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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 WEDNESDAY 12 APRIL, 2023

AT 2.00PM

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.

<ANDREW GAYED, on former oath

[2.25pm]

THE COMMISSIONER: Are you ready to resume, Mr Gayed? You're subject to the same oath you took at the commencement of your evidence to say the truth. Do you understand?---Yes, Commissioner.

Thank you. Yes.

10 MS DAVIDSON: All right. Chief Commissioner, I seek a variation in relation to the section 112 order and Mr Gayed's compulsory examination transcript page 1107, line 35, to page 1108, line 19. I hand up that extract and tender it.

THE COMMISSIONER: Variation is granted.

**VARIATION OF SUPPRESSION ORDER: SECTION 112 ORDER IS
VARIED WITH REGARD TO THE COMPULSORY
20 EXAMINATION TRANSCRIPT OF ANDREW GAYED OF 22
AUGUST 2022, PAGE 1107, LINE 35, TO PAGE 1108, LINE 19.**

MS DAVIDSON: If that could be brought up on the screen.

THE COMMISSIONER: The transcript of the compulsory examination of Andrew Gayed of 22 August 2022 pages 107 to 108 - commencing at line 35 on 1107 and concluding on line 19 on 1108 will be exhibit 1 - - -.

30 MS DAVIDSON: 154, I believe.

THE COMMISSIONER: 54. Thank you.

**#EXH-154 – COMPULSORY EXAMINATION TRANSCRIPT OF
ANDREW GAYED DATED 22 AUGUST 2022, PAGE 1107 LINE 35
TO PAGE 1108 LINE 19**

40 MS DAVIDSON: Mr Gayed, you asked some questions in your compulsory examination in relation to the amount that Avco charged for the

hire of the lights in the Wollstonecraft project. Do you see at the commencement of this extract there you're being asked a question about that?---Yes.

And your evidence is that you only put on some management fees. If I can scroll to the next page, and you asked in relation to charging Downer extra for the hire of the lights. You've given an answer in relation to it not being that significant. Do you see that?---Yes.

10 And you're asked for another, well, given another opportunity to explain why there wasn't a direct hire through Access, and your answer was that, "Access wasn't set up on the procurement system and it would have taken too long." Do you see that?---Yes.

And then you used Avco and you said you provided a solution for the site. That was what you thought was best for the project. You were then given an opportunity to tell the Commission anything else about the Wollstonecraft project and you said that there was nothing that came to mind. You didn't say anything in your compulsory examination about the
20 invoice for the hire of the lights being inflated to cover the costs of spoiled goods from the newsagency, did you?---No.

And that was because that didn't in fact occur at the time. Is that not correct?---What didn't occur at the time, sorry?

The inflation of the invoice to pay for, cover spoilage costs. This is the first - - -?---I'm sorry. I'm not understanding the question.

30 What I'm suggesting to you is you didn't say anything at the time of the compulsory examination, as you've seen from this passage, in relation to the invoice, including a \$6,000 amount for spoilage costs, did you?---No.

No. And you were given that opportunity in relation to saying anything else and that didn't occur to you?---At the time I gave my best recollection of the events.

Right. And I'm suggesting to you that what you are saying now is a recent fabrication in relation to the amount of money that that invoice was inflated by?---I disagree.
40

Chief Commissioner, I seek a variation in relation to the same transcript of Mr Gayed's compulsory examination, of the 112 order that is, page 1094, lines 12 to 28. I hand up copies of that and tender the - - -

THE COMMISSIONER: Granted. The variation is granted.

**VARIATION OF SUPPRESSION ORDER: SECTION 112 ORDER IS
VARIED WITH REGARD TO THE COMPULSORY
10 EXAMINATION TRANSCRIPT OF ANDREW GAYED DATED 22
AUGUST 2022, PAGE 1094 LINE 12 TO 28.**

THE COMMISSIONER: The transcript of the compulsory examination of Andrew Gayed, 22 August 2022, pages 1094 commencing at line 12 concluding at 28, exhibit 154. Sorry - - -

MS DAVIDSON: Exhibit 155.

20 THE COMMISSIONER: 155, sorry.

**#EXH-155 – COMPULSORY EXAMINATION TRANSCRIPT OF
ANDREW GAYED DATED 22 AUGUST 2022, PAGE 1094 LINE 12
TO 28**

THE COMMISSIONER: Yes. Thank you.

30 MS DAVIDSON: You were asked a question here, Mr Gayed, about sending Mr Vardanega the bill of quantities document for Wollstonecraft and you gave evidence there that you did not, that you "remembered him asking me if I can send it" but you absolutely did not send it, "but it seems like, in this email, it looks I did send it". Do you see those answers?---Yes.

That's contrary to the evidence that you've given to the Commission, is it not?---Yes.

40 Is that knowingly false evidence that you were giving at the time of your compulsory examination?---Not knowingly.

What has occurred subsequently that has changed your evidence?---I've been given the time to think about what occurred.

You've been given the time to think about what occurred. Are you suggesting you weren't given sufficient time in your compulsory examination to think about what occurred?---No, I wasn't.

You weren't given sufficient time?---Under a, under a, a compulsory examination, no, to, to think about what happened three years in the past.

10

So is your evidence that you've thought about it subsequently and realised that you were wrong?---Yes.

So you were then asked in your compulsory examination for an explanation for the email leaving your email address and being received in Mr Vardanega's, having this attachment and you say, "I can only speculate that someone jumped on to my laptop and sent it off my personal email, which was rarely locked, foolishly, and had this sort of information on my desktop quite regularly." Was that answer pure speculation at the time?---That answer was correct.

20

The answer was correct, as in it was a correct speculation?---As in that's what occurred frequently, my laptop was left open. I had the BOQ on my desktop.

All right. But it remains your evidence now that you did send it to Mr Vardanega?---Yes.

I suggest that at the time of your compulsory examination, in an attempt to conceal your involvement in providing assistance to Mr Vardanega, you denied sending it and came up with this explanation.---I disagree. My suggestion is at the time, I gave the, the, the information to the best of my knowledge, which I've then had time to think about and actually give the correct answer.

30

Right. And at the time that you gave this evidence in your compulsory examination, it was knowingly false evidence, attempting to disguise your involvement?---I did not knowingly give false evidence.

We were, prior to the luncheon adjournment, giving or addressing the transcript of Exhibit 126. And you might recall that was a conversation

40

between Mr Vardanega and Mr Cox on 20 August 2020. I think we'd established, in terms of your recollection, that it was sometime between July, that is early July 2020, when you sent Mr Vardanega the procurement register, and September 2020, when there was the letter in relation to nominations for the building package, that you became aware that he was helping RJS. Were you aware at the time of the conversation that I think you accept occurred prior to Mr Vardanega talking to Mr Cox on 20 August, that he was assisting RJS?---At which period, sorry?

10 Were you aware prior, at the time of your conversation with Mr Vardanega, that you accepted prior to the luncheon adjournment preceded this conversation between Mr Vardanega and Mr Cox, I know you say you couldn't recall the contents of the conversation with Mr Vardanega, but were you aware by that time, that is around 20 August, that Mr Vardanega was assisting RJS?---Well, I, I don't recall the conversation, so it's hard to put the time line together.

All right. Do you have any recollection of sitting down in that period with Mr Vardanega and going through a spreadsheet of the kind that you were
20 shown, that is of the kind he provided to Mr Cox?---Not to, not to my recollection, but - - -

You'd agree, would you, that it's evident from the conversation, that is the conversation between him and you, that he recounted to Mr Cox that his interest and the issues that he discussed with you were not confined to the building package or the civils package?---I, I think it referred to the, to a package.

Well, there were references to multiple packages. Perhaps if we could have
30 the transcript of exhibit 126 brought back on the screen. And if we turn to the second page of the transcript, you see there's discussion there in relation to the piling package and that also being included, or materials from there also being included in the civils package. And then on page 3 down the bottom there's discussion of how much juice there might be the platform FRP package and reference to the platform works and what can be done and moved between budgets. Would you agree that the conversation that Mr Vardanega is recounting in relation to his discussion with you, or the information that he's recounting reflecting his discussion with you, indicates
40 that his interest at this point was not confined to the building package or the civil package? It also related to the platform works package and the piling package.---I, I'm not too sure what his interest was in.

All right, but this suggests that he had a discussion with you that was broader than simply the building package or the civil package, doesn't it?
---Yes.

Right. And you didn't understand him, that is ProjectHQ, to have ever been interested in the piling package or the platform works, did you?---I, I think he was interested in a few packages.

10 When he was considering tendering, your earlier evidence was that that was in relation to the building package and possibly also the civil.---Correct.

He didn't ever express interest in tendering for the piling package.---There was a lot of overlap between the civil, piling and platform works.

Right. Accepting that there was overlap in the budget, you didn't ever understand him, that is ProjectHQ, to be contemplating tendering for the piling or the platform works, did you?---The way these packages were split weren't till a later time in, in the, there was no breakdown of what
20 encompassed the civil package which could have included piling and FRP.

But did you understand ProjectHQ to have ever had any interest in piling?
---In civil.

In civil which to your evidence always included piling.---Not always included piling, could have included piling, yes.

Right. What I'm suggesting to you is that this telephone conversation assists in the placement of the timing of when Mr Vardanega's involvement
30 with RJS was known to you. Do you agree or disagree with that?---With what, sorry, because I, you still haven't told me.

With this conversation - - -?---Yep.

- - - assisting in placing your awareness - - -?---As to when?

- - - of Mr Vardanega's involvement with RJS on the tender?---When? Yep.

Yes.---When is that suggestion?
40

Well, this is 20 August.---I, I can't recall that conversation so I couldn't speak to the date of when I was made aware.

Can you recall whether by the time you were having conversations with Mr Vardanega about the broader suite of packages, you being aware that ProjectHQ was not contemplating tendering for that broader suite of packages?---I think as per the evidence previously, between July and September was somewhere when I became aware, and so this would fit in that timeline.

10

Well, yes, I accept it's between July and September. I'm asking whether this helps in fixing the timeframe by which you became aware.---It's, it's a two-month period. I mean, it could have been.

So you'd accept you could have been aware by this point.---Could have been, yes.

Do you recall discussing RJS's tender for the building package with Mr Vardanega?---Not to my recollection, no.

20

Did you ever tell him that RJS shouldn't bother with the building package? ---I think there were words to that effect, yes.

Right. So that suggests you do have some recollection of a discussion with him.---I remember those sort of words being thrown around, and whether or not that was based on the evidence last week or an actual recollection - - -

Okay. So it might be a recollection that's - - -?---Recent.

30 - - - flows from what you've heard in the course of this inquiry.---Yes.

Do you recall the context in which those words were thrown around, to use your words?---Absolutely.

And what was that?---That was that we would not be giving one subcontractor more than 25% of the total package. So the building works would not be given to RJS if they were successful in obtaining the other three packages.

40 You ultimately did give RJS more than 25% of the work though, did you not?---No. Total package was 25 million, I think.

I'm sorry, so you're referring to the numerical value of the works, is that right?---Correct, yes.

I see. Was it also in the context that that is telling him not Mr Vardanega, that RJS shouldn't bother in the context of you understanding that you intended to award the building package to Maize?---No.

10 Could we have Exhibit 129, transcript, brought on the screen, and the call played.

AUDIO RECORDING PLAYED

[2.41pm]

MS DAVIDSON: All right. We can stop the recording there. Just going back to page 5 of the transcript you'll see there Mr Vardanega says on a couple of occasions, "I have asked him and he told me not to bother" or he told, he'd been told that, you see Mr Vardanega had been told not to bother.
20 This is a conversation on 25 August 2020 so not too long after the previous conversation that we heard. Your answer was I think that you told him not to bother in the context of one supplier not being given more than 25% of the work. Is that right?---That's my recollection of it.

Right. You hadn't decided at the time whether RJS was going to be given any other packages at the time of this conversation though had you?---I'm not too sure when the decision was, was made.

30 All right. Well, if the building package still hadn't gone, do you recall the letter that we saw previously was 25 September - I withdraw that - 2 September, the building package approval still hadn't gone to Transport for NSW, it hadn't been the case that the other packages had been decided earlier, was it?---I, I can't recall.

Because the only context in which it would make sense to be giving an explanation that was RJS wouldn't be given more than 25% of the work would be if you'd already made a determination that they were being given other packages, wouldn't it?---I disagree.

40 So what was the reason that you would have said they won't get more than 25% of the work, therefore they shouldn't bother with the building package

if you hadn't decided what are the components of the work they might get?
---I can't remember the exact context of it but there's a, there's a propensity to sort of lean one way or the other in a tender towards a contractor if they're ticking all the right boxes.

Right. So were you leaning towards RJS in relation to the other aspects of the contract, sorry, the other aspects of the packages at Wollstonecraft at this point? Is that your evidence?---I'm not too sure. I'm just merely offering a different perspective as to why that could have occurred.

10

Right. Well, an equally plausible explanation for you telling Mr Vardanega that RJS shouldn't bother with the building packages is that they, you knew in your mind, were already to be awarded to Maize. Is that not an equally plausible explanation?---No. What, what, what benefit would that create?

Well, given your association with Mr Helweh.---I have associations with a lot of contractors. It's not, it's not one way or the other. You've got to come in at the right price.

20 Right. But you also in relation to Mr Helweh had been providing assistance in relation to budget documentation. Is that not correct?---The same way with what we've shown with Ben, yes.

Right. The same way with Ben. But those were the only two examples of it. Correct?---I, I think so.

Right. It's certainly the case by this conversation, that is by 25 August, that you were aware that Mr Vardanega was assisting RJS?---It seems to fit within the time line.

30

Right. But it's not just because it's between July and September. It's a conversation about RJS not bothering with the building packages, isn't it?
---Based on us leaning towards the other packages.

Right. But based on your understanding by this point, that is by the time you were telling Mr Vardanega that RJS shouldn't bother with the building packages, that you knew he was associated with RJS. Is that correct?---I can't remember. It seems that way.

All right. Well, there wouldn't be any other reason for you to tell him that RJS shouldn't bother with the building packages if you didn't know he was associated with them. Isn't that right?---Okay.

There's no other explanation for it, is there?---Like, this, it fits within the time line. I'm just saying I can't recall definitively, you - - -

All right. But if in this conversation - - -?---I'm not, I'm not denying it or disagreeing with it - - -

10

All right. Do you recall spending time with Mr Vardanega going through competitors' pricing in relation to the various packages?---Yes.

And what was the reason for doing that?---Trying to get, by that stage, having known his association with RJS, trying to get a cheaper price.

Trying to get a cheaper price from RJS?---Yes.

20 In order to be able to award them the work?---In order to be able to be under budget.

Well, the two things were simultaneous with each other, were they not, that you wished to assist him in ensuring that RJS obtained the work?---No, I, I ultimately went back to the other contractors and said if they can, they can match it or, or beat it - - -

Well, are you suggesting you had similarly detailed conversations with all of the tenderers - - -?---I, I think it came down to one or two other tenderers for that, those package of works that RJS completed.

30

All right. Could we have Exhibit 128, the first extract, the transcript, brought up on the screen and the first extract played?

AUDIO RECORDING PLAYED

[2.54pm]

40 MS DAVIDSON: Thank you. That's the end of the extract. Mr Gayed, does hearing that call prompt any recollection of having any discussion in relation to competitor prices around 2 September with Mr Vardanega?---No.

You agree that this reflects seemingly a detailed discussion between, well, from which Mr Vardanega obtained information about the relative pricing that had been offered for all the different packages - - -?---Yes.

- - - with the exception of building which isn't discussed?---Yes.

Did you have such a discussion, that is a discussion with the same level of detail, with any other tenderer, that is with somebody that wasn't associated with RJS?---I don't recall.

10

Right. So to the extent you answered the Chief Commissioner earlier along the lines of, you were discussing this with all the tenderers, you don't actually recall doing that, do you?---I don't recall specific conversations.

Right. Do you recall having discussions about competitors' prices with anyone else other than Mr Vardanega and potentially Mr Helweh in relation to Maize?---Sorry, so now there's two packages overlapping. I remember vague conversations around tenderers for the civil package asking where they were at and I would have similar conversations about where they were at with the pricing. Is that - - -

20

Did you give a breakdown to those tenderers of what all the other tenderers were pricing at?---I, I've given a ranking of where they were at.

Right, because it seems that the specific levels of pricing of all of the other tenderers have been given to Mr Vardanega. Would you agree from his ability to recount that to Mr Cox?---It seems that way.

Right. And are you seriously suggesting that you had an equivalent conversation with all of the other tenderers?---If they asked, they, they got it.

30

If they asked, you got it. You disclosed information about other tenderers' pricing equally to all the tenderers. Is that your evidence?---The intent was to get the lowest price possible.

Right. I'm suggesting that your intent was also to assist Mr Vardanega. Is that right?---No more so than others.

That was despite your friendship with him.---Like I said, I was friends with a lot of these people.

40

Was it standard practice in relation to your running of the tender processes, I'm asking about you not anybody else at this point, that you disclosed competitors' prices to other tenderers for the purposes as you say of obtaining the lowest price?---In this context, yes.

In this context meaning the Wollstonecraft project?---Meaning this sort of contract where it was not self-delivered. It was a managing contract.

10 Right. What was the difference, what was the significance of that difference?---We didn't manage the smaller packages. It was packaged up as a whole.

Right. And why did that mean that you were willing to disclose information about competitors' prices to the competing tenderers?---Because it meant a better pain/gainshare with Transport.

And how did disclosing the competitors' prices to other competitors lead to a better pain/gainshare with Transport?---I would get cheaper prices.

20

Right.

THE COMMISSIONER: Sorry?---I would get cheaper prices.

MS DAVIDSON: So is it your evidence that you were equally trying to drive everybody down?---Yes.

And not simply to advantage Mr Vardanega and Project HQ?---No.

30 Or Mr Vardanega and his association with RJS?---No.

And that was despite the fact that you hadn't disclosed the equivalent information to other tenderers, that is the equivalent budget information that you'd been providing to Mr Vardanega earlier in the piece to anybody else? ---I'm a little bit confused by the question because my evidence says if I was asked I gave.

Well, I don't think it was your evidence earlier, correct me if this is wrong, that you would have given the procurement register or the bill of quantities to other tenderers at the time that you gave them to Mr Vardanega.---I
40 wasn't asked.

Well, but you didn't - there's no indication of well - - -?---I didn't offer up the information.

You didn't offer up the information to them. Did you offer up the information to Mr Vardanega or did he ask you for it?---He asked.

I suggest to you that's it's simply not the case that you would have passed on the detailed procurement register budget information to another tenderer
10 had they asked at the time.---I disagree.

And the reason that you used your Gmail address was because you wished to conceal from others at Downer that that was what you were doing. Do you agree or disagree with that?---Disagree.

And similarly that you wouldn't simply have had a conversation of this nature with all of the other tenderers. You were having the conversation with Mr Vardanega in order to assist RJS to be successful on the project in respect of the packages other than the building which they ultimately were.
20 ---Disagree.

Did other tenderers bring down their prices in such a way as you were able to create some kind of bidding war between them on the packages at Wollstonecraft, do you recall that?---To my recollection those who, who wanted to did and those who couldn't keep driving down their prices didn't.

And that was only RJS, was it?---I can't recall.

All right. Do you remember who kept driving down their prices?---I know
30 the owners of the companies that have been mentioned - - -

Right.--- - - - personally and they, I would count them as my friends as well.

Right. And in relation to those people do you - - -?---I know, I think Technarch dropped his price a bit but he could only do one package, which didn't suit us.

Did you also provide competitors' tender documentation to Mr Vardanega?
---What sort of documentation?
40

Well, a copy of a competitor's tender document that they'd put forward to Downer.---From memory, yes.

And was that Brefni's tender document?---Yes.

Could we have volume 13.2, page 166 brought on the screen. So this is an email you'll see originally down the bottom of the chain from Mr Raymond Lee at Brefni on 31 August sent from your Downer Group email address to your Gmail address, and then from your Gmail address to Mr Vardanega.

10 Do you see that?---Yes.

Do you recall why you sent this document to Mr Vardanega on 31 August? ---Sorry, you mean 2 September?

I'm sorry.---Sorry. Yeah.

On 2 September, I apologise.---I'm not trying to be facetious. I, I recall him asking for, for the price and I didn't object.

20 You didn't object. In fact you sent it to him.---Yes.

And what did you understand his purpose in asking for the price?---To see where he's sitting up in terms of the competitor.

All right, but it wasn't simply the price that you sent on here, was it?---It was the documentation in relation to schedules of rates, staging. It seemed from the attachments it was a tender submission package that had been put forward by Mr Lee.---I think it was, it was a, yeah, direct forward including all those documents.

30

I'm sorry. Yeah, with all the attachments.---It looks like that, yes.

All right. So it wasn't simply the kind of material that was reflected in the conversation that Mr Vardanega had with Mr Cox earlier on 2 September, that is, that was a conversation that occurred, the one that has just been played at approximately 3.42 in the afternoon. This is an email that you've sent to yourself at 5.08 at night.---Yep.

40 Part of that conversation, that is between Mr Vardanega and Mr Cox, reflects discussion about him asking you unofficially about pricing. This is more detailed than that, is it not?---The only addition is the staging, but

there's three documents in there, two pricing documents and a staging document.

All right. And was that for the purposes of assisting Mr Vardanega?---The pricing, yes.

Well, and the staging document?---Not particularly, no. No, it was just coincidental with the forward.

10 All right. It would enable him to know more about what Brefni's proposed methodology was in relation to the staging of the project, presumably?---No more so than other tenderers.

All right. Do you recall in the conversation Mr Vardanega indicates to Mr Cox that you had said to him, at least according to Mr Vardanega, "I don't want to use Brefni"? Do you recall telling Mr Vardanega something like that?---I don't recall that but it, it sounds like something I would say.

20 Right. Well, you say it sounds like something you would say. Do you remember having an attitude towards Brefni's tender?---During the tender negotiations, yes.

Right. And what was that attitude?---That they were commercially aggressive.

Right. And does that mean you were concerned in relation to their pricing? ---I was concerned that their pricing was not the complete story.

30 Did you provide to anybody else, apart from Mr Vardanega, that is, to any other tenderers, copies of any other competing tenderers' documentation? ---Not from memory.

Again, I suggest to you that the purpose for you doing this was to provide an advantage to Mr Vardanega and through him to RJS?---I, I disagree.

What did you think was the reason he was asking for it?---As I said previously, if anyone asked I would have provided it and I think he was, he leaned on the friendship to be the only one to ask.

Well, you say he leant on the friendship to be the only one to ask, he appreciated that that was a favour that you wouldn't ordinarily be doing for a person, didn't he?---I don't know what he was thinking.

Had you done by this point any bribery and corruption training through Downer?---Not that I can recall.

All right. Take it from me that you did do - - -?---I'll take it from you.

10 - - - bribery and corruption training on 3 February 2020 - - -?---Okay.

- - - reflected in the learner transcripts that we've tendered today. Do you recall any content in relation to that training?---No.

Do you recall being conscious in relation to your work at Downer on Transport for NSW projects that public money was being expended?---Yes.

20 And that it was important in the expenditure of public money not to be colluding in tendering. Do you recall being aware of that?---That's hard to say.

Did you have any understanding at the time of what collusive tendering is? ---Not its, not to the degree that I have now, no.

All right. Did you have any understanding, do you recall?---I recall it being a more simplistic view on collusive tendering.

30 Right. And what was the more simplistic view that you had at the time? ---Don't take cash.

Right. And that was the extent of it?---That was the simplistic view.

Right. You agree that in the context of running tender processes or assisting with running tender processes, there were, in fact, more requirements that Downer had of you than that?---I would agree, yes.

40 Right. But you didn't turn your mind to them?---I thought that they occurred after the, there's a (not transcribable) my delegation was \$5,000. It went up the chain.

Right. You appreciated, didn't you, that your recommendations as project manager were critical to anybody's success going forward?---No. I think there was a lot of times when my recommendations were overridden.

Well, in this instance, you agree it was your recommendations that were accepted?---Yes.

So it was certainly important in this instance to secure your recommendations, was it not?---No more so than others.

10

Well, at least as a first step. That's correct, isn't it?---Yes.

I suggest to you that had another tenderer who was not in an equivalently friendly relationship with you as Mr Vardanega was asked you for competitors' tender documentation, you wouldn't have supplied it to them, would you?---I can't speculate as to what I would have done.

Right. 'Cause the outcome you wanted to secure was success for Mr Vardanega and RJS?---No. The outcome was best for project.

20

Had you discussed with Mr Vardanega any proposal to split profits from the Wollstonecraft project?---No.

Had Mr Vardanega raised with you any prospect of splitting profits from the Wollstonecraft project with anyone from RJS?---No.

Had he discussed with you – I withdraw that. Had anybody else from RJS, that is, Mr Cox or Mr Nguyen had a discussion with you about splitting profits from the Wollstonecraft project?---No.

30

Did Mr Vardanega discuss with you becoming a partner with RJS in the Wollstonecraft project?---As to me becoming a partner?

Yes.---No.

With him or with anybody else?---No.

We've mentioned a couple of times the building company Maize. The director of that company is Mr Malik Helweh. When did you meet him?

40

---We were acquaintances before starting a working relationship.

All right. And in which context did you form a working relationship?---I approached him to carry out the building work at Glenbrook Station.

Right. Did you know him before the Glenbrook Station building works?
---We were acquaintances before the - - -

And how did that acquaintanceship arise?---Our wives are friends.

10 Right. Did you socialise together as a result of that?---Less than a couple of times, to my memory.

So the answer is yes, but only a couple of times?---In a formal context, yes.

Right. And when you say “in a formal context” what do you mean?---As in, it was, it was an acquaintance. It was just a drag along, we’re going to go visit a friend.

20 So you’d been to each other’s houses, had you?---I, I can’t recall the context of it.

All right. Did you assist Mr Helweh or did you assist his company Maize by disclosing confidential information in the tender process for Glenbrook?
---Yes.

30 Could we have volume 26.1, page 34 brought up on the screen? Here you’re sending an email using a Mansion Building email address saying, “Hi, Mal. Please see attached as discussed. Apologies. Actual budget is approximately 330 K. I’ve highlighted it in yellow for you.” And there’s a bill of quantities for the Glenbrook building project attached. Is that the confidential information that you disclosed to him that you were referring to in your previous answer?---Yes.

If he was simply an acquaintance, what was the basis on which you were disclosing confidential budget information to him?---I couldn’t find the builder for the job and needed to entice someone to come up the mountains and carry out the work.

40 And you enticed them by providing budget information. Is that correct?
---By telling them the budget and seeing if they can work within it. I had done it a few times and other builders told me, no, they can’t do it for that amount.

Sorry, you had done it a few times, as in you'd given out the budget information a few times beforehand?---As in I'd called builders and said, "I have a job that involves X. It's got a budget of Y."

Right, but again, this is not just disclosing the overall budget, is it?---How so?

10 Well, you're providing the bill of quantities, not just the overall budget saying, "I've got a total of X."---Yeah. I've itemised it for him, yes.

Right. So there's more assistance to him than simply knowing what the total figure is by providing this document, is there not?---You can assert that, yes.

Well, would you agree with the proposition?---Yeah. Yes.

20 You didn't provide this bill of quantities to any other builder in relation to the Glenbrook project, did you?---No other builder wanted to come up to the mountain.

Right. So is it your evidence that you approached other builders saying, "I can give you the budget documentation," but none of them said yes to that? ---It was never, "I can give you the budget documentation." It was, "I've got a job in Glenbrook." "I'm not interested." That was the end of the conversation before we got any further.

30 Right. So in order to try to entice, I think your word was, Mr Helweh, you said, "I'll give you some help," or was that the effect of the conversation, "I'll give you some help. I'll provide you with the bill of quantities"? ---Effectively.

Right, "That will assist you with pricing."---Yes.

Right, and it would mean, presumably, that the price that he came up with was as close to the budget as possible?---Or under.

40 Right. So on the 21st, this, you'll see this email is 16 April 2019, could we have volume 26.1, page 51 brought on the screen. Here in response to your email, albeit about a month later, Mr Helweh is saying, "Hey, bro. Please find attached. Call me if you want to go through it or we can have argileh at

Gebran's. Thanks." Now, he's sending you, well, if we can scroll to the following page, a document that reflects his pricing for you to review. Would you agree that that was a document he was able to put together based on the information that you'd previously provided to him?

---Based on the bill of quantities, yes.

The bill of quantities information that you'd previously provided.---Yes.

10 And that in putting together pricing he was assisted by that, the bill of quantities information you had provided.---Yes.

Going back to the cover email, which is page 51, he's referring to you as, "Hey, bro," is that a means by which you would normally be addressed by your acquaintances?---That's how he talks. I can't speak to his mannerisms.

All right, "Call me if you want to go through it or we can have argileh at Gebran's." He's still sending this to you at your Mansion Building email address. He's not submitting it to you as a quote to Downer, is he?---No.

20 Right. What did you understand him to be asking you to do?---Assistance.

Right. Again, help him put the quote together.---Yes.

Right. Do you recall whether you did go through it with him?---Yes.

You did do that?---Yes.

30 All right. He then subsequently submitted a quote. If I could have volume 10.2, page 254 brought on the screen. And you'll see the following day, 22 May, he's now sending to your Downer email address the BOQ and quote. And that conformed because you had gone through it with him closely the budget that you had available?---Yes.

And he was successful in relation to securing that tender?---Yes.

Do you recall whether there were other tenderers who put forward prices for Glenbrook?---From memory, there was one non-conforming tender and Mal's.

40 Right. 'Cause you wouldn't have been able to proceed with it if there'd only been Mal's price, given the level of the budget was \$330,000, would

you?---Well, I wouldn't be able to proceed until I got the approvals, whether I got one or ten quotes.

All right. But you understood, well, tell me if this is right. Did you understand that above a certain threshold, you had to go out and obtain multiple quotes on it - - -?---Well, we, we tried to and - - -

- - - as part of a tender process?--- - - - I could have shown a justification that there was only price received.

10

I'm sorry? Unless you could show a justification?---Correct.

Right. But did you prepare such a justification in relation to Glenbrook?---If he was the only one that I put forward, I must have or else it wouldn't have been approved.

All right. If we see volume 10.2, page 259? I withdraw that. Do you recall providing assistance to Mr Helweh in relation to potential contract terms?

---Yes.

20

And what was the basis on which you did that?---This was his first job for a large corporation and it was just advice into, into the terms of the contract.

Right. Again, as the Downer project manager, it wasn't part of your role to be advising potential tenderers on contract terms, was it?---In terms of assisting contractors, it's, it's part of my role to develop relationships and make sure we have contractors for future projects. So you don't want to stick them to a wall with arduous contract terms.

30

Right. But nor is it your role in a private capacity to be advising them, is it? ---If the terms were favourable, we wouldn't have any contractors.

Could we see volume 26.1, page 60? So here is an email that you sent to Mr Helweh - I'm sorry. Do you need a moment?---Yeah. Sorry. Excuse me.

Just a moment, Chief Commissioner. Sorry. Did you need to have some water, Mr Gayed?---No. Excuse me. I'm, I'm, I'm ready to go now.

All right.

40

THE COMMISSIONER: You okay to continue?---Yes. Thank you, Commissioner.

MS DAVIDSON: You see this is an email that you've sent - - -?---Yes.

- - - to Mr Helweh in relation to contract terms? And I think your previous evidence was if you didn't assist or if the contract terms weren't favourable, there wouldn't be any contractors. Would you agree in sending this email to Mr Helweh, that you're attempting to assist his interests in the contracting process with Downer, that is, to make the contract terms favourable to him or more favourable to him than they would otherwise be?---I would say it was more levelling the playing field, not making it more favourable one way or the other.

Right. But you're a Downer employee at this point. Correct?---Correct.

So it was no part of your role as a Downer employee to level the playing field with others who are contracting with Downer, was it?---Downer had a reputation for not maintaining relationships with subcontractors because of these terms. So it was part of my role to make sure that it was fair across the board and that we're not exposed and they're not driven into the ground.

And did you discuss with anybody at Downer the fact that you were advising Mr Helweh on how to obtain more favourable contract terms in contracting with Downer?---I don't recall but I don't think so.

What do you think would have been the reaction had you suggested that?---I don't think it's unusual to negotiate these sort of terms and, from memory, it was one specific term in relation to liquidated damages that was negotiated out of every subcontractor.

But it wasn't, surely, usual for a Downer employee to be assisting the other party to the negotiations, was it?---I'm not sure what the question is there, sorry.

THE COMMISSIONER: Let me ask you this, Mr Gayed. If you thought these terms were skewed and unfair, why didn't you go to Downer and tell them that, get them to change the terms you're proposing to engage a contractor like Mr Helweh? Why didn't you do that?---I didn't think about that at the time, Commissioner.

Well, effectively that's what you're arguing, isn't it? That the terms were skewed towards contractors.---Yes.

Sorry, skewed towards Downer.---Downer.

Why didn't you go and tell them?---It didn't come to mind.

But you thought about going to the person you were going to contract with and suggest them to, what they should say to Downer.---Yes.

10

Do you see any lack of logic in what you did?---I see it now, yes.

So why did you do it?---To assist.

Who?---All parties.

I see.---I needed a contractor. They wanted the work. It was assistance across the board.

20 I see. And, what, you providing this assistance was conditional upon the contractor doing the work, is that what you're saying or - - -?---No, I - - -

They wouldn't have done it otherwise.---I'm saying there were struggles in getting a contractor and this was the best way possible I thought at the time.

Thank you.

MS DAVIDSON: You see you're using here a Mansion email address. How was it that you came to be using a Mansion email address in the
30 middle of 2019 when you'd sold the company in 2018?---I'm not too sure.

It does suggest some ongoing involvement with the Mansion building company, does it not?---I would disagree. I think I, it was just access to it that time was still maintained.

Right. But it wasn't your company by this point, according to you or your evidence yesterday. You'd sold it to someone else.---Correct.

40 You didn't have any association with that other person.---No.

And yet you were still accessing an email address associated with the company?---Yes.

That doesn't suggest that you'd divested yourself from the company, does it?---It's what occurred.

Did you understand one of the assets that you'd sold with the company to include its website and email addresses?---Not to my recollection.

10 You thought they remained with you even though you'd sold the company?
---No, I didn't think that. I didn't think too much of it at the time one way or the other.

Presumably you were conscious not to use your Downer email address in corresponding with Mr Helweh about building work at Glenbrook and his negotiation of the contract terms. That seems to be the case, doesn't it?
---Seems like it.

20 All of these emails are from this Mansion Building email address.---Seems, seems that way.

Right. So I suggest to you that you were paying attention to what email address you were using, at least to the extent of concealing it from Downer.
---It seems that way.

30 And some of these contract terms, that is if you look at number 4 onwards, there's in fact a reference to Mansion's scope of work and Mansion's equipment if you see, looking down there, Mansion's program, things that Mansion hasn't allowed for. Are you able to explain why you were giving references to Mansion to Mr Helweh?---No.

Do you know whether this is copied and pasted from some other contract negotiation that you'd had?---Either that or as I was writing it I inadvertently put Mansion instead of Maize.

Right. But you intended it to be Maize?---One way or the other, yes, it wasn't mean to be Mansion.

40 Did you understand that as a Downer employee at this time you were obliged to act in the best interests of Downer?---Yes.

Right. And you seem to have been concerned with getting cheaper prices for Downer, at least that was your evidence in relation to what was occurring at Wollstonecraft.---Yes.

Was that also occurring at Glenbrook?---Yes.

10 And yet at the same time you're advising a subcontractor in relation to how to have a more level playing field with Downer in the subcontract.---This, in retrospect, seems worse than what I thought at the time. I thought it was also in the best interests of Downer in terms of fostering relationships with subcontractors.

It was in the best interests of Downer - - -?---Yes.

- - - for you to assist a subcontractor it was negotiating with?---For us to have a healthy relationship with a subcontractor, yes.

That simply makes no sense.

20 THE COMMISSIONER: What was the last bit. What did you say just a moment - - -?---For us to have a healthy relationship with a subcontractor.

MS DAVIDSON: It makes no sense, Mr Gayed, does it?---At the time it made sense.

30 All right, but it didn't make sense at the time and the reason it didn't make sense at the time was because you were attempting to assist Mr Helweh and not serve the interests of Downer, isn't that right?---I disagree. Everything, everything I did was in the interest of Downer and saving money for the, for the Transport Access Program.

Well, if it had been in the - - -

40 THE COMMISSIONER: Just a moment. Just to go back to a question you were asked before which I don't think you answered, if you went and told Downer all of this, how do you think they would react? Do you think they would be pleased? Give you a promotion, a bonus? How do you think they would react?---I don't think there would have been any adverse reaction, Commissioner.

Well, why didn't you tell them then? Why did you use other emails and not use their email, just to - - -?---Retrospectively it was an incorrect decision.

No. No. Why did you at the time use a third-party email and not use the Downer email if you thought that there wouldn't be a reaction, an adverse reaction by Downer?--I'm, I'm not too sure. I mean, I can sit here and say the email was sent at 7pm so I was doing it off my phone, so that's the only access I had, but this was near on four years ago and I don't want to make up or fabricate stories. So I'm trying to give the best evidence as possible without - - -

A moment ago you just said everything you did was in the best interests of Downer, but you don't seem to have told Downer that. What I'm saying to you, what I'm asking you is how do you think Downer would have reacted?---I don't think they would have - - -

Would they have given you a bonus? Would they have given you a promotion? How do you think they'd react?---I don't think they would have an adverse reaction and it was working up in the mountains.

No. No. That's, do you think they would be pleased?---I think they would be happy that the project - - -

You were aiming to please them, according to your evidence.---The project came in under budget and under time. I think they were pleased at the end with one way or the other how the project got done and completed.

So you remain pleased with all your efforts, do you?---There's certain things I wouldn't, I'd do differently.

Thank you. Yes.

MS DAVIDSON: What are the things that you'd do differently, Mr Gayed?---Quite a number of things that we've gone through in the past couple of days, to avoid sitting here again.

You subsequently made a recommendation in relation to the selection of Maize. Do you recall doing that?---For Glenbrook?

For Glenbrook?---Yes.

See volume 10.2, page 259. You'll see there at about the middle of the page on the comments sheet, there is a reference to Downer having evaluated the tenders received for the station building works at Glenbrook. Do you see where I'm reading from, about one-third of the way down the page?---Yes.

10 "After consideration of the tenders received Downer nominates to award the works to Maize Group Pty Ltd. Johnstone Construction provided a lower price, however their pricing submission was not comprehensive and were reluctant to provide any information unless confirmation was given they were awarded the works. This was deemed to be an unacceptable high risk." Do you remember putting forward that as the justification for Maize Group being successful?---I, I don't recall but it seems to be a shared sentiment with whoever prepared that document.

All right. Well, if we come down to the bottom, we'll see the project administrator is Mr Harman but the project manager in relation to this, putting forward the recommendation, was you.---Yes.

20 And then there were subsequent approvals given, in fact it all seems to have happened on the same day, by Mr Patel and Mr Bedwani. Did you ever discuss with Mr Patel or Mr Bedwani your previous acquaintanceship with Mr Helweh?---I don't recall.

Did you tell them that your wives knew each other?---No.

Why was that?---If I told everyone who my wife knew, I, I would never get any work done.

30 All right. In relation to your association with Mr Helweh, that is your previous relationship with him - - -?---It, it didn't occur to me to, to bring it up.

Right. Didn't occur to you that it might reflect a conflict of interest?---Not at that time, no.

Because in fact you were more than acquaintances with Mr Helweh, weren't you?---Not at that stage.

40 You became friends with Mr Helweh?---Yes.

And was that in the course of the Glenbrook project, was it?---Yes.

Were there variations, do you recall, in the Glenbrook project?---I recall one.

Can we have volume 10.3, page 25 brought onto the screen. If we could scroll down, this is the top of an email chain. Sorry, that email at page 28 reflects some responses from you in red. Do you see those?---Yes.

10 And that in turn is in response to questions that are raised following an email that's on page 29, the following page, where you're saying to Mr Hammond that there was - well, firstly, there's a question from Mr Hammond at the bottom of the chain in relation to the lift exhaust system and whether you needed to pay the vary or whether Downer needed to pay the variation from Maize for the lift fan.---Yes.

Is this a variation that you recall?---Yes.

20 And you indicate that "the lift exhaust fan was a provisional sum so, yes, we have to accept the price increase". The door was done per the contract and there's a reference to the door leaf item. If we could then go back up to page 28. Mr Hammond says he can't see any provisional sums. "Why is this a provisional sum?" And then you say effectively "It's not a provisional sum so much as it is a different item that we asked them to price up." Did you - well, those are the responses that you provided. If we could then scroll up to page 27. Mr Hammond goes back to you, well, raises a further question with you in relation to the drawings. And then on page 26, you indicate to him it's not the same thing. You say, "We received three quotes for the lift ventilation and Maize were the cheapest," and Mr Hammond says, "I don't have enough information to accept this claim as a
30 variation. We have a subcontractor agreement with the price and we have drawings which clearly show fans. How would you like to process this claim?" And then you say to Mr Hammond, "Sent it to Amit for review. I'm not about to beat a contractor into a loss after all the assistance they've given us." If we then go to page 25, Mr Hammond suggests that you direct the, discuss the variation with Amit, who says to you, "Under the MCC it's down as obligation to assess the variation. If the subcontractor believes it's a variation, they need to provide information and supporting documents for our assessment as required." Had you obtained the approvals that were needed in relation to this variation prior to telling Mr Helweh to go ahead?
40 ---When did I tell him to go ahead, sorry?

Well, do you recall giving instructions to Mr Helweh to go ahead with the lift variation?---I recall giving him the go-ahead. I just can't remember whether it was before this email chain or after.

Right. Do you recall whether you had any approval in relation to doing that?---I recall trying to seek to get the approval.

Trying to seek to get the approval? That is you recall this email chain?
---This email chain, yes.

10

Right. But the work had been done by this point?---Oh, I can't remember. It may have been.

Right. Did you discuss with Mr Helweh any inflation of the price in relation to this variation, to ensure that he would make more profit out of it?---No.

In relation to the building package at Wollstonecraft, did you provide information, that is budget information, to Mr Helweh of the kind that you provided to Mr Vardanega?---Yes.

20

And was that similarly for the purposes of enabling him to put forward a price that you believed would be successful for the work?---It was for the purposes of, of getting a price under budget.

Was it equally for the purposes of ensuring Mr Helweh's success as a person that you had by then developed a friendship with?---It, it was a relationship of work and friendship, so he had proven himself at Glenbrook, done a good job at Glenbrook and we wanted to keep using contractors that we could rely on.

30

Right. But you also wanted to keep using contractors that, in this case, you'd developed a friendship with?---And contractors that we could trust to get the work done.

And you could trust him because he was a friend. Is that right?---Because his contracting company was capable.

And it was for that reason that you told, that is, your desire to see Mr Helweh succeed, that you told RJS not to bother in relation to the building package or Mr Vardanega not to bother, was it not?---No. I've already

40

given evidence as to why I didn't want RJS to keep pursuing the building package.

THE COMMISSIONER: Sorry? You need to speak up.---Sorry, Commissioner. I said I've already given evidence as to why I told RJS to stop pursuing the building package.

MS DAVIDSON: Did you give anybody else who pursued the building or any other tenderers for the building package, the equivalent information that
10 you gave to Mr Helweh?---I can't recall.

But you don't recall doing so?---I don't recall whether or not UBW submitted a price.

All right. To the extent that they did submit a price, do you recall any discussion with them about budgeting information?---Not to, no, not to my recollection, no.

Right. So that's consistent with the answer that you gave earlier, which is it
20 was only Mr Vardanega and Mr Helweh that you gave this budgeting information to?---Yes.

Right. Do you recall concerns being raised in relation to a recommendation made in relation to Maize?---No.

Can we have volume 10.3, page 162 brought up? This is the top of the email chain. And we see on page 163 weightings that have been given, I think it's cut off on the right-hand side there, but in any case, you can see Maize, RJS and Ultra Building Works, and then in the middle of the
30 package, sorry, in the middle of the page, you see responses in red in relation to Maize's capability statement, plant and equipment insurance and their methodology not being provided in detail. And you indicate in red, "In relation to the methodology issue, they're not providing a detailed methodology until we provide some sort of commitment that they will be awarded. Their submitted methodology is sufficient for a tender," to which the response is, "This is very important to have it. They need to provide detailed methodology to convince us that they're suitable for the project." If we can scroll up to page 162? You'll see that this reflects Mr Patel's comments and your response, and then Mr Patel again sends comments in
40 blue. Do you recall following Mr Patel's comments in blue further

advocating for Maize to be successful in relation to their tender?---I remember responding, yes.

Right. And was that again with a view to achieving success for Maize as preferred tenderer on the building package at Wollstonecraft?---By that stage I think they were already preferred.

10 Did you regard it as your job by that point to advocate for them?---No, it was still to be critical and if, if he hadn't received those documents, they wouldn't be.

Do you regard your comment in relation to their methodology as being critical of them?---It was a tender. You can't ask a tenderer to provide detailed documentation.

It seems that Mr Patel thought it was very important to have it from that comment that he made in blue.---After discussions with him he didn't after.

20 Right. You recall having a discussion with him subsequent to this, do you? ---In these emails where I've described where you don't need to.

Right. And he accepted that from you, did he, subsequently?---Well, he said it's important and that's where it was left, from memory.

All right. They were successful notwithstanding not having provided that. ---They had provided it on award.

Right, but at the time that - - -?---At the time of tender.

30 - - - they were being selected, they hadn't provided it.---They had provided a brief outline, from memory.

All right. Did you also provide Mr Helweh with assistance, that is, in the form of information, budget information concerning Hazelbrook?---Yes.

Was that a project that you worked on earlier than the Wollstonecraft project?---No.

40 It was in 2019, I believe.---It was part of the tranche 3 project. I wasn't involved in it. There was another project manager on that project.

Okay, but to the extent that you provided information, was that information you were able to access in your capacity working for Downer on that tranche of projects?---Yes.

Right. So volume 26.1, page 115 could be brought up. I withdraw that. Page 195. This is a price schedule that Mr Helweh is sending to you in February 2019. Could we scroll to the following page. It's headed Hazelbrook. You see that on the previous email. This appears to be a Downer pricing schedule for the Hazelbrook building works. You see there's a Downer column with amounts included there. Do you see that?---
10 Yes.

Right. Is this the means by which you provided assistance to Mr Helweh in preparing to put a tender in for the Hazelbrook building works?---I'm not too sure but I do recall providing information.

All right. This was February 2019. This is prior to the Hazelbrook project. ---Wollstonecraft.

20 No, prior to Hazelbrook - I'm sorry, prior to Glenbrook, I apologise.---No, this, this was at the same time.

All right. So I think the Glenbrook emails that we've been looking at that you sent to Mr Helweh were in April 2019.---I think that package was, the building package was after, but both projects ran at the same time.

I see. Right. So what was your reason for providing Mr Helweh with this assistance in relation to the Hazelbrook as opposed to Glenbrook building project?---Again, showing him what the budgets were and seeing if he can come under. I don't think he was successful on getting that contract.
30

No, he wasn't successful. That's correct. Did you similarly sit down with him and review what he'd sent to you?---I can't recall but it wouldn't be unusual.

All right. Could we have volume 26.1, page 197 brought onto the screen. You say to him there, "Looks good. I'll show you what I'll send around midday. Add these to your exclusions list." Would you agree that that seems to reflect a similar sort of review to the kind that you performed in relation to the Glenbrook documentation that Mr Helweh ultimately submitted?---Yes.
40

That is you went through it in quite some detail.---I assisted him in, yes, not, not getting stuck in these items.

Not getting stuck in - - -?---In, in these inclusions, exclusions.

Right. Again, so assisting his interests in preferring those to Downer.
---It seems that way, yes.

10 I think you'd indicated at the time of Glenbrook you were just acquaintances with Mr Helweh. This is the month, well, month or two previous to the Glenbrook assistance you're providing. Are you similarly - well, was your relationship similarly one of acquaintanceship at this point?
---I believe so, yes.

Right. The fact that Mr Helweh was ultimately unsuccessful does tend to suggest that there were builders who were willing to work at these stations in the mountains, does it not?---No. Who, who was it awarded to in Hazelbrook?

20

I can't tell you standing here but I - - -?---I can tell you that it was self-performed and it went terribly. That's matter of fact.

Self-performed by Downer?---By Downer engaging local subcontractors, yes.

Right. In any event, in assisting Mr Helweh again I suggest to you your desire was to further his interests as indicated by the level of assistance that you gave him over those of Downer.---I disagree. It was just an education
30 into the contracts that we engage contractors in.

An education into the contracts?---Yeah.

Educating him in the contracts so that he could more favourably for his purposes negotiate with Downer?---So that it can be more even keeled.

Right. Which is the same kind of evidence you gave in relation to the Glenbrook contract negotiations, is that right?---Yes.

40 And the same reasons and your thinking was the same?---Yes.

Just a moment, Chief Commissioner. Chief Commissioner, I'm instructed some material has recently come to light which I haven't had the opportunity to look at. Might we take a very short adjournment for me to look at that so that we can put that to the witness and finish with the witness today?

THE COMMISSIONER: Yes, all right. Let me know when you're ready.

10 **SHORT ADJOURNMENT**

[3.57pm]

THE COMMISSIONER: Yes. Are we going to resume?

MS DAVIDSON: I'm grateful for the time, Chief Commissioner. Having considered the additional material that was made available for consideration, I don't consider there's any questions arising from that material for this witness. I only have two brief questions therefore to put - -

20

THE COMMISSIONER: All right. Well, Mr Gayed, you're still subject to the same oath you took at the commencement of your evidence to say the truth.---Yes, Chief Commissioner.

Thank you. Yes.

MS DAVIDSON: Mr Gayed, to the extent that you've given evidence this afternoon that your motivation in relation to the Wollstonecraft tendering process was securing the best interests of Downer, I suggest to you that that evidence is untrue.---I disagree.

30

And to the extent that you've suggested that your motivation in the Glenbrook building tendering process in relation to which Mr Helweh was successful was advancing the best interests of Downer, I suggest to you that that evidence was also untrue.---Disagree.

No further questions for this witness.

THE COMMISSIONER: Yes. No requests have been made for anyone to ask any questions, anyone else to ask any questions of this witness?

40

MS DAVIDSON: No. I understand not.

THE COMMISSIONER: Right. Well, in those circumstances, Mr Gayed, you can stand down. In the event that you're required to come back here, your solicitor will be notified and an appropriate arrangement will be made for you to come on another day. So you're not discharged at the moment. You're simply being stood down. Do you understand?---Yes, Commissioner.

10 All right. Thank you.---Thank you.

Yes. Thank you. The Commission will adjourn.

THE WITNESS STOOD DOWN

[4.30pm]

AT 4.31PM THE MATTER WAS ADJOURNED ACCORDINGLY

[4.31pm]

20