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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 19 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.

MR ENGLISH: We're due to take Mr Bedwani's evidence today, Chief Commissioner, and he is, I think it might be accurate to say, waiting in the virtual waiting room. Here he is. You can see him on the screen. Can you hear me, Mr Bedwani, and see me?

MR BEDWANI: Yes, I can.

10 MR ENGLISH: Can you see the Chief Commissioner?

MR BEDWANI: Yes, I can see the Chief Commissioner.

THE COMMISSIONER: Thank you.

MR ENGLISH: All right, thank you.

THE COMMISSIONER: Just give me one moment. Yes, all right. This is  
(not transcribable) Mr Bedwani. Bailey, is it?

20

MR BAILEY: Commissioner, yes. Mr Bailey, solicitor. I appear for Mr Bedwani.

THE COMMISSIONER: Yes, all right. Thank you. I think authorisation has been granted. Mr Bailey, have you explained the provisions of section 38 to the witness?

MR BAILEY: I have, Mr Commissioner, and the witness seeks a section 38 declaration.

30

THE COMMISSIONER: All right, thank you. I will authorise the evidence of Andrew Bedwani to given by way of Webex. Mr Bedwani, can you see and hear me?

MR BEDWANI: Yes, Chief Commissioner, I can.

THE COMMISSIONER: Yes, all right. Now, as a witness you must answer all questions truthfully, produce any item described in your summons or required by me to be produced. You may object to answering a question or producing an item and the effect of any objection is that  
40 although you must still answer the question or produce the item, your

answer or the item produced cannot be used against you in any civil proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings. The first exception is that this protection does not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, including an offence of giving false or misleading evidence, for which the penalty of imprisonment of up to five years may apply. 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

10 Commission makes a finding that the public official has engaged in or attempted to engage in corrupt conduct. Now, Mr Bailey tells me that he has spoken with you and advised you of the capacity for me to make a declaration that all answers given by you and all items produced by you will be regarded as having been given or produced on objection, which will mean that you don't have to object with respect to each answer or the production of each item. He's also informed me that you wish me to make such a declaration. Do you understand what I've just said?

20 MR BEDWANI: Yes, Chief Commissioner.

THE COMMISSIONER: And do you wish me to make this declaration?

MR BEDWANI: Yes, Chief Commissioner.

THE COMMISSIONER: Thank you. 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 be regarded as having been given or produced on objection. There's no need to

30 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 WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY BE**

40 **REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION. THERE'S NO NEED TO MAKE OBJECTION IN**

**RESPECT OF ANY PARTICULAR ANSWER GIVEN OR  
DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Now, Mr Bedwani, do you wish to take an oath or an affirmation?

MR BEDWANI: I'll take an oath, please.

10 THE COMMISSIONER: Thank you. If the witness can be sworn.

THE COMMISSIONER: Yes, Mr English.

MR ENGLISH: Thank you, Chief Commissioner. Mr Bedwani, just if you can state your full name and age for the record, please.---Andrew Bedwani. I'm 45 years old.

10 Okay. Is there anyone with you in the room in which you're sitting?---No.

Okay. You provided a statement to the Commission yesterday on 18 April 2023 which included an annexure A and an annexure B. Is that right?  
---That's correct.

If that can be brought on the screen, and MFI'd, the first page, please. Chief Commissioner, would you like a copy of that?

20 THE COMMISSIONER: Yes. That will be MFI 18.

**#MFI-018 – STATEMENT OF ANDREW BEDWANI DATED 18  
APRIL 2023**

MR ENGLISH: I don't want to go to too much detail with you, Mr Bedwani, in relation to this statement, but it usefully details your qualifications and experience on pages 1 and 2. At paragraph 3 it says that you hold a Bachelor of Civil Engineering from Western Sydney University  
30 and you obtained that in 2000. That's correct, isn't it?---That is correct, yes.

You've also got a Diploma in Project Management?---That is correct.

And you worked since obtaining your degree at various firms. Was that all in a role as a civil engineer?---Correct.

Also were you performing project management tasks at the same time?  
---Yes, I was.

40 Okay. And then you commenced your employment with Downer Infrastructure in October 2014.---That's correct.

Is that the same as Downer EDI Works Pty Ltd?---It is. It's part of the Downer Group.

Okay. And you say you're currently employed as program manager working as program director for the South West Metro, which is a role you've held since October 2021. That's correct?---Correct.

10 You say, "Prior to this role I was employed as a program manager" - if we can go over the page - "at Downer Infrastructure. My roles and responsibilities as the program manager during the delivery phase of a project involved management, oversight and governance of these matters at A to F." Do you see that?---Yes.

And that includes contract administration, compliance with Downer's, or Downer Infrastructure's internal requirements and Transport for NSW's requirements, the project budget, the project schedule, resources allocated to the project and stakeholder relationships such as Transport for NSW, Sydney Trains, local government and local communities. Is that right?  
20 ---That is correct, yes.

All right. And just down on paragraph 6, I won't go into too much detail here, but you say, is it right, you've been involved in the TAP program on the Downer side since 2014. Is that right?---That's correct, yes.

And that was in a contract role you first obtained that position, was it?  
---That's correct, yes.

30 And then if we go to the next page, you say in around mid-2016 you were offered a full-time role with Downer Infrastructure, is that right?---That's right.

Okay. All right, if that can be taken off the screen, please. Who do you currently report to, Mr Bedwani?---I report to Mr Kevin Brady.

What's his role?---He's the operations manager.

40 Is that for the whole of Downer EDI Works?---(not transcribable) no, for NSW Infrastructure Projects Division.

Okay. Is the Commission to understand that you've got authority to speak on behalf of Downer EDI Works today?---Not on behalf of them.

Okay. What's your employment status at present?---I'm apparently employed by Downer.

Are you fulfilling daily duties for Downer?---Not at the moment.

10 Okay. Is that pending the outcome of this investigation?---It is, yes, I believe so.

Did Kevin Watters report to you?---Yes, he did.

And was that when he was in the role of construction manager?---Yes, that's correct.

Kevin Watters has been let go by Downer, is that right?---That's correct.

20 Were you involved in that decision?---No, I was not.

All right. Was that Mr Brady, was it, and people above you?---I'm not sure who made that decision, sorry. I think it was above Kevin Brady's level.

Okay. Downer has provided some information to the Commission and documents which includes what's described as your learner transcript, which I understand is a record of all the education and training you've participated in in your time at Downer. If tab 21 of that bundle that was produced by Downer could be placed on the screen, and I'll tender a copy of Mr Bedwani's learner transcript, Chief Commissioner, and hand that up in  
30 hard copy form now.

THE COMMISSIONER: That will be Exhibit 185.

**#EXH-185 – EXH-185 – ANDREW BEDWANI LEARNER  
TRANSCRIPT**

40 MR ENGLISH: Thank you. If we go to page 2 of the document. Is this, sorry, Chief Commissioner - sorry, the version that I was looking at, Mr Bedwani, is different to the version that's on the screen. So if we can go

back to page 1 of this version, please, you'll see there - and unfortunately this version has omitted item numbers down the left-hand side so it's quite hard to follow, but you'll see six lines down under Course Name it says that you completed the anti-bribery and corruption course online and it was last completed on 4/12/2019. Do you see that?---Yes, I do.

Does that accord with your understanding?---Yes, that's correct.

10 All right. So it's 2023 now. Is it the case that that's not a course that's delivered more than once or twice or any number of years. Is it only, to your understanding, completed once by employees at Downer?---No, I believe there's a re-certification every couple of years.

Okay. Have you gone through that recertification in relation to this course? ---No. I believe I was due to do it but I don't have access to my Downer Learning at the moment.

20 So was the last time that you saw the materials relating to the anti-bribery and corruption course back in December of 2019?---That's correct, yes.

And in those circumstances, and I'm not being critical, do you remember much about that training?---I remember the general gist of it, yes.

What do you recall being the general gist of that training?---How employees are supposed to behave, what corrupt conduct is, what anti-bribery means, disclosure of certain relationships, perceived conflicts of interest to actual conflicts of interest.

30 So you can remember the broad topic areas that were covered in that course, can you?---Yes.

And tell me, was there any other training in relation to those topics other than that online course that you received at Downer?---Sorry, could you repeat the question?

In relation to bribery and corruption, other than the online course that you completed in December of 2019 did you receive any other training, face-to-face training or anything like that?---Not face-to-face, no.

40 Were there any other refreshers on those topics that you can recall?---I think there may be a small section in Downers code of conduct training.

Just bear with me one moment again. Okay. Also on page 1 there, this time I'm helpfully instructed that its alphabetical, or at least the course names are. You can see Financial Delegations. Do you see that?---Sorry, I'll just scroll down. Yes, I can see that.

So you received, in relation to financial delegations, some training there on the 13/9/2021 and that's under the last completed date. Do you recall receiving earlier training in relation to that course or completing that  
10 course?---Yes. There's the line immediately below that, an online course in 2018.

Yeah, that's for Transport and Infrastructure. So are they separate topics that were addressed in those two courses, as you understand it, or is the Financial Delegations course a newer version of the course that appears beneath it?---It would have been a newer version and a refresher to the previous course.

Oh, I see. All right. Thank you. All right. Chief Commissioner, I'm  
20 instructed there's just an issue with the public live stream. We just might need a minute to resolve that, or a short break.

THE COMMISSIONER: Yes, all right. Mr Bedwani, we'll just take a short break while we sort out this technical issue.---Okay. Thank you, Chief Commissioner.

Just hold on.

30 **SHORT ADJOURNMENT**

**[10.34am]**

THE COMMISSIONER: Yes. Are we ready to resume?

MR ENGLISH: I believe so. If Mr Bedwani can be--

THE COMMISSIONER: Mr Bedwani, can you see and hear me?---Yes, I've got you, thanks, Chief Commissioner.

40 All right. Thank you. You're subject to the same oath that you took earlier to say the truth. Do you understand?---Understood, yes.

Thank you. Yes.

MR ENGLISH: Mr Bedwani, in relation to TAP projects, is this correct, that a project engineer would report to a project manager?---That is correct, yes.

And the project manager would report to you?---It depends on which tranche you're referring to.

10

Okay.---Initially, yes. Subsequent tranches where I had a construction manager, they would report to the construction manager and then to me.

Okay. Did Abdal Aziz report to you during the TAP, TAP project?---No.

Who did he report to?---He reported to Mr Greg Barnes.

What about Vlad Stanculescu? Did he report to you?---Again, initially he reported to Mr Greg Barnes and then when I became the project director he reported to me.

20

And what about Andrew Gayed, did he report to you?---He initially reported to Chad Bevan, then Kevin Brady and then myself.

And in relation to Mr Gayed, do you recall from which year he started reporting to you?---I believe it was early 2019.

And what about Mr Stanculescu, when did he start reporting to you, in which year, do you remember?---Around the same time.

30

Okay. Now, in relation to Abdal Aziz who was reporting to Greg Barnes, this Commission has heard evidence that he joined Downer on the basis of a falsified CV and a fake reference that was provided by Nima Abdi. Are you aware of that?---I'm only aware through what I've heard in this Commission.

Okay. You're aware he was involved in rigging procurement processes for the benefit of RJS Infrastructure Group within Downer?---Yes, again, through what I've seen and heard.

40

All right. Have you seen the evidence of how he actively deceived his fellow co-workers for the benefit of RJS Infrastructure Group?---Yes, I have.

Are you aware that he was able to defraud Downer through Chandler Macleod for almost \$50,000 that was paid to a Transport employee named [REDACTED] and to Nima Abdi's wife?---Yes, again, through the evidence given.

10 Are you aware that he was further about to defraud Downer by making payments to a company associated with Nima Abdi called JTG Services Pty Ltd and that was in the order of \$228,000? Are you aware of that?---Yes, again, through the same methods, yes.

I'm not sure if I mentioned, the Chandler Macleod payments were in the order of around \$50,000. Were you aware of that?---Yes, you mentioned that.

20 And those payments, that is the Chandler Macleod and the payments to JTG, were paid by Downer in circumstances where no work was ever performed. Are you aware of that?---Yes.

Are you aware that Mr Aziz, while he was in Downer's employ, worked for his own company Tresca Pty Ltd, without making any conflict of interest declaration or seeking any secondary work approval?---Aware through the evidence given in this Commission.

30 All right. And are you aware that Abdi Aziz was sending materials belonging to Downer, that is, in an IP sense, to his personal email address while he worked at Downer?---Again, only through this Commission.

Okay. How did all of that go undetected at Downer? Have you got any answer for that?---I can't comment on that, sorry. I, I don't know. There was obviously a well-conceived deception.

A well-conceived deception on Mr Aziz's behalf, is that your evidence? ---That is my evidence, yes.

40 Well, it's a fact, isn't it, that Mr Aziz, despite practicing that well-deceived [sic] deception was actually promoted to NIF project director or senior project manager at Downer, is that right?---That's correct.

To your knowledge, has Downer done anything to recover the moneys that Mr Aziz was able to defraud from the organisation?---I'm unaware, sorry.

So turning to Mr Gayed, who was reporting to you from early 2019, are you aware that he had a link to a company called Avco Construction, Consulting and Management Services Pty Ltd?---Only through the evidence given in this Commission.

10 And are you aware that through that company he charged Downer \$12,000 for the hire of lighting towers which Avco hired for as little as \$4,600?  
---Again, through the evidence given in this Commission.

You're aware there's a paper trail in relation to that at Downer, is that something you never saw at the time?---I saw the invoice.

From Avco, did you?---From Avco, yes.

20 And are you aware that Mr Gayed, again using Avco, provided storage services for Downer materials, which services – I withdraw that – which materials were stored at his residential property in Rossmore? Are you aware of that?---I was aware that we received an invoice from Avco. I wasn't aware that it was his residential property.

And are you aware that those invoices for the storage services supplied by Avco totalled \$27,900?---Yes.

30 And were you aware at the time that invoice was received or have you only learnt this through this inquiry?---I was aware at the time it was received and I, I questioned it.

Are you aware that Mr Gayed said, when he gave evidence before the Commission, that in charging these moneys to Downer he thought he was acting in Downer's best interests?---I have heard that evidence, yes.

40 What view do you take about whether Mr Gayed may have been acting in Downer's best interests in those respects by issuing invoices through Avco to Downer that I have just taken you to?---It doesn't appear that he was acting in Downer's best interest.

If we can go, please, to volume 10.2, page 203. Okay. This is the earliest part of a chain of emails. If that can be increased in size, please. Down the bottom you can see on 30 May there's an email from Mr Patel. Was he the commercial manager at Downer?---That's correct, yes.

And he's emailing Mr Gayed saying, "See below comments from Transport for NSW for rejecting Avco cost. Can you please provide justification?" Do you see that?---Yes, I can see that.

10 And he goes on to say in red, "Invoice outside" - you can't read the rest. Something "provide evidence," "main scope." Do you see that? I take it that's the Transport for NSW comment.---I would assume so.

Or at least part of it. And then you can see above that Mr Gayed says, "This invoice is for storage of materials from Glenbrook since November 2019 when we started demobilisation. The items stored here will be taken to the next tranche of works." Do you see that?---Yes, I can see that.

20 And then you can see there's another email, it's on the next page. I'll just tell you, and we'll leave the page there, it's from 31 May, so the next day, where Mr Patel says, "Hi Andrew. Thanks" and then he says, "We have spent 28 K in storage of material, which seems very excessive. To provide further justification to Transport for NSW, can you please provide list of items that we have stored? Are we expecting any more cost in this regard, to date from Avco as per below?" And then there's those amounts itemised. Do you see that?---I can see that, yes.

30 If we go up the page - I'm sorry. If we scroll up the page to the previous page and if we can blow that up a little bit more so we can see it. Thank you. You can see there then Mr Gayed responds on 1 June saying, "Hi Amit. Further to yesterday's email we are storing the following materials at Avco's yard." Do you see that?---Yes.

40 And then it's passed on on 9 June to you and you say to Mr Patel on 10 June, "Amit, this is not acceptable. We need to have a serious discussion with Andrew." Now, I want to ask you, what part of this wasn't acceptable in your view back at 10 June 2020?---The fact that we were incurring significant costs without having approval and without following the due procurement processes.

And what were the procurement processes that weren't followed in relation to these invoices?---So the Downer internal process would be that if we were intending on storing materials we would need to seek three quotes and we would need to demonstrate value for money and then we would need to seek TfNSW's approval if we were going claim it as a reimbursable cost.

And did none of that happen on this occasion?---Not to my knowledge.

10 And were the invoices ultimately passed on and paid by Transport for NSW, do you know?---To my knowledge I believe they were rejected.

You have said, "We need to have a serious discussion with Andrew." Do you see that?---Yes.

Did you and Mr Patel have a serious discussion with Andrew about these invoices?---I think Mr Patel may have had a discussion with Andrew in the first instance.

20 And what gives you that understanding?---Generally that's how we would approach things. Amit would have a discussion with the guys in the first instance. If it wasn't resolved, it would be escalated to me.

Well, do you actually know whether Amit had a discussion with Andrew Gayed about this issue?---I couldn't say either way.

So did you have a discussion with Andrew Gayed about this issue?---No, I did not.

30 Well, how was Mr Gayed to know in those circumstances whether what he was doing was wrong insofar as concerned Downer?---I believe there was further correspondence to that effect.

But you never had a discussion with Mr Gayed about this, is that right?  
---Not that I can recall.

But you certainly knew as at 10 June 2020 that Andrew Gayed had been presenting invoices to Downer on behalf of Avco in connection with these storage charges?---No. There's an invoice received from Avco.

That's right. And it was received through Mr Gayed, correct?---I'm not sure who it was received through, sorry. The request for payments came through Mr Gayed.

THE COMMISSIONER: Sorry, what information did you obtain subsequent to any discussion Mr Patel had with Mr Gayed?---Sorry, Chief Commissioner, I didn't, I didn't catch that?

10 What information, if any, did you obtain from Mr Patel after the discussion that you say he had with Mr Gayed about these invoices?---I, I don't recall, sorry, Chief Commissioner.

Did you obtain any information?---I, I believe I asked Amit if he had received justification from Andrew for these invoices and where we'd got to with it.

Sorry?---And where we'd got to with it.

20 And what was the outcome of that?---From what I recall, he was still having discussions with Andrew at the time.

So it didn't come to a conclusion. Is that what you're saying?---Not that I'm aware of.

And you didn't follow it up?---I didn't, no.

Thank you.

30 MR ENGLISH: Well, I wonder, this may prompt your memory a little. If we go to page 204. So your email was at 11.01 to Mr Patel and then you can see Mr Patel sends an email to Mr Gayed copying in you, "Hi, Andrew. It appears that we will not get paid by Transport for NSW and the cost will hit our bottom line. The queries that need to be addressed is have we taken approval form" - should probably read "from" - "Transport for NSW or Downer's management prior to hire Avco. I will arrange for the meeting between us tomorrow morning." Do you recall having a meeting with Mr Gayed and Mr Patel to resolve these issues?---No, I do not.

40 Do you recall whether these invoices in the order of \$28,000 became a hit to Downer's bottom line?---I don't recall, sorry. I don't know if they ever got

paid or not. I'm assuming they got paid but I, I couldn't say certainly one way or another.

If that were to be a cost that was to be borne by Downer, is that something that you would have had to escalate or have approved by your superiors or could you have approved that?---I could have approved it.

Okay. Did you approve that?---I don't remember ever approving that invoice.

10

Okay. Okay. Just changing topics now.

THE COMMISSIONER: Just a moment. Yes, all right, thank you, yes.

MR ENGLISH: Just going to have - just bear with me. I'll have to come back to this issue in a little bit, Mr Bedwani, but are you aware that earlier in time between May and June 2019 Mr Gayed, through a different company named Mansion Building Pty Ltd, was performing works on a contractual basis for Sydney Trains?---Only through what I've heard in the Commission.

20

Okay. And you've learnt through this investigation, have you, that Mansion Building invoiced Sydney Trains a combined amount in the order of \$64,000?---That's correct.

Okay. And were you ever aware that Mr Gayed had a link with that company, Mansion Building Pty Ltd?---No.

Okay. You probably weren't aware, then, that Mansion Building's contractor licence had been suspended on account of failing to comply with an order from NCAT to compensate a home owner under the Home Building Act.---No, I was not aware of that.

30

Are you aware that on the completion of those jobs Mr Gayed made a cash payment in the order of five to \$10,000 to Benjamin Vardanega who was then working for Sydney Trains?---No, I'm not aware of that.

40

All right. Did you hear Mr Gayed's evidence in this Commission that he did not believe that that arrangement with Sydney Trains and Mr Vardanega amounted to a conflict of interest vis-à-vis his Downer responsibilities?  
---Yes, I did hear that.

All right. Do you have a view whether or not Mr Gayed's conduct in that regard involving Mansion Building and Mr Vardanega amounted to a conflict of interest vis-à-vis his Downer responsibilities?---In my opinion it's a clear conflict.

10 All right. Are you aware in relation to the Glenbrook work that Downer was carrying out that Mr Gayed employed undergraduate engineers through Mr Vardanega's company ProjectHQ to work on the Glenbrook possession project?---I understand that there was undergraduate and graduate engineers employed at Glenbrook, yes.

All right. And did Mr Gayed speak to you about hiring some undergraduate engineers through Mr Vardanega's company ProjectHQ because it was too convoluted to hire them through the Downer HR processes?---I don't recall that conversation.

20 Okay. You don't recall giving him approval to do that?---I recall we had conversations in relation to replacing Ben on the project and Andrew expressing his frustration in how long it would take to go through the Downer system, and I also recall him requesting Ben provide assistance during possessions.

All right. Well, if he needed an engineer then it's likely he would have raised it with you, the possibility of hiring those engineers through Ben Vardanega's company, correct?---It's likely, yes.

30 All right. So were you aware then as at the time of the Glenbrook possession that Ben Vardanega was linked to that company ProjectHQ? ---I was aware that Ben Vardanega had started his own consulting company. I couldn't say for certain whether I knew that was ProjectHQ or the name of that consultancy.

Well, you were aware Ben Vardanega himself did some work on the Glenbrook possession, didn't he, some supervision work?---Yes, he did, that's correct, yes.

40 And he invoiced through that company ProjectHQ. Did you see any of those invoices?---No, I did not.

And the undergraduates that were engaged through ProjectHQ, also their time was invoiced to Downer pursuant to invoices from ProjectHQ. Do you recall seeing those?---I don't recall seeing them, no.

All right. Is it ordinary in circumstances where Mr Gayed said that he needed engineers for this job to recruit undergraduates?---It's not uncommon. Undergraduates are often utilised because they're effective. They're keen to learn and they're a cheaper resource.

10 Okay. Cheaper resource for whom, for Downer or does that cheaper resource get passed on to Transport for NSW?---No, for Downer.

Okay. So was any disclosure made to Transport for NSW that undergraduates as opposed to graduate engineers are hired on a particular job?---Transport for NSW is provided with updated organisational charts as required.

Okay. And do they identify whether the people there hold a particular qualification?---No, that's Downer's responsibility.

20

When you say that's Downer's responsibility, what do you mean by that? ---It's up to Downer to ensure that we employ suitably qualified resources.

All right.---Can I just also add that that was only supposed to be a short-term temporary solution until a permanent employee was found to supplement the team at Glenbrook.

All right. Are you aware that this company Avco Construction, Consulting and Management Services became a tenderer with Downer for the

30 Wollstonecraft building package?---Yes.

All right. How did you become - - -?---They were added to the proposal list.

All right. Can we bring up volume 10.2, page 212, please. All right, so this is a letter from 11 September 2020 from Mr Wakim of Transport for NSW to you at Downer. Do you see that?---I can see that, yes.

40 And it's saying in the second paragraph, "Pursuant to clause 7.2B, the above mentioned subcontract proposal is deemed approved by the principal's representative based on the engagement of the following subcontractors."

And there's Avco Construction, Consulting and Management Services there. Do you see that?---I can see that, yes.

Did you provide separate correspondence earlier in time to Mr Wakim proposing that Avco be one of the subcontractors for the building works at Wollstonecraft?---So the formal correspondence with the proposal would have been issued by me. The correspondence is drafted by the site team and the, and the site contracts admin.

10 All right, well, this is after June of 2020, after you've said, "We need to have a serious discussion with Andrew Gayed in relation to the invoices received from Avco for storing the materials." Do you recall that?---Yes.

How was it that Avco Construction, Consulting and Management Services then got onto the subcontractor list for building works at Wollstonecraft? ---Because this was the correct process to follow if we intended on using them.

20 What do you mean by "if we intended on using them"?---So if any supplier or subcontractor was nominated or was proposed to be used on the project, we needed to seek approval to go to them for tender and then we needed to go through a tender process and then a recommendation process. So that was the process that I was alluding to earlier.

All right, but given the issues you'd raised in relation to Avco in June, was it really proposed that Avco would be used for the building works at Wollstonecraft?---It appears so.

30 Well, was it legitimately proposed?---To my knowledge, yes.

Well, what did you do to satisfy yourself that it was going to be a proper tenderer, Avco?---I have no reason to believe they wouldn't be.

Well, but you'd raised the concern regarding the overcharging in relation to the storage of materials some three months earlier.---My concern was predominantly in relation to the fact that we hadn't followed the due process.

40 All right. Well, you see this ProjectHQ?---Yes.

That's Ben Vardanega's company, correct?---As I understand it to be now, yes.

Well, but you understood at the time, did you not?---No, I didn't take notice of that, sorry.

Are you saying you didn't take notice of the fact that ProjectHQ was Mr Vardanega's company at the time?---I may have, may not have taken notice that they were on the list or that they were Ben's company at the time.

10

All right. Is it the case that the project managers propose these firms to be subcontractors for the relevant job?---That's correct.

And do you take any steps to satisfy yourself that they're appropriate companies to be put forward to Transport for NSW?---Generally not at the proposal stage. It's only if we end up going to them for tender that we do some more thorough reviews and make sure that they have the capacity and capability to actually deliver the work.

20 And are you here at proposal stage or tender stage?---This is proposal stage.

But following this approval from Mr Wakim the next course would be to send a tender package out, wouldn't it, to these - - -?---Correct.

- - - five companies?---Correct.

30 And you wouldn't be, I mean, I don't take your evidence - I withdraw that. The Commission shouldn't take your evidence, should it, that these five companies listed on this letter weren't intended to be the subject of a tender proposal sent to them?---They were intended to, they were intended as the subject, as the tenderers to which a package of works would be sent, yes.

So at what stage do you say this additional due diligence in relation to the capability of these companies would have been undertaken?---So generally the due diligence is done by the, the project team that nominates the suppliers or subcontractors. Then there's also a commercial check on their financial capacity that's done by the Commercial Team.

40 THE COMMISSIONER: Just hold on a second, please. I'm still not clear, Mr Bedwani, in relation to Avco, what led you to submit that name to Mr Wakim on - - -?---So, Chief Commissioner, this proposal would have been

drafted by the site team. They would have nominated the potential subcontractors that they wished to go to for a price.

Yes.---Because I was the contractor's representative, all formal correspondence going to Transport for NSW went through me. So often the case was that the site teams would draft these correspondences, I would quickly peruse them, particularly if they were a proposal, and I would send them through to the client.

10 But you had been concerned enough to raise the significant cost and the not following of the proper procurement processes of Downer in June with Mr Patel, and as far as I can understand your evidence, whatever it was that transpired in discussions between Mr Patel and Mr Gayed you hadn't, at least in your own mind, resolved those concerns which you had raised at the time that you submitted Avco Construction's nomination to Mr Wakim. Is that correct?---So, Chief Commissioner, I was concerned that previously Andrew Gayed had engaged with Avco without following the due diligence, which is to - - -

20 You also said there was a significant cost involved, that was also (not transcribable) - - -?---Correct. There was, there was, there was a cost that was questioned and I believe we received the, the breakdown of that cost or the justification for that cost but the concern was two-fold. It was the cost and also the fact that we hadn't followed the due process and here, here we're following the due process.

No, sorry, you said that you needed to have a discussion about it but you effectively left that discussion to Mr Patel. At least as far as I can understand your evidence, you didn't resolve that issue in your mind at the time that you corresponded with Transport about using Avco as one of the subcontractors or one of the potential subcontractors. Is that correct?---So the issue of payment, I wasn't sure if that had been resolved, but as I understand discussions with Andrew Gayed about making sure that he followed the process and that we weren't to engage with any supplier or subcontractor without the adequate approval.

30

I'm sorry to be persistent, but I'm not following this.---That's okay.

Because you had earlier stated that you didn't get any feedback from any discussions and you didn't follow it through. Now you seem to be saying - - -?---Sorry, Chief Commissioner, I believe - - -

40

You seem to be saying that you had some other information.---I believe I, I said that I had spoken to Amit and enquired where we were with that issue and if there had been any discussions with Andrew Gayed.

All right. Thank you.

MR ENGLISH: Who's Laura Inglis at Downer, Mr Bedwani?---Laura had several roles during her tenure at Downer. She started as a project  
10 administrator. She was then promoted to a senior project administrator. She had shown interest in transitioning to the zero harm space and ultimately she became a zero harm advisor.

Did she report to you?---Through various, through various periods in her employment she, she, sorry, reported to either myself or Amit, or when she became a zero harm advisor, to the zero harm manager at the time.

All right. I wonder if volume 13.2, page 324 can be brought on the screen. You can see here this is an email sent by Mr Vardanega at ProjectHQ to  
20 accounts payable resolutions Laura Inglis, "supplier invoiceonly" and Andrew Gayed at Downer Group. Do you see that?---Yes, I can see that.

And he's attaching, that is Mr Vardanega's attaching his invoice 6015 for weekend 29 September 2019 engineering works at Glenbrook.---Yes, I can see that.

Okay. And if you scroll down please to page 330. You can see the timesheet.---Yes.

30 Client contact Andrew Gayed. And then the next page down you can see the invoice.---Yes.

I don't mean this particular invoice or this timesheet, but having a look at the way it's set out on the ProjectHQ letterhead, is that something that's familiar to you?---No, not at all.

Okay. All right. So your evidence is you were unaware as at that time in going forward prior to this inquiry, being 30 September 2019, that Mr Vardanega was linked to ProjectHQ, is that right?---My evidence is that I  
40 understood Mr Vardanega had left Downer and started his own consulting business. I wasn't, I'm not certain that that was ProjectHQ, no.

All right, okay. I wonder if transcript page 1319 from the public inquiry can be brought on the screen, please? Just scroll down a little to the next page, please. Sorry, Chief Commissioner, some of the pagination has gone out since there's been, I think, some errata corrections to the transcript. Chief Commissioner, I note the time. Might it be convenient to take the morning tea now and we can sort out this transcript issue?

10 THE COMMISSIONER: Yes, all right. We'll just take a break for morning tea, 20 minutes.

**SHORT ADJOURNMENT**

**[11.28am]**

THE COMMISSIONER: Thank you. Yes.

MR ENGLISH: Mr Bedwani's back on the screen.

20 THE COMMISSIONER: Mr Bedwani, can you see and hear me?---Yes, I can, Chief Commissioner.

You're subject again to the same oath you took at the commencement of your evidence to say the truth, understand?---I understand.

Yes.

30 MR ENGLISH: Thank you. If transcript page 1319 can be brought up on the screen, please. Do you see down the bottom at line 40, you see there there's a question asked of Mr Gayed, "You see, you do recall having a discussion with Mr Bedwani. You don't recall the specifics. Can you tell us everything that" - if we can go over the page - "you do recall in relation to that conversation with Mr Bedwani about Avco tendering on the building package at Wollstonecraft?" He says, "My recollection of it was that we needed more people on the list even though they won't be submitting pricing." And he goes on to say, "Correct." Question, "And why was it there weren't sufficient subcontractors available to be proposed for the project at Wollstonecraft?" And he goes on to say, "Rail projects are notoriously difficult to get a builder on." If you skip down a question, the  
40 the next question is, "So was there, you said that it was understood that they wouldn't be submitting prices. Do you recall saying to him, 'Well, I can

just add Avco. They won't actually proceed'?" And Mr Gayed says, "Avco and ProjectHQ, something along those lines." Do you see that?---I can see that, yes.

Do you recall having a discussion with Mr Gayed along those lines?

---Never.

10 So insofar as Mr Gayed suggests that Avco and ProjectHQ were included on the list of subcontractors for the Wollstonecraft building package just to pad out the numbers, you never had a discussion with him along those lines?

---Absolutely not.

Okay. Did Mr Gayed ever tell you that the items that Avco were storing on behalf of Downer were being stored on his property?---No, he never told me that.

20 Okay. If we can go back to volume 10.2, page 212, just assuming what Mr Gayed said is correct, putting aside your evidence that he might not have told you this, but if Avco and ProjectHQ were only on this list to pad out the numbers, what Transport for NSW is left with is then only three tenderers out of those five to proceed with, correct?---Only three are required.

Right. Well, out of this list you're aware RJS Projects was linked to Mr Aziz and Mr Abdi and Mr Nguyen, correct?---I am now, yes.

And you're aware through this inquiry that there's a link between Maize Group and Mr Gayed?---Through the inquiry, yes.

30 Did you have no knowledge of that prior to learning of it during this inquiry, the link between - - -?---I had no - - -

- - - Maize Group and Mr Gayed?---Absolutely no knowledge.

And it would seem then that the only potentially legitimate tenderer on this list is Ultra Building Works, correct?---Knowing what we know now, yes, but not at the time.

40 Okay. And you've learnt, have you, over the course of this inquiry that Mr Gayed was sending bills of quantity and the procurement register for the Wollstonecraft package to both ProjectHQ and Maize Group?---I've learnt that, yes.

And again Mr Gayed's evidence was that he was doing this to act in the best interests of Downer as it would help Downer obtain the lowest price from subcontractors for the project. Do you recall him saying evidence along those lines?---I do recall that, yes.

Do you view that conduct as being in the best interests of Downer?---In my opinion, no, it's not.

- 10 Okay. If transcript page 1348 can be brought on the screen, please, from the public inquiry. Line 35, there's a question asked of Mr Gayed, "You were aware at the time that had Downer management been aware of what you were doing in providing this information to Mr Vardanega and potentially also to Maize that that was contrary to your responsibilities as a project manager in relation to the tendering process, weren't you?" And Mr Gayed's answer, "I'm not too sure they would have been too effected seeing as the outcome was coming in under budget." He seems to be speaking on behalf of Downer there, Mr Gayed, and he seems to be suggesting that that conflict of interest wouldn't really have mattered so long as the outcome
- 20 came in under budget. Is that something you agree with?---Absolutely not.

If we can go, please, to volume 26.1, page 60. This is an email Mr Gayed sent on 19 June 2019 using his email address at Mansion Building to Mr Helweh of Maize Group and you can see there that he's giving assistance to Mr Helweh in relation to contractual terms and you can take it from me that the evidence was that this was in relation to Glenbrook. Do you see that? ---I can see that, yes.

- 30 Now, on this point Mr Gayed said he thought doing this was in the best interests of Downer because he was fostering relationships with subcontractors. Would you agree with that evidence of Mr Gayed's?---No.

- If we can go, please, to transcript page 1381. Here line 21, do you see this proceeds a question relating to the Blue Mountains and the question is, "Do you think they would be pleased again, Downer - - -", "I think they would be happy that the project - - -", and then the question continues, "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." Now, do you
- 40 agree from the evidence I have taken you to from Mr Gayed that he was of

the view that completing a project on time and under budget took priority over matters relating to probity?---That seems to have been his priority, yes.

Is that a reflection of the culture at Downer at the time?---No, it's not.

And specifically that the most important issues insofar as concerned projects were safety, coming in on time and coming in under budget, would you agree that they were the most important issues to Downer at the time? This is in 2019.---There was a number of important issues to Downer as far as I'm aware. They included definitely safety. They included coming in on budget and on time. They included upholding Downer's reputation. They included maintaining a positive client relationship, amongst a number of other things.

And where did probity fit in on that list?---So probity's always a consideration when, when, you know, when we're procuring packages or when, when we are inviting subcontractors to tender for work. We need to make sure that there is an equitable process that's being followed and there were systems and processes introduced into the business and into the tendering process to help ensure that was maintained.

Okay. If transcript page 1371 can be brought on the screen, please. Line 22, Mr Gayed was asked, "Do you have any understanding at the time of what collusive tendering is?" And he said, "No, it's not, not to the degree that I have now, no." Question, "All right. Did you have any understanding, do you recall?" And he says, "I recall it being a more simplistic view on collusive tendering." "Right. And what was the more simplistic view that you had at the time?" His answer was, "Don't take cash." Do you see that?---I can see that, yes.

I mean, Mr Gayed, I believe, was trained on the anti-bribery and corruption policy at Downer. Will you accept that from me?---He would have been.

Yeah. It doesn't suggest that much of the content of that policy has made an impact on Mr Gayed if he's giving answers like this, does it?---I believe the content was well received by most of the people that undertook the training. Whether they admit to that or not is up to them.

Well, if Mr Gayed thought that at the time collusive tendering means just "don't take cash", he obviously didn't have a proper understanding of what

it was at the time, did he?---Based on, based on his evidence, it doesn't appear so.

Okay. Can I just ask you separately, did you have much day-to-day involvement at the Wollstonecraft job?---Not day to day.

Okay. Did you ever hear about a power outage there that caused ice cream spoilage at a nearby newsagency?---Yes, I did.

10 Okay. And how was that issue brought to your attention?---I recall having a conversation with our community liaison manager. To my recollection, the outage was not anticipated, and as a matter of maintaining positive relationships, it was suggested or proposed that they would purchase some of the, the items and distribute them to the team so - - -

And who's they? You said they would purchase. Who's they?---The site team, Andrew Gayed.

I see. And who was going to pay for that? Do you know?---He would be  
20 reimbursed for that cost.

He as in Mr Gayed?---Correct.

Reimbursed by who, Downer?---Correct.

And do you know if that occurred?---I'm unaware of it occurring.

Would there be records within Downer showing that Mr Gayed, if he incurred that expenditure, was reimbursed by Downer?---If he was  
30 intending on being reimbursed he would have put in a claim and it would have been approved and paid.

And that can be searched for on the Downer systems relatively easily, can it, whether such a claim was made and paid?---Yes, it can be.

Chief Commissioner, might there be a section 35(2) direction in relation to such records within Downer?

THE COMMISSIONER: I'm not sure whether Mr Vardanega's in a  
40 position to - - -

MR ENGLISH: He might not be. It might be something that Ms Heger can assist with. It might be something that perhaps needs to be done through another means. I hear what you're saying, Chief Commissioner.

THE COMMISSIONER: Yes. All right. Well, perhaps you can take it up with Ms Heger during lunch.

MR ENGLISH: Now, you're aware that at Kingswood Sairam Pilli was the engineer, the project engineer?

10

THE COMMISSIONER: Sorry, just before we move on, just on this spoilage issue, do I understand it to be your evidence that your understanding was that it was anticipated and the items were purchased in advance of the power outage and distributed to members of the team as opposed to the cost of the items simply being reimbursed because the power outage resulted in spoilage?---No, Chief Commissioner, I will just clarify my evidence. The outage was anticipated but the loss of power to the kiosk or the store was unanticipated.

20

Oh, I see.---So, the, the outage was planned for that weekend, the, the Sydney Trains network outage was planned. The subsequent loss of power to the kiosk was unanticipated and as a gesture of goodwill and in order to maintain positive community relationships that was suggested, it was accepted as a, an, an acceptable way in maintaining the relationship and as I understand that actually eventuated.

So there weren't any items distributed to the team as you described earlier?  
---The, the ice cream, the ice cream was distributed to the team as I, as I understand, yes. It was purchased and distributed.

30

I'm sorry?---It wasn't spoiled, it was to prevent it from spoiling.

Oh, I see.

MR ENGLISH: Did Mr Gayed ever say, "Oh, Avco constructions will wear the cost of paying for these ice creams"?---No.

Now, just in relation to Kingswood. Sairam Pilli was the project engineer, correct?---That's correct.

40

He was reporting to Andrew Gayed, is that right?---Initially, for the first few months he was reporting to Andrew Gayed. He was subsequently reporting to Vlad Stanculescu.

Thank you. And you're aware the Commission's heard evidence he was paid \$38,000 in cash by Nima Abdi for assisting RJS Infrastructure Group?  
---I have heard that, yes.

10 And a further \$63,500 pursuant to an invoice that he issued to RJS Infrastructure Group, well, a company controlled to him invoiced. Have you heard that?---I, I have heard that, yes.

And in return he was favouring the interests of RJS Infrastructure Group and providing confidential information to those connected with that company, you've heard that?---Yes.

Mr Stanculescu, how do you know him? Is it only through work, I should ask?---I know him initially through work, yes.

20 Is that where you first met him, at Downer?---Correct.

And did a friendship follow?---Over the years it did, yes.

And does that mean you would see each other outside of work hours?  
---Rarely but occasionally, yes.

Did your families become friends?---No.

30 I don't know if you have a partner but if you do was your partner friendly with Mr Stanculescu's partner?---I wouldn't say friendly, no. They probably met once or twice.

Did you attend his wedding?---I did, yes.

Were you bestowed an honour of some significance in accordance with that wedding?---I was, yes.

Was that as a wedding godparent?---Yes, it was.

40 And was that an honour bestowed only on you or on your partner as well?  
---It was on me and my partner.

And when one becomes a wedding godparent at a ceremony such as that does that bestow some significance on behalf of the people getting married that they have some trust in your judgment?---I would suggest so, yes.

Now, do you know Jackson Sensicle?---Yes, I do. I am acquainted to him.

So how are you acquainted to Mr Sensicle?---I may have met him once or twice through Vlad.

10

And when did you meet him once or twice through Vlad?---I, I can't recall exactly. It was, we may have been at similar events. I can't exactly, I can't recall the exact timing of when I met Mr Sensicle.

All right, but did Mr Stanculescu get married - was it in early 2019?---I think so.

Do you recall seeing Mr Sensicle at the wedding?---He may have been there.

20

And so you became - I withdraw that. Mr Stanculescu commenced reporting to you in early 2019? That was your evidence earlier today. ---Yes, he did.

So you would have had a relationship with him prior to that time if you were invited to his wedding at about that time, correct?---Yeah, we, we, we had a, you know, a close acquaintance. We were, you know, we, we would catch up on occasion. He would chat to me about things and, and come to me for guidance and we would catch up for a coffee or whatever it was that we,

30

yeah, we'd catch up on occasion.

All right. And in relation to guidance, was that personal or professional or both that Mr Stanculescu sought from you?---Both.

Okay. And Mr Sensicle, when was the first time you recall becoming aware that he was acquainted with Mr Stanculescu?---I remember Vlad had spoken to me about him or mentioned him to me in one of our conversations. I, I can't remember exactly when that was.

40

What was the context of that conversation?---That he had a friend that was going through some difficult times and he was trying to help him.

And was that by getting him a job somewhere?---He didn't mention that.

Okay. Did you come to learn at some stage that Mr Sensicle worked for Dalski?---Yes, I became aware of that later on.

When did you become aware of that?---I think I realised that he was working for Dalski when I was working on the Metro project. His name came up a number of times in conversation with another subcontractor.

10

And how did his name come up in the context of another subcontractor?  
---Dalski had been engaged by that subcontractor to perform works and they were having issues with one another.

And which was that other subcontractor that had engaged Dalski?---Alfabs.

And what was the time that you heard of Mr Sensicle's name in that context?---It was around October/November 2022. Sorry, 2021.

20 So that was the first time, do you say, that you learnt Mr Sensicle worked for Dalski, in October or November 2021?---Yes.

All right. In 2020 - I withdraw that. Was there in 2019 an informal list of subcontractors that could be used for Downer projects?---There was a procurement register.

30 Okay. And in 2020 was there a discussion - and I might be getting these concepts confused, hopefully you can assist - was there a discussion to formalise the processes as to who may be on that subcontractor list or procurement register?---Yeah, so there's always been a procurement register. It's used to inform the Project Team on suppliers or subcontractors that have previously performed works for Downer or that potentially have the capacity to perform work for Downer or may have expressed an interest in performing the works for Downer.

40 All right. So in the period 2019 to 2020 was there a change in the form of that procurement register or was there a discussion that led to a change in those firms that were included on it?---Yes, there was a meeting that I had initiated. The procurement register had been around for a while. There was probably names on there that, offsite contractors that we didn't use anymore that had come from other projects that may not have had the relevant

experience, and so I wanted to sanitise that list to make sure that subcontractors or suppliers that were on that list were suitably qualified and were able to perform the works, and also to explore any additional subcontractors or suppliers that the team may be aware of through their engagement on the other projects prior to coming to Downer that could potentially be added to the list.

All right. And was one supplier that was discussed during that discussion that you initiated Dalski?---I believe so.

10

And is it fair to say that a number of those people present at that meeting were critical of Dalski because of a perceived failure by Dalski to perform during a possession at Kingswood?---I heard that evidence yesterday.

But I'm asking about, you were there in this meeting, correct?---I was there for portions of the meeting. It was a meeting that was held via MS Teams. It was a, a Webex, so to speak. At the time I was working from home and I was dropping in and out of that meeting on several occasions to do other things.

20

But you initiated the meeting - I'm sorry.---But I ultimately left, I, sorry, I initiated the meeting, correct. I gave the brief on what the expectations were and I participated very briefly in the meeting.

All right. Well, who did you leave responsible for settling the list if you were dropping in and out of the meeting?---I asked Amit to come back to me at the end of the meeting 'cause he was also present. He was the most senior person present.

30 All right. Well, in the times that you were present in the meeting, did you hear those criticisms by some of the team members as to the performance of Dalski at Kingswood?---No, I did not.

All right. The project managers were present in that meeting, were they? ---The project managers were present. The construction manager was present and the project superintendent was present.

All right. And the project superintendent was Mr Dean, was he?---That's correct.

40

Did you hear during that meeting that Mr Dean had said that Mr Stanculescu was involved with Dalski?---I didn't hear that at all, no.

All right. Did Mr Patel advise you of the concerns that were raised with Dalski as to their ability to carry out works for Downer?---No, there was various discussions about Dalski's ability to perform works. Different project managers have different opinions of different subcontractors, and so there was often discussions within the team about who was suitable and who wasn't.

10

All right. And so just coming back to the question, did Mr Patel tell you that various concerns were raised about Dalski's capabilities during that meeting?---No.

Okay. Did Mr Patel tell you that Mr Dean had apparently said that Mr Stanculescu had an involvement with Dalski?---No, no-one ever raised that to me.

20 That would have been, assuming it was said by Mr Dean, a serious concern if it were true, correct?---Assuming it was said, it would have been a concern.

And it would have necessitated further investigation, would it not?---It would have.

And is your evidence that no such investigation took place in relation to any connection between Mr Stanculescu and Dalski at the time?---That's correct.

30 And Dalski ultimately made it onto this revision of the procurement register following this discussion in 2020. Is that right?---That's correct.

All right. You said you paid attention to the evidence of Mr Stanculescu yesterday.---On and off I did, yes.

Did you hear his evidence that he conceded to this Commission that he was involved in the management of Dalski from at least September 2020 obviously while also working for Downer?---I don't believe I heard that but I think I've seen a transcript or I was advised subsequently.

40

Does that take you by surprise?---Yes, it does.

Well, were you aware of the investigation report that was, or two investigation reports, that were prepared in relation to Mr Stanculescu?---I understand there was an internal investigation conducted on Mr Stanculescu. I found out about them once the investigation had been completed.

10 Well, why does it take you by surprise as of today or yesterday to hear that he had involvement in the management of Dalski, that is back in 2020, Mr Stanculescu?---Because I wasn't made aware of what the investigation findings were. I was made aware that Mr Stanculescu had used his - sorry - his position within Downer to benefit Dalski during the tender at Banksia. I wasn't aware of his involvement prior to that.

20 Well, if you think why he may have done that, that is used his position within Downer to assist Dalski, it's logical, isn't it, that he would have done that either because he had an interest in that company or because he was being paid by that company. Would you agree?---Yeah. That's, that's a logical conclusion to draw.

So why, as you sit there today in that room, does it take you by surprise to have learnt as of yesterday or today Mr Stanculescu's admission that he was involved in the management of Dalski from at least September 2020?---I'm surprised by all the admissions that have been made during this Commission. It's, it's, it's shocking to hear that people that you have worked so closely with for the last few years have been acting in this manner.

30 And you were Mr Stanculescu's, it seems, person whom he would seek for guidance. I think you have given that evidence earlier, correct?---He, he would come to me with issues that related to work and sometimes personal issues and I would try to give him advice or I would just listen to what he had to say.

And did he ever raise any issues or seek your advice in relation to Dalski? ---No, he did not.

40 Well, you were aware that he played a role in having Dalski approved for the building package at Banksia, correct, being project manager for that job?---Correct.

And by that stage you had been made aware of various team members' concerns with respect to the performance and capabilities of Dalski, is that right?---Yes. There was concerns in relation to Dalski but there was also concerns in, in relation to other subcontractors that had, had performed well for Downer previously. Like I said, people have concerns depending on their experience with that particular subcontractor and so it's not uncommon for project managers to disagree on the capability or the ability of a subcontractor to perform works.

- 10 But it wasn't just the project managers, was it? It was Mr Dean who was the highly skilled superintendent, correct?---Based on the evidence given yesterday, yes.

And it was Mr Watters who was the construction manager, correct?---That's correct.

And they were people, were they more senior in the organisation chart than a project manager?---They were.

- 20 So again - - ?---But neither of them brought that, neither of them brought that concern to me and said, "Look, Dalski has been added to the procurement register. We don't believe they're capable of performing this work and we think that they should be struck off."

Well, it was a \$1.3 million package, wasn't it, the building package for Banksia?---I'll take your word for that.

Well, it required your sign-off, did it?---It would have, yes.

- 30 And would you have spoken to Mr Stanculescu or - I withdraw that. Did you speak to Mr Stanculescu before approving that package in favour of Dalski?---Speak to him about what, sorry?

About Dalski's capability to deliver the package?---We would have had discussions about Dalski's capability to deliver the package and what other work they may have been doing at the time and what the capacity was.

- Well, so did you discuss their perceived lack of performance at Kingswood?---I'm sure we would have had that part of, as part of the  
40 discussion. I had spoken to a number of people about Dalski and their

opinion of Dalski and what work they'd done in the past and how they regarded them, and I had mixed feedback.

All right. And I think I misled you. I said 1.3. I think the total package was 1.978 million for Banksia, just to be clear. You accept that from me?

---Okay, I will accept that from you, yes.

THE COMMISSIONER: Sorry, when you say you had mixed feedback, when were those discussions that you had with people and when did you  
10 receive this mixed feedback?---So we had discussions often when there was a company such as Dalski or anyone that was going to be awarded a significant scope of work. I would reach out to project managers or anyone else that had dealt with them in the past and get their opinion on what they thought, whether they were capable, what their experience was.

When?---Sorry, Commissioner?

When did this occur? When? Did this occur around the time of  
20 Kingswood? Did it occur at the time that you had your meeting to sanitise, to use your words, the procurement list? Did it occur just before Banksia? When did it occur?---It would, it would occur more often, it, it would occur more often during the recommendation process, particularly if I had to approve a recommendation. I wanted to make sure that whoever we were recommending for the work, particularly if it was a significant scope of work, had the capacity to perform those duties.

So once again when did that occur? Which work are you referring to?---I'm referring to the package of works at Banksia.

30 Right. And who are these discussions that you had with? Are there names of people?---Yes, I would have had discussions with project managers that had dealt with Dalski previously, so Vlad obviously had the most experience with them. He worked with them on Mortdale, he worked with them on NIF and he worked with them - sorry, I think at the time that was the, the two stations. (not transcribable) had worked with them before. Andrew Gayed had briefly worked with them before. I think Abdal Aziz had worked with them on NIF as well.

40 Okay. Sorry, just want to follow up something. What about this procurement meeting that you had to discuss the sanitising of the list? Did you have a discussion about the suitability or otherwise of Dalski remaining

on the list?---Sorry, Chief Commissioner, I, as I said before, I, I was only very briefly involved with the meeting. I outlined the intent of the meeting. One - - -

Sorry, wasn't this the meeting that you organised?---It was a meeting that I had organised, yes.

10 But you were only briefly involved?---Correct. The intention of the meeting was for the team to discuss the procurement register and agree who was to be added or who was to be excluded and any other subcontractors that they wanted to include. The meeting was also - a significant reason that I wanted to have that meeting was to reinforce the importance of following the procurement processes and also that, you know, there'd been a number of occasions that the process to engage subcontractors hadn't been strictly followed and I wanted to reinforce that message to make sure that the team understood the requirements when, you know, when going to the market and when procuring certain subcontractors or suppliers. And so I gave that introduction, I gave that brief, and the discussion into who was suitable and who wasn't and who was on the list began. I, I personally didn't stay for  
20 that level of detail. I had other calls during the time. I was in and out of the meeting and then it was becoming disruptive and so ultimately I just asked Amit if he could chair the meeting and I dropped out.

When you say it was disruptive, who was disrupting?---It was disrupting the meeting by me constantly leaving and, and returning to it.

I see. All right, thank you. Yes.

30 MR ENGLISH: Mr Stanculescu also admitted that he fundamentally corrupted the tender process for that package by submitting documents through the ARCUS system on behalf of Dalski and also by obtaining competitor price information under his own login and providing it to Dalski. Did you learn of that yesterday or today?---I did, yes.

And then he went on to score Dalski the highest in the tender. Did you hear that evidence?---I heard that evidence, yes.

40 All right. When someone logs in to ARCUS, that's a software program, is it not, designed to ensure the probity of tenders?---That's correct.

Right. So when Mr Stanculescu logged in using the login I think of Mr Sensicle or someone else at Dalski, are you aware of whether he had to make any declarations that he was using ARCUS for a proper purpose or anything like that when he first entered the site?---I'm not sure, sorry.

Right. Do you know whether anyone when they use the ARCUS system has to make a declaration that they're making true statements and doing things for a bona fide purpose, for example? Anything along those lines?---I can't remember. It's been a number of years since I've used ARCUS.

10

Okay. So to your understanding there's nothing preventing someone getting another person's login and pretending to be that person for the purposes of populating information in the ARCUS system. Is that right?---There's nothing that would prevent them from doing that if they had access to that person's login details.

Okay. Now, Mr Stanculescu, did you hear this evidence yesterday, he attended offsite meetings at Muswellbrook to attend a project that Dalski was bidding for at the time at the Muswellbrook pool, and he attended that meeting at the same time as he was expected to be working for Downer. Did you hear that evidence?---I did hear that, yes.

20

And his view was that it didn't matter that he was doing that on Downer time because the only thing that mattered was that he delivered his projects on time and on budget. Do you recall hearing that?---Yes.

Right. What would you have said to Mr Stanculescu if he had sought your permission to attend a site meeting at Muswellbrook to assist Dalski in tendering in a project on a workday during Downer time?---I would have told him that was completely inappropriate.

30

Okay. And again, that he had this view, Mr Stanculescu, that he could undertake essentially secondary employment on Downer's time without ever raising it with anyone, does that say anything to you about the culture of Downer at the time, that Mr Stanculescu did that, which I believe was in 2020 or 2021?---No, I think it says more to me about the attitude of the individual.

All right. Well, does it suggest that the attitude of the individual hasn't been trained enough on Downer policies to realise that that behaviour is unacceptable?---That could be an appropriate suggestion.

40

You're aware also Mr Stanculescu in another investigation was found to have acted inappropriately in favour of Dalski in connection with the Birrong Station TAP upgrade package?---No, sorry, I only thought it was in relation to Banksia.

You're unaware of that, okay. Well, you did see Mr Stanculescu's involvement with Dalski yesterday during the evidence, did you?---I saw certain sections of it, yes.

10

All right. Have you got an explanation as to how he was able to get away with that on, your evidence, undetected at Downer?---Was able to get away with what, sorry?

Managing another company that was bidding for work with his employer? ---Sorry, I, I don't understand the question.

20

Well, how was it that Mr Stanculescu was able to manage the affairs of another company without disclosing that interest at the same time that that company was bidding for contracts with his present employer being Downer and all of that went undetected? Are you able to offer an explanation?---I don't know how he would have done that. He would have done it in his personal time.

You're aware, although it's denied by Mr Watters, that it's been alleged by Mr Aidan Cox and Tony Nguyen of RJS Infrastructure Group that they paid somewhere in the order of \$8,000 cash to Mr Watters in exchange for the heritage building works package at North Strathfield?---I have heard that evidence, yes.

30

And that was the first time you heard of it, in this Commission, was it? ---That's correct.

I wonder if transcript page 592 can be brought on the page, please? All right. At line 30, this is the evidence of Mr Cox, he is asked about despising Abdal and Nima, you can take it from me that's Abdal Aziz and Nima Abdi. Do you accept that?---Yes.

40

And he's saying, "Yeah, I didn't have any relationship with them" and then he repeats that in response to the next question. It goes on, "But here you're trying to get Andrew Gayed to become like Abdal and Nima." And he said,

“I just wanted them to give us a job.” And then he’s asked at line 40, “What, and what, you would pay them, you would pay them in return?” “I just wanted to get the work”, he said. And if we can go to the next page, please. Question, “But you’d pay them in return, that was what you were contemplating, wasn’t it?” And he says, “Like, it’s systemic in Downer. Like, everybody doing work, that was basically how they were getting it.” And the Chief Commissioner then asked, “Sorry, it was systemic?” And he says, “The whole, the whole, like, all those jobs were like that, or at least that’s what I, I understood to be the case.” And then he is asked by me, Mr  
10 Cox, “How did you form that view that all those jobs were like that?” And he said, “Well, there was something funny with that company Dalski.” Question, “Dalski and who?” “I don’t know, what’s his name, Vlad. Yeah, and Kevin Watters approaching us saying ‘Give us money, I’ll give you work’. You know, it’s the whole time. So I was just trying to get work. It was wrong, I get that, but that’s what it was.” Do you see that evidence there?---I can see that, yes.

That’s, would you agree, Mr Cox giving evidence of his view of the culture of those working on the TAP projects that he was involved in that  
20 corruption was systemic? Would you agree?---I would suggest that’s the only way he’s ever won work for Downer and that’s how he formed that opinion.

Well, his evidence, in fairness to Mr Cox, was that he obtained a package at Mount Victoria through a fair tender. Were you aware of that?---It’s on his reference.

So, can I just ask this? If Mr Cox is aware of these people who are happy to be corrupted, it seems, within Downer, is it your evidence that you were  
30 completely unaware of what was going on in relation to Mr Aziz, Mr Stanculescu, Mr Watters and Mr Gayed insofar as the evidence suggests that they might be corrupt?---I had no idea that this happening.

THE COMMISSIONER: Just one moment. Yes.

MR ENGLISH: And what do you attribute your lack of knowledge to as to those behaviours that we’ve been discussing today?---There’s no way I could have known. How would I, how would I know that people are acting  
40 in this manner when they’re concealing it?

Okay. So you say it's due to their deception that you were unable to detect what was going on in this fashion by Mr Gayed, Mr Aziz and Mr Stanculescu, is that fair?---Correct.

All right. If we look at this question and another at line 19, the question continues, "And when you said it was systemic, were there any other examples of conduct that made you think it was systemic?" and Mr Cox says, "At that point in time or now?" and then the question, "Well, either," and then he says, "Like, you know, things, just small things as well. Like  
10 paying for Christmas parties and stuff like that." And he says, "That's, you know, that's not right." Question, "What was that? What's that a reference to?" "Oh, I think we were asked to contribute to the Christmas party." "For Downer?" "For Downer." Now, what did you know about the 2020 Downer Christmas party, Mr Bedwani?---In what context, sorry?

Well, I'll ask the question again. It's a broad question. If you can tell us all you know about the 2020 Downer Christmas party.---Okay, I can do that. So at some point towards the end of 2020, Laura and I had a discussion around organising an end-of-year event. Even though she was no longer in  
20 that role, she often, you know, agreed to assist with those kinds of things. And so she said to me that she would look into it and come back to me with a number of proposals. And so she did, she came back to me with a number of proposals, one of which was to go on a boat on a, on a harbour cruise. And I said to Laura, "No, we're not going to do that. It's not within our budget and it's not something, you know, that we can afford to do as an end-of-year event. We probably need to look at doing something a bit more affordable." And so I left it at that. Sometime later, I don't know the exact timing, I found out that RJS had been approached to contribute to the boat and that some arrangements had been made for the event to take place. And  
30 so I considered the appropriateness of that, it may have mulled for a little while, and then I went back to Laura and I said, "Look, we can't, we can't do this. It's not appropriate. We can't have subcontractors paying for the Christmas party. It's not something that I'm prepared to approve." And we ended up doing a lunch at the Greenwood Hotel.

All right. If volume 25.1, page 73, can be brought on the screen, please. Page 73, volume 25.1. Sorry, Chief Commissioner, apparently there's just an issue with bringing up the volume. Should we take an early lunch break?

40 THE COMMISSIONER: Are you able to move on to something else or do you want to - do you need to go to this point?

MR ENGLISH: The next topic's going to take more than five minutes.

THE COMMISSIONER: We'll adjourn for lunch and come back at 2 o'clock.

**LUNCHEON ADJOURNMENT**

**[12.55pm]**