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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE JOHN HATZISTERGOS AM
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION HECTOR

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 22 MARCH, 2023

AT 11.00AM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Yes. Thank you, Mr Nguyen. You're subject to the same oath you took at the commencement of your evidence to say the truth. Do you understand?---I understand.

Yes, thank you, Ms Davidson.

10 MS DAVIDSON: Mr Nguyen, we were yesterday afternoon addressing the Lithgow project. I wanted to take you to the contract that RJS signed with Downer in relation to the Lithgow project. Could we have volume 22.11, page 11, please? While we're bringing that up, the actual work at Lithgow was not performed by any employees of RJS, was it?---No, it was performed, not, so it was myself and, yeah, so most of it got subbed out but managed by myself and Aidan Cox.

Right. There were subcontractors involved in - - -?---That, that, that's correct, yes.

20

- - - doing the labouring onsite?---Yes, 'cause of different, I guess, specialities - - -

Performing the work?---Performing the works, yes.

This is an extract from your contract with Downer in relation to the Lithgow project or headed as a subcontract, 'cause Downer was the head contractor. Do you see clause 10.2 there?---Yes.

30 There was not to be any subcontracting without Downer's written approval. Did you understand that to be a requirement of your contract with Downer? ---Yes. I think part of the tender we put in who we're going to use, the subcontractor we gonna use.

So did you understand yourself to have received any written approval from Downer for the use of subcontractors?---Not that, I don't recall, but I assume if they accept the quote, then they accept that - - -

40 But you weren't aware of receiving any written approval pursuant to this clause - - -?---No.

- - - in relation to subcontractors?---No, I, no, no, I don't recall.

Did you regard Downer as being aware of your use of subcontractors on the projects that you worked for for them?---Yes, well, it's a standard practice for, I guess, any company to subcontract out because it's different, I guess, speciality all trades. So one company won't necessarily have, you know, all the trades in one or any employee that has all the trades.

10 Sure. But you didn't have any of the trades, did you?---No, I didn't. No, except for the project manager at site.

And so I think you gave an answer yesterday in relation to people on the site, that is those who were working for you, apparently being, although they weren't wearing uniforms, people who were working for you. Is that what you understood to be the impression that was being created on the site?---Yes.

20 If we can go to volume 22.11, page 43. This is part of the same document. If we can scroll down to special condition 26. Can you just have a look at that condition and if we could scroll down onto the following page.---Yes.

This refers to Transport for NSW's Statement of Business Ethics - can we go back up to that previous page - and required compliance with that document. Had you ever seen Transport for NSW's Statement of Business Ethics?---No, I haven't.

30 Did you understand yourself to be acknowledging that, if you see B there, that you had received, read understood, and would comply with Transport for NSW's Statement of Business Ethics?---Yeah. That, that would be correct. I would have acknowledged that if - - -

You acknowledged it but you never read it?---Exactly, yes.

Did you know it existed?---No, I didn't. Personally, no, I didn't.

Did you read through the contracts that you signed with Downer before you signed them?---I skimmed through it but - yeah. I skimmed through it.

40 You paid no attention to this clause?---Not this clause, yes.

You see item C there, “Prior to the engagement of any subcontractor by the subcontractor”, that is by RJS, “the subcontractor must obtain a written acknowledgement”, can we scroll down to the next page, “from such subcontractor,” that is, from your subbies, that they had received, read, understood, and would comply with Transport for NSW’s Statement of Business Ethics. Was that a process that you ever engaged in on any of the projects you worked with for Downer?---No.

10 You next see on this same page special condition 27 in relation to the NSW Code of Practice and this is the government’s implementation guidelines for procurement. Can you see there the requirements that you comply with that code of practice for procurement and that you notify Downer of any non-compliance with the code and that there was to be in any subcontract that you engaged in equivalent obligations imposed. Were you aware of the NSW Government Code of Practice for Procurement?---I was, I was aware of it but I didn’t pay too much detail to it.

Did you know what it contained?---No, I didn’t.

20 And any guidelines in relation to that code, were you aware of those?---I didn’t pay too much attention to it.

Did you pay any attention to them?---Probably not.

Where this required you to notify Downer in relation to any non-compliance or any remedial action taken, did you ever take a step of that kind?---No, I didn’t.

30 And did you ever make any efforts or attempts to let your subcontractors, that is those that you were subcontracting to, know that they were to be subject to equivalent obligations under this NSW Government guidelines and the code of practice for procurement?---No. I’m just recalling. No. I’m just thinking. No, I don’t think so.

Again, do you recall reading this special condition in the contact with Downer before you signed it?---I probably skimmed over it. So, didn’t, didn’t pay attention to it.

40 But again you paid no attention to it?---Exactly. I paid no attention to it.

To the extent that there are equivalent clauses included in your other contracts that you signed with Downer, is it fair to assume that you didn't pay any attention to those either?---That's correct.

And similarly the obligations that they imposed on you in relation to the statement of business ethics and the code of practice you didn't pay any attention to those obligations?---That's correct.

10 And you didn't look at the underlying documents, that is the statement of business ethics or the implementation guidelines or the code of practice for procurement?---No, I didn't.

Thank you. If we could have the opening slides back, that's MFI 10. Moving on now to the Kingswood project. Kingswood was a TAP project? ---That's correct.

Can you explain what the TAP program was?---So it's the Transport Access Program.

20 And what did that involve?---So just a station, a station upgrade for I guess accessibility.

Right.---Accessibility upgrades.

Installation of lifts and ramps and - - -?---Ramps or, yeah, accessibility for disabled people.

And was Kingswood the first TAP project that you've worked on?---Oh, besides Victoria Street?

30 Yes.---Oh, yes, that I was solely - - -

It was the first RJS - - -?---Oh, yes, yes.

Yes.---For RJS Infrastructure, yes.

40 Yeah. As you can see up on the slide there from the Downer perspective Mr - well, I'm sorry. Starting first from the Transport perspective who was the Transport for NSW project manager in relation to Kingswood?---So that would be Nima Abdi.

Right. And from the Downer perspective Mr Stanculescu was the project manager?---Yes.

Was it initially somebody else working on, from the Downer perspective working on Kingswood?---So initially when we started I think Kevin Watters was temporarily acting as the project manager. I think Vlad was on leave at the time.

10 Was Andrew Gayed ever project manager in relation to Kingswood?---Not that I'm aware of. Actually I might recall I heard that he was there before.

Right. Did you have any engagement with him - - -?---No, this is from - - -
- - - in relation to Kingswood?--- - - - Nima telling me that, I think, previously Andrew was there and then he was moved on and they got Vlad.

20 Okay. And by the time, that is early 2019 when you were or became engaged to perform the work at Kingsford, had Mr Cox become a shareholder in RJS Infrastructure?---I can't recall. This would be, it might be later on. I'm not too sure.

Do you remember the events that led to Mr Cox becoming a shareholder?
---It would have been after Lithgow.

It was after Lithgow.---So Lithgow and then I think after a while I think he had a thought, he think he thought about oh, okay, maybe jumping onboard because, you know, because the work is rewarding.

30 Rewarding financially in terms of - - -?---Oh, both. In terms of, you know, the personal reward as in just, just satisfaction as in to deliver a job with, with like, like that.

But also rewarding in terms of your ability to derive profits from the projects presumably.---Presumably, yes.

And in relation to the project at Kingswood would you agree that Mr Abdi was continuing to act as your silent partner?---Yes, for this, for this project.

40 Again unofficially to use your language from yesterday.---Unofficially. Exactly. Unofficially.

As in he wasn't a shareholder.---He wasn't an official shareholder, just - - -

He had an interest in RJS's success because of what was planned in terms of the profits. Is that correct?---That's correct.

All right. And Mr Pilli was the project engineer.---That's correct.

And was he the project engineer throughout the period?---Throughout the period, yes.

10

Do you remember how you first became aware of the Kingswood project?
---Oh, that would have been through Nima.

Through Nima.---Yeah. So Nima would probably, yeah, would have told me oh, there's a project. There's a building project similar to Vic Street. Let's get onboard.

Because he'd been involved in - - -?---Vic Street.

20 - - - TAP projects before?---That's right. Exactly.

Did you provide - well, he told you that. What were the next steps from your perspective in terms of your involvement in Kingswood?---Oh, just wait for his instructions. Just, 'cause I had no, I have no visibility for the procurement process and any of that or who was there, like who he had there, you know, just influence the decision.

30

All right. So do you remember what he asked you to do in relation to the procurement process decision-making?---So just to, just to stand, just get a price, get a cost price. So, so I went out to Constructicon to get a price for the works.

All right.---So price it together.

And Constructicon ultimately ended up being the - - -?---The second - - -

- - - subcontractor.---Subcontractor. That's right, yes.

40 All right. So you had a price from Constructicon. What occurred next?
---Then, no, actually, no. I think Sairam - can we take a step back?

Yeah.---So I think the first thing is Nima would have said do you know anyone, or do you know anyone else to contact for another contractor, subcontractor to go against.

That is people to approach to put in a bid?---That's, that's correct. And then they'll be, like, yeah, I know Monty's company, so, and then I think, you know, I think, I'm pretty sure we put Monty's company in as a second bid.

You put Constructicon in as a second bid?---Yes.

10

And when you say you put them in, that is you suggested to Mr Abdi that they be used as a second bidder?---Yes.

And did you also ultimately prepare a tender response on behalf of Constructicon?---If it, if it came from the admin email, then, yes, that, that would have been me.

From Anthony Byrne?---That, that's correct.

20 It did come from Anthony Byrne?---Okay. That would be me, yes.

And so did you similarly suggest another company to be approached for providing a tender?---I'm not too sure - - -

To the extent the other tender response came from SDL, does that prompt your memory?---Yes. That's, yeah. So that, yes. That's, SDL would have been the third one, yes.

30 And to the extent that, and this was the case, the tender response was provided by Joanne Breen?---That would be me, yes. That's correct.

That is, that you would have provided it?---Yes.

So do you know how it came to be that, well, was it Downer that then approached RJS to provide a tender?---Yeah. So Downer would have approached RJS Infrastructure, Constructicon and SDL.

And where we say "Downer" was that Mr Stanculescu or Mr Pilli?---No, that would have been, from my, from my recollection, it was Sairam.

40

It was Sairam?---Sairam, yeah.

And so do you know how he came to have the knowledge to approach the three companies, that is SDL, Constructicon and RJS?---So, so that would have been, so I would have gave the contact to Nima and Nima would have passed that on, passed that contact to Sairam.

And so you understood that Nima had told Sairam? Is that what your understanding was?---That, that's correct. Yes.

10 So when you say pass the contacts on - - -?---For tender issue, yeah.

All right. And would it have ordinarily been the case that Transport for NSW would have instructed or somebody who was a project manager for Transport for NSW would have instructed a project engineer at Downer in relation to who to approach for tender responses?---I'm not too sure. That's, I don't know. I'm not familiar with their processes or how it happened. But all, all, all I did was pass on the contact to Nima and then I'm pretty sure he passed on to Sairam hence why, how the three companies got the tender invite.

20

All right. So do you remember preparing tender responses on behalf of SDL and Constructicon?---Vaguely but if it came from, obviously, the date of this email, then, yes, that would be me.

And do you recall whether you prepared those responses deliberately to be above the RJS price?---Yes.

30 And in relation to the RJS price, that is the price that you submitted, did you receive information beyond, well, did you increase the price beyond what Monty had given to you on instructions from anybody else?---Yes. So we would have worked out the cost price, so we were to bring subbies in, trades in, to price the job and then we would have came in with overall a lump sum price and that was forwarded to Nima and then it was from then, Nima would have told us how much to put on top.

So do you remember being given an instruction by him as to how much to put on top?---Yes.

40 And what was that?---I can't recall exact figure - - -

Do you recall roughly?---A hundred grand comes in mind, 100,000 comes in mind.

Had you received budget information in relation to Kingswood?---Not directly budget, just a verbal budget, as in verbal. He would tell me what's the budget verbally.

That is, he would have, Mr Abdi are we talking about now?---Yeah. Yeah, Mr Abdi, yes.

10

Right. So would he have provided you with budget information that was from Transport's perspective or from Downer's perspective or - - -?---Most likely from Downer perspective.

From Downer's perspective?---Yes.

Do you know how he would have had access to the Downer budget?---I would, I would assume from Sairam.

20 That Sairam would have given it to him?---That's correct.

And so you recall a discussion with Mr Abdi orally?---Yes, verbally, that he has got details. So I assume it was from Sairam. That was his, I guess, point of contact. So I didn't deal with Sairam directly. It was always through Nima.

30 Did Mr Laphai and Mr Nguy know that you were involved in preparing tender responses on behalf of their companies for the Kingswood Station project?---Yeah, I would, I'm pretty sure they would have, well, Monty would have 'cause we worked on it together. With SDL, I'm pretty sure I would have informed him because I, if I still have access to the email, then he would have been told I'm going to put in a dummy bid.

And this was before your relationship with Mr Laphai deteriorated?
---Turned sour, that's correct, yes.

40 They never expected - well, Mr Laphai, at least from your perspective, never expected to be awarded the work?---No, exactly. So he understands, like, that everyone gets, I guess, a turn.

And in respect of everyone getting a turn, you've given some evidence previously about a rotation system you had in place at Inner West.---That's - yes.

Where you say everyone gets a turn in the context of Transport projects, what do you mean by that?---So I guess SDL did the TAP, the previous TAP project so now, I guess, it's - - -

That is they were the subcontractor?---Subcontractor, exactly, yeah.

10

If we could have volume 1.5, page 432. Can we scroll down? It may be a later document. Sorry, page 432, not 132. This is a document that was found on your laptop, Mr Nguyen, and the title that it was given, that is the file name, was Kingswood Station Tender BOQ.---Yes.

Is this something that you recognise - - -?---It, it looks familiar, yes.

- - - as something that you would have prepared?---I would have reviewed it. So this is something that Monty would have prepared but I would have, I would have reviewed it.

20

Do you recall whether this is a document that you would have provided to Mr Abdi?---No. This wouldn't be the document I provided to - oh, I'm not too sure. It is - I don't know, there's a few versions. Is there a few versions? I don't know which version I provided to--

Do you recall providing - - -?---A, a version to - - -

- - - a version of a bill of quantities to Mr Abdi?---Yes, yes.

30

And did that provide the foundation for your discussion about how much to mark up ultimately?---That's correct.

Did you discuss with Mr Abdi at the time that you were preparing tenders for the projects what the profit split would be?---I can't recall but most, it would have been three ways. It would have been the three, three-way split.

But do you recall those discussions at the beginning of preparing to tender for the project?---I don't, I don't quite recall that early on. I think it was just more get, get your foot in the door and then we, we will, I guess we'd sort

40

of this bit after. I don't think it was a, a priority at the time of the split for the, to talk about the split.

But did you understand the reason he was helping you to get your foot in the door to use your words?---That's, that's right, yes.

The reason was what, why was Mr Abdi assisting you?---Oh, so, it was for the profit to be - - -

10 Right.---Yeah.

So there was some understanding that he would receive a portion of the profit?---He did received a portion of the profit.

Yeah, we'll come to the end of the project.---Okay.

But just at the outset - - -?---At the, okay. So, yeah, that's - - -

20 Was there an understanding between you?---Yes, there was an understanding.

And do you remember whether there was an understanding beyond, that it would be split three ways?---I would assume it would be split three ways because he said there was a project engineer from Downer involved and then he's doing the, I guess, the legwork.

And was that Mr Pilli?---That's correct.

30 All right. And what did you understand to be Mr - or did you understand Mr Abdi to have a pre-existing relationship with Mr Pilli?---No. I, I met Sairam on the job. So I didn't know of him until Kingswood Station.

And did you know - you've given some evidence some evidence about Mr Abdi having a relationship with Mr Sanber that went beyond their professional relationship. Did you understand that he had an equivalent relationship with Mr Pilli?---No. Because I, it was rare, it was rare for me to see them together, yeah.

40 Right. So you simply didn't know one way or the other?---Exactly. I didn't know what's the relationship or how it worked or what they're like together.

So, 'cause it was rare for me to see them together, myself and Nima or Nima and Sairam.

Okay. Can we go back to the slide that's part of MFI 10. So having, well, you were successful in securing the building works, which perhaps wasn't surprising because you had submitted the other two quotes, which were both more expensive than yours.---That's correct.

10 And you knew, did you, when you submitted them, that you were deliberately making them more expensive than yours?---That's correct. That was the idea.

Right. Was there also a process in respect of, in relation to Kingswood of - you've referred to a mark-up on the price. Was there also a process of inflating prices in relation to variations?---Oh, yes, there would be. So it would be the same, I guess, the process as in there's a variation, find the cost of the variation and then wait for instruction to, I guess, mark it up.

20 So is that similar to the process that was followed in relation to Lithgow, for example?---Yes.

So were the variations in relation to Kingswood work that genuinely needed to be done?---Yes, it genuinely needed to be done, yes.

But also you received instructions from Mr Abdi as to how much to mark them up?---That's correct.

30 And were they then approved, did you understand, based on his instructions or Mr Pilli's instructions?---Oh, based on Nima's instructions.

So did you understand him to be giving instructions to Mr Pilli about approving variations?---I would assume so, yes.

Because he wasn't in a position to directly approve those variations, was he?---No, exactly. So he was, he was in a position to prepare them and then I think it's the PM that approves it.

I'm sorry, when you say he was in a position to prepare them - - -?---Yeah.

40 - - - do you mean Mr Pilli or Mr Abdi?---Oh, no, Mr Pilli.

Right.---Yeah.

Mr Abdi wasn't in a position to prepare variations.---No, he wasn't, no, he, he, he, no. He wasn't. I don't think he was allowed to or come close to be.

Right. But he was, as you understood it, giving instructions to Mr Pilli about approving them, is that right?---That, that's correct.

10 And so in terms of instructions to you, can we have volume 18.10, page 224. These are WhatsApp messages involving a 500 number. Do you recognise that to be the number that - - -?---That is, that would be my - - -

That would be you?---Yeah, that's, yes.

Yep. And - - -?---The 802 would be, yeah, that looks to me that would have been Nima.

Mr Abdi?---That's correct.

20 So if you see about halfway down the page an incoming message from the 802 number, it's number 21 there. "Record in the diary additional painting for steel beam on concourse, eve over the danger zone was done ... we19 possession and painting of bolts ... stair 1 and 2. Don't show this to Monty he only knows about the bolts we will claim for all." And then the message underneath, "Also record additional asphaltting within Park Avenue car park on Sunday 10 November." And then the following message, "Make sure you capture these 'cause I want to hit them up in the next claim." Is that an example or are these messages examples of instructions being given to you in relation to variations?---That's, that's correct.

30 And is this typically the kind of message that, or instruction, that you would receive from Mr Abdi?---That's correct.

And so to the extent these relate to specific items on the site, did you understand him to have attended the site so as to be aware of particular things that could be used to give you instructions like this?---Yeah, my, I would assume he was there full-time.

40 Right. 'Cause he was project managing from Transport's perspective. ---Exactly, yeah, so, exactly, so they would have had a, I guess, seat there on Transport PR.

Right. So did you follow those instructions when they were given to you, things like recording additional work?---I probably would have. I don't know how I would record it, or just put it in the claim box as a reminder. Like, yeah, so some sort of recording, yes.

And so where he says, "Make sure you capture these because I want to hit them up in the next claim", do you recall what you understood that to mean?---Mostly likely it's the cost, the cost price. So, say, the, like, say
10 Monty would come back to us and say, "This is going to cost X amount to paint this steel beam", and let him know - - -

So if we could scroll back up to that middle message, which was the first one in the series, where he says, "Don't show this to Monty. He only knows about the bolts. We will claim for all." What did you understand that to mean?---I think, I think he would have told Monty to do the work as in he would convince him it was part of the contract but he didn't know it was a vary. As in he would have told Monty that's part of the contract scope, do it, but to the likes of, to RJS it's a variation if that makes sense.
20

So that Monty wouldn't himself be able to claim for it?---Claim for the variation, that's correct, yes.

THE COMMISSIONER: Say that again?---So it would have been, so Nima would have told Monty that it's part of your scope, do it, but really if you look at the scope it's not part of the scope. So RJS would have claimed it as a variation so therefore it would be zero cost to RJS.

I see.
30

MS DAVIDSON: So enabling even more inflation on the variation, effectively?---More profits, more profits, yeah, that's correct. Yes.

Profit. Can we have volume 1.5, page 97? Do you recall what the original contract value was for Kingswood?---The half a million?

About \$385,000.---Oh, okay. Maybe I'm totally wrong. Okay.

Do you recall that there were a large number of variations on that project?
40 ---There was a few variations, yes. Yeah, I remember there was a possession variation which was, I think it was a big one.

I'll show you a document shortly. So the original contract sum, or subcontract sum from the payment showing on the payment schedule there, \$388,756 and variations of \$435,344. That is they amounted to more than the original contract sum.---The original contract, yes.

I think you indicated that there was mark-ups put through the variations. Do you recall receiving budget information in relation to particular variations?
---Verbally. Verbally I would, it would have been a verbal, I guess, budget
10 and all, yeah, it would have been a verbal.

Okay. So it would have been a verbal. Who provided you with verbal - - -
?---Oh, that would have been Nima, yes.

And again would that have been Downer budget information, do you think?
---Oh, it would be, it would have been Downer budget information, yes. So
it falls in line with their budget, obviously.

Do you recall any particular variations that there were, well, that you
20 discussed with Mr Abdi?---I think I discussed all variations with Mr Abdi.

But in terms of receiving budget information? I'm sorry, I should have
clarified that question.---I, I think all of them, all of them, because he's the
one that said, "Mark up this much. Give me the costs and mark it up." So,
he would have insight - - -

But do you think he provided you with the budget in terms of saying,
"There's this much budget for the variation for fencing", for example?---Not
that I can recall.
30

But you think that he gave you information as to how much to mark it up in
very instance?---No, that's correct. He was the one that would have told,
told me to mark it up. Just like the, just like how it originally started with
the contract lump sum.

And did you understand that to be based on - - -?---The budget.

Based on the budget.---That's correct.

40 So effectively he was giving you information to mark it up to what the
budget was?---That, that's correct. That's my understanding, yes.

And you understood that at the time?---Yes.

If we can scroll down to the following page. So this is - well, you see the variations listed on this page as agreed. If we could keep scrolling. There were 34 of them, particularly a large one in relation to fencing V021. Do you recall any particular discussions in relation to an \$80,000 fencing variation?---Yes, yes, I do.

10 And what were those discussions?---Just to, I think there was a missed scope and then they asked, well, I was instructed to provide, supply, install fencing round the station.

Right. And do you recall being given particular instructions for marking up that variation?---Yes, there would have been a mark-up, yeah - - -

Do you recall - - -?---How much?

- - - the extent of it?---I, I have, I, I couldn't really, it's, it's too far back. I
20 don't, don't know that particular - - -

All right. There's a variation for "Re-sheeting WE19"?---Yes.

And that's \$160,000. Do you recall what that related to?---Yeah. So that was the platform re-sheeting over a, a weekend possession.

So, yeah, I think you referred to a possession variation. Is that the one that you're talking about there?---That, that's it. That's the one, yeah. So that was around the clock for, that was around the shutdown, the, on weekend 19
30 at that time.

And, again, do you recall being given instructions as to inflating the variation for that?---Yes. So again, I would have provided a cost and then the mark-up would have been given to me by Nima.

Was Mr Nguy aware of your arrangement with Mr Abdi - - -?---I think - - -

- - - that is in terms of splitting profits?---I think he did, but it didn't bother him too much because he's getting paid through the, the original contract
40 that we, that RJS had with Constructicon.

Was he aware that in relation to prices he gave to you, for example, for variations, that there were inflated mark-ups being put on the top?---I didn't, I don't, yes and no at the same time. I don't know, like, I, I didn't take notice or we, it wasn't discussed.

Did he ever ask you to become part of the - or did you ever consider bringing him in to the payment split arrangements that you had with Mr Abdi?---No.

10 And why was that?---'Cause he would have made his own profit from the original contract, so - - -

So did you understand that he'd worked some margin in to the calculations or the prices he'd given to you?---Yeah. So, he, yeah. So that's what we told him, instructed him to do, when you do the cost price, put in your margin, yes, so, and that, that gets you covered.

And you'd given him that instruction in relation - - -?---That, that's correct. yes.

20

- - - this job? There was also, if we can come back to the MFI 10 slide, there was also a landscaping tender in relation to Kingswood Station?---Yes, that's correct.

And that came afterwards?---That's correct.

Was the tendering process in relation to that - - -?---The same process as the previous one? Yes.

30 Okay. So when you say "the same process" what elements of it were the same?---So it would have been dummy bids.

Dummy bids?---That's it.

Okay. So do you recall how that dummy bidding process was managed in relation to the landscaping tender?---Yes, so it would have been the same process. So, so Nima would say there's a variation for landscaping, we'll price it, give me another contact or contact, so, to go out to tender, 'cause I think it was a separate tender, there's a separate contract, yeah.

40

It was a separate tender?---Yeah. That, that's correct.

So do you recall providing, was landscaping something that you had any experience with?---Yes. Well, I would have, I would have got my landscaper to, would have been farmed out to our landscaper.

So in this case, it was subcontracted to WHC Landscaping?---To, that, that, that's correct, yes.

10 Was that a company that you'd had any involvement with before?---No, I think that's a relation with Nima or some sort of relations with Nima. He's the one that engaged them.

So when you say "he's the one that engaged them" how did they come to be subcontracting to you?---So he would do the legwork, so he, I think he assisted them pricing the, the landscaping package and then once that's all, once the costs came up, then he would forward the detail to me. So he, so William would have got in contact with me, here's the price.

20 Okay. So let's take it step-by-step. I think you said the process was that you provided details or contacts to Mr Abdi. If we can have volume 18.10, page 2? I don't think that's the correct page. I might come back to that. Do you recall who you provided as contact details for the tendering for the Kingswood landscaping package when you gave Mr Abdi - - -?---Yeah, it would have been, I clearly remember. Yes, it would have been Marble Arch for one because that's the fallout. We, we almost had a fallout as I mentioned.

30 That was the incidence you referred to yesterday when Mr Cox didn't know that you were using - - -?---Exactly, yes.

- - - Marble Arch's details.---That's correct, yes.

Does that mean you prepared - - -?---Yes, I prepared everything.

- - - the bid on behalf of Marble Arch?---Exactly, yeah, without his knowledge.

All right. And the other one?---Was it, was it Ballyhooly?

40 Yes, it was.---Okay.

And in relation to Ballyhooly, did anybody at Ballyhooly know that you were using their details or suggesting that they be approached to provide a price for landscaping at Kingswood?---I don't think so. I don't - - -

Did you prepare a price on behalf of Ballyhooly?---I did prepare a price on, on behalf of Ballyhooly, yes.

10 And did you, I think you said previously you didn't have access to an email address from Ballyhooly. Do you know how that was provided ultimately to Downer?---I think I would have, was it a, I'm not too sure. I can't recall. I know - - -

If you were preparing prices on behalf of Ballyhooly did you have a way of getting them sent in?---Possibly was a USB. I don't know. As in I would prepare the, I would have the template and I would have prepared it myself.

Were there people at Ballyhooly who at times had sent things on your behalf?---Oh, possibly, yes, possibly.

20 When you say possibly, do you recall ever asking people at Ballyhooly to send things on your behalf?---I do but I don't know for this instance. I'm not too sure about this instance.

In any event you understood that those contact details were provided by Mr Abdi to Mr Pilli.---That's correct, yes.

Is that using the same process that you described in relation to - - -?---That's correct.

30 All right. I think that you said you'd been given contacts - well, how did you then come into contact with WHC Landscaping?---Oh, that would have been through Nima.

Right. So did he give you an instruction to contact them?---No, so I think, oh, I don't know who contacted each other first but it would have been through him, so either Nima would have said William contact Tony or Tony contact William.

40 Right.---Yeah.

So you understood his instruction to be what, that you would use them?
---That's correct. So I, so he was the one that prepared the cost price.

He William or he Mr Abdi?---William and Mr Abdi.

Right.---And then they would just forward me William's or WHC price over to me and then I would put it on RJS template with the mark-up.

10 All right. If we could have volume 18.10, page 10. Do you see again this is messages with the 500 - - -?---That's myself.

- - - number and the 802 - - -?---802.

- - - Mr Abdi again?---That's right, yes.

I don't know whether we can increase the size of that at all but - - -?---That looks like it's a payment.

20 If we can scroll down. Is it possible to increase the size of that image at all? No. We might come back to it.---I think I know what it is.

Yeah.---It's just a payment receipt to I would assume WHC Landscaping.

Yeah. I don't think that's what I had in mind - - -?---Oh, right.

- - - in my note. But in the course of WHC's quote being prepared did you understand Mr Abdi to have had some involvement in the preparation of that quote as well?---Yes.

30 So what involvement did you understand him to have had?---I think he would have met William onsite and went through the, the works, the scope of works with him.

Okay. So would that have assisted William in preparing the quote?---I would assume so, so - - -

Okay, so you were then provided with a price from Mr Clarke?---That's correct.

40 Do you recall then having a discussion with Mr Abdi about marking up that price?---That's correct. I recall having the discussion.

Yep.---Yes.

Do you recall what mark-up you were told to put on it?---What I can remember is the cost price or WHC price was 38,000, and then I think we marked up to 50 or 60.

So your quote was 59,790.---60, yeah, yes. Sounds, sounds familiar, yes.

10 And so the level that you quoted at, was that - - -?---Higher than usual mark-up.

- - - as a result of being given budget information by Mr Abdi?---That's correct.

Did he - again, was that Downer budget information or Transport budget information?---No, that would be Downer. So all this would be Downer, Downer's budget.

20 Did Mr Pilli, so far as you're aware, know that Mr Clarke was a relative of Mr Abdi?---I couldn't tell you, yeah.

Did he provide you - that is Mr Pilli - with any budget information in relation to the Kingswood project?---No, I wouldn't, yeah, so I would rarely, it was rare, rare for me to speak to Sairam directly unless it was more of like a site meeting, more of a professional level. But the, yeah, but everything was through Nima.

30 Right.---So like I said previously to you, Nima and myself or Nima and Sairam.

Okay. Did he subsequently give you or RJS other assistance in relation to passing on Downer information? That is after the Kingswood project, Mr Pilli.---I don't quite understand. As in - - -

I think I just asked you a question about whether Mr Pilli had provided you with any budget information, and you said no, it was rare for you to see him. After the Kingswood project, did you continue to have any involvement or engagement or contact with Mr Pilli?---Not Mr Pilli direct. Like I said, it was always through Nima.

40

Right. Did you receive any information from Mr Pilli?---Not directly. I think Mr Pilli sent over the other TAP budget to Nima.

Did he subsequently work - that is he, Mr Pilli - subsequently work on the Banksia TAP project?---That's correct, yes.

Does that help prompt your memory in relation to any information you might have received through him?---I didn't receive anything, like, directly from Sairam, no.

10

Right.---Yeah.

But did you receive information in relation to the Banksia project?---Yes, I did.

And who was that from?---So I think initially it started from Nima and then he said - - -

It came from Mr - - -?---Abdi, yeah, came from Mr - - -

20

Right. And do you know where Mr Abdi got it from?---I assume it was from Sairam.

You assume it was from Sairam?---Sairam, yes.

Because he was working on that project?---Exactly, yes.

Was there anybody else at Transport that Mr Abdi was involved in getting budget or was able to get budget information from?---That was his colleague [REDACTED].

30

Right. Who was [REDACTED]?---[REDACTED] was I think another project manager from Transport.

Did you know [REDACTED]'s name?---I heard of it but I, I, I haven't met him face-to-face.

Right, right, but what did you understand his name to be?---[REDACTED], [REDACTED]
- - -

40

Did he have a second name?---Starts with a [REDACTED]. I can't pronounce it.

Right.---From memory. It's, yeah, it's more, he's more referred as a [REDACTED] rather than his full name. It was just - - -

[REDACTED]?---Yes. So it was just [REDACTED]. [REDACTED] this, [REDACTED] that.

Okay, and what did you understand [REDACTED]'s role to be?---Just to, oh, well, just to get information. I, I, I assume just to get information 'cause he would have said that [REDACTED] downloaded this for, for me.

10

[REDACTED] downloaded this for me?---For me, yeah, so - - -

Okay.---'Cause he said each printer has, I guess it keeps track of who and so on.

Right. So do you recall in relation to what project or projects Mr Abdi said to you "[REDACTED] downloaded this for me"?---It would have been the four, it, I think it was one spreadsheet, ah, one Excel file that had four, four, four project budgets.

20

Right.---From memory.

And we're talking about Kingswood here or - - -?---Oh, no, we're talking about the new TAP, so it would be Banksia, Birrong, Wollstonecraft, no, Wollstonecraft, and Roseville.

Right. So you received a budget document from Mr Abdi?---That's correct.

30 That related not only to the Wollstonecraft project that you ultimately worked on but also Banksia, Birrong and Roseville?---That's correct.

And - - -?---So it's all, it's all, it's in my file with - - -

And he said to you that he'd got it or that [REDACTED] had downloaded it, is that right?---Not that, not, not that particular file. I, I assume that came from Sairam because that was the Downer budget. So, yeah.

So you had a Downer budget?---That, that's correct, yes.

40 So what were the documents, or what was the document or documents in relation to which Mr Abdi said to you "[REDACTED] downloaded this for me"?

---I can't recall. Some documents, or it was, yeah, it was, I, I don't recall which, exactly which documents.

Were they TAP budget documents?---Possibly but it would have been, I wouldn't see, it would have been - because it's, it's, a TAP project from Transport is different from the budget for Downer, from Downer.

Yes. So there was a Transport budget and Downer budget?---Exactly.

Yeah. So I didn't think that would have been useful for, for us.

10

That is a Transport budget wouldn't have been useful?---Yes, because it, it's not what the Downer's budget work, that's not what Downer is working off.

Did it still provide some assistance to you if you had a Transport budget?

---No. I don't think I looked at it because I knew it was kind of, wouldn't assist.

It wouldn't assist?---Yes. Because I, I, because I knew it would have been, the budget would have been out of whack. So - - -

20

Is that because it had an additional amount of money built into it?---That, that's correct, yes.

To the extent that it gave you some idea of what Transport at least had allowed for the project, or a project, was the Transport budget a useful thing to have?---Oh, I didn't really look - it would be but didn't really look at it because I had the Downer budget.

30

So were there some instances in which you had both a Transport budget and a Downer budget?---So, no, I had a Downer budget but Transport, not too sure if I ever, if it was sent to me or I just saw it just, what do you call it, visually, like, just sighted.

Sighted it.---Yeah.

So where you say you sighted a Transport budget, do you recall which project or projects that related to?---Oh, I can't, I can't, I cannot recall. Yeah.

40

Did it happen more than once that you sighted a Transport budget?---I didn't really pay attention, yeah.

So where Mr Abdi was saying to you, "[REDACTED] downloaded this for me", what do you understand that related to?---Oh, anything that was, I think, might have been useful but I didn't pay too much attention to. Yeah, because I didn't think it, well for me at the time, was useful.

So in passing documents to you, if they were Transport documents, did you understand that they were usually something that [REDACTED] had downloaded for Mr Abdi?---I would assume so because that's what Nima had told me.

10

So, he had told you what in relation to [REDACTED] doing things for him?---He doesn't, yeah, exactly, [REDACTED] doing things for him, yes.

But what had he said to you about that?---Oh, [REDACTED] would download this for him or [REDACTED] would, I guess, try and convince, you know, RJS to come onboard or something like that.

So did you understand [REDACTED] to be doing things that Mr Abdi had asked him to do?---That's my understanding, yes.

20

Did you ever meet [REDACTED]?---Oh, the first time I met [REDACTED] was Wollstonecraft, which I didn't know it was [REDACTED] himself, yeah, because - - -

You didn't know it was the same [REDACTED]?---Yeah. Well, the same [REDACTED], exactly, yeah.

We'll come to Wollstonecraft. Just going back to the question of provision of contact details, if we could have 18.10, page 8 brought up. This is the page I intended to show you before.

30

And a bigger version of this is on page 28, which I will come to, but do you see this is your 500 number sending to the 802 number that I think you've said was Mr Abdi's - - -?---Yes.

It's a bit hard to see but if we go to page 28 they're blown up. Do you recognise what those attachments are?---Would that be just to show him that I sent it through, sent through a price?

40

They are email signatures. You can see them blown up.---Yeah. Yeah, the email signature, yeah.

So does that represent the step that you described earlier in your evidence in relation to - - -?---Actually, actually, that, that would have been the contact details provided.

Yes.---Yes. Because the contact, yes, yeah. It was an email sent - it would have been a contact detail for Nima to pass on to Sairam to tender out.

10 So that's the message by which you provided those to him to then organise, effectively, for those companies to provide tenders?---That, that's, that's correct, yes.

So, did you understand Mr Abdi effectively to be entirely in control of the tendering process in relation to Kingswood?---He had, yeah, he, yes, he had control.

That is he was giving instructions to Mr Pilli as to who to approach?---Oh, yes, I would assume so. That's why - - -

20 And he was also discussing with you the pricing in - - -?---That's, that's correct, yes. So that's why I think he kept myself separate from Sairam, so it's just between myself and Nima, and Nima and Sairam.

And when you say he kept you separate from Sairam, what do you mean by that?---Oh, so that we don't talk about anything, as in talk about what's, what's going on.

Okay.---So keep that as, when I see him, keep that as a professional level.

30 And did you have any discussions with Mr Pilli as to payment? That is payment for his assistance.---Yes.

And what were those discussions?---I think he was, he was chasing time sheets.

He was chasing time sheets?---Time sheets, yeah.

So - - -?---So me to sign a time sheet that he's done work for RJS.

40 Right. So had he in fact done any work for RJS?---No, he didn't.

Right. So why was he, why did you understand him to be asking you to sign time sheets?---So then when, when I pay the invoice, it's relate, that invoice is related to that time sheet.

Okay.

THE COMMISSIONER: Sorry, say that again.---So when I pay the invoice, the invoice is related to the time sheet.

10 MS DAVIDSON: So where we refer to the invoice - can we have volume 1.5, page 389. This is an email from PSR 360. Do you recall who PSR 360 was?---That would have been Sairam's company.

Okay.---Or some sort of company he's associated with.

Can we scroll to the next page. So that's an invoice to you in May 2020 for \$63,500. Is that the - you referred earlier to an invoice.---That's correct, yes.

20 Okay. And so to the extent there's a reference there to "day rates", is that what the time sheets that you signed related to?---That's correct, yes.

Okay, but he didn't in fact perform any work of that kind for RJS?---No, he didn't.

And he couldn't have because - - -?---He couldn't - - -

- - - he's project managing or project engineering for Downer at the time?
---Exactly, yes.

30

Right. Did you pay that invoice?---Yes, I did pay this invoice.

And did you understand in paying it that was effectively part of Mr Pilli's - -
-?---Share.

- - - share?---That's correct.

Right. And had you been given any instructions by Mr Abdi in relation to paying this invoice?---Just that Sairam will send the invoice, just pay it.

40

Okay.---It's just, yeah. The only - - -

Had you discussed a figure of \$63,500 with Mr Pilli apart from signing time sheets?---No, the, I left that too with Nima. Nima told me how much was owed to him.

Okay. Was \$63,500 more than you understood Mr Abdi to have initially thought about paying Mr Pilli?---Sorry, can you repeat that question?

10 Was \$63,500 - which was what you, I think you say, ultimately paid, presumably in 2020 after the date of this invoice - more than you understood initially Mr Abdi to have contemplated paying Mr Pilli?---I, I'm not too sure. I, it's just he sent through an invoice. He said this is the figure, send through the invoice and just pay it.

Okay. Had you previously had discussions with Mr Abdi about how much Mr Pilli was to be paid?---Yeah, I think so. I think there was a spreadsheet.

20 Right. If we can go to volume 18.10, page 223. Can we scroll down? See at the bottom there "Indian 32 662". You see that's a message from the 802 number to the 500?---Oh, yes, yes, yeah, I see that. Yes.

Now, this is back in October 2019. So it's earlier. Can we keep scrolling down. Who did you understand the Indian to be?---So that would have been Sairam.

Right. And then at the top, Mr Abdi says, "I'm going to make it 33,000, just so that it's a clean number we can keep track of." Then he says, "I change my mind, 32,700." Do you recall what that related to?---Was that part of the invoice? I'm not too sure. That's - - -

30 Does it indicate Mr Abdi giving you instructions so far as you understood in relation to paying Mr Pilli?---Oh, yeah, that, that would have been the case, yes.

Right. Was there some additional payment beyond the invoice that Mr Pilli received?---The only real, the, it's only one invoice he sent through so I can't recall.

40 Do you recall giving him a cash payment?---I'm not too sure. As in, I don't know if there was cash involved. Possibly. Possibly. I don't, I don't recall, unless you have something that might trigger my memory.

You don't remember a cash payment being provided in addition to the \$63,500?---Possibly. There possibly might, yes.

But you don't recall providing it?---I don't. I don't recall generally, yes.

If we can go to volume 1.5, page 426. Can we scroll down. Keep going. Further down. So if you see down the bottom of this spreadsheet, there are various costs listed, a profit figure. This is a document that was found on
10 your laptop.---Yes, that looks familiar. Yes.

And is this a document you prepared?---Yes. Yes.

Where there's a payment \$63,500 "to Indian". Does that seem to be equivalent to - - -?---That's the, that would be the invoice.

That would match up with the payment - - -?---That's correct, yes.

- - - that you made. So to the extent that there was profit showed there of
20 \$331,507, how do you recall that that was split?---So that would have been split three ways. If you divide by three you will get 110.

Right.---I assume, yes. Yeah.

And who were the recipients of that?---Oh, that would be myself, Nima and Sairam.

Right. And so to the extent that it was a \$63,000 payment to Sairam, do you recall how he received the rest of the split?---Probably most likely cash.
30

Right. But you don't recall giving him cash?---I, I don't, I don't deal with that so I don't - - -

You didn't deal with giving him a cash payment.---That's correct, yes.

Did you, do you recall how it was that Mr Abdi was paid?---So Mr Abdi was paid through JTG Services.

So again Ms Tosh's company.---Yes, that's right. So he wouldn't, oh, I
40 think I did the invoice for the company.

There would have been an invoice provided that you would have paid.
---That's, exactly.

Did you also after the Kingswood project pay various building expenses from RJS on behalf of Mr Abdi and Ms Tosh?---That's, that's correct, yes, relating to - - -

What, what did that relate to?---Just stuff on his property, I guess.

10 Stuff on his property.---His property, yes.

Was that his property at Arcadia?---Ah, Glenorie.

Glenorie, I'm sorry.---Yeah. Yeah, Glenorie, yeah.

And were there other properties that you understood he was organising work to be performed on at that time?---I can't recall. I just, I just remember most of the work was to his house, to his property, which is in - - -

20 Was there an apartment in Waitara?---Waitara? That's - - -

Connected to Ms Tosh?---That doesn't ring a bell, yeah.

And work being done on a property at Beaumont Hills?---Doesn't, doesn't - - -

You don't recall paying for those things?---Well, what, what are the items that I paid for? I just, he just sent me an invoice and I just paid it, yeah.

30 But did you have a credit card associated with RJS?---That, that's correct, yes, I did.

A business - - -?---A business, yeah, a business card, yes.

Did you give him details in relation to that card?---Yes. So he would of had, the card, he would of have had access to the card, yes.

He had access to the card?---Yes.

40 And did you understand him to use it at times?---Yes. Yes.

And what did he use it for?---Just for, I guess like you said, building stuff, yeah.

But was that in relation to RJS Projects or his own personal projects?
---Yeah, I think it was own personal and then I'd just take, I'd just minus it from his profit, yeah, that's - - -

10 And were there other times when his own personal expenses were paid by you and deducted from his profit?---Yes it would've been most of it, if it was an invoice, then, 'cause he doesn't have access to the bank account, so then I would have to pay the invoice personally. But anything that - - -

So if he had passed on an invoice to you and you'd paid it on his behalf for something that didn't relate to RJS work - - -?---Yes.

- - - that would - - -?---Be deducted from his share.

20 I see. Right. And did you pay Mr Cox in relation to the Kingswood project?---Yes, 'cause he carried out works to the Kingswood, so he carried out the works, the weekend shutdown possession works.

Right. He was a shareholder in RJS by this time. So by contrast to the situation in Lithgow, did you pay him as part of the profit split arrangements?---No, this one, I think I just paid him for the work himself, as in what he performed.

Right. In addition to deriving any profit from RJS out of it?---That's, that's correct, yes. So I think, 'cause the reason - - -

30 If we can have the slide back up from MFI 10? So does that slide - which reflects a profit split of 22% to Mr Abdi, 78% to you - accurately reflect what your understanding was of the situation following Kingswood and then you paying out of that the equivalent of 24% to Mr Cox?---No, it would have been, it would have been a fifty-fifty split between, well, yeah, it would have been a, a third each, between myself, Nima and Sairam.

You don't recall paying Mr Cox out of the amount, well - - -?---No - - -

40 - - - paying him out of the profit split amount as opposed to paying him for work that he performed?---I would have paid him for the work he, he would

have performed as in, 'cause he's the one that, he ran the whole possession, so he managed the whole possession.

And so you were paying him, according to some hourly rate?---Yeah, so we, so the agreement, although he was a shareholder, the agreement was that he'd still bill RJS, so this is how the, my, my other company, NGTO Group came in, just to split the, the, the, the profit share, so it doesn't get confused
- - -

10 Between yourself and Mr Cox?---That's, that's correct.

Can we go to volume 1.5, page 406? Volume 1.5. This is a spreadsheet that Mr Cox prepared. This is a document you've seen previously?---No, this is the first time I've seen this. I don't think I've seen this before.

Well, can you see a line that relates to Kingswood there?---Yes.

And there's a profit at contract closure figure. Can you see that column just before the table with lines?---Oh, yes, yes.

20

So a profit showing there of \$510,743 and then payment column showing, to the extent "T" might be you, \$274,529.---I'm not too sure where he got the figures from.

Well, is it your evidence that that doesn't reflect your understanding, that is you receiving a greater proportion?---Exactly, yeah, it doesn't. It's not, doesn't reflect what had happened was, was a fair even split.

30 Okay. So you understood there was an even split between Mr Pilli - - -?
---Myself.

- - - Mr Abdi and yourself?---Yeah, based on my spreadsheet that I was shown previously.

Right.---Yes.

Okay.---So I haven't seen this spreadsheet before.

40 Okay. Moving on then to the Macdonaldtown - - -

THE COMMISSIONER: Who were the three, who were the people who participated in the distribution, yourself - - -?---For Kingswood. So myself, so, and Nima Abdi and Sairam Pilli.

And how did Mr Cox get paid?---Oh, he just sent through an invoice for I guess the works.

An hourly rate?---A lump sum. Yeah, so although Aidan Cox was a shareholder he was just still treated as a subcontractor just to keep the profit.

10

So you didn't share any of your profit with him?---Not for the Kingswood, no, because he wasn't involved in the Kingswood.

MS DAVIDSON: Could we go back to, moving on now to the Macdonald - I'm sorry. I'm sorry.

THE COMMISSIONER: So just, sorry, just to follow. You said you didn't share any of the profit with him because he wasn't involved in Kingswood but earlier you said that he issued an invoice and he was paid pursuant to an invoice.---Sorry?

20

You said that you didn't share any of the profit for Kingswood with him because he wasn't involved in Kingswood.---That's correct.

But then earlier you stated he did receive a payment based on a lump sum from an invoice he had submitted.---For the work he performed as a subcontractor.

At Kingswood?---At Kingswood, yeah, which was the weekend 19 possession shutdown.

30

MS DAVIDSON: So when you say he wasn't - well, to the extent your answer earlier was that he wasn't involved does that - - -?---So pretty much - - -

- - - does that mean that he wasn't involved in the profit split arrangement? ---That's correct, yes.

THE COMMISSIONER: Yes, thank you.

40

MS DAVIDSON: If we could go back to MFI 10, the slide for Macdonaldtown. Macdonaldtown was not a Transport for NSW project, it was a Sydney Trains project.---That's, that's correct.

And the person - well, did you have, that is did RJS have a contact within Sydney Trains who was working on the Macdonaldtown project?---I would assume it was Ben, Benjamin.

That's Mr Vardanega.---Mr Vardanega, yes.

10

And it wasn't a Downer project it was, there was a different head contractor.---That's correct, yes. So we did it through TCQ or Brodyn Pty Ltd, yeah.

Right. Was TCQ a company that you had anything to do with before?---No, no.

So how did you come to be involved in the Macdonaldtown project?---So this was more between Aidan Cox and Benjamin. So I think, I think Benjamin just got us in so I think TCQ was looking for a subcontractor to perform the works.

20

So were you invited to provide a tender response?---Yes. So I think we were provided a, yeah, a, a tender to, to be priced, yes.

And do you know how that came to happen?---I assume it was through Ben, Benjamin.

Did you have some discussion with Mr Cox about Benjamin?---Yeah. So, Aidan Cox would have said, "Oh, yeah, Ben's", and Ben would I guess give us, or find us work or would suggest us to TCQ.

30

Was Ben somebody that Mr Cox knew previously?---Yes.

Do you know how that relationship came to be?---I think when he was a consultant at one, one of the, where he worked previously.

Where Mr Cox worked previously or - - -?---Yes.

Has he worked with Mr Vardanega?---No, I think that's where they met, yeah.

40

THE COMMISSIONER: Sorry, what did you say?---That's where they met, on, on the last, where, where he worked as a consultant.

MS DAVIDSON: Do you know where that was?---I can't remember the name. If you could, I, it will, if you suggest a few names, I might say yes, it might come up.

It was - - -?---Arch, Arch, Arch. Arch, was it?

10

I can't tell you. So Mr Vardanega you understood had a conversation with Mr Cox or had some contract with Mr Cox. Were you involved in preparing the quote for Macdonaldtown?---Most likely, yes. As in putting together? Yeah.

Yes.---Yeah. Probably, yeah, most likely, yes.

20 So when you say it was more between Mr Cox and Mr Vardanega, you were still involved in the process of putting together documentation for the project.---Oh, yeah, that, that's correct, yes.

And were you also involved in managing the project when it occurred?
---Yes.

Do you recall whether there was information given to you, or were you aware of information being given to RJS in relation to the budget for that project?---I can't recall if I seen the budget but I just went off with what, I guess, Aidan said. I think that's a conversation between Ben and Aidan.

30 But did you understand that Aidan had some information in relation to the budget for the project?---Yes.

And did that assist you, or do you recall having a conversation with Mr Cox about that, that is about the budget for the project?---Oh, probably, our discussion. It's more, I think, working out the price and then, yeah, just, we were just working out the price and then add, I guess, a mark-up on top.

40 But you weren't working that out - well, were you working that out as you would if you were normally submitting a tender response without access to any information about a budget or were you working it out in some other way?---Oh, we, we were working out the cost price. So, so you work, that's

the principal estimate. So you obviously want to know what you're getting involved in so you price it genuinely.

Sure. So you priced what the cost price was.---That's exact - - -

But then in terms of what you submitted, was there some information that you understood Mr Cox to have in relation to how you could be successful in submitting the price?---I think so, yes. Yes.

10 When you say you think so, do you remember him telling you something about that?---I'm not too sure. As in, like, I don't remember the, the conversation. I remember, like, we, we worked out the price and then we marked it up.

But you weren't marking it up using just some percentage or margin that you used in some standard way, were you?---I can't remember if we were, like, because it's high risk we just double it or if it was, okay, we'll put this much value or we worked out - - -

20 So what I'm asking you is in pricing it in conjunction with Mr Cox, did Mr Cox, to your understanding, know something about what the budget was? ---Oh, he probably would have. He probably would have.

He probably would have?---He probably would have, yeah. Probably, probably would have, yes.

30 So what gave you that understanding that he probably would have?---Oh, then he said, "Oh, we'll just stick a price in for - we'll just", I, I don't know the exact conversation, he said, "Double the price" or something like that, or we'll, we'll put up the price for this much.

But you don't - well, is it the case that you don't know one way or the other whether Mr Vardanega had told him anything about what the budget was for the project?---I would assume he did but I don't know that as a fact. Like, yeah.

So you don't - - -?---Because that, that was a more conversation between Ben and Aidan.

40 And you don't recall that being passed onto you?---I don't recall, no.

Did you have any conversations with Mr Vardanega yourself about this project?---Oh, no. I never spoke to him. I think the first time I spoke to him was, was in, was Wollstonecraft, I think, yeah.

And this was before Wollstonecraft?---Yes. That's correct.

Do you recall a process of initially submitting a quote and then subsequently submitting another one?---Vaguely, yes.

10 Okay. So what did that relate to?---I think the increased scope of works. I vaguely remember they sent us this drawing, prices for that drawing, and then I think there was additional works and they sent us another drawing which, yeah.

Right. Can we have volume 13.2, page 76. So this is an email from Aidan to Mr Vardanega, "Following our discussion and site visit, we are pleased to submit a price. See attached for consideration." If I can scroll down, continue, continue on. So that's a price for the lump sum quotation of \$448,000 in September 2019. Can then go to, in the same volume, 13.2,
20 page 107. This is then a quote, "To be considered in conjunction with our original offer for civil containment. Hopefully this should give you the savings you need" - this is October, I should say - "to meet Transport's budget constraints." Again, this is an email I realise that you're only copied on. It's not being sent by you, but it refers back to the September email, and if we keep scrolling down, there's a lower sum there of \$237,900. Do you recall why you were at that point submitting a lower quote?---Maybe it was de-scope so it might be incorrect with saying increased scope. It might be a de-scope.

30 Okay.---Yeah.

So where the cover email refers to, "Meeting Transport's budget constraints" - - -?---It would have been a scope, a, yeah, decrease in scope.

Okay. And so you didn't understand that to be the result of, or did you understand that to be the result of any discussions between Mr Vardanega and Mr Cox?---I would assume so, yes. Yes.

And similarly about those discussions relating to the available budget.
40 ---Yes.

You were successful in being awarded the contract in October 2019 after submitting this lower quote?---Yes, we did. Yes. We were, we were successful, yes.

And you then subcontracted that work out to Ballyhooly.---Yeah, so we used them as labour hire.

Yeah.---Labour and plant hire, yes.

10 So when you say you used them as labour hire - - -?---So, so Ballyhooly was just, we used Ballyhooly as, as, as more of a labour and plant hire.

Right. Does that mean they were actually performing the work?---They were performing the work under our management.

Right. So was that different to previous subcontracting arrangements you'd had on the Downer projects where you'd subcontracted?---So, yeah, this would be different, yes, as opposed to say the likes of Kingswood.

20 Right.---Whereas, yeah, Kingswood you have obviously the builder who just manages everything, who organises, plans everything as part of his contract and then - - -

Okay. So you were doing, well, is it the case that you and Mr Cox were doing more work in relation to Macdonaldtown than you did in relation to, say, Kingswood?---That, that's correct, yes. So we would do - - -

30 Because you'd only subcontracted out on a labour hire basis.---Exactly. We put a crew together, figured out what machine we did, plan the methodology, the program.

Right. Did that require you to spend more time onsite?---I was onsite but I don't think I was there full time. I was - - -

'Cause again you're employed by Inner West Council at this time.---That's correct, yes.

40 Do you recall how frequently you were attending the Macdonaldtown site? ---Probably once a day, 'cause it's only, I remember it was only 15 minutes down the road from - - -

THE COMMISSIONER: Sorry, what did you say?---I remember it was only like a 15 minute drive down the road to, from the head office, council head office to - - -

How long would you stay there for?---Probably half an hour, just to make sure the boys are all right.

MS DAVIDSON: So, again, did you have a regular pattern?---Yeah, I would have a regular pattern, yes. Right.

10

So in terms of attending council offices and then leaving again or - - -? ---Exactly, yeah. So I would have some sort of, I guess, yeah, a route, I'd plan routes, so where I'm going to be.

THE COMMISSIONER: Just for my information, did you ever do a full day at Inner West Council whilst you were working on these projects?

---When these projects arise? No.

And no one at Inner West Council said anything to you about this or - - -?

20

---No. No one mentioned it, no. I guess I was, perform works, I still perform works at council and I still meet deadlines and milestones and KPIs at council.

Okay. I'm just interested.

MS DAVIDSON: Can we go back to MFI 10, the Macdonaldtown slide? Do you recall - - -

THE COMMISSIONER: Sorry. The workers that you had at Ballyhooly that were subcontracted - - -?---Yes.

30

- - - did they identify as Ballyhooly workers or they identified as RJS? ---Oh, they would identify as Ballyhooly workers 'cause they would, probably most time, they would rock up with the logo on their uniform.

Sorry?---Most of the time, they would rock up with logo on the uniform.

What, Ballyhooly?---Yeah. That's correct, yes.

40

Okay. Yes, thanks.

MS DAVIDSON: Does this slide accurately reflect the profit split arrangement that you had in relation to Macdonaldtown with Mr Cox?
---Yes, the fifty-fifty split - - -

And was there also a payment made to Mr Vardanega?---Yes, that was a cash payment.

It was a cash payment?---Yeah.

10 How much do you recall that was?---Like I said, the figure 24 comes to mind. I, I don't know. Could be - - -

\$24,000?---Yeah, 24, yeah.

Do you recall discussing that figure with Mr Vardanega?---Not with Mr Vardanega but with Aidan.

Did you understand Mr Cox to have discussed it with Mr Vardanega?---I would assume so if he was discussing with me.

20

And what were the nature of your discussions with Mr Cox about it?---Just said, let's give, well, Ben's, well, the finder's fee for this work - - -

The finder's fee?---Yes. That's what we called it, yeah.

And Mr Cox suggested that or did he tell you he'd made an agreement with Mr Vardanega - - -?---Yes, so he - - -

30 - - - what was the nature of the discussion?---So he said there, there's agreement there, well, there's a finder's fee, so - - -

Did you talk about how much that should be with him?---Vaguely I remember going, "So how much is it?" and then he said, oh, yeah, I just, I just have vague recollections that we were just going back and forth, how much is the finder's fee.

40

Okay. So there was debate between the two of you as to how much it should be?---I wouldn't say debate, but, you know, what's the right amount for, for the finder's fee, hence - - -

Discussion?---Discussion. Hence the 24 K, grand in my head, like, yeah.

Do you recall discussions with Mr Cox about there being a higher finder's fee?---A higher finder's fee - - -

That is, higher than \$24,000?---Possibly, but I don't generally recall it, as in, yeah.

But you don't dispute there might have been such a conversation?---Yeah. There, there, there would have been a conversation, yes.

10

Well, was that paid in cash to Mr Vardanega?---That, that's correct, yes.

Did you pay it to him?---I, I didn't pay him. I gave cash to Aidan and Aidan passed it on to him.

And what was the source of that cash?---From the SDL's, I guess, kickback.

Right. So that was the cash that you had at home?---That, that, exactly. Yes.

20 So you took \$24,000 from that and gave it to Mr Cox?---Something like that, yes.

And did you understand Mr Cox then passed it on to Mr Vardanega?---That was the idea, yes.

And in terms of the level of profit that was derived from the Macdonaldtown project, do you recall what that was?---I cannot recall. I'd have to see a spreadsheet or something like that, yes.

30 All right. So if we go back to - - -?---Can, do you mind if I interrupt?

Yeah.---So the silent partner, Nima Abdi, he wasn't involved in this project, whatsoever, so - - -

Okay. So to the extent that he was a silent partner in relation to other projects, he had - - -?---That he, I guess you could say controlled.

40 Right. Did he have any awareness of the Macdonaldtown project?---He probably did, but, yeah. He probably did. I probably mentioned it but I don't think he'd taken notice or, yeah.

He didn't ask you whether he could come in on it?---No, no, he didn't.
Yeah.

And was that because it was Sydney Train's project rather than a Transport -
- -?---No. Because he has no involvement whatsoever. He has no, I guess,
he wasn't helpful, he couldn't be helpful. There was no - yeah.

He didn't ask or try to - - -?---Try, yeah, I don't, yeah, no, no, because he
has no value to, to the project.

10

Because subsequently, in relation to the Wollstonecraft project, he did want
to come in or have an interest on that project, didn't he?---To some, to, to an
extent, yes. Well, I'll talk, we'll talk more about - - -

We'll come to that.---Yeah, exactly. There's - yeah.

All right.

20 THE COMMISSIONER: So you just got this project essentially through
Aidan Cox, did you, and his connection - - -?---Yes, his connection, yes.

- - - with Brodyn?---With, no, with Ben.

Oh, Ben Vardanega. And did you have any contact with anyone from
Brodyn?---Just on, on a professional level.

I see.---Yeah.

30 MS DAVIDSON: And if we can go back to volume 1.5, page 406.

THE COMMISSIONER: Just so I'm clear, where did the discussions about
the payment to Mr Vardanega arise as far as you're aware?---Probably at the
end when we finished the job.

Not at the outset?---Yeah. Well, oh, because we didn't know how much we
were going to make. So it would have been a percentage of - I, I assume it
would have been a percentage of the profit. Yeah.

40 Yes, all right.

MS DAVIDSON: So you see that this is again Mr Cox's spreadsheet, I appreciate not yours, but you see there Macdonaldtown, contract value of \$454,000, costs of \$284,000 and a profit at contract closure of \$192,000, which I think it where the figure of - or corresponds with the figure shown on the slide that I just showed to you.---Yes.

With profits each then of \$96,000 split between the T column and the A column.---A.

10 Does that look about right from your perspective?---Yes.

A profit of about \$96,000 each was the split?---96 each, yes, that's the split, yes.

About \$96,000 each. And do you recall how you and Mr Cox were paid in relation to that profit split?---As in TCQ would pay, as in - I, I don't understand that question.

20 Well, sorry, I think you had said that after or around the time of Kingswood your own company came in, that is to keep things clean with Mr Cox, was that also relevant to the way that you were paid for Macdonaldtown? RJS was paid presumably by Brodyn.---Yeah. RJS were paid, yeah, and then Aidan would have invoices his share to RJS and then it would have been paid through RJS to Marble Arch.

To Marble Arch.---Where I was, I would have kept my profit in there for cash flow, yes. Does that make sense?

Yes.---Yes, yeah.

30

Moving then to North Strathfield. If we can get the slide from MFI 10 for North Strathfield. So North Strathfield was another TAP project?---Yes, that's correct.

And that occurred later in 2009 than the Kingswood project or were they running at the same time?---After, I think after Kingswood, yes.

After Kingswood?---It would have been after Kingswood.

And were you working on North Strathfield at the same time, or around the same time that you were also going work on Macdonaldtown?---No, I don't think so. I think it was just one after the other, yeah.

The project manager at Downer was Mr Watters?---That's correct.

Had you previously had involvement with Mr Watters?---Through Kingswood at the beginning when he was acting project manager, when Vlad was on leave.

10

Was that where you first met him?---Yes.

Did you know whether Mr Cox otherwise knew Mr Watters?---Oh, no. I introduced Kevin and Aidan on this site visit.

And Mr Watters was the project manager throughout, so far as you knew from Downer's perspective, for the North Strathfield project?---Yes, that's correct.

20 What was Mr Abdi's involvement in the North Strathfield project?---Oh, nothing, no, no involvement.

I'm sorry?---No involvement.

Nothing?---Nothing, yeah.

Okay. So again is it inaccurate to say that he was a silent partner on this? ---That, for this project, yes.

30 Right. And he wasn't managing it from any - he wasn't managing it from a Transport perspective?---Oh, he had no involvement, yeah, even from a Transport perspective, no involvements, yeah.

Okay. How did you come to know about the North Strathfield project?---I think I got an email from Kevin Watters saying there's a bit of building works to be done.

40 Okay. Can we have volume 1.6, page 300? Is this the email that you received from Mr Watters that you referred to in your last answer?---That's correct, yes.

So he understood that - well, it seems that he understood Kingswood was coming to an end.---Was finished.

He wanted you to stay involved. And what did you do after you received this email?---So then, yeah, so I forwarded to Aidan and say, oh, let's go and have a site visit just to have a look at the job.

10 Okay. He talks about it as being a small package of heritage-style building works. Is this a smaller job than the ones that you'd previously been doing?---Oh, yeah, so this was only a room, a heritage room, a heritage waiting room, yes.

Right.---So it wasn't like a whole building refurbishment like Kingswood.

Okay. So the scale of it was smaller?---Yes.

What made you continue to be - well, what made you interested in it?
---Any, well, just it's, it's just, it's just work.

20 Right.---Yeah, it's just work.

So it didn't matter that it was a smaller project from your perspective?
---Exactly, just if it's work, it's work.

Okay.---Yeah.

30 Can we go in the same volume to page 303. That's a quote that you sent in on 30 September 2019. Was there previous or did you engage in discussions or were you aware of Mr Cox engaging in discussions with Mr Watters about the price that was submitted?---It was, it was after it was submitted, the price was submitted, then the discussion happened.

It was after the price was submitted?---That's correct, yes.

Okay, so how did that come to be?---I'm not too sure. It was more between Aidan and Kevin.

Right.---Yeah.

So what do you know about what occurred?---So I, so what my, what I can recall is we sent in a price and then I think Kevin, from what I can recall, Kevin contacted Aidan and saying, "You can put additional X amount."

Right, so Kevin contacted Mr Cox and asked him to inflate the price?---Yes.

And was that - - -?---From, from what I can understand.

Okay, is that from what Mr Cox told you?---Yes, I think so, yes.

10

Okay, so do you recall being prepared, sorry, being involved in preparing a higher quote?---I think this one Aidan did the preparation.

Right.---Yeah.

But do you recall seeing a higher quote then being prepared?---Yes.

Or knowing that a higher quote - - -?---Knowing, knowing, knowing, yes. But seeing? Probably, I can't recall. But knowing, yes.

20

Right, so you don't recall whether you actually saw the document, but you knew there was - - -?---There was a document of, yes, that sort.

Right. Did you understand that at the time of being asked to submit a higher quote, Mr Watters had made any other request to Mr Cox?---Yeah, that would have been a text.

A text?---A text, yeah, that Aidan showed me.

30

Right. So what was that?---I think that's the reason why we, he asked us to put a higher, higher mark-up price for his, I guess, cut.

There was a text message.---Yes.

And do you recall what - you said you saw it, Aidan showed it to you. ---Yes.

Yeah. Do you recall what it said?---I think something along just add a few more for myself or something like that and then a smiley face so - - -

40

Okay. So it was making a request to add something on for him.---That's, yes, that's from what I can recall.

And what did you understand that to be?---Probably like, yeah, as long as we make money from the project, like it doesn't affect our profit margin it's fine.

So you were happy to submit a higher price and pay Mr Watters in relation to the job?---That's correct.

10

Had you previously been involved in paying a Downer project manager in relation to, that is having a request from them to give them a payment for the job?---No, Kevin would have been the first one.

Right.---Apart from the, or the story of Abdal and, yeah.

Did you subsequently make a payment to Mr Watters?---Yes.

20 And do you recall whether that was at the time that he asked you, that the text message was sent to Mr Cox or later on?---Oh, it would have been after the invoice was paid.

Okay.---Yeah. Yeah, I'm pretty sure it would have been after the invoice was paid.

That is at the end of the project.---And then, exactly, end of the project.

Right. And do you recall how much he was paid?---8,000 rings a bell, like.

30 Okay. And did you - how did you pay him that amount?---That would have been cash.

Right. Do you recall who gave him that cash?---So I would have got the 8,000 from the, I guess, the SDL pot.

Right. So again the money you had at home?---Exactly, and then handed over to Aidan and Aidan would have handed it over to Kevin.

40 Okay. So subsequent to being told or seeing the text message you understand that Mr Cox prepared a revised quote for a higher amount, that is the quote level was increased?---Oh, yes, I think so, yes, yes. I think, yes.

And it was that higher quote that was accepted.---That they accepted.
Exactly, yes.

All right. Was there any tender process in relation to North Strathfield?
---Not that I can recall.

So you were - - -?---It was just that email he sent through and then - - -

10 Just that email.---Exactly. And then we walked through it and then we had
a site meeting.

Right.---Scoped it up, price it up and then - - -

Do you know why that was that there was no tender process?---I have, I
couldn't tell you.

Okay. Was it because of, or did you have any idea as to whether there was a
level, a threshold at which Downer was required to conduct a tender
20 process?---Not that I'd taken notice of.

Okay.---Yeah. I didn't pay attention too much on this project, yeah.

Right.---Just we were offered, we were offered a opportunity to price which
is potential work. Why not go for it?

Where you say you didn't pay attention too much, is that because Mr Cox
was effectively running it?---Yes.

30 Right. If we can go to page 1.6, sorry, volume 1.6, page 321. This is not an
email that you were copied on. An email from Mr Watters to Mr Patel that
he notes that "There's a quote from RJS for \$45,000 against an allowable
budget of 49,000. It should be noted this is a robust quote and we'll be
expecting zero dollar variations as all considerations have been made
including multiple site visits and adjustments from RJS before this final
quote." Do you recall whether there had been multiple site visits and
adjustments from you such that all considerations had been made?---Was
that a question?

40 Yes.---Oh, yeah, I would assume so, yes, yeah.

Right. Did you understand that all considerations had been made at the time that you submitted your quote? Were you expecting no variations?---Yes, that's, that's, that's correct.

You didn't expect there to be variations (not transcribable).---There wouldn't, yeah, exactly, yeah. There was no - - -

10 But in fact there were a substantial number of variations.---That was in terms of latent condition, so it was unseen, unseen works, unforeseen works so which is classified as a latent condition.

Right.---Yes.

In fact there were some \$46,000 worth of variations in relation to North Strathfield. Were you involved in the approval process in relation to any of those variations?---Approval, as in?

20 Submitting variations to - - -?---Oh, submitting, as in I wasn't involved directly but I, I, I was aware of it I think, yes.

Did you attend the site in North Strathfield?---Not as much as Aidan Cox - - -

Okay.--- - - - 'cause he was running the job.

Right, but you did attend sometimes?---Sometimes, yeah.

30 Are you able to say how - - -?---Just, just to stick my head in and see what's going on.

Okay.---More of that than running the job.

Was there a regular basis or pattern for your attendance?---Oh, no, just, I guess when I'm free, like, when I'm not, when I'm free from council or whatever, 'cause I was still working for council.

40 When you say when you're free, was that still during a workday when you were supposed to be at the council?---Exactly. That's, that's what I mean, yes.

So you weren't really free, were you?---No. That's why I wasn't, wasn't there on a regular basis, yeah.

Right, but you did attend other sites on a regular basis even when you were supposed to be at council, didn't you?---That's correct, yes.

So it wasn't really the case that it was your council work that was stopping you going to North Strathfield, was it?---No. No, it wasn't, but it wasn't, I didn't need to be there. It wasn't necessary to be there.

10

Right, and that was because Mr Cox was there.---Exactly, that's why. Yes.

Right. On the question of the variations, can we go to 1.6, volume 1.6, page 424. Scroll down to, this is a payment schedule showing the variations figure of \$46,000. If we can scroll down to see the variations listed there. We can stop there. Do you recall any discussions in relation to any of those variations?---Yeah, so from, from memory it was a latent condition.

20 Right, but in relation to the pricing of them, do you recall being part of any discussion?---Might have over, might have viewed or overlooked it but, or sighted it but not, I didn't put it together.

Were you aware of inflated prices or inflations being made to the prices being charged for those variations?---Oh, these, these would have been a standard mark-up, standard margin.

Okay.---Wouldn't be, yeah, it would have been an outstanding margin.

30 So you weren't aware of Mr Watters becoming involved in - - -?---No.

- - - discussions with anybody about inflating the price of variations?---No. Yes, not for this one, yes.

Okay. And would you have been aware of it if that had happened, or because Mr Cox - - -?---Most likely, yeah. Mostly likely I would have been aware of it.

Okay.---Yes.

40 And why is that?---Um - - -

If Mr Cox was running the project.---He would have, he would have told me.

Okay.---I'm pretty sure he would have told me, just like I would have told this, vice versa.

So if you were having discussions about inflated prices being charged in terms of mark-up, you tended to discuss that with each other?---Yes.

10 Okay. Why was that?---Just so we're on the same page.

Okay. So that you'd know that you were driving more profit from the profit. Is that right?---Yes.

Chief Commissioner, I'm in your hands. I'm about to turn to the Wollstonecraft project. I don't know whether you'd prefer to break now given we've had a longer morning session or I can continue for five minutes.

20 THE COMMISSIONER: Are you right to continue or do you want a break at this stage?---I'm fine. I'm, yeah.

We can stay on.---Yes.

MS DAVIDSON: If we can go to MFI 10, the slide for Wollstonecraft. Wollstonecraft was also a TAP project?---That's correct. A TAP, that's correct.

30 And this is the final Transport for NSW project that RJS worked on?---To date?

Yes.---Oh, I've done, oh, I've, there was another one at Banksia Station.

There was another one at Banksia. I'm sorry, Chief Commissioner. Sorry, I'm remembering something that wasn't in fact ultimately in the end in the slides. I apologise, Chief Commissioner. Can we go to volume 1.9, page 3. Just to set the scene while we're doing that, in relation to Wollstonecraft, that was another project being run by Downer?---That's correct.

40 And who did you understand to be the Downer personnel involved in management of Wollstonecraft?---So that would be Andrew Gayed.

Andrew Gayed. What was his role?---He's the project manager.

I'm sorry?---Project manager.

Project manager?---Yeah.

10 And were there others at Downer who you understood to be involved in the management for the purposes of the Wollstonecraft project?---Oh, so there would be a project engineer, which is Mustafa Mustafa, and then there was a few site, site engineers that kept coming and going, yeah.

But Andrew Gayed was the project manager?---Andrew Gayed was the project manager.

And from the Transport perspective, do you know who the manager there was?---Yeah. It was [REDACTED].

20 [REDACTED]?---[REDACTED], yeah, that's right, yes.

So was that the context in which you came to meet - - ?---Came to meet him, yeah. I didn't know who [REDACTED], [REDACTED] was, yes.

So although you had heard about him before you hadn't met him before? ---Yeah. I didn't know it was that [REDACTED], yes.

30 I see. This is an email, just brought up on the screen, that Mr Vardanega sent to Mr Cox in July 2020. It says, "Excel sheet and drawings. Friday, Club Burwood at 2.00. Dropbox for SDR. Apparently this is a lazy title change so not worth it. DDR coming Wednesday." That attached, if we can scroll down, a spreadsheet document. Just pausing there for a moment and perhaps going back up to the email. That's all right, we don't need to go to the detail of the spreadsheet. What did you understand that to be when Mr Cox sent you this email?---I think, just looking at the table I, I vaguely remember the table was, I guess, packages listed for each station and then there's, next to Comm there was a subcontractor to go out to tender.

40 So it's headed Procurement Register TAP 3.3, you can see from the name of the attachment on the email.---Yeah, 3.3, yeah.

Does that refresh your memory in relation to what that attachment was?
---Yeah. Just I think it was the tender, tender list.

And did you understand that to be something that would assist you in any way in relation to Wollstonecraft?---Not, not really. I didn't think it was any, didn't have any assistance whatsoever. It's just a tender list of you see who you're going to compete with, yeah.

10 So where it says in the email "Friday Club" at Burwood, did you have any understanding of what that referred to?---I would assume that meant that they had, they went to, to meet at Club Burwood at 2pm just to discuss this file, or spreadsheet.

And where the email says "Dropbox for SDR", do you know what that referred to?---SDR I think is the phases of the design. So I think the design was on the SDR stage and then - so that's the reason why DDR is the next, next phase of the design, yeah.

20 So it's a subsequent, more refined design stage?---That's right, exactly. On my understanding, yeah.

Mr Vardanega is sending this from a ProjectHQ email address. Did you understand at this time what ProjectHQ was?---At that time, no, and then I put it together. It was, it was his own company, yes, yeah.

30 Did you know what Mr Vardanega's job was at this time? He had been working for Sydney Trains previously.---Oh, no idea. I still, I, I still thought he was working where Aidan met him in the last job, in the consultancy, consultancy firm, yeah.

So you hadn't had any contact - well, had you had any contact with him subsequent to working on the Macdonaldtown project before you saw this email?---Oh, no, no. I still, I don't think I had been in contact with him, yeah, at that time. Yeah.

So did you understand that Mr Cox went to meet with Mr Vardanega?---I would assume so, yes.

40 And did he tell you about that afterwards, what happened at that meeting?
---I, I can't recall our conversation.

Might that be a convenient time, Chief Commissioner? I'm about to embark on another set of documents.

THE COMMISSIONER: Yes. We'll just break for lunch and come back at 2 o'clock.---Okay.

LUNCHEON ADJOURNMENT

[1.59pm]

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