can see over the page, please, you, you describe him as "high risk as he's low in experience in managing a complex scope in a sensitive environment," and you note that this is about Wollstonecraft, and there's some high-profile community people living in the area. And then you go on and say, "From a resourcing issue, allocating one construction manager across several sites is too much work," and this is about, is this about Andrew Gayed?---Yeah, I found out that he was on the project and I got feedback from colleagues who had worked for him, or
30 worked with him.

All right. And then if we go back up to page 252, please. Your message there was 21 April. You can see on 14 May 2020 you write again to Mr Wakim still as part of this same chain, saying, "I think it would be prudent to at least send a letter to Downer so that they may at least perform a search in their organisation for a senior PM that has a relevant experience in performing platform works." Do you see that?---Ah hmm.

40 Did Nima Abdi ever suggest to you that you should do this in relation to Mr Gayed?---No, no, it came from me.

Okay. And then if we go to page 257, please. Here you can see it's an email from you to Mr Abdi on 30 April. So while that conversation that we just saw is ongoing.---Mmm, mmm.

And you can see it attaches a CV for Andrew Gayed. If we just go to the next page, you can just see what is shown there.---Yeah.

And you say in your subject line of the email attaching that CV to Mr Abdi, "He's not even a fucking engineer."---Ah hmm.

10

Why was it that you felt the need to inform Mr Abdi of that and to send him Mr Gayed's CV?---Oh, he was just a workmate that I discussed things with. It wasn't, it was more like, I don't know, I don't know what you'd call it, a touchpoint item.

But was Mr Abdi working on the Wollstonecraft job?---No.

So you've employed some strong language there. Do you see that in the subject heading?---Yeah.

20

What motivated you to send it to Mr Abdi? I mean, was it just venting on your behalf or did you expect that he might be able to assist?---Oh, he was, he was, I used to vent to him all the time and, you know, I just thought from the feedback that I got from himself and from other two people that he was a bit of a risk for the project 'cause this was a risky project. And I didn't want that if I was managing from Transport's side.

And did Mr Abdi ever tell you that there might be someone better at Downer who he thought could be the project manager for this job?---No, I don't think so.

30

You mentioned Mr Aziz earlier. When did you learn that he was involved with Downer?---Oh, look, I don't. I knew that he worked there but then I discovered the association when I worked at Chandler, you know, when I took up that role.

Well, this is getting towards mid-2020 on 30 April, when you either learnt or I think you've said now in your evidence Mr Abdi disclosed his silent partnership in RJS. Did he tell you who else was involved in that company?---I, I don't know if he told me or not but I, towards the end of the procurement I understood that Tony and Aidan were involved.

40

Yep. And did he tell you anything about he was able to get, how RJS was able to get work with Downer or Transport?---Oh, that, that, that remained a mystery to me. I, I, I just don't have - - -

All right.--- - - - I just don't have any idea how that, how they got embedded in there.

10 So is your evidence that the first time you came across Abdal Aziz was when you were introduced to that Chandler Macleod work?---I, I was actively looking for work because, and I had approached Andrew Bedwani for some work because I was, I was provided with his, his contact details and I had a couple of interviews with him for some TAP jobs, for PMs jobs and Aziz was in there, as well, in these two interviews.

20 When were those interviews?---Well, honestly, I, I, I can't remember. They could have been early 2019 or, or when, when the, roughly when the tranche 2 of the projects started, 'cause Wollstonecraft was in tranche 3. So I don't know. You can probably trace back that rough time.

All right. And did Mr Abdi ever tell you how he was actually making money as the silent partner in RJS?---No, no. He kept that very, to himself.

Did he ever offer you money if you did things for him or RJS?---No. No. No.

30 Did you ever ask for money yourself in return for doing things for RJS or Mr Abdi?---No, no. I would, I would, I would jovially say, "What's in it for me?" but then I would just qualify it and say, "Look, Nima, I don't want anything. All I want is just to be, have a PM job and, and be responsible for it," because my goal was to, to be on a couple of these projects, deliver a couple of projects and get out TAP. I didn't, I didn't, I didn't really want to, I didn't have a desire to stay in that role, so - - -

Well, you were at the time discussing things that might be in it for you with Mr Abdi, weren't you, in terms of "what other roles I might be able to get at other places"?---Well, well, that was just, I guess, a couple of people in a workplace, just discussing opportunities.

40 But did you see this as an opportunity to be paid and earn some money, that is, to help RJS and Mr Abdi?---No. No, no. Look, look, it, it, it didn't cross

my mind, number 1, because I did what I did with Chandler, felt guilty about it and why do that again short-term when my goal was to develop my career within the rail industry and progress it till retirement.

But what happened was it seems after you said, “What’s in it for me? Nima, don’t worry about it. I don’t want anything”, but they did come back to you, didn’t they, and they certainly offered you something in the Chandler Macleod space, which was something in it for you?---But that was, that was before I actually knew about what he was doing, that was before.

10

Okay. Well, so the Chandler Macleod work, was it in late 2019?---Yeah, September, September to October.

So there was something in it for you there - - -

THE COMMISSIONER: So do you need this taken down or - - -

MR ENGLISH: Yes. If it could? Thank you, Chief Commissioner. There was something in it for you there. That’s right, isn’t it?---Yeah.

20

And so later on, you’re saying again to Mr Abdi, “What’s in it for me, but I don’t want anything” - - -?---Yeah, but, no, no, no, no. No, you’re taking it - - -

Just let me finish the question. If you’re speaking in that manner with Mr Abdi, given your history, do you not think that he might form the view you did want something?---I always, I, I qualified it, I said, “Nima, I don’t want anything.” I, that’s, that’s, I qualified it with him many times. Okay. But that’s my, that’s my evidence. See, I lost my track of thought, but, anyway.

30

Fire away.

I might just play one call, Chief Commissioner, before the break. Is that acceptable?

THE COMMISSIONER: Yes, of course.

MR ENGLISH: It’s a transcript from, it’s a call from 14 May 2020, volume 21.1, call 1.4. It’s a reasonably long call. I’m in your hands. Is that okay if we play it now?

40

THE COMMISSIONER: How long’s it going to be?

MR ENGLISH: Well, it's 12 pages, so it will probably last eight minutes or something, I would have thought?

THE COMMISSIONER: Matter for you.

MR ENGLISH: Look, I might tender it now and we'll play it after the break.

10 THE COMMISSIONER: All right. That will be Exhibit 137.

**#EXH-137 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 1507 FROM
TONY NGUYEN TO NIMA ABDI ON 14 MAY 2020 AT 17:46:41**

MR ENGLISH: Thank you, Chief Commissioner.

20 THE COMMISSIONER: We'll just take a break.

SHORT ADJOURNMENT

[11.30am]

THE COMMISSIONER: We'll resume.

MR ENGLISH: Thank you, Chief Commissioner.

30 THE COMMISSIONER: And you're subject to the same oath, Mr [REDACTED], to say the truth. Do you understand?---Yes.

MR ENGLISH: So if exhibit 137, which is session number 1507, could please be brought on the screen. It's a call from 14 May 2020. The time is 17.46.41 and the participants are Tony Nguyen and Nima Abdi.

AUDIO RECORDING PLAYED

[11.59am]

40

THE COMMISSIONER: Just a moment. Stop, please. This is - can we just start again? The page numbers are not changing or they were stuck on page 2.

MR ENGLISH: My screen, Commissioner, is up to page 3, which is consistent with the call.

THE COMMISSIONER: I was stuck on - it's now on page 3. Can we just start it again? Sorry.

10

MR ENGLISH: Sure.

AUDIO RECORDING PLAYED

[12.02pm]

MR ENGLISH: So, Mr [REDACTED], this is a call on 14/5/2020. You recall that email I showed you where you wrote to Brenden Wakim? It was the conversation that started on 21 April 2020 and then it ended with your subsequent email on 14 May 2020.---When was this, sorry?

20

So this was early on when I was asking you questions.---Mmm.

There was an email chain where you were saying that the project manager's not fit, the Downer project manager wasn't fit, Mr Gayed. And here, if we look on the screen at the transcript, please, Exhibit 137. The transcript of the call, page 10, please. Page 10. Yeah, just down the bottom there, it's attributed to Mr Abdi. He talks about someone, a DPM Ali. Do you know who that is?---Oh, if it's the person I'm thinking of, yeah, I do.

30

What's that person's name?---I don't know his surname.

Oh, okay.---Ali. But I do remember him.

Okay, and he's a Transport or was a Transport officer, was he?---He was, I think he was a deputy project manager.

At Transport?---Yeah, I don't know if the, his, his (not transcribable)

Well, all right - - -?---I don't know if, if it's Banksia, then he was on the Banksia project, yes.

40

Okay. Well, you can see what Mr Abdi says there. He says, "I was, we were trying to get Abdal in there. So then [REDACTED], so because just [REDACTED] and Abdal were sitting opposite each other, that's not, that's the same as me and Abdal sitting opposite each other." Do you see that?---Yeah.

Mr Abdi certainly had a view at 14 May 2020 that he was trying to get Abdal as the project manager in the job at Wollstonecraft for Downer. That's right, isn't it?---I, I don't know about that plan.

10

Well, but, I'm not asking you whether you knew about it. He, but do you agree he certainly had that plan?---Yeah, I mean, based on that, yeah.

And you can hear he, he uses, they both use the word "control". They're looking for people they can control from within Transport and Downer, aren't they? That's Mr Abdi and Mr Nguyen.---Yeah. Yeah, they are.

Right. So he's contemplating, that is, Mr Abdi's contemplating you and Abdal Aziz sitting opposite each other, did you sit opposite Andrew Gayed in that Wollstonecraft office?---No, I just, I just used to go in there once a week, talk to him, go on site, take photos and do my reporting.

20

All right, but did you have a desk set up opposite him?---No. It was, it was just the desks when you walk in and they were for anyone, I guess.

Hot desking, was it?---Yeah.

All right. The next page, if you go to page 11, you can see Nguyen says the first line attributed to him, "How is it? Did [REDACTED], so you know whether, you know how, how did you, how you did Canley Vale?" He says, "Yeah." Did you send some bills of quantity for Canley Vale to Mr Abdi?---In, for the, yeah, based on what I said before, yeah.

30

So - - ?---Not at this time. It wasn't this time.

Yeah. Okay. And then it says, goes on, Nguyen says, "Yeah, well, [REDACTED] got a good email too saying that, well done to RJS team." And Abdi says, "Yeah. Yeah. Yeah, because I told him to." Do you see that?---I, I, I think this was, I don't remember this email because RJS weren't on the project. They weren't doing any, any work.

40

Sure.---So I, I don't understand that logic.

Well, Mr Abdi in a pejorative fashion then goes on to suggest that really he's controlling you. Did you get a sense that's what he was thinking at the time, this is on 14 May 2020, he was out to try and control you?---Probably, yeah. He's, he's very good with people's psychology.

Yeah. And - - -?---But, I mean, honestly, I, I just, it just doesn't make sense, this RJS with (not transcribable) - - -

10

If he asked you do things, Mr Abdi, at about this time, would you do them?
---Sometimes, yes.

And if I just come back to this thing about you saying to Mr Abdi on the 30th of April that, "Gayed's not even a fucking engineer," and forwarded on the, the CV. It seems awfully coincidental that he's working to have Mr Aziz installed as the Downer project manager at Wollstonecraft and, and you're sending emails at around that time speaking down about the proposed project manager's skills and then you're having this discussion that "he's not even a fucking engineer" with Mr Abdi. What do you say about that?---Yeah, I mean, when I was first, and the way I've got Wollstonecraft was not contrived. It was no contrived, okay.

20

I'm not suggesting you didn't get it on your merits, yeah.---No. No. I just want to clear that, right. It was not contrived. I was lobbying 'cause I hated my fucking job, right, and I wanted responsibility, okay. So I went to project, project directors and I said, "I need some responsibility. Can you help me," or, because there was projects happening, okay. They were coming in the wind, right. Eventually I got the pick and I got Wollstonecraft and that's because, I don't know why. Probably because I did the scope and design and someone said, "Yeah. Okay." But one of the project directors supported me and I was given a chance, okay.

30

Yeah.---All right. Now, when I talked to Nadine, who was the project director then, she initially, I initially had a first conversation with her and then she says, "We'll give this a trial run." I go, "Great, thank you." And then the second time she said to me, "Do you know who the project manager is for (not transcribable)?" I go, "I've got no idea." She goes, "That's important because" - - -

40

THE COMMISSIONER: Sorry, what?---She said that's important because, you know, they're basically construction project managers and they run the job, right. So when I found out, I think it was a month later, that it was him, I started asking questions about him, right. So it was, if Nima had a plan to get Aziz in, 'cause I was on Wollstonecraft, then that would have worked well for him.

10 MR ENGLISH: Yep. Well, did he encourage you to take those steps to speak adversely against Mr Gayed in that role?---No, he said to me, "It's up to you if you want to send an email," he said, "but like he's, he's not a bad guy but, I don't know, he just probably doesn't have that experience." And I said, "Who else has worked with him? Maybe I should talk to the other guys." I spoke to a guy called Darren. I spoke to Jafar. And I got that feedback from them, that he's always – and I don't have anything against Andrew because he turned out to be a good project manager. They said he's always absent, you know, as a – I can recall Jafar saying, you know, you know, he's not there at the critical times. But, you know, and Darren saying something like, no, he's not that, he's not, it wouldn't be advisable for that role, for, for Wollstonecraft, 'cause that's a bit high risk.

20

All right. If we look further down here, about just after halfway, point 6 of the page. It says, "██████████, ██████████ is very desperate for some paper, he's very, very desperate." Do you see that?---Yep.

Have you heard "paper" used as a, as a colloquial term for cash? Have you ever heard that?---No, it's, I can, I can associate that that's what they're probably saying.

30 How do you understand Mr Abdi would have got that view, that you were desperate for cash or money?---I, I don't know.

Did you tell him?---I can't recall telling him for, for any money, or asking him or reaching an agreement.

40 Well, so, well, he must have formed this view somehow or he's just lying to Mr Nguyen. Wouldn't it be that consistent with what you said that you said, "What's in it for me if I help out RJS here?"---Yeah, I, I said that to him jovially at times, right. And I said to him, I qualified that, particularly on my last phone call, that I didn't want anything.

40

But this is with someone that you know set you up with Abdal to do this work for nothing previously.---Yeah.

And that wasn't an honest scheme, you agree about that?---I feel ashamed of it, yes.

And so you're telling someone at around this time, mid-2020, that I don't want – what's in it for me but I don't want anything. Was this a wink-wink, nudge-nudge, I don't really want anything but can you give me something?
10 ---I was trying to break away from Nima because it became an unhealthy relationship.

Okay.---And it was hard because I was, call it a relapse of some sort.

All right. If you see then he says, this is the same attribution, “He's been busting his balls. Even after today we were talking to get Abdal into our Wollstonecraft, but that piece of shit Bedwani's pushing back on it.” Do you see that?---Yeah.

20 So the “we were talking”, that must be you and Nima were talking, right?
---No, no. Nima – I can't remember that, that conversation myself about Mr Aziz, no.

Well, it all fits in with the, it fits in with the emails I've taken you to and it fits in neatly with what Mr Abdi's telling Mr Nguyen, isn't it, that he's had this discussion with you and you were going to assist in getting Aziz in rather than Gayed?---Well, I don't know about Aziz, but Gayed was a culmination of feedback that I got from others. Now, whether this was a cunning manipulation from Nima, I don't know, you know.

30 Well, it seems to suggest he's raised the issue of putting Abdal in to Wollstonecraft with you, don't you agree?---From his, from his conversation, yes.

And might that be something that you had a conversation with him about?
---I, I, I honestly don't recall that conversation, like - - -

All right. If we go to page 6 of the transcript? Here you see the first attribution, he's talking about control. “It's not like Kingswood anymore.
40 Yeah. Banksia we have the most amount of control. Wollstonecraft we

have some control. Wollstonecraft I've got control from Transport side." He must be referring to you there. Isn't that right?---Presumably.

And then he says, "Yeah. Though you need someone like Sairam." Do you know who Sairam was?---I, I don't know. I, something tells me he's a project engineer on Banksia. Is that right?

From Downer?---Yeah.

10 Yeah. And then Abdi, middle of the page, "I know, I know. What do you, what do you think, bro? The last two weeks, we have been busting our balls, like, that [REDACTED] guy has been writing letters. He's been busting his balls to get a building in to Wollstonecraft but that fucking Bedwani's pushing back on it".---A building.

Were you writing letters or emails to try and shore up RJS for the building package at Wollstonecraft?---No, no, I wasn't.

20 Did you ever experience some pushback on that from Vlad or from Gayed?
---From who?

From Mr Gayed.---I - no.

30 Okay. All right. If we can go to volume 4.1, page 266, please? Here, this is an email from your Transport address to your Hotmail on 25 June 2020 attaching the bill of quantity continuous listing for Wollstonecraft, Banksia, Birrong and Roseville. You didn't just send those to yourself, so you could look at them as an extracurricular activity, did you?---Look, I probably was looking at the update for Wollstonecraft but the others weren't of my interest. So, yes, you're correct to say that.

Again, this would have been pursuant to a request from Mr Abdi, wouldn't it, for these materials?---I, I can't remember this one, in particular. Was there another one?

THE COMMISSIONER: Well, listen to the question that you're asked, please.---Yeah, but I, I'm just, could you, could you ask that question again, please?

MR ENGLISH: You did this, you sent these attachments to yourself, pursuant to a request from Mr Abdi, didn't you?---I, I think there was one on the, on the, in August that I sent but - - -

Well, this is something on 25 June 2020.---Yeah. Yeah, so I, I, I can't remember this one, in particular, because, sending it to anyone. I just remember the last one in August that I sent.

10 All right. Now, if we go down just one page, please, you can see that's the continuous listing bill of quantity for Wollstonecraft. And you can see it's essentially a budget for that job, is it not, Transport's budget?---It's, it's a, it's, it's a lump sum kind of budget, yeah.

Well, it's not lump sum. It's itemised, isn't it?---No, it's lump sum budget.

Well, there's line items, though here?---Yeah, but it's lump sum. That's how it works.

20 All right. And you understand from the call we just listened to, Exhibit 137, how Mr Abdi and Mr Nguyen were using these to work out which packages had fat in them, that they should then tender for. Correct?---Is, I can't remember, if there's a contingency down the bottom?

We can scroll down. This is just an example of one of the packages that you sent to yourself.---Yeah. Yeah.

They go for quite some way.---If you go down to page 38 then that would have any contingency. But I guess what he meant by fat was what they - - -

30 Well, that was my word, in fairness.---All right. Okay.

But what do you think they were discussing by reference to documents of this nature?---Perhaps, perhaps - - -

The contingency is on page 304, if that can be brought up, but I guess you understand that documents of this nature were providing an advantage to RJS, Mr Nguyen and Mr Abdi, that other tenderers weren't getting.---Yes.

40 All right. There you can see page 38 of 38. Does that assist you in any way to answer the questions I asked of you?---About the fat?

Yeah.---Oh, not really. If you're referring to fat it means, like, what it would cost a contractor versus the price, and what that difference is is the cost versus the price, then the profit, what would the profit be.

Mr Abdi did ask you to provide him these bills of quantity, did he?---In, on this occasion, on the 25th I, I can't remember.

10 All right. Well, if we can go to volume 18.11, page 52. This is an extract from I believe Mr Nguyen's phone. I'll let you know if that's wrong. Yeah, owner, Tony. Do you see that?---Ah hmm.

So you can see, so we're talking, your email was on the same day, 25th of the 6th, 2020. Do you see that?---25th of the 6th, oh, the previous.

Yeah.---The previous email.

Well, no, on this message it's forwarding the continuous listing for Birrong. Do you see that?---Yeah. Okay.

20 It's from Mr Abdi to Mr Nguyen. And your email where you sent it to yourself, I'll just tell you the time, was sent at 10.32, so some nine minutes later Mr Abdi is forwarding it to Mr Nguyen.---The Birrong.

For Birrong, yeah. Do you see that?---Yeah.

Again - - ?---I'm not denying it.

30 So he requested that one from you?---I, I don't remember that request but it probably was a request.

Well, it was, wasn't it? Why else would you have done it, sent it to yourself and, and that it appears in this way?---Yeah, I mean, I didn't, I didn't care about and he must have, so, yeah. It must have been a request. I mean - - -

All right.---But I can't, I just can't honestly recall that conversation.

40 All right. Just, Chief Commissioner, if I can apply for a variation on the 112 order in relation to Mr [REDACTED]'s transcript of his compulsory examination transcript page 1265, line 1 to 31.

THE COMMISSIONER: Yes, granted.

**VARIATION OF SUPPRESSION ORDER: THE SECTION 112
ORDER IS VARIED WITH REGARD TO MR [REDACTED]'S
TRANSCRIPT OF HIS COMPULSORY EXAMINATION,
TRANSCRIPT PAGE 1265, LINE 1 TO 31**

10 MR ENGLISH: And I tender that, Chief Commissioner.

THE COMMISSIONER: Isn't it 137?

MR ENGLISH: And that's on the screen now. You can see the first question, "And this is the same day you sent the email from your Transport for NSW address to your personal email address, so I'm putting to you that you provided this BOQ for Birrong to Nima Abdi on 25 June." Do you see that question?---Yeah.

20 THE COMMISSIONER: Sorry, 130 - just a brief moment.

MR ENGLISH: 138 I think it was, Chief Commissioner.

THE COMMISSIONER: I thought it was 138.

MR ENGLISH: Yeah, the call was 137.

THE COMMISSIONER: Yes, 137 was the transcript, so it's 138.

30 **#EXH-138 – COMPULSORY EXAMINATION TRANSCRIPT OF
[REDACTED] DATED 19 OCTOBER 2022, PAGE 1265,
LINES 1 TO 31**

40 MR ENGLISH: Thank you. And it goes on, "So this is a message, you can take it from me, from Nima Abdi to Tony Nguyen, right? So the blue thing is - and that's, that's Nima's telephone number and Tony's telephone number, correct?" And you say, "Well, he may have got that from the R drive on the same day that he rang me." You see that?---Yep.

That wasn't true, was it?--- Well, I, yeah, okay, so I just can't remember this 25 June.

Well - - -?---So I, I, you know, vividly I remember August but 25 June I can't.

All right.---Because in August I remember my reaction towards it all and how I felt about it.

10 All right. If you go down you say, line 20, you're answering the question, "So it's purely coincidental that the same day you send yourself this document, Nima Abdi forwards it on to Tony Nguyen?" And you say, "Well, if I, if I said to Nima it's on the R drive, he could have got it from the R drive." You knew that wasn't a truthful answer, didn't you, Mr [REDACTED]?---Well, I just, I just, I just can't remember this scenario.

And you go down again, you see the answer you gave next, "I just can't remember if I did, but it looks like Nima maybe has got it from the R drive." There was no basis to suggest that Mr Abdi got it from the R drive, was there?---Not if he sent it from a text, I guess.

20

Because he asked you to then send him things via WhatsApp, didn't he? ---Oh, I don't think he asked me to, to do that via WhatsApp. It just, it just became a medium where we used to converse.

Well, you said in the note you read out to the court, "I later sent the BOQs to him via a WhatsApp text message."---Yeah, but it wasn't like an arrangement where we said, okay, we just do it this way. These were ad hoc kind of like requests.

30

As you said, given that he's received it from the WhatsApp message, it's clear he hasn't downloaded it himself from the R drive, wouldn't you agree?---Oh, look, he could have because I downloaded it from the R drive, sent it to myself and passed it on in August. But - - -

You never worked on Birrong, did you?---No.

So why would you have done that?---I just, I don't know, I don't know.

40 All right. Well, you never worked on Banksia, is that right?---No, no. I just used to go to some possessions.

You never worked on Roseville, is that right?---Roseville, no.

So these budgets you had no use for in your professional responsibilities for those three stations?---Oh, you'd only look at them to compare certain line items, that type of thing.

It's not something you'd take home to do at home 'cause it's not actually your job, correct?---It's not actually a job to do what?

10

Well, you're not actually working on those stations so you wouldn't have a need to occupy yourself at home in your own time looking at those documents, correct?---No, I was just more interested in Wollstonecraft.

Yeah. So Banksia, Birrong and Roseville, you must have downloaded and sent to yourself pursuant to a request from Mr Abdi, do you agree?---Yeah, could have been but I don't, I don't recall it, in all honesty. I just don't recall that request.

20 THE COMMISSIONER: Do you know of any other reason why you would have done it other than Mr Abdi asking you to?---It wouldn't have been any other reason, I guess.

MR ENGLISH: Commissioner, I'll play another call. I'll just hand up a copy of the extract. It's from 25 June 2020, Mr [REDACTED], so it's same day, this time at 15.42 in the afternoon, session number 05065. And it's a call between Tony Nguyen and Aidan, and Aidan Cox. The extract is from 15:44:10 to 14:45:44. I tender that, Chief Commissioner. Sorry. Sorry, might that be exhibit 139, Chief Commissioner?

30

THE COMMISSIONER: 139.

**#EXH-139 – AUDIO AND TRANSCRIPT OF
TELECOMMUNICATION INTERCEPT SESSION 05065 FROM
TONY NGUYEN TO AIDAN COX ON 25 JUNE 2020 EXTRACT
15:44:10 to 14:45:44**

40 MR ENGLISH: Thank you. Are you content for that to be played, Chief Commissioner?

THE COMMISSIONER: Yes.

MR ENGLISH: Thank you.

AUDIO RECORDING PLAYED

[12.41pm]

10 MR ENGLISH: All right. If we go to page 3 of the transcript? Mr [REDACTED], see what Mr Nguyen says towards the bottom of the page, “I don’t, he made him download it, that guy. He got them, so if anything does come back, it goes back to [REDACTED].” Do you see that?---Yeah.

You agree that’s a suggestion that Mr Abdi’s trying to get you to do his - - - ?---Yes.

- - - his, things that might jeopardise him at the workforce?---Yes.

20 Not something a mate would do to another mate, is it?---No, but I, that’s why I decided to just focus on my work more. But, no, he wasn’t, he’s, it wasn’t a mate thing. He, Nima didn’t want to be linked to anything, so he recruited people in his own way.

Well, from day one, what can you tell the Commission about that? It seems quite squarely you’re being used here, Mr [REDACTED]. What can you tell the Commission about how you gained the perception that Nima was using people from day one and didn’t want to be linked to things?---I think it was my, my last, one of my last conversations with him, where he, he mentioned
30 something about greed and how it destroys relationships and it made me, it made me kind of sick. I don’t, don’t, I think that was towards the end of 2020, somewhere there or, I don’t know, somewhere between June and, and November, maybe? And I got really angry with him. And I said, “Look, Nima, I don’t want anything. Leave me alone.” I really didn’t want to get involved. I just wanted a PM job, you know, and, and responsibility. But even before then, I was, I didn’t feel good about sending these, this information but I just had an attachment to the guy and it was an unhealthy one and, yeah. I mean, at, at that point, like, I kind of, like, gained a conscience and I, I almost, like, lifted or moved my head from the mist and
40 just realised this was all bad.

But you said he was using people from day one?---I didn't say day one, no, I didn't - - -

I think you did say "day one".---Did I?

10 Yeah.---Look, I guess from looking at this inquiry or, or just listening to it, as well, you know, this guy called Sairam, I don't know if he was the Indian and he must have given information, as well. So it kind of, like, fits in with maybe Nima being a silent partner and getting all these cuts. But I guess the schism that happened when Aidan was running RJS, and this is only my opinion, fractured that relationship and, and Nima was looking for information to justify his own cut.

Is that something he told you?---So he became just, no. No, this is just my opinion. This is just my opinion based on - - -

THE COMMISSIONER: Sorry, to justify his own?---His own cut. So that's, I've been listening to the inquiry and I've just gained that perception.

20 MR ENGLISH: Well, that's something that I think Tony Nguyen might have said, that a decision was made not to pay Nima anything for Wollstonecraft 'cause they didn't need him anymore. Is that something you saw in this inquiry?---Oh, I heard Aidan's email, telephone conversation where he said - - -

Yeah.--- - - - "Don't, don't, don't entertain Nima. Don't entertain him."

30 Yeah.---You know, or, or, "Fuck him off," or whatever, and I just thought to myself, it makes sense with my last phone call where Nima got angry about greed and everything. So I believe that Aidan was introduced to help them with the work that they couldn't do. This is before my time. And Aidan, Aidan's a pretty, you know, knowledgeable guy. He worked, he actually worked pretty hard at Wollstonecraft. And I, I didn't have any conversations with him other than, with Aidan, "How you going? Yeah, things are going good. Yeah, we're getting there." Just basic superficial conversations. But it seems to me that's, that's the case. He remained silent whilst getting a cut and trying to provide inputs so that he can receive a cut. That's, that's just my opinion. I don't know if it's true.

40 Well, can I just ask you, focus on the question here if you can, so when you're saying you have this discussion about greed, Nima saying, "Greed

destroys relationships,” was that Nima conveying to you that he had been told by Tony Nguyen that he wasn’t to be, he wasn’t getting a cut for Wollstonecraft?---No, he didn’t, he didn’t have any, he didn’t say any details. It’s just the association I’m putting on now. So I didn’t understand where, how Aidan fit in. I understood that Tony was there from perhaps the beginning with Nima and others, I’m not sure, based on the matrix that he put on the website, but then whilst listening to the inquiry, that, that connection seems to be quite clear in my mind. But - - -

10 All right. At some point you started to make critical comments of RJS, correct?---Yes.

Did that coincide with you learning that you weren’t going to be paid in connection with this project - - -?---No.

- - - by RJS or by Nima or someone on that side?---No. No, that was, that was, that was a back of, I kind of like saw their website and they didn’t seem like a credible mob, you know? They just had a, from memory, a website and nothing in it. And I think I may have spoken to Nima and said,
20 “They don’t even have any, you know, what type of website is this?”
Something to that effect.

All right.---And I just, Brenden’s, Brenden’s email just consolidated that when he sent me his concerns.

The concerns he sent to you confidentially as - - -?---Yeah. Yeah.

- - - a Transport for NSW employee.---Yes.

30 Which then you photographed and sent back to Nima.---I sent it to Nima so I can discuss it with him because I didn’t want the project to be at risk, and warn him, because I knew he had these activities on site. And I said to him, “Look, I believe what he’s saying but I’m going to write an email,” and he wasn’t hesitant on that, and that, again, coincides with his schism with the other two people, I presume.

If we can go to volume 4.2, page 1, please. So this is an email on 3 August 2020 where you send the TBE, the total budget estimate, as BOQ, bill of
40 quantity, for Wollstonecraft - - -?---Mmm.

- - - to yourself, your Hotmail. Do you see that?---Yeah.

Is this what you're saying, the email you recall where you sent it to yourself, was this, is this - - -?---No, no. The email I recall was the four.

Sorry, was what?---The, the four BOQs.

Oh, okay. So you don't recall sending this to yourself?---I, yeah, I can't remember this one. I mean, my memory's all that, not all that great. If the first one related to was the only one, then that's the one that I referred to before.

Well, did you send this to yourself so you could forward it on to Nima Abdi?---I, I can't recall this, but - - -

All right, well, if we go to volume 18.12, page 306. And again this is a report from Mr Nguyen's phone. Here you can see on 6 August, so three days later, he's sending the TBE as BOQ for Banksia to Mr Nguyen. The next page, please. You can see the TBE has BOQ for Wollstonecraft, which is what we just saw.---Mmm.

And the BOQ continuous listing for Roseville, which was part of your earlier email, it was attached to your earlier email of 25 June.---So they're, they're the four, aren't they?

Well, yeah, you've now got Roseville, Wollstonecraft and Birrong.---Yeah.

And Banksia, sorry. So - - -?---'Cause that's the one I referred to in my opening statements, yeah.

So this is, he requested you to do this, Mr Abdi - - -?---Yeah.

- - - to send this to him? Okay. And you must have known that that was something you shouldn't have done.---I, I kind of like, yes, I kind of like weighed it out because in my statement I, I didn't want to be linked to it and neither did he, but for a sacrificial reason that I shouldn't have, I, I did send it to him. We were, we had the conversation and I said that the, the BOQs, you, you can't ascertain much from it because you can't, you can't work out packages and scope. And so, you know, they're useless. I, I, I try to do it from my, for Wollstonecraft where I was given a program and they split it up into packages. And, you know, what's in the BOQ, some may be identified but all of them may not. They overlap. So putting it together - - -

THE COMMISSIONER: Why are you seeking to give us this information?
---Sorry?

Why are you seeking to give us this information?---Giving you?

Yeah, why are you telling us now about the use to which the bill of quantities can be put?---The what, sorry?

10 What is the purpose of you telling us the information that you're now giving? What are you seeking to achieve?---I'm just, I'm just trying to help the Commission understand that the bill of quantities is limited for anyone to price a detailed budget.

Why do you think it's important for us to know that?---Because I, I made that evaluation and I didn't want to give Nima anything that would incriminate me.

I see. Right, thank you.---So I've got something I want to say if I could.
20

Sure.---So when I started on this project, the senior project manager he debriefed the team, the tranche 3 team.

MR ENGLISH: Who was that?---Con Kouparitsas. And he mentioned during the briefing that the, the BOQs had overlap in pricing between the line items for different items.

Is this for Wollstonecraft?---Oh, just generally when Downer give the BOQs and the, and packages, and it was impossible to ascertain pricing for
30 individual items or packages. So the BOQs are not split into packages and included standard industry rates and did not describe the scope. This is me talking now.

Are you talking from a note that you've written?---Yeah, this is - - -

Okay.---"During the inquiry, Aidan Cox in an intercepted call stated that he need the package scope, and this conversation with others on these calls refer to the use of Downer scope splits and spreadsheets and the like to evaluate cost price." So you need something a bit more detailed. You need
40 a bill of materials. You need to understand the scope and then you can accurately price these things. "Before the release of the award to RJS I had

conversations with Brenden Wakim and said to him that against the program,” as I described, “I cannot understand from the BOQ what is, what is in each package.” And that’s a work package. “He agreed in principle but went on to criticise Downer 'cause he had a bit of a bad time with negotiations with them. Only Downer had the bill of materials, scope and details of each package and they would have evaluated tenders with this. I, I wasn’t involved in any procurement process, tender evaluation, to understand any breakdown of package information.”

10 MR ENGLISH: All right. I might ask for a section 35(2) direction in relation to what Mr [REDACTED] just read out there, if that can be isolated again.

THE COMMISSIONER: Has your solicitor seen that note that you’ve just read from?---I don’t think so.

MS HUGHES: No, Commissioner, I haven’t.

20 THE COMMISSIONER: Perhaps your solicitor can, that can be shown to Ms Hughes. Yes. All right. There doesn’t appear to be any issue with it. I’ll make a direction pursuant to section 35(2).

DIRECTION TO PRODUCE: PURSUANT TO SECTION 35(2) OF THE ICAC ACT, THE WITNESS IS DIRECTED TO PRODUCE HIS NOTES TO THE COMMISSION

30 MR ENGLISH: And if that could be marked as MFI, I think we’re up to 16.

THE COMMISSIONER: That the, the note that the witness read from be produced to the Commission, that can be marked for identification 16.

#MFI-016 – NOTE 2 PRODUCED BY [REDACTED] IN PUBLIC INQUIRY

40 MR ENGLISH: And copies made over lunch.

THE COMMISSIONER: Copies can be made over lunch. Is that a convenient point?

MR ENGLISH: It is, thank you, Chief Commissioner.

THE COMMISSIONER: Yes, we'll resume after lunch.

LUNCHEON ADJOURNMENT

[1.02pm]

10