

INDEPENDENT COMMISSION AGAINST CORRUPTION

RECORD OF INTERVIEW BETWEEN INVESTIGATOR [REDACTED] AND KEVIN
 WATTERS AT THE INDEPENDENT COMMISSION AGAINST CORRUPTION,
 5 LEVEL 7, 255 ELIZABETH STREET, SYDNEY ON 17 FEBRUARY 2022

TIME: 1.00PM

PRESENT: ICAC INVESTIGATOR [REDACTED]
 ICAC INVESTIGATOR [REDACTED]
 10 KEVIN WATTERS, INTERVIEWEE
 STEPHANIE YOUNG
 MARK DEUTSCH, LEGAL REPRESENTATIVE

15 [REDACTED] Okay, so my name is [REDACTED] and I'm an Investigator at the
 Independent Commission Against Corruption. So today's date is 17th of
 February 2022 and the current time is 1.00pm. We are located at the
 ICAC, Level 7, 255 Elizabeth Street, Sydney. Today's interview is with
 Mr Kevin Watters. Present in the room is myself, [REDACTED] I have
 20 Investigator [REDACTED], Mr Watters, Mr Mark Deutsch and Ms
 Stephanie Young. For voice identification purposes I'll ask you to state
 their name once I (undecipherable).

[REDACTED]: [REDACTED].

DEUTSCH: Mark Deutsch. [REDACTED]

YOUNG: Stephanie Young.

25 [REDACTED] Great thank you. So, before I turned on due (undecipherable) to a voice
 recorder Mr Watters do you agree that I asked for your permission to
 record this interview?

WATTERS: Yep.

[REDACTED] And did you give consent to having your voice recorded?

30 WATTERS: Yes.

[REDACTED] Great. So any quest, all of my questions and any of the answers that you
 give will be recorded on this voice recorder. So it is important, and you
 may have, Mr Deutsch would've relayed to you that it is important that
 you understand that you do have to say anything or do anything unless
 35 you wish to. Anything you say or do will be recorded and maybe used as
 evidence at a later stage. Do you understand?

WATTERS: Yeah, I understand, yeah.

[REDACTED] So, pursuant the Independent Commission Against Corruption Act 1988
 it is a criminal offence to deliberately provide false or misleading

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[Trim number]

Transcribed by [REDACTED] on [22.2.22]

Proofed by [surname] on [date]

information to an officer of the Commission exercising their functions under the Act. Any information you provide in this interview needs to be true and correct to the best of your knowledge and belief. Do you understand?

5 WATTERS: I understand, yeah.

█ Okay. So there's no confusion, both █ and I are officers of the Commission and we're conducting this interview as part of our functions under the ICAC Act. Do you understand?

WATTERS: I understand, yep.

10 █ Okay. So, as you may be aware the Commission is currently investigating ongoing investigation of serious corrupt conduct and it concerns of the following allegations. That since the 1st of January 2017 former and current employees of the Downer Group have dishonestly obtained a benefit for themselves by favouring certain subcontractors when awarding work arising from contracts that Transport NSW has awarded to the Downer Group under the Transport Access Program or otherwise known as 'TAP', the TAP Program. So, before I start asking questions and █ will also jump in and ask any questions as well, we will be you know, referring to some employees of Downer former and current and we will be, I'll also ask you questions about particular companies as well that are of interest to us. Do you understand?

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WATTERS: Okay, yep.

█ Yeah, okay. And we'll also show you some documents, you know, to assist as well. So, for the purpose of the transcript would you please state your full name?

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WATTERS: It's Kevin Watters.

█ Yeah, and that's you don't have a middle name or anything?

WATTERS: I, I do but it's not used.

█ Okay, yeah. And your date of birth?

30 WATTERS: It's the █ 1987.

█ Yeah. And your current address?

WATTERS: Current address █ Edgecliff 2027.

█ Yeah. And what, can you just give us an outline of your current role at Downer?

35 WATTERS: Yeah, my current role I am the construction manager working within south-western metro projects for Downer.

█ And how long have you been in the construction, in this construction manager role?

WATTERS: Construction manager role I have been in for approximately two years.

Two years, yeah.

WATTERS: Prior to that I was a project manager with Downer.

And how long were you a project manager for at Downer?

5 WATTERS: I started with Downer in 2016 as a project engineer. I was employed as initially from 2017 until 2020. I would've been project manager in 2020 till today, a construction manager approximately.

Yeah. Can you give us an overview of your general role and responsibilities as a construction manager?

10 WATTERS: Yeah. So, I look after, as construction manager within the south-west metro projects. I've also had the TAP projects. I looked after the project managers and the site teams that deliver the works across multiple projects and my role's really to ensure that we have all of the right policies and procedures rolled out across those projects and that we have consistency between them and also to provide a support, line manager support to the project managers and engineers if, and when, they have any issues whether that would be with the client or you know, internally. I also then have a direct report up to the project director for those projects so I'm a conduit for him I suppose, so - between the sites and the upper management.

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20

Yeah, and who do you report to, the project director in Downer?

WATTERS: In Downer at the moments its Andrew Bedwani.

For the south-west metro in TAP?

WATTERS: Yes, yes.

25 Yeah.

WATTERS: South-west metro he's only recently, he's moved to that project, there was actually this project director who left (undecipherable) back but.

Okay, yeah.

30 WATTERS: In my time with TAP there has been more than one project director as well.

Okay. So, Andrew Bedwani and there'll be another one?

WATTERS: The one previous, yes.

Yeah, who was that previously?

35 WATTERS: It was Greg Barnes, he was the national project director for probably the first couple of years I was in the program.

- [REDACTED] Yeah. Do you have a level of financial delegation as a construction manager?
- WATTERS: Yep, yep.
- [REDACTED] Yeah.
- 5 WATTERS: Yes – DFA for sign-off for things it's up to 250,000.
- [REDACTED] Ah-hmm.
- WATTERS: And, you know that's, administered through our online portals ecetera so if we have orders for materials that exceeds what the project managers are like authorised to sign off, it will come to myself.
- 10 [REDACTED] Ah-hmm.
- WATTERS: And there's a chain of, obviously, by delegated financial authority from project managers, construction manager, director and then even all the way up to the executive general managers depending on the value of the, the order that's going in or on contracts where maybe - - -
- 15 [REDACTED] Yeah, yeah and these approvals are one through a Downer system?
- WATTERS: Absolutely, yeah.
- [REDACTED] What's Down, that's the name of the Downer system?
- WATTERS: So, there's a number of systems that we use.
- [REDACTED] Yeah.
- 20 WATTERS: JDEGS, J-D-E-G-S (spells), is the, I suppose the accounting system that we use for actually processing orders. And the procurement space we have used a system called ARKIS which is a procurement tool, portal tool that Downer has used. We haven't always used that, that's been on and off.
- 25 [REDACTED] Mmm.
- WATTERS: But otherwise, yeah it's JD, JDEGS it's the, it's the actual portal for approvals –
- [REDACTED] Yeah.
- WATTERS: - of any orders ecetera.
- 30 [REDACTED] Ah-hmm. So JDEGS and ARKIS, one of the two, yeah. So, just in respect to your role as project manager –
- WATTERS: Ah-hmm.
- [REDACTED] - before you came to (undecipherable), what projects did you work on as a project manager?
- 35 WATTERS: The first one was Harris Park Station which was 2017, 2018.

- [REDACTED] Ah-hmm.
 WATTERS: North Strathfield Station 2019 and then at that point that's when I moved to construction manager in 2020 and that was across a number of projects, I can give you them if you want.
- 5 [REDACTED] Yeah.
- WATTERS: Yeah. Banksia Station, Canley Vale Station, Birrong Station, Roseville Station and Wollstonecraft, so we had a package of works that covered those five stations at the same time. I started as construction manager for all those projects.
- 10 [REDACTED] Yeah. And these projects are still ongoing?
- WATTERS: Most of them are just about at finishing point, I've moved away from a construction manager role in TAP and was brought across to south-west metro so before they were finished.
- [REDACTED] Yeah.
- 15 WATTERS: So, I think Banksia and Wollstonecraft –
- [REDACTED] Yeah.
- WATTERS: - still have some residual works to do but the others are finished.
- [REDACTED] So, when, sorry you were in TAP and then just you recently moved into the south-west metro when was that, when?
- 20 WATTERS: It was March 2021.
- [REDACTED] Okay.
- WATTERS: So it's been about a year.
- [REDACTED] Yeah.
- WATTERS: Yeah.
- 25 [REDACTED] Great. Does your role as project manager, in your role as project manager, did it involved design and construct phase(?) or any scopes of work to be undertaken so as a project manager, will you be going through the scopes and designing all that before it went out to tender?
- WATTERS: Not necessarily designs, we have a design consultant that will do all the design work for us. As projects managers within Downer, we provide constructability input so I design and they'd say, well this is what we want to design and we would review it and say, well possible or not possible, with the constraints. This is what we're involved with the design process and then you know, the management of the actual works on the ground so on the sites the actual delivery is where the project manager comes in.
- 30
- 35

- █ Okay, so actually the delivery when it came, when it comes to the actual construction -
- WATTERS: Yes.
- █ - that's mainly what you do, yep.
- 5 WATTERS: So you have a, some project managers are used within the design phases to assess the designers and also to provide early tender pricing and that sort of stuff. We have to, within the managing contractor, we have the transport for the TAP Program. The format is that we with, in conjunction with the transport, we agree on a target budget estimate. So they'll say, 'We want to upgrade this station. We want you to give us an initial design within 12 weeks and we also want you to give us a target budget estimate to tell us how much you think it's going to be.' They then have an independent estimator on their own team to do that review. There's a negotiation that happens between both parties where there's an agreed budget then set for the project that transport have sent off on.
- 10
- █ Ah-hmm.
- WATTERS: From there we complete the design and then go out to the (undecipherable).
- █ Okay. And just on the managing and MC the managing contract of TAP -
- 20
- WATTERS: Yep, yep.
- █ - that you guys have -
- WATTERS: Yep.
- █ - with Transport.
- 25 WATTERS: Yep.
- █ When it comes to you and Transport gives you a budget, would Downer also have their own budget? Would you, from that, from Transport, Transport would give you a budget but from that budget would you take that all the way down?
- 30 WATTERS: No - it's, it's not really Transport give us budget, it's all open book -
- █ Okay.
- WATTERS: - it's a very different concept, anything that's like a designer construct or constructor on the contract. Everything is done open book, we have agreed fixed margin and we have an agreed fixed amount for overhead costs for staff. All of that is presented and agreed with Transport prior to any contract being signed.
- 35
- █ Okay.

WATTERS: And we also have a budget for the direct works that have to be completed that it's agreed with Transport before we even commence the works.

█ Ah-hmm.

5 WATTERS: Then on a monthly basis we claim against that budget and to claim we have to provide proof of our costs. Once we get to the end of the project there's a gainshare(?) mechanism in place for the contract which means that if we price the project, at \$10 million and it was delivered for nine - of the millions of dollars that's leftover, Transport gets 75% of that back and we take 25% as our, our marginal worth(?).

10 █ Okay.

WATTERS: So that's all said and agreed prior to the project commencing.

█ : So, who do you deal with then, from Transport for NSW, is that your role as a construction manager or is that above, above you?

15 WATTERS: No, so in the, the construction managers and the project managers will assist the Downer's team with the pricing so you know, we may talk to the market, in that actual stage for setting the budgets, we'll talk, well we may know that we've got a hundred kilometres of pipeline to install so we will go out to our market team and seek prices for them based on a concept design. Say that we've got a hundred metres, how much would it cost for you to do this work?

20 █ : Yeah.

25 WATTERS: We use that to inform our price. So we, the construction managers and project managers are heavily involved there. The final negotiations on the actual agreed contract price really falls with the commercial manager, project director and even the operations manager, the general manager's above, when it gets to a point of, you know, that final negotiations. We'll say, 'What do you want?' What they don't want.

█ : Yeah.

30 █ Okay. And when Downer is allocated, you know, the TAP stations, how does it work internally? How do you guys decide which project manager will go on? Is there a process in which certain project managers are allocated particular stations?

35 WATTERS: It tends to be, I mean obviously we have a pool of resources but sometimes we don't have enough resources we may have to recruit in depending on the work that we have on hand, geographic location, can often play a part. So, if you've got a project manager that lives in the Hawkesbury, they're on the projects in Wollongong, it doesn't make sense, so you naturally try to, you know try to help in that regard to make sure that the project managers and the teams are allocated, have not got, excessive amount of travel to do.

40 █ Okay.

WATTERS: But that decision really sits with the project director, that's his, his remit is to you know set (undecipherable) and to say who is going where and for whatever reason.

5 [REDACTED]: So - they effectively pick a team, a construction manager and a project manager.

WATTERS: Yeah.

[REDACTED]: Yeah.

10 WATTERS: Yeah, so the construction manager role within TAP, there's not, it's (undecipherable) to sound quite big headed, there's not many people to pick from for that role. It tends to be someone that's a little bit more –

[REDACTED]: Yeah.

WATTERS: - senior so and the, in the instance of the construction manager role that I did at that time, or that point in time, I was you know, the obvious choice at that point.

15 [REDACTED]: Yeah.

WATTERS: And Transport for NSW had, you know were quite happy with my performance as a project manager and thought that I could fulfil that role (undecipherable) and say, well if you're going to include that position then –

20 [REDACTED]: Yeah.

WATTERS: - we find a (undecipherable) a good fit for it so.

[REDACTED]: Yeah, I know.

WATTERS: That's how that fell into place.

25 [REDACTED]: And then do you get any say on your project manager then as a construction manager or?

WATTERS: Yeah, so look I would guide them –

[REDACTED]: Yeah.

WATTERS: - they were certainly, you know I would be the first point in contact for advice on a lot of things.

30 [REDACTED]: Yeah.

WATTERS: In terms of the reporting lines during the TAP phase, from a HR perspective the project manager's report directly which is the project director so that's myself.

[REDACTED]: Yeah.

5 WATTERS: And that was why from a HR perspective, that's how it was set up. But yeah, I would be there as a support resource really to cross, to provide advice and to, based on my experience with support (undecipherable) difficult, having difficulties with (undecipherable) you know, if they're having particular issues you know with Transport resources, I would then have a little bit more, I suppose, influence to talk to the senior manager in Transport. They'd more likely listen to me than a project manager so that was really the role -

█ Mmm.

10 WATTERS: - for construction manager.

█ Yeah. You wouldn't be on site often compared to a project manager, would you?

15 WATTERS: No, no on sites, I mean I would generally try to get around all of the sites in the course of the week so five sites, five days I would generally try to make my way around, it didn't always happen.

█ : Yeah.

20 WATTERS: We have a base office in North Sydney where the projects actually operate from, so I'd spend quite a bit of time there as well, so yeah, I would be in and out as required. Some projects, if we were going through a very quiet phase of works, I actually wouldn't be on site with them for any reason, but I would go for, you know, planning meetings and that sort of thing when it was a (undecipherable) site.

█ Yeah.

25 █ : So, I guess the things like variation when your project manager is on site -

WATTERS: Yeah.

█ : Your guided quite a lot by what they tell you, is that fair to say or?

30 WATTERS: It varies, yes I mean I would have a discussion with the project manager on all the sites when I visit them or even when we're on the phone to say, "Look how you going? What's the latest?" And, yeah, and actually some of that would come down to, you know, if we have variations that Transport has asked us for and they may ask for advice on how we think we should execute it or you know, do we know of anybody within the market that does this type of specific work for example.

35 █ : Yeah.

WATTERS: And that sort of thing would certainly be advice that I would provide to them.

█ : And what's the difference in terms of financial delegation between a PM and yourself?

WATTERS: In my construction manager phase that changed within the years I've been within TAP.

[REDACTED]: Yeah.

5 WATTERS: When I was a construction manager, I think the project managers DFA was 100,000.

[REDACTED]: Yeah ok?

WATTERS: And for the construction manager it' be 250. The commercial manager would also be 250. So, they would have myself, the commercial manager we'd have a joint signoff on anything that was up to that value.

10 [REDACTED]: Yeah.

WATTERS: We'd both have to countersign and then the project director was up to \$2 million.

[REDACTED]: Yeah.

15 WATTERS: And then above that it goes to our upper management, and they have another set DFAs all the way up to the CEO level.

[REDACTED]: Yeah. Yeah.

[REDACTED]: So just, during your time as project manager on TAP programs, if you can just outline your roles and responsibilities.

20 WATTERS: Yes - so some in site delivery was always the very, the main one. So, I would have a team of probably two engineers, possibly three and a site supervisor from, that's Downer staff and it will be our responsibility to manage all of the works on the ground. So, the safety and final community relations, subcontractor management - all of the interfaces that we have with Transport or Sydney Trains as well because we're working within the rail network and there would be execution of the works. But it's the primary role of the project manager that actually delegates that to his engineers and his supervisors to, you know, to look after certain elements. There were supervisors to guide us out there 12 hours a day, they'd be like eyeballing the works and looking after safety and those sorts of things. You know, the engineers will be working through the drawings and the engineering specs to ensure we doing things right and the project managers were really people person, just managing those people and the project manager also is obviously the contact for the commercial manager and they commit the contract administrators as well on the project.

25

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35 [REDACTED]: Yeah. Would you have involvement in any tender issue for tenders and tender valuations?

WATTERS: Yeah. So they - - -

[REDACTED]: Yeah. Things like that in your role in those?

WATTERS: Yeah. So, both the engineers, more the senior engineers and the project managers will help to write the scope document, so outlining exactly what it is we want to be done and you know, defining what the work actually is. They would also be involved with any initial site visits so quite more often than not with a tender, we will set a date and a time for all tenderers to come to the job and review the works and ask questions and how do we get in, what's our time limits, all that sort of stuff. So they would generally host those meetings with the contract administrator there and the administration of the issuing things for tender or by our team binder system would be done by the contract administrators. Once all the pricing is received the project manager will then assist the commercial manager and the contract administrators to review the tender that's been submitted to ensure that, you know the company that's tendered has provided all the documents we've asked for so they've given us a program or a scope of works or any specific methodologies that we may need from them and also to review the prices they've provided so against our pricing schedules to ensure that they have actually priced the works that we've asked them to – and then the commercial manager and the contract administrator would be involved at that stage to, as a combined review, to ensure that firstly it's within our budget, for the works that they are trying to execute and also that there hasn't been any major exclusions or conditions submitted with that price that could be a risk for us further down the line.

█ Mmm.

25 █ : And all tenderers get the same information generally? Is that

WATTERS: Yeah.

█ : - a document or email or how does (undecipherable)?

WATTERS: That's done by the, well we use a system called 'the team binder'(?)

█ Team binder?

30 WATTERS: Team binder, yeah. That's a, online post(?) system that's essentially a mailbox.

█ : Yeah.

35 WATTERS: That allows you to upload documents and drawings and transmit, officially transmit to any contractors that are tendering for works and they would be set up within that team binder system and that's how Downer would issue(?) information backwards and forwards.

█ : Yeah.

█ Mmm. How do you decide which contractors to issue a tender to? Is it - -

40 WATTERS: So - we've got an assessment criteria that Downer use.

█ Yeah.

5 WATTERS: It's a weighted assessment that's broken down into capability. Recent project performance like if they've been working elsewhere on something similar. You know safety and personnel that they have available to use, price of course and then also other commercial elements around, do they have the necessary insurances ecetera –

█ Mmm.

10 WATTERS: - to provide, to actually conduct the works to be, you know, can they work for Downer because we have a set criteria and, well you must have the minimum public liability vehicle insurance, those types of things otherwise we can't actually sign them off for works.

█ Mmm.

15 WATTERS: So that set of criteria is a percentage weighted against each of those so you know, I think the price is only 20% of the actual overall criteria, the capability and personnel is around 30% 'cause we, essentially that's our main focus point as well. You know, you could get a really, really cheap price but if they're not capable of doing the works then you know that's not, not attractive for us, so we have weighting of that essential criteria.

█ Yeah. And is there a list of subcontractors that Downer will generally, to send tenders to?

20 WATTERS: Yeah.

█ (Undecipherable).

25 WATTERS: The procurements, a national(?) procurement are generally set up by the commercial manager who will have, so at the very first day of TAP when we first started the whole program, there would be the commercial manager, the director, even the senior manager would, be sat in a room and we'd work out Downer's database projects - delivery guides(?) that we've used so they'll have a database delivery contractor that's ever worked for them and I suppose a specification of what type of works they do. So are they, (undecipherable) main roads, doing concrete works, (undecipherable) works -

30 █ Mmm.

35 WATTERS: - extract that and then just filter through and they'll be (undecipherable) project director that's (undecipherable) in I've used that guy before and his performance is really bad so let's not look at them. And that's how they would work it through. And the latter stages of Tap because we had used some contractors and previous contractors had you know, there were good success with them in their performance or not that would also be added to the list, the national procurement list that's managed by the commercial managers and the contract administrators and they build that list. And they, they'll seek inputs from you know the project managers and the engineers, the supervisors, even the guys on the ground and saying, 'look, I'm thinking about this company including them for the round of works, how did they go on the last project?' And the

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supervisors may say, 'look, safety performance was terrible so I would recommend that (undecipherable) a second bite.'

██████

Okay. Yeah.

5

██████████ :

And is there like X amount of tenders that you go through as a minimum or do you have?

WATTERS:

So they aim and then as part of the Transport of NSW management contract format is that there's a desire to have a least three prices before they award any works. That is not always achievable particularly when you've got something that's quite bespoke.

10

██████████ :

Yeah.

WATTERS:

Or even in instances where we've gone into market to 15 tenders and we've only had you know two responses because the other guys have said, 'no thank you we're too busy.'

██████████ :

Yeah.

15

WATTERS:

But the aim is always to try to get a list of three –

██████████ :

Yeah.

WATTERS:

- tender prices back and assess them, (undecipherable) assess them against one another.

██████

Yeah.

20

██████████ :

And who can view those? So a tender comes back in, who can view that on that team binder?

WATTERS:

So actually, they come to the contract administrator who's the, I suppose the document controller for like for that.

██████████ :

Yeah.

25

WATTERS:

He would then take the information that's been provided, he'd put it into the Downer adjudication assessment

██████████ :

Yeah.

WATTERS:

- format and then he would then sit down with the commercial manager, project manager, even the project director depending on the value of the contract and say like, 'here is the work that we've tendered. Here's the guys(?) that have come back' –

30

██████████ :

Yeah.

WATTERS:

- 'here's the responses that we've had' from that there may be a list of the questions and verifications(?) that will say, well though they haven't priced a certain item or they –

35

██████████ :

Yeah.

- WATTERS: - or they have priced something and it doesn't make sense, let's get some clarifications on that.
- █ Ah-hmm.
- WATTERS: And that's a joint assessment that's then done.
- 5 █ : Yeah. And does anyone have access to that prior to the tender closing?
So - - -
- WATTERS: No, so no-one can actually access it until the tenders closed, so until we close on the tender.
- █ : Yeah.
- 10 WATTERS: Or whatever the date that's been set. You can't actually even view the documentation that's been submitted.
- █ : Yeah.
- █ Okay.
- WATTERS: It's part of the assessment to ensure that it's all done fairly.
- 15 █ And once it closes, the contractor administrator would he be the one that Downer (undecipherable) yeah.
- WATTERS: Yeah. So, I mean he's basically the admin and he says, "Right, I'm going to gather all the information" –
- █ Yeah.
- 20 WATTERS: - cause there's obviously thousands of documents that gets submitted and then you spend the time to putting all the information together.
- █ Yeah. Issuing a tender, would you as project manager send an email out through team binder to all the possible subcontractors or would that be?
- 25 WATTERS: No. The actual e, the team binder, so we, the project managers maybe involved in the very early stages to you know, courtesy call to a company or an email to say, 'by the way we've got some work coming up. You may or may not be interested. What do you think?' And they'll say, 'yeah, we'd like to tender', or they might say, 'no thanks', or 'we've got far too much on.' So that's how we look at that, filters(?) through the last
- 30 people that have replied(?) to. We then require the subcontracts, or subcontractors to actually sign-off to the team binder system if they haven't done already. Because they need to have a login and all that sort of stuff so usually you would have one of the other administrators do that business and then once we're at that stage then that's when the
- 35 application goes in.
- █ And would you have an idea of who would be sent a issue, an invitation to tender? Would your contract administrator (undecipherable) when you compile picks of the subcontractors from your list, would it go through you to review first before it's issued?

WATTERS: Through the project manager or as a – yeah –

█ Yeah, as the project manager?

5 WATTERS: - as a project manager, yeah he would certainly be asked you know, the list would be, it would be (undecipherable) a process to get to that point. That procurement register is actually a document, so on a, a shared server so everyone can go in and out of it at any time. So, yeah, the project manager would be able to review and see who the, the list has been reduced or expanded too.

█ Ah-hmm.

10 WATTERS: To see where we're up to.

█ Okay. And that is when the assessment, the tender submissions are inputted already and then the contract administrator goes through it and does his admin role.

WATTERS: Yeah.

15 █ What's the next process and your involvement when it comes to a tender evaluation?

20 WATTERS: Then it's about, it's an evaluation, like I said, of the, the documentation that's been provided so not only the price but you're, everything else that goes with it. We may ask them within(?) the tender they need to provide certain methodologies for things or if it's a tender that we perhaps haven't used before, we'd like to you see you know, receipts, experience and similar type projects to give ourselves some confidence that what we're asking them to do, they have done before and have performed(?) some(?). And then, you know a price would actually be a joint, like I said a joint review between the contract administrator as the administrator for it. The commercial manager, primarily because he's in charge of the dollars and the project manager who's able to ensure that, will look at the price, mainly of course it's to try and get it under budget where possible. If it's over budget then we look at who the most competitive is and probably, we'll go for how much we need to have the price dropped by so that's an initial submission we then can go and negotiation with subcontractors and say, 'well look – referring(?) to your submission we would like you to take it away and give us your best and final offer. If you can do it anything then it would be appreciated.' And that's the normal process so, 'cause the project managers involved with the actual review with the commercial manager to see where it's at, get an understanding of whether it's a package(?) that's going to be a problem for us in terms of budget or not.

40 █ Yeah. And would that go to Transport for approval prior to engaging the subcontract?

WATTERS: Yes. So, part of the contracts, the managing contracts requirements are that we, when we put together a package, format, we identify then so a certain station we'll say, 'look here at that station we've got some

concrete works to do'. These are the lists of contractors that we're going to invite to tender.

█ Mmm.

5 WATTERS: That might be 10 companies, that notification goes to Transport and we seek the endorsement of that. The reason for that is that they may have knowledge of any of those contractors that have had bad performance on another project or maybe even blacklisted by Transport for some reason. Normally, they will come back and say, 'yeah – we're happy with who you're asking to tender.' And then at the back end of the process then, 10 we'll make a recommendation, subcontractor recommendation where we'll say, 'we've received pricing, this is the scope of works that we want to award. This is the contractor that we are going to recommend', based on these criteria which will be the performance, safety, pricing that assessment criteria that Downer use we lay that out for Transport –

15 █ Ah-hmm.

WATTERS: - and seek their endorsement before we actually sign a contract with the subcontractor.

█ Yeah.

20 WATTERS: Transport have, because it's an open book format the contractor has to be very visible (undecipherable).

█ Yeah. The next question I'm just, a professional question I should ask at the start, if you can just give us an overview of, you know, your work experience, any qualifications and certifications that you have?

WATTERS: Yeah. So I have a Masters in Civil Engineering.

25 █ Ah-hmm.

WATTERS: It's, I went through uni, graduated in 2010. I actually had an undergraduate role as an engineer on a site in the UK which I then followed(?) through once I graduated and became a site engineer. Then after project engineer, project manager, construction manager.

30 █ Ah-hmm.

WATTERS: Actually, that's the natural progression path for people that work.

█ For?

WATTERS: In construction (undecipherable).

█ In engineering?

35 WATTERS: In engineering, yes.

█ Yeah, yeah.

WATTERS: That's - - -

[REDACTED] And just prior to Downer, where did you work?
 WATTERS: I worked for, in Australia, yeah?
 [REDACTED] Yep.
 WATTERS: In Australia I worked for Garner Rose, a tier(?) two(?) builder. And I
 5 also worked for Diona who are a civil contractor, for a short period of
 time as well.
 [REDACTED] Okay, yeah. Do you have a Downer work number? Can you?
 WATTERS: Yeah.
 [REDACTED] Yeah. What's that mobile number?
 10 WATTERS: Can I tell yah, I don't know, off the top of my head.
 [REDACTED] Yeah.
 [REDACTED]: Do you go with a personal one as well –
 [REDACTED] Yeah.
 [REDACTED]: - while you're looking that up.
 15 WATTERS: Person. [REDACTED] 8-4-8-9.
 [REDACTED] Okay.
 WATTERS: So Downer, [REDACTED] 0-6-8-9.
 [REDACTED]: Is that a number you've always had at Downer or?
 WATTERS: No, I've had a previous number [REDACTED] bear with me – [REDACTED] 0-5-0-4.
 20 [REDACTED] Ah-hmm., yeah. Okay.
 [REDACTED]: And how long have you had that new number for?
 WATTERS: Twelve months or so.
 [REDACTED]: Yeah.
 [REDACTED] And your personal number, is that, how long have you had that one for?
 25 WATTERS: I think all the time that I've been in Australia.
 [REDACTED] Yeah, okay. How long has that been?
 WATTERS: It's about 2014.
 [REDACTED] Oh okay, yeah.
 WATTERS: So about seven years.

█ Yeah. Okay, so I guess as I've mentioned before, our allegation that concerns former and current Downer employees who have dishonestly obtained a benefit –

WATTERS: Yeah.

5 █ - in relation to awarding contracts to certain subcontractors on the TAP program. What can you tell us about your involvement in respect to this allegation?

WATTERS: I don't know anything about it.

10 █ Yeah, okay, yeah. Have you ever declared a conflict of interest with Downer in respect to any subcontractors or, that you guys may be associated with? Is there?

WATTERS: No, I've not had any conflict of interests.

█ Okay. Are you required to declare a conflict of interest with Downer?

WATTERS: Yes.

15 █ Yeah –

WATTERS: Yeah.

█ - is this an annual thing?

WATTERS: The overall policy I think requires that you, would have to update Downer –

20 █ Okay.

WATTERS: - as a business(?), if that was the case but - - -

█: Just when changes occur?

WATTERS: But when the changes occur –

█ Yeah.

25 WATTERS: - you would have to, you know, that would be the case – yeah.

█ Yeah. And you haven't made any declare, any conflict of interests?

WATTERS: No, I've never had to, no.

█ Okay.

30 █: Have you, or other people known to you in Downer, ever deviated from the procurement or tender policies, or procedures?

WATTERS: No.

[REDACTED] Are you aware of anyone at Downer who have, who've claimed for payments submitted by contractors for works in exchange for a financial benefit?

WATTERS: No.

5 [REDACTED] No. Okay. Have you, or anyone else, known to you at Downer accessed or disclosed any confidential information to subcontractors who were engaged by Downer?

WATTERS: Not that I'm aware of.

10 [REDACTED] Okay, yeah. Are you aware of anyone who has been offered any benefits, or yourself, been offered a benefit by subcontractors?

WATTERS: No.

[REDACTED] No, okay. I guess just on projects that you worked on as project manager, you mentioned Harris Park?

WATTERS: Mmm.

15 [REDACTED] North Strathfield and then the most recent one, the Banksia, Canley, Birrong, Rosehill, Wollstonecraft?

WATTERS: Yeah.

[REDACTED] In relation to North Strathfield, you were a project manager, do you recall what subcontractor you engaged on that project?

20 WATTERS: We had multiple.

[REDACTED] Multiple. Well, how, what were the main, how about the main ones, the , the civil packages, the building packages?

WATTERS: Yeah. We would've used, we used Alfabs Engineering for the structural steel.

25 [REDACTED] Ah-hmm.

WATTERS: We used Dancon for concrete works.

[REDACTED] Ah-hmm.

WATTERS: A lot of the civil type works we self-performed.

[REDACTED] Okay. Yeah.

30 WATTERS: Electrical works we used New Era Electrical.

[REDACTED] New Era.

WATTERS: Who did the electrical fitouts and that sort of stuff.

[REDACTED] Ah-hmm.

WATTERS: Civil external, civil works we used Rockcote(?).

█ Rockcote, yeah.

5 WATTERS: Did the external stuff. That's the major elements we had, we had all our, you know, minor contractors who did, you know, minor sort of scopes. Other than that I think that's the major, Anuex(?) sorry, that's, did piling works for us as well at the very start.

█ Okay. Do you know of a company known as RJS Infrastructure?

WATTERS: Yeah.

█ Okay. How do you, what's your relationship with them?

10 WATTERS: They were used, they were one of the minor contractors we used at North Strathfield.

█ Okay North Strathfield. And what works did they take as a subcontractor?

15 WATTERS: They just did some works within the station building so it was heritage works within our station buildings and lower a floor(?).

█ Okay, yeah.

WATTERS: They had been engaged in another TAP project.

█ Okay.

WATTERS: And that was a follow-on piece for them.

20 █ Okay. What was the other TAP project that they were on?

WATTERS: Kingswood Station.

█ Were you, is that one of the stations that you were a part of, Kingswood?

WATTERS: No, no.

█ No.

25 WATTERS: I wasn't part of the project manager there, no. Yeah, there was another project manager on that job.

█ Yeah. Who were the team, the site team at Kingswood?

WATTERS: At Kingswood, the project manager was Vlad Stankulesque(?) .

█ Yeah.

30 WATTERS: (Undecipherable) is the right pronunciation. Cyron Pelly(?)?

█ Yeah.

WATTERS: Ibrahim Adwan(?) was the site engineer and the supervisor changes a few times, we had a couple of supervisors there.

█ Yeah.

WATTERS: From memory.

5 █ Yeah. And so knew you RJS 'cause that they worked on Kingswood?

WATTERS: Yeah, so they were - - -

█ Do you remember what package they were undertaking, what scope of works they were undertaking at Kingswood?

10 WATTERS: I think it was building works as well, so they had a major concourse building scope that (undecipherable).

█ : And so Kingswood was the first project they came onboard with it at TAP, RJS, that you're aware of?

WATTERS: As far as I know, I think they'd done some work for Downer previous to that.

15 █ : Okay.

WATTERS: Not as, not in the TAP program, as far as I know.

█ : Yeah.

WATTERS: Unless it was within the first stage. When I was at Harris Park I didn't have as much visibility of what was happening with other projects so.

20 █ Yeah. Were you involved in any of the tender assessments for Kingswood?

WATTERS: Yep.

█ Yeah. For RJS?

WATTERS: Yep.

25 █ Yeah, okay. What role did you have in that?

WATTERS: So, the project manager who was, Vlad was on leave for four or five weeks.

█ Mmm.

30 WATTERS: I assessed his projects in that time so I was there for a couple of days a week.

█ Ah-hmm.

WATTERS: The tender package was, it was, a number of packages had been sent to market and prices had been received ecetera, so I was involved with the

commercial manager just to do the final review for some of it, and that was one of the packages I did the final review on.

█ Yeah. Did you know RJS at the time when they tendered for Kingswood?

5 WATTERS: No. I didn't know anything about them, no.

█ Yeah.

WATTERS: Our commercial manager had used them on a previous project.

█ Okay.

WATTERS: So - he was aware of who they were –

10 █ Okay.

WATTERS: But yeah, I didn't know them.

█ So - it would've been Andrew Bedwani at the time, the commercial manager?

WATTERS: No. The commercial manager was Ahmet Patel.

15 █ Yeah.

WATTERS: He's a, another resource.

█ Yeah.

20 WATTERS: So they worked with another part of the Downer business and had, I think they used RJS for buildings type works so he said, I think I've got a, a computer (undecipherable). I mean that's how that came about it there. I didn't have any prior knowledge of the company.

█ Mmm.

█ : And that was, you had limited involvement with Kingswood just that (undecipherable)

25 WATTERS: I. Yeah. It was part-time as well, it was only –

█ : Yeah.

WATTERS: I was still at North Strathfield at the time, so.

█ : So how did that tender work for the heritage works?

WATTERS: So the variations from Transport NSW –

30 █ : Yeah.

WATTERS: - they varied, there was a scope(?) that they hadn't quite (undecipherable) the baseline scope(?) –

██████████: Yeah.

5 WATTERS: They asked us to do it that as a VPR which is a variation proposal and I'd source some advice from the commercial team around who, they hadn't(?) done heritage work before who we might use - and I think they did (undecipherable) RJS had done that sort of NIF project which was another stage of works for Downer. They'd done some similar works, we could ask them to provide a price so I would have provided drawings and that sort of communication with RJS but I, you know around what the scope is, what it is we need to do, site visits, to have a look at the works, and yeah, that would be the main involvement at that time.

██████████: Mmm. So with the variation from Transport under your contract, would you need to go out to tender for that?

WATTERS: No.

██████████: No.

15 WATTERS: So, the way that Transport requirements work is that for the variation works, for their convenience in terms of time, they normally need, these things to move quite quickly, they do not require you to have three or four quotes from the market, it's preferable if you can get them. However, they understand that you know, you may have variation for works that already been conducted so the obvious choice is to use the contractors there because it's gonna be cheaper and easier to use them than it's, to try and find an external party and the time that's involved with a tender process is quite lengthy.

██████████: Yeah. And that address at the time were at Kingswood?

25 WATTERS: Yeah that was, yeah so that Ahmet had suggested at the time we've already got a contract with RJS at Kingswood so it's going to be a lot easier for us to provide a variation to that contract rather than having to set up a new subcontract for these works.

30 ██████████: Yeah. And so, sorry you said, they had previous heritage work experience, was that?

WATTERS: I believe so, yeah.

██████████: Yeah. Do you know where that was, was it at Centro(?) or you're not sure?

35 WATTERS: I don't know. We'd had a program called the NIF which is New Intercity

██████████: Yeah.

WATTERS: I wasn't involved in any way.

██████████: Okay.

WATTERS: But we did work at Central, but I don't know exactly where –

██████████: Yeah.

WATTERS: - RJS fitted into that.

██████████: Okay. So who did you meet at those visits from RJS?

5 WATTERS: So there's two main parties which is Tony Nguyen? and he's got a project manager, Aiden Cox who (undecipherable). He did have a lot of contractors and things at the time but –

██████████: Yeah.

WATTERS: - they were the two main parties.

██████████: And was that your first-time meeting Tony and Aiden?

10 WATTERS: No. So I had met Tony during the review of Kingswood.

██████████: Oh, tender? – yeah ah-hmm.

WATTERS: Yeah, at the final stage where we'd brought them in for a review, or just asked them questions about pricing so I actually met Tony (undecipherable) at that stage.

15 ██████████: Ah-hmm. And Aiden Cox, that would be the first time you met him?

WATTERS: Yeah.

██████████: That, was north shore. He wasn't on Kingswood?

WATTERS: He may well have been, yeah I think he might have been involved with the works at site level but I hadn't met him previous to that.

20 ██████████: Okay. Do you remember how much the value, the project value was that RJS was awarded for North Strathfield, the heritage works?

WATTERS: I couldn't tell you, no. It would be a guess.

██████████: Mmm. When was the last time you spoke to Tony and Aiden? (Undecipherable) did you undertake any current works or?

25 WATTERS: (Undecipherable) works for us at Wollstonecraft Station.

██████████: Yeah.

WATTERS: Would've spoke to them at that time but probably just in passing on the site. I spoke to Tony recently we actually got some defects with that work that was done at North Strathfield that needs to be rectified.

30 ██████████: Yeah.

WATTERS: So, I spoke to him as recently two weeks ago, three weeks ago.

██████████: Okay.

WATTERS: Just to get an update on when he was planning to get some resources on the site to fix (undecipherable) and (undecipherable).

█ Mmm. And how do you generally communicate with Tony and Aiden, email?

5 WATTERS: Email mostly.

█ Yeah.

WATTERS: Yeah, phone as well.

█ : Is that like work phones, personal phones or phone calls or text messages or how?

10 WATTERS: Work phone.

█ :

WATTERS: Work, yeah work email, yeah.

█ Yeah.

█ :

15 █ Do you, when was the last time you contact Aiden Cox? I know you spoke to Tony recently with defects back in, for North Strathfield, how about Aiden Cox.

WATTERS: Not too sure, but I spoke to him face-to-face and, (undecipherable) Wollstonecraft projects. I'm not sure if I spoke to him on the phone, we had another project manager that looked after them at that time so, yeah I'm not too sure.

20 █ For Wollstonecraft?

WATTERS: Yeah, yeah.

█ Yeah. Who's the project manager on Wollstonecraft?

25 WATTERS: Was it Andrew Gayed(?)

█ Yeah. Great. I just want to show you some documents.

█ :

█ Yeah.

30 █ : - just want to clarify on one thing, so we asked you before in relation to just specifically the allegation of Downer employees or yourself, dishonestly ever obtaining a benefit, and I asked you specifically in relation to that North Strathfield, did you obtain a benefit, either financially or otherwise –

WATTERS: Yeah.

[REDACTED]: - from North Strathfield?

WATTERS: No.

[REDACTED]: Okay.

[REDACTED]: Okay. Ah-hmm.

5 DEUTSCH: Do you mind if I sight any documents before then.

[REDACTED]: Oh, we've got copies.

[REDACTED]: We've got copies for you and Stephanie, yeah.

DEUTSCH: Good.

[REDACTED]: Yeah. So you were saying before we (undecipherable) - - -

10 DEUTSCH: Yeah before, I wouldn't mind -

[REDACTED]: Okay.

DEUTSCH: - As you take them to him -

[REDACTED]: Alright.

WATTERS: - I'll just.

15 [REDACTED]: Yeah.

[REDACTED]: Yeah.

[REDACTED]: Just wanna introduce it, just for the audio.

[REDACTED]: Yeah. So - I am showing Mr Watters a document, it's four pages. It is a, sorry five pages, it is a TAP message between Mr Watters and the number [REDACTED] 8-4-8-9, and the other participant is Aiden Cox and it is dated, starting from 11 September 2020.

20 WATTERS: Thank you.

[REDACTED]: Give you the second one if you want to (undecipherable) at the same time.

25 [REDACTED]: Yeah, (undecipherable).

[REDACTED]: Yeah.

WATTERS: Yeah, please, please.

[REDACTED]: Yeah.

WATTERS: Okay. Give it to Kevin(?)?

30 [REDACTED]: Yes, and there's a copy as well.

WATTERS: Good.

[REDACTED] Yeah. I'll just give you time to go through the messages.

WATTERS: Okay.

[REDACTED]: So - in your own time Kevin, when you're ready, if you can just explain.

5 [REDACTED] We'll go through - - -

[REDACTED]: Explain those messages to us.

[REDACTED] Yeah.

(Quite lengthy silence whilst witness reads the messages)

DEUTSCH(?): (Undecipherable). Ready to continue.

10 WATTERS: Yeah, it's okay, good.

[REDACTED] Okay.

[REDACTED]: Right. Can you just tell us what's discussed in that first text message?

WATTERS: On the first page?

[REDACTED]: Yes, yeah.

15 WATTERS: Yeah, so that was the Wollstonecraft contract. Dropping me a message to say that it was in progress, or that approval was in progress he was looking (undecipherable).

[REDACTED]: Okay.

20 [REDACTED] What approval? Was this in relation to? Sorry I know it's the 2.8 million, is that in relation to them getting the tender, that approval?

25 WATTERS: So - that was the contracts being awarded to them. So, it'd be through the first round of approvals with the project manager, commercial manager and was in the queue for approval up the chain and dropped him a message to say that the, you know they were all looking good and it was almost there. I think they were obviously keen to get to the work site and get started so.

[REDACTED]: Okay. You mentioned earlier that you would normally communicate via work phone.

WATTERS: Yeah.

30 [REDACTED]: You indicated that you would send that on your personal phone.

WATTERS: Yeah.

[REDACTED]: Why was that done?

WATTERS: I'm not sure. I often have coverage issues with phones and it could well have been that.

[REDACTED]: Okay.

5 [REDACTED]: Why were you sending Aiden, so this is a message to Aiden Cox? You know, what was the purpose of you sending this update, this text message to him?

WATTERS: It was just to let him know that, you know, he was looking good for the works they were, had expressed their interests and conduct in that scope and during the tender phase with, you know with Andrew and the other guys so, I dropped a message just to say that 'it's looking good, you guys are looking good to go in, go on this contract, it's been reviewed and it's going through the approval process so more than likely the work is going to come your way.'

10

[REDACTED]: So is that normal for a tenderer to be told that information like prior to being officially?

15

WATTERS: Maybe not normal. It's with, with some tenderers if they're really pushing, you know they have a decent relationship with –

[REDACTED]: Okay.

WATTERS: - with Downer then, if it's at the latter stages of the approval like this then, yeah you can say, 'well, it's looking likely', or 'Transport haven't raised any issues. It's looking like it's going to go through.' Often these contract works can take quite a long time to get the documentation actioned ecetera so it gives them a bit of a head start on getting their planning, their resources lined up so they're ready to do the works.

20

25 [REDACTED]: Yeah. But would you say you're quite, fairly close to Aiden Cox, you know, to send a message like this from your personal number to him to inform him about this?

WATTERS: Well, not overly close. I like, you know I had a good relationship with Aiden, performed works for us previously quite well so I'd like to say it's best (undecipherable) interest in didn't, you know doing works for Downer so, yeah.

30

[REDACTED]: But just tell us about that last sentence.

WATTERS: Yep.

[REDACTED]: 'A good result for RJS.'

35

WATTERS: Yeah.

[REDACTED]: 'Make sure we're looked after well.'

WATTERS: Yeah.

[REDACTED]: (Undecipherable).

WATTERS: Yeah. So, a good result for them, they obviously are looking to expand and (undecipherable) business done', and you know make sure you don't let us down I suppose. You know, make sure that you do the works and perform well.

5 [REDACTED]: Okay. And that, so that's what you meant by that?

WATTERS: Absolutely, yeah.

[REDACTED]: Yeah.

[REDACTED]: Yeah.

10 [REDACTED]: In fact, Aiden then responds, 'thanks we live in exciting times, we should catch up for a coffee sometime.'

WATTERS: Yeah.

[REDACTED]: Is that, again that's quite standard to have that sort of relationship with a - -

15 WATTERS: Yeah. With a contractor that you have an existing relationship with you can, yeah catch up for coffee that's not unusual.

[REDACTED]: Okay. And then on the third page, just the second message dated, 22 September 2020. You send Aiden Cox, 'all approvals sent through the system this morning. For all three packages at WOS, so Wollstonecraft, keep it under your hat for now until the letter is sent out from (undecipherable)'

20 [REDACTED]:

WATTERS: Yeah.

[REDACTED]: What approvals were you referring to in that text message?

25 WATTERS: So they'd applied for a couple of packages or they'd tendered for a couple of packages at Wollstonecraft, so similar to the previous message that, you know, it was through the system, it was looking pretty positive (undecipherable) to announce to the world because it had to go through the final sign-off but, it was looking like they were looking good to get the job.

30 [REDACTED]: Yeah. So it appears they had, they were awarded three packages and in terms of sign-off would you have the final sign-off?

WATTERS: No.

[REDACTED]: You wouldn't have, yeah.

35 WATTERS: No, so even the one, I think the smallest package they would have to go through, probably would've signed off so I would only be one of the signatures on it.

[REDACTED]: Okay. Would you say your approval when it comes through the system, you know to award a contract, would it be integral to the acceptance of RJS getting the work?

5 WATTERS: I won't suppose 'integral', it's a part of the, a part of the approval process. You know my role for this period at Wollstonecraft was as construction manager to ensure that they had the capability to do the job and we weren't, we weren't signing up someone that was not capable of performing the works, that was really my primary role. At that stage, we used the ARKIS(?) system I mentioned earlier on.

█ Yeah.

10 WATTERS: And, part of the process there is that the tender would happen at ARKIS, the project manager would make a recommendation saying, 'this is who I recommend for the works.'

█ Ah-hmm.

15 WATTERS: That would then come to myself and then the commercial manager for us to review our sections, so I would review capability, scope. The commercial manager would review pricing and commercial aspects and then depending on the value of the contract that would then go to the project director for his approval and then depending on whether that was within his DFA, he may have to send that on to the senior management for approval through them.

█ Okay. Ah-hmm.

20 █: Okay. And you keep it under your hat for now until the letter is sent out. Can you just explain what your, what the purpose of saying that?

25 WATTERS: Yeah - well I mean obviously we have to go through the formal process of putting final signatures on documents before things are finalised, so you know don't be posting it on RJS' website that we've gone and won all this work because, you know it's still going through the formal process and be finally signed off.

█ Okay. I guess for Wollstonecraft just prior to you sending these messages or even thereabouts, did you have any discussions with Aiden or Tony about the works they were tendering for?

30 WATTERS: Fairly limited I would think. The Wollstonecraft team would have done the scope documentation, they would have done the site walk-throughs for the national(?) discussions.

█ Okay.

35 WATTERS: May have had a discussion, I mean the guys were still finishing the works on other projects there so we may have had a discussion to say that they would mention that they're tendering for more works for Downer. Once I'd(?) expressed that they were keen to try to do more works for Downer so may have had a discussion in that regard but not with anything significant in terms of the actual works at Wollstonecraft, that would be managed by the project team -

40 █ (Inaudible).

WATTERS: - timeline, what needs to be done, how they want (undecipherable) done and that's how they make that recommendation to start with.

█ Okay. Did Cox ask you to keep him updated or you know, in the loop in respect to how the tender was going for Wollstonecraft?

5 WATTERS: Yeah - I might have. A lot of tenderers that work for us that have, you know decent relationships with Downer or, they will contact myself, look how's it looking or how are we going? You know, are they looking like, well they maybe competitive at least you know, (undecipherable) generic response to it is always like you know, you're in the running and you know we're doing our reviews and you're more than likely going to have to try and sharpen the pencil a little a bit and you know, get, be as competitive as you can. So - yeah, I mean those discussions can happen but there was some tenderers that we've had a existing relationship with or even ones that we haven't. A lot of tenderers will submit their information and say, and they will call us up and say, 'well did you get our, my submission? We haven't heard anything, how's it looking? What do you think?' So yes, that's possible, yeah.

20 █: So a generic sort of 'sharpen the pencil' comment to obviously to try and get the price cheaper for everyone(?), but it's not about saying that you need to drop your price by 'X' to win the tender or?

WATTERS: No, it's to 'sharpen the pencil', is a term that I use but -

█: Yeah, yeah.

WATTERS: - it's essentially just, you know, trying to get the best and final because at the end of the day the further they are under the budget then the more -

25 █: Yeah.

WATTERS: - potential margin that both Transport and Downer at the backend of it or even another, (undecipherable) a scenario where they're just above budget or when they have issue, so we'll say, 'look, you're going to have to sharpen the pencil a little bit and get the price down.'

30 █: Yeah.

█: Yeah.

█: Okay and then yeah, the next message on that page (inaudible), (undecipherable) I might have come across as a little dismissive about Birrong building works?

35 WATTERS: Yeah - so there were also asked to tender for Birrong -

█ Ah-hmm.

40 WATTERS: - as, for building works there. I'd had a chat to Tony and he'd said, 'Look, I would rather focus my attention on the bigger scopes at Wollstonecraft than Birrong.' I'd say that's probably what that was about and I think they realised that, you know they were giving up on

works that you know they couldn't be in the running for so I would say that's probably what that message is about.

5 [REDACTED] Yeah. And what did you mean by, as in, I think there was another message at the bottom, 'we'll tell the boys to consider RJS', as in 'the boys.' Who were you referring to there?

WATTERS: Just our team so –

[REDACTED] Okay, like the project managers?

WATTERS: - the project manager yeah so –

[REDACTED] Okay.

10 WATTERS: - you know if they came across this message and you know just have a chat to them and say, 'look –

[REDACTED] Yeah.

WATTERS: - don't, don't (undecipherable) –

[REDACTED] And in (undecipherable), yeah.

15 WATTERS: - don't just (undecipherable) just yet they, if their submission is, what do you want and then you should still (undecipherable) them.

[REDACTED] Yeah. And then we'll just flip over to the next page. So you update – Cox, 'Canley vale tender should be on the way to you shortly.' What was that in relation to as in, the tender would be out (undecipherable), yeah.

20

WATTERS: Yes the tenders coming out, yeah.

[REDACTED] Okay. And then the next message after that. You text him, 'Okay – I can almost guarantee the Birrong package now. I know Jason wants an improvement on price. Don't drop much, you don't have to, keep it and cover you and me', and there is a wink emoji at the end of that. You can just tell us about that message?

25

WATTERS: Yeah so I think the review had been done by the guys and Jason had seen them and come back and said that RJS were looking competitive at least for the works. So that, I think that recommendation may have been made or at least discussed between Jason and myself.

30

[REDACTED] Mmm.

WATTERS: And I said, "Well look that's, that message (undecipherable)", because his previous message saying we've felt we were a bit dismissive about Birrong. I said, "You know you're great. You're looking, you're actually looking pretty good now given the discussions that we've had", and we would've had a number of site meetings and discussions with the site teams in that time as well.

35

[REDACTED] Yeah. And Jason, who (undecipherable) with messaging?

WATTERS: Jason Bristow was our project manager at Birrong.

█ Okay, yeah.

█ : So that next sentence, 'I know Jason wants an improvement on price. Don't drop much, you don't have to, keep it and cover you and me.'

5 WATTERS: Yeah so I was aware that they were going, because they had priced other works they were going extremely lean to try and win works at Birrong so I'd said, "Look it's, I'm aware that, you know, you've gone lean on your price. You don't have to cut the guts out of it to win the works so just make sure you've got enough to keep yourself, keep yourself afloat.

10 █ And yourself because you include 'me', at the end?

WATTERS: Oh yeah, just to say, you know, oh well, you know, I don't want them to be exposed and then start to fail on delivery because they have financial issues in the background. So, yeah to make sure that I'm not left out if I, if I'm the guy that has to report to Transport about a contractor that's performing badly then I'm gonna look quite foolish so don't leave me –

15 █ Ah-hmm.

WATTERS: - don't leave me exposed in that regard so you going to have to (undecipherable).

20 █ Yeah. I guess, and I guess for you telling Aiden, I can almost guarantee the Birrong package, over time were you the construction over Birrong, that was part of the many stations that you were overseeing. So you were quite, you were, you know, 'I can almost guarantee' you would've signed off on any tender packages that would've awarded to RJS?

25 WATTERS: No, because like I said so it has to go through the whole approval process.

█ But how were you guarantee, like, guaranteeing the package?

WATTERS: Oh just, just, yeah look based on the knowledge that I had of the discussions that were happening in the background and the reviews that had been done, I was, I was confident that they were going to get the work so –

30 █ Okay.

WATTERS: - to be honest that message probably shouldn't have been sent in the way that it has been sent.

█ Yeah, okay.

35 WATTERS: I agree to that, that, that's, you know, it certainly wasn't done with any intent, it was more just that we, we felt like, or I felt like it was working positive for them or very positive for them based on the discussions that we've had internally.

█ Yeah.

- 5 [REDACTED]: So is this (undecipherable), like your - obviously the goal for Downer is to get the, the best price and then Transport NSW if you're under budget you then split that 75, 25 you said. So - looking at this message it almost seems that you're working, you're not working with Jason, you're working with Aidan. So you're saying, "I know Jason wants an improvement on price." You're telling Aiden to not drop much, you don't have to. Just tell us what you mean by that 'cause I mean, yeah like I'm struggling to make sense of that.
- 10 WATTERS: So the objective is not only to get the best price from the tendering that we do, it's to get the best delivery for the best price.
- [REDACTED]: Yeah. But this is the tenders has been submitted, this has nothing to do with delivery now. This is just saying, it's not about changing the tender, this is just about purely the price to say.
- 15 WATTERS: Yeah, I'm aware of the, so I mean, Jason as a project manager was quite relentless with his tendering process with the subcontractors, so you must drop your price, you must, you must, you must. In that instance that can become quite difficult for subcontractors because they feel like they have to cut all of the dollars that they have in their submission and in my experience, that ultimately means that they will perform worse because they are constantly worrying about dollars and they may not have priced the necessary resources in because they've had to cut that out. In this instance I knew that we were probably already under budget with the package, and it was, you know it was already a positive. You know rather than have a, a subcontractor really cut down all the way down to a point where they perform badly I would much rather see them, ensure that they have the necessities within their submission and whatever they have set(?), at least perform the works that we've asked them to do.
- 20
- 25
- [REDACTED]: Okay. So, quiet clearly Jason wouldn't have known that you were sending these texts to Aiden?
- 30 WATTERS: Well I would've definitely would have spoken to Jason about this, this package if, you know while at worst it was happening and he - - -
- [REDACTED]: Yeah, yeah I would've said you would've spoken to him but you quite clearly wouldn't have said that you were sending a message to a tenderer like this I wouldn't have thought or is that right or wrong?
- 35 WATTERS: I don't, I don't think I would've, I would've told Jason that that was the case. I certainly would've spoke to Jason about not pursuing the subcontractors all the way down on price.
- [REDACTED]: Yeah.
- 40 WATTERS: Whoever that may be because of the concerns that I've just raised so I certainly would've discussed that with him. I probably did not tell him that I had sent this text message.

█ Okay. And I guess just the intention behind letting, a (undecipherable) to Aiden, what does, you know was there any, you know you're just informing Aiden of this? Were you expecting something in return?

WATTERS: No.

5 █ No. Were there any discussions between you and Aiden Cox and Tony, and when, and you know, in relation to you providing any updates and, in relation to the tender that they were putting tenders in for?

10 WATTERS: No other than, you know the same (undecipherable) that we'd had with any contractor we've got a decent relationship with and you know, can you tell us how we're looking or how we're going or, you know what kind of direction is it going in. Yeah - we probably had those discussions and again I would (undecipherable) then that's (undecipherable) that (undecipherable) that's, that's what they (undecipherable). Yeah, it wasn't done with any intent for other than that.

15 █ Okay. So - we'll just move on to the next message. So, Aidan responds to your text message. He says, 'We'll put a (undecipherable) in for (undecipherable) based on timber, it's concrete. Confirmed today we were going to increase price by 6K. Would this knock us out of pole position?' What did you take that to mean? Cox was asking there.

20 WATTERS: Yeah, I think he was he obviously asking me if you know, I don't know if it was a site visit or what's happened but if -

█ Ah-hmm.

25 WATTERS: - they've obviously understood that the, the scope is different to what they'd priced, and they've varied to make an adjustment that probably (undecipherable) impact(?) their, their chances of getting the works I suppose.

30 █ Yeah. And why would Cox be asking you, 'would this knock them out of pole position?' Why would he not be talking to, you know, asking anyone else, 'cause you're the construction manager at this stage. You know, you wouldn't, you would have an overseeing role over these TAP stations.

WATTERS: Ah-hmm.

█ Why do you think this discussion is happening with Cox?

35 WATTERS: I suppose because I had a close relationship with him. Jason is the project manager (undecipherable) and I'd say was quite, more aggressive (undecipherable) with (undecipherable) approached them so I suppose that's probably why Aiden used them for a bit of, I suppose leaning on that(?) relationship to ask, well can you give me some dates.

40 █ Yeah. And I do note, I do recall you noting that you don't have a close relationship with Cox (undecipherable) but you would, you know, (undecipherable) indicate - - -

WATTERS: (Undecipherable). No, we had a, we had a working relationship, yeah.

█ Yeah, okay.

WATTERS: Yeah.

5 █ Ah-hmm. And then you respond to Aiden's message, 'Not quite but we'll be very, very close. If it goes up to 6K it would be good to sharpen a little elsewhere to soften the blow.' What were you referring to there?

WATTERS: Yeah, so just tell them, look if you put your price up it's, you know it's going to be, more than likely, going to be (undecipherable) impact the assessment for you because you're going to, you're increasing your price, that's, that's never a good thing. And if you, if you do need to feel that you need to do that then you probably need to be looking at sharpening the pencil generally, if that's the case if you, if you want to get a chance, for the works.

10 █ Okay.

15 █ : So - at this point, obviously the tender when he hasn't been announced, it hasn't been awarded to anyone -

WATTERS: Yeah.

20 █ : - he's asking you if he can afford to put it up by 6K, six grand and will it knock him out of the front running spot. And you're telling him, no, if you've that 6k (undecipherable), it would be good to - - -

WATTERS: I don't think I've gone and told him, that I wouldn't have said he's got 6K (undecipherable), it's generally if it does go up he would have to - - -

25 █ : Well - he's saying, 'will it knock us out of pole position?' 'No quite, but it will be very close.' So, but he still knows that he is the cheapest, the cheapest quote in.

WATTERS: I, I don't actually know if they were the cheapest quote, I'm not quite sure that was the case.

30 █ : Oh okay, so the pole(?) could've included, included the 20 people with that scoring (undecipherable).

WATTERS: Yeah, overall assessment, yeah.

35 █ : Okay. Would you say, would you describe this information as confidential information that you're providing to Cox?

WATTERS: But, but I haven't given him any confidential information, you know, I certainly have I tried to tell him what his competitors are doing, it's more just I suppose giving him guidance on how's he's looking with his tenders. But, yeah as I said before I don't think that's (undecipherable) that the correct (undecipherable) that I've done.

█ Okay.

DEUTSCH: Are we done with this document?

█ Yes.

DEUTSCH: Could we take a five-minute break?

█ Yeah, yeah, okay, sure.

5 WATTERS: Yeah.

█ I will just note it on the recording. Yeah. So - the current time is 2.15 and we are taking a short adjournment.

DEUTSCH: Is there are (undecipherable) we can go to?

WATTERS: Yeah. (Undecipherable) show you and um.

10

SHORT ADJOURNMENT – RECORDING CEASES

INDEPENDENT COMMISSION AGAINST CORRUPTION

PART 2 OF A RECORD OF INTERVIEW BETWEEN INVESTIGATOR [REDACTED]
[REDACTED] AND KEVIN WATTERS AT THE INDEPENDENT COMMISSION AGAINST
5 CORRUPTION, LEVEL 7, 255 ELIZABETH STREET, SYDNEY ON 17 FEBRUARY
2022

TIME: 1.00PM

PRESENT: ICAC INVESTIGATOR [REDACTED]
10 ICAC INVESTIGATOR [REDACTED]
KEVIN WATTERS, INTERVIEWEE
STEPHANIE YOUNG
MARK DEUTSCH, LEGAL REPRESENTATIVE

15 [REDACTED] The current time is 2.25, 17th of February 2022 and just recommencing the
interview with Mr Kevin Walters. So Kevin, at the start of the interview
you know I would've gone through a reminder, I just want to remind you
again that it is an offence to deliberately provide false and misleading
information to the Commission. I just want to remind you of your, you
20 understand that?

WATTERS: Yep.

[REDACTED] Yeah, okay. I just want to ask you about your relationshipS with current
and former - - -

25 [REDACTED]: I'm sorry to interrupt you, do you understand that you don't have to say or
do anything unless you wish to?

WATTERS: I understand. Yeah.

[REDACTED]: Yeah? And anything that you do is being recorded again -

WATTERS: I understand, yeah.

[REDACTED]: - and can be used as evidence at a later stage. Do you understand?

30 WATTERS: Yes.

[REDACTED] Okay. So I would just like, do you know Cyron Pilley?

WATTERS: Yes.

[REDACTED] Yeah, okay.

WATTERS: He was a project engineer for Downer.

35 [REDACTED] Yeah. And what kind of relationship do you have with Mr Pilley?

WATTERS: Basic working relationship. He, he was a project engineer working within the TAP program.

█ Ah-hmm.

WATTERS: Didn't report directly to me.

5 █ Okay. And he's currently still a project engineer? No?

WATTERS: I believe he doesn't work for Downer anymore.

█ Okay.

WATTERS: I'm, I'm not 100% sure.

█ Yeah. You don't where he works?

10 WATTERS: I think he works for Hasilands(?). I don't know for sure.

█ Yeah. Do you know have any knowledge why Pilley left Downer?

WATTERS: No. Again, he didn't report, he reported to Vlad(?) at Kingswood.

█ Okay.

15 WATTERS: He was his line manager so - I know Hasilands is a business at the, I think it's the start of last year, had won a major contract and were offering a lot of money to entice employees and Downer as a business did lose a number of engineers across to Hasilands.

█ Ah-hmm.

20 WATTERS: So they were, they were being offered quite a significant pay rise to move companies. I would imagine that that had a big part in it, that, but yeah I don't know the specifics.

█ Okay yeah. So Pilley, so Cyron worked on Kingswood with Vlad, would, and the other stations, have you worked with him on any other stations?

WATTERS: No.

25 █ No? Okay. Do you have any knowledge of Cyron Pilley having a company of his own?

WATTERS: No.

█ No. Are you aware of any relationships he may have with subcontractors or suppliers engaged by Downer on the TAP work?

30 WATTERS: Not really, no.

█ And are you aware of any occasions where Cyron would've received a benefit from a supplier or subcontractor engaged by Downer?

WATTERS: No.

█ No, okay. And just Tony Nguyen so, with RJS – when did you first, was that, when did you first meet Tony Nguyen?

WATTERS: It would've been at the final tendering review for Kingswood Station –

█ Right.

5 WATTERS: - when we would, we'd normally at that stage invite tenderers in to just talk to their submission. Any you know departures that they may have from the contract conditions that they have suggested that they want to put in.

█ Ah-hmm.

10 WATTERS: And the commercial manager and the project manager at that stage were normally involved with those discussions just to get a final agreed point on what the best and final offer can be or they may ask them to go away and say, look we'd like you to have one more try at pricing this –

█ Yeah.

15 WATTERS: - and, and make any improvements that you can. So that that would be the first time that I met Tony as I was, I was standing in for Vlad while he was off on leave at that time.

█ Yeah. And how would you describe your relationship with Tony Nguyen?

WATTERS: Working relationship.

20 █ Okay.

WATTERS: It was a, he was a, I don't know exactly how the RJS system works and I, I know that Tony, I think he's part owner I believe but –

█ Okay.

25 WATTERS: - I, I don't actually know. Yeah, purely that just from, you know, the works that they have performed for us, just a working relationship in the time that I've dealt with him.

█ Okay.

30 █: Would that tender process, obviously there was the Kingswood building works and then there was later a landscape package – were, were you just I know you were there for a shorter time - were you involved in both or is it, were you just involved in one?

WATTERS: Purely the building works –

█: Okay.

WATTERS: - yeah, yeah the actual package, yeah.

35 █ Yeah.

[REDACTED]: Yeah.

[REDACTED]: I might just show you a document about the Kingswood building tender.

WATTERS: Ah-hmm.

5 [REDACTED]: So - it's an email dated 4th of June 2019 and it is from Cyron Pilley to Scott Harmon and your copied on the email –

WATTERS: Yep.

[REDACTED]: - and it's just about the Kingswood building works request for tender package.

WATTERS: Yep.

10 [REDACTED]: If you –

WATTERS: Thank you.

[REDACTED]: - hold that?

WATTERS: Hold that.

[REDACTED]: Thank you.

15 WATTERS: Yeah.

[REDACTED]: I'll just wait until we get copies.

DEUTSCH: That's fine thank you.

[REDACTED]: Yeah.

WATTERS: Okay, yeah.

20 [REDACTED]: So that would've been in your, your time relieving Vlad on Kingswood?

WATTERS: It would, I think so, yeah I think so.

[REDACTED]: Yeah. And the request for tender was issued to those list of companies.

WATTERS: Okay.

25 [REDACTED]: On there so there's RJS, Infrastructure, C & Age Group, NHR, SDL Project Solution and Constructicon. Besides RJS, do you know any of the other companies?

WATTERS: I don't, no.

[REDACTED]: Okay.

WATTERS: No.

30 [REDACTED]: Do you know if the other companies have ever done work on Downer projects?

WATTERS: Not that I'm aware of. Again, I don't know every single one, but I certainly haven't worked with any of those companies that I know of, no.

[REDACTED]: Okay.

5 [REDACTED]: Did Tony ever talk about any, like in your discussions with him, any other relationships that he has with any of those other companies?

WATTERS: No, never.

[REDACTED]: No.

[REDACTED]: Do you know if any Downer employees have relationships with any of the list of companies?

10 WATTERS: No that I'm aware of, no.

[REDACTED]: No, okay.

[REDACTED]: No.

[REDACTED]: Yeah. I'll just go to another email. So just next up is an email dated 21st of June 2019 and it is an email from Cyron Pilley to you and he's just forwarding you a tender submission.

15 [REDACTED] (?): There's several(?) on that one.

[REDACTED]: SDL.

DEUTSCH(?): Okay, thank you.

[REDACTED]: Okay I'll just let you have a review of that one.

20 WATTERS: Yeah.

[REDACTED]: Yeah. Do you know SDL, that company, have you heard of them before?

WATTERS: No.

[REDACTED]: Do you know Joanne Breen(?) maybe?

WATTERS: No - I don't know.

25 [REDACTED]: Yeah, okay no worries, okay. I'll just send you, show you another one. It's an email dated the 21st of June 2019. It is another email from Scott Harmon to you and he just forwards you a quote from Constructicon.

DEUTSCH: Okay, thank you.

[REDACTED]: Okay.

30 WATTERS: Yeah.

[REDACTED]: Do you know Anthony Byrne(?) of Constructicon?

WATTERS: I don't (inaudible).

█ No worry, okay.

█ : Do you know any employees from Constructicon?

WATTERS: Not that I'm aware of, no.

█ : Yeah.

5 █ Yeah. Okay. I'll just get those documents back – sorry. And just from Kingswood, Pilley's role as an engineer can you just outline what he would do in term, what his position involved in terms of the tender process?

10 WATTERS: So some – so all the project engineers in general work you know almost side-by-side with the project managers. The project managers use the project engineers as their, I suppose, righthand man if you want to call it that, and would delegate quite a lot of responsibilities to them you know to do the leg work for them.

15 █ Mmm.

20 WATTERS: So - in terms of the tendering process the engineers are often are used to, to get all the scope documents, all the administration that has to go behind helping the CAs get all the necessary documentation together to go for tender. The project engineers are often very much involved with the discussions with the tenderers as well. So, if we have a site visit the project engineer may the guy that has the most knowledge about the intricacies of a site then he would meet(?) the site discussion between the, between the guys that are there.

25 █ Yeah.

30 WATTERS: So yeah, it can, it can be quite wide ranging depending on the capability of that project engineer.

35 █ Yeah. But do you know if Cyron has any relationship with Tony and Aiden of RJS?

40 WATTERS: Not that I know of.

█ Not that you know of, yeah. Ah-hmm. Would Cyron have a role in approving variations and progress claims submitted by some subcontractors on project design?

WATTERS: Yeah so we, they often use engineers to do the initial assessments on progress grids(?), so a subcontractor may submit a progress grid(?) at the end of the month. The engineer is the guy that's on the grounds looking after what's happening, you know in terms of the actual delivery and would(?) see(?) receive(?) materials and progress. So, the engineers can be, can be used, when you say, well look – why don't you do your first pass(?) on this assessment and let me know if it's fair, you know it(?) claims what they've actually constructed out of (undecipherable). So yeah the engineers can be used in that regards, yeah.

[REDACTED] And would that go to approval to the next person up, so the project manager that would (undecipherable)?

5 WATTERS: Yeah the, the project manager would ask the engineers to do that normally and then, yeah the project manager will look at it as long as he doesn't see any immediate issues with it, he would then get his stamp of approval. That would then be administered(?) by the contracts administrator and commercial manager, then they would, you know, get a – (undecipherable) payment from them.

[REDACTED] Okay.

10 [REDACTED]: So he's just part of a chain the engineer, he's not, any, he hasn't got financial delegation or sign-off approval?

WATTERS: No they, they have, they do have financial delegation the engineers, but I think it's very very low(?) –

[REDACTED]: Yeah.

15 WATTERS: - it's like, 10, I don't know the exact number –

[REDACTED]: Yeah, it's um.

WATTERS: - it's about, you know, it's very, their delegation authority is really just for the purchase of materials and things like that so you can just say, I need a truckload of sand now –

20 [REDACTED]: Yeah.

WATTERS: - approved, go –

[REDACTED]: Yeah.

25 WATTERS: - but, or they, they're used for the assessments and to assist the contract administrator mainly in assessing claims and it's the contract administrator that really deals with the, the actual claim at the end of the month.

[REDACTED]: Mmm. Yeah.

[REDACTED] Yeah.

30 WATTERS: So the engineers, the project managers are used on the site to say(?), the contracts administrator will receive a claim and he'll say, look I've, I've no knowledge of what's been done on this one, can you please review this and tell the (undecipherable).

[REDACTED]: Yeah.

35 [REDACTED] Are you aware of any occasions where Pilley would have, have approved variations and progress like claims submitted by contractors that were illegitimate or, no?

WATTERS: Not that I'm aware of, no.

█ Okay. Ah-hmm. When you were, I know you were a project manager for a short time on Kingswood and then Vlad came over. Were there any concerns raised at Kingswood in respect to RJS that you know were cut(?) and core(?)?

5 WATTERS: No, I mean, they, they weren't, for the time that I was covering for Vlad they were only just mobilised in that time 'cause they'd only been just awarded the, the contract for the works they were all doing so you've very limited time to actually have in their (undecipherable) they were working. Look every subcontractor has issues on site and –

10 █ Mmm.

WATTERS: - sometimes the quality of the work isn't great things but exactly worrying about things(?) or not, I didn't hear any major, major issues as far as I knew from talking to Vlad or the guys, they were just like (undecipherable).

15 █ Mmm. How would you view RJS as a subcontractor, you know would say they're fairly good in terms of the delivery – (undecipherable)?

WATTERS: In the times that I've dealt with them their performance has, has been good, very – they've put a lot of time and effort into planning the works and trying to, to get (inaudible).

20 █ Yeah. I might just show you an e, take you to another document. So - this is text message from Ian Faulkner(?) to yourself and it is dated the 17th of February 2020, it is two pages.

WATTERS: (Undecipherable) hold it (undecipherable).

█ Do you want a copy? Okay.

DEUTSCH: Okay, thank you.

25 █ Okay.

(Short silence)

WATTERS: Okay, yeah.

█ We'll go through the messages I guess –

WATTERS: Yeah.

30 █ - Ian, Ian Faulkner, who is he?

WATTERS: So Ian Faulkner was a supervisor for Downer. He doesn't work for Downer anymore but he was my supervisor at Harris Park, North Strathfield -

█ Okay.

35 WATTERS: - projects.

█ Yeah, a site supervisor?

WATTERS: Site supervisor.

█ Yeah, yeah, ah-hmm.

5 WATTERS: Yeah. Well looking at this now I think he, I think we used him to help cover the site at Kingswood at one time, after the North Strathfield project was completed. Yeah I'm, I'm sure he went up there to do the, the site supervisory role.

█ Yeah.

WATTERS: Cause he, he wasn't – yeah he didn't have anywhere else to go at that time so.

10 █ Mmm. Yeah - and this, to the best of your recollection you could recall what, you know Ian was saying like, referring to, I'm not keen to continue at Kingswood.

WATTERS: Kingswood?

█ Kingswood. There's no interest in those guys to complete –

15 WATTERS: Yeah.

█ - anything –

WATTERS: Complete anything, wasting my time.

█ - wasting time there.

WATTERS: Yeah.

20 █ And you reply with, even Vlad? Do you know what Ian, do you recall what you and Ian are discussing?

WATTERS: So, look I had a very good relationship with Ian, I had a good, really good working relationship with Ian. So - you know we often talked and he'd vent his frustrations to me as well. I - I mean don't remember exactly the context here but I, I, you know based on what we're looking at here I think, I think he's obviously frustrated with the way things are being done. I mean I've responded there saying even Vlad because of, you know from my experience working with Vlad he was quite proactive and able to get things done so that, that's why I've asked that question, I think.

25

30 █ Okay. And then if you just flick to the next page like give you a bit more context. Ian says, 'Strange dynamic there I think he's good'. So Vlad's put, 'But I've had Blakes(?) they're (undecipherable), (undecipherable) etcetera, etcetera, to finish'. And it's, 'No, no we don't to do this site(?). Too expensive yet they are paying RJS a variation to paint four(?) box(?) when they have outstanding works. It seems to be a deliberate holding(?) it doesn't make sense'. Do you have any recollection what Ian maybe referring to?

35

WATTERS: Oh, I mean I don't know the specifics there that other than what Ian's put in that text message.

5 [REDACTED] Yeah, okay.

WATTERS: But I think what I've responded with there is, yeah that's it, that sounds strange, very strange, v-strange, very strange. I suppose where I've said persist with it you know, I didn't, at that time I didn't want Ian to get pissed off and –

10 [REDACTED] Yeah.

WATTERS: leave the company because I knew he was a good resource and you know we were in the process of losing a lot of people from Downer at that time, there was a lot of changing so you know, conscious of that I suppose. I had a word with Bewani(?) to see if there's something going on well that was Andrew Bewani who is the project director, so I would've, well like you said I didn't have any knowledge of what was happening at Kingswood at that time, so I would've probably had a chat Andrew to see if there's any issues there with the team.

15 [REDACTED]: Can you remember what Andrew said when you spoke to him?

WATTERS: I cannot say you know – I mean Andrew as a project director, is fairly removed from the site where stuck(?). He does have, he would've had direct discussions with the project managers I would say but I couldn't recall the conversation, I mean this was –

20 [REDACTED]: Mmm.

WATTERS: - it was quite a long time ago I think it was, yeah, two years ago now. I don't know what specific(?) discussion(?), I probably would've stuck my head in his office and said, "Is everything going okay at Kingswood?" If Ian said that he's been frustrated –

25 [REDACTED]: Yeah.

[REDACTED] Mmm.

WATTERS: - but I certainly didn't get any feedback to say there was anything significant I should, but Andrew would probably have said the same as me, that sounds strange, I'll talk to, I'll talk to Vlad and see what's going on.

30 [REDACTED]: Yeah.

[REDACTED] As in strange that I guess they're paying RJS a variation to do some painting when they had outstanding works is it the general process if subcontractors have works outstanding on a train station you would've give them anymore work until they completed what they had to finish.

35 WATTERS: It tends to depend on the, the tactical(?) path(?) and the program and then if, if there's activities that have to be done, they obviously take precedent over all the things so it's, it's possible that the contractor could be doing variation works ahead or finishing the original contracts scope. If the original contracts scope was to, you know the final piece was to paint a wall but there's still a hole in the ground then they have a variation to do that well that's obviously the priority for them ahead of painting that wall

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so, simple example I suppose but, yeah. I think where I've said, very strange there, there's something strange that, you know Ian's got resources on the site to get things finished and the team will tell him that they don't want to do it.

5 [REDACTED] Mmm.

WATTERS: Well then, what was the message – that in my experience with any Downer team they're generally quite proactive with getting works done so.

[REDACTED] Mmm.

[REDACTED]: Yeah.

10 [REDACTED] Yeah, okay. On Vlad, Vlad (undecipherable/surname?).

WATTERS: Yes.

[REDACTED] How did you meet – well that Vlad's a Downer employee but –

WATTERS: Yeah.

[REDACTED] - what, how did you meet Vlad and what's your relationship with Vlad?

15 WATTERS: Vlad's probably 2017, so when I initially started with Downer I was working on a number of tenders.

[REDACTED] Ah-hmm.

WATTERS: That, that far up to about six months and then that's when the TAP program kicked off.

20 [REDACTED] Ah-hmm.

WATTERS: That's when I was moved across onto the TAP program, I was an engineer at the time. Vlad was part of the initial team. He then left that team to go to another project and I didn't really have any contact with him until he came back to the TAP team which was this(?) round(?) we're talking about now with Kingswood and the other stations and he was one of the project managers. So, I was a project manager, there was four of us and he was one of the project managers.

25 [REDACTED] Yeah. Just on Kingswood, do you remember who the transport representative, is there usually general like transport representatives used on each station -

30 WATTERS: Yeah - there is.

[REDACTED] - and there would be a project team yeah?

WATTERS: The project manager at Kingswood – um it Nima?

[REDACTED] Nima?

35 WATTERS: Nima, I don't know what Nima's surname was. I can't remember.

██████ Yeah.

WATTERS: I think he was - - -

██████ Nima Abdi? Nima Abdi?

WATTERS: Abdi? Yeah, that's it yeah.

5 ██████ Yeah. Ah-hmm.

WATTERS: So, he was the project manager for Downer. I think.

██████ Yeah.

WATTERS: So he would be like in the, the main site rep and the construction manager was Nizar Cedeo(?), so he would be the –

10 ██████ Yeah. So Cedeo(?)?

WATTERS: - N-I-Z-A-R.

██████ Nizar, yeah?

WATTERS: Nizar Cedeo, yeah.

██████ Okay.

15 WATTERS: He would be the construction; he would be across a few projects so will have a say what we do (undecipherable) construction managers.

██████ Ah-hmm.

WATTERS: And then there's the upper management from Transport above them.

██████ When you say Vlad, how would you describe your relationship with Vlad?

20 WATTERS: Yeah, quite good. I mean just a, a normal working relationship I suppose between, between project managers. I mean obviously latterly(?) I was the construction manager; he was the project manager at Banksia Station.

██████ Yeah.

WATTERS: So I - I had just a general working relationship with Vlad, yeah, yeah not much more than that.

25 ██████ Mmm. So Vlad was the project manager on Kingswood and Banksia, was there any other ones that you're aware of, the TAP stations that you know worked on?

WATTERS: No, I'm not able to tell you if I was there or not.

30 ██████ Yeah. Do you have any knowledge of Vlad having a company of his own?

WATTERS: No.

Are you aware of any relationship Vlad may have with subcontractors engaged by Downer on TAP stations?

WATTERS: Not that I know of.

Okay. Is Vlad still an employee at Downer?

5 WATTERS: No.

Do you know where, why he may have left?

WATTERS: I'm not sure. He left at the end of last year. He was still working within the TAP program at that time. I was on (undecipherable) so I didn't have any interaction with him.

10 Do you know where he works now?

WATTERS: I've no idea, no.

I was just want to see, show you an email. This is an email dated the 15th of July 2020. It's an internal Downer email and it's about South-West Metro Concourse Building Works.

15 WATTERS: Argh huh.

Where in, (inaudible) review it.

(Sound of papers rustling in the background)

DEUTSCH: Okay, thank you.

Yep.

20 (Further sound of papers rustling)

WATTERS: Argh yep, yep.

Yeah, so we'll just go onto the second page, that's where the email chain starts.

WATTERS: Argh huh.

25 Yeah the, they're asking you for just builders that you have, guys have previously have used on TAP building works.

WATTERS: Yep.

And you just been given, and he lists who he thinks that you guys may have used at Kingswood, not sure of Glenbrook Maze(?). Have you heard of the company Maze?

30 WATTERS: Yep.

Have they done a lot of TAP work for Downer?

WATTERS: Well obviously Glenbrook who does work –

██████ Yeah. Ah-hmm.

WATTERS: - and they also did some building works at Wollstonecraft Station as well.

██████ Yeah. (Undecipherable) the next station Hazelbrook, Hazelbrook, Dowski(?) and Stone, are you aware of that company?

5 WATTERS: Yep.

██████ Yep. Do they do a lot of work besides Hazelbrook, what other stations were they on?

WATTERS: Dowski works at Banksia Station.

10 ██████ Okay, yeah. And then over to the next, and then you – you reply ‘recommend, recommending RJS –

WATTERS: Yeah.

██████ - ‘cause they were on Kingswood and they did heritage work, North Strathfield’. And then Andrew Gayed(?), a project manager at Downer he responds with, Maze.

15 WATTERS: Yeah.

██████ Do you know if Andrew has any connection with Maze Group?

WATTERS: Not that I’m aware of, no.

██████ Not that you know of, yeah. Are you’re not aware of any Downer employees having connections with Maze Group or Dowski and Stone?

20 WATTERS: Not that I know of - no.

██████ No, okay. So just on Andrew Gayed who’s a project manager at Downer –

WATTERS: Argh huh.

██████ - how would you describe your relationship with Andrew Gayed?

25 WATTERS: Very similar to Vlad. It’s yeah we were all project managers at the same time. He was the project manager at Glenbrook Station and then he was the project manager at Wollstonecraft Station. So, I worked in there as a project manager at the same time as him and then I was the construction manager when he was the project manager at Wollstonecraft.

30 ██████ Yeah. Are you aware of Andrew Gayed having a company of his own?

WATTERS: Not aware of it, no.

██████ No. Are you aware of any relationship Andrew Gayed has with any subcontractors or suppliers engaged by Downer?

WATTERS: Not that I know of, no.

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█ No. Does Andrew Gayed still work at Downer?

WATTERS: No.

█ Do you know why he may have left?

WATTERS: I don't know of any reason for leaving. He, he moved to Hasilands, the company that I mentioned earlier on.

█ Okay, yeah.

WATTERS: And he worked on the South-West Metro project which is Hasilands like – like a track(?) of projects and again like I said earlier, Hasilands more often quite significant packages to a lot of people which is part of the reason that a lot of our guys moved across.

█ Yeah. Are you aware Andrew Gayed having a benefit from any suppliers or subcontractors engaged by Downer?

WATTERS: Not that I know of - no.

█ Okay, yeah. Okay then. Well, I'll just ask you about a few other employees of Downer. Ross Stein(?), can you tell me about your relationship with Ross Stein?

WATTERS: Yeah - Ross was a supervisor for Downer. He worked on Glenbrook Station and then latterly he was the superintendent or similar to the construction manager role who looks after project managers. We often have a superintendent who looks after all the supervisors as a, a resource that kind of looks after everybody and helps out, provide advice. So Ross was the superintendent for the last (undecipherable) of TAP that I worked in when I was the construction manager.

█ Yeah. Who will sit above the project managers, will that be you?

WATTERS: Well he would sit about the, so he would sit alongside me.

█ Okay, yeah.

WATTERS: And he would be really looking after the supervisors, the actual site works and assist them, whatever they need (undecipherable).

█ Yeah. As a superintendent would he have any involvement in the tender process?

WATTERS: Fairly limited. It would be again just initial scope works and discussions with contractors around what the works are and what they need to be; well whether he's got any previous experience with contractors he would off, you know he would ask, like I said before he would ask (undecipherable) project managers, would call the engineers and supervisors as well about previous performance of contractors and that sort of thing so he would, he would naturally be involved with that sort of review. Other than that, not a whole lot.

█ Yep. So this, he worked at Glenbrook you said and then the superintendent on just the recent –

WATTERS: Ah-hmm.

5 █ - (undecipherable) the Tap program, any other projects you, that you know that he worked on besides those?

WATTERS: Within Downer he worked, I think he worked within our Roads department in another part of, of Downer.

█ Ah-hmm.

10 WATTERS: I don't know for sure but I think that's where he was previously before he came into the TAP program.

█ Yep.

WATTERS: He was working for the big(?) Downer(?) Roads(?) business.

█ Yeah. Alright. To your knowledge do you know if Ross has a company of his own?

15 WATTERS: Not that I know of, he's now working as a, a contractor I know, on his own. So he, I don't know how that's set up and what that looks that. He's a, he's a contractor working for Sydney Metro at the moment.

█ Okay.

20 WATTERS: And he's, he's not a direct employee of theirs, but yeah, other than that I couldn't, I couldn't say what, what that is, I'm not sure whether he's a sole trader or how that, that one works, I'm not sure.

█ Does he still work at Downer?

WATTERS: No.

█ No. When did he leave?

25 WATTERS: In, last year, not quite sure. Yeah I don't, I don't know the exact time, it might be mid last year –

█ Mmm.

WATTERS: - approximately. Yeah, I'm not sure exactly.

█ Yeah. He's with Sydney Metro now? Yeah.

30 WATTERS: Yeah, he works for Sydney Metro now, yeah.

█ Yeah. Are you aware of any relationship Ross Stein has had with any subcontractors or suppliers engaged by Downer?

WATTERS: Not that I know of - no.

Not that you know of, yeah. Are you aware of any occasions where Ross Stein may have received a benefit from a subcontractor or a supplier?

WATTERS: Not that I know of - no.

5 [REDACTED] Okay. We'll go to the next Downer employee so do you know Abdul Aziz?

WATTERS: Yes, yeah.

[REDACTED] Yeah. Can you tell me about your relationship with Abdul Aziz?

WATTERS: So Abdul was the project manager in the very first round of TAP -

[REDACTED] Okay.

10 WATTERS: - which was when I was the project manager at Harris Park.

[REDACTED] Ah-hmm.

WATTERS: So that was way back in 2017.

[REDACTED] Ah-hmm.

WATTERS: Abdul was the project manager at Victoria Street, Maitland.

15 [REDACTED] Ah-hmm.

WATTERS: And then Abdul moved across to the Neff(?) program which is another program of works that Downer had.

[REDACTED] Okay.

20 WATTERS: I think he was project manager in there as well. He left quite Downer quite, quite a while ago, I think it was a few years ago.

[REDACTED] Okay.

WATTERS: From memory.

[REDACTED] And the only TAP project he worked in was Victoria Street – that you know?

25 WATTERS: Yes, yeah that's right, yep. From memory – yeah.

[REDACTED] And then he moved into the Neff?

WATTERS: The Neff program.

[REDACTED] Yeah. And what did that involve, you know, do you know what the Neff program was about?

30 WATTERS: So that was a, it was another Transport for NSW contract -

[REDACTED] Yeah.

5 WATTERS: - where we did modifications to train stations, but it was more about the actual track signalling and platform extensions. So it would be small package(?) that worked across the whole network, and there was a whole program of works. I was never involved with it so I don't know the real details but that was generally what it was all about.

█ Yeah. And he was a project manager on, on this?

WATTERS: He was a project manager, yes I think so.

█ Yeah.

WATTERS: I think so, I don't know - - -

10 █ Would he report to the same directors as the trans, the TAP program ones, so Andrew Bedwani?

WATTERS: So when the Neff program initially started, I don't know who the project director was but Andrew Bedwani was the project director within Neff –

█ Ah-hmm.

15 WATTERS: - for the majority of its life span. And then Andrew came back to the TAP program when Neff was starting to wind down, you know 'cause the Neff program was certainly not working, it started to come to an end, so Andrew came back as a project director at TAP.

█ Mmm, okay. Are you aware of Aziz having any companies of his own?

20 WATTERS: Not that I know of - no.

█ Okay.

WATTERS: I had a very limited relationship with Abdul like -

█ Okay.

25 WATTERS: - yeah, I, in that time the project he was looking after was up close to Newcastle so –

█ Ah-hmm.

WATTERS: I probably saw him two or three times a year just in passing, so I had very limited interactions with Abdul.

█ Yeah, okay. Do you know if Aziz has any close associations with subcontractors or suppliers engaged by Downer?

30 WATTERS: No – not that I know of.

█ Not that you know of, yeah. Do you know where Aziz works now?

WATTERS: Not too sure. I think, I think again he went into Sydney metro -

█ Okay, yeah.

WATTERS: - a number of years ago and it's somewhere in the city. I had heard that that was the case but where he is now, I have no idea, I don't have any contact with him.

5 [REDACTED] Yeah. I'll just move onto Andrew Bedwani, how would you describe your relationship with Andrew Bedwani?

WATTERS: Yeah, a very good working relationship so –

[REDACTED] Ah-hmm.

WATTERS: - he was there the initial stages of TAP – Andrew was a project manager –

[REDACTED] Ah-hmm.

10 WATTERS: - at Toongabbie Station. Well sorry, he was a senior project manager but he was the project manager at Toongabbie. So we had a working relationship 'cause we were pms(?). He then moved to the Neff program so I didn't have any dealings with him for quite a long time.

[REDACTED] Ah-hmm.

15 WATTERS: And then he came back in as the project director at TAP and that was 2000 and, 2019 period I think to '20 maybe.

[REDACTED] Mmm.

WATTERS: Say, I would say he is my (undecipherable) he is still my direct –

[REDACTED] Yeah.

20 WATTERS: - line report.

[REDACTED] Yeah.

WATTERS: Even now 'cause he's moved across to South-West Metro.

[REDACTED] Yeah. Are you aware of Andrew Bedwani having any companies of his own?

25 WATTERS: No.

[REDACTED] Are you aware of him being associated with any subcontractors or suppliers engaged by Downer?

WATTERS: Not that I know of - no.

[REDACTED] Not that you know of, okay? I'll just move onto Nima Abdi.

30 WATTERS: Yep.

[REDACTED] Who we touched on was the project manager on Kingswood. Do you have much of a working relationship with Nima Abdi?

WATTERS: Very limited.

██████████ Okay.

5 WATTERS: Nima was only covering Kingswood for two days a week for the space of four weeks so limited interaction with him at that time, you know for, for what needed to be done. Other than that, very, very limited with him, I didn't really speak to him.

██████████ Okay, you never worked on, with him on any other projects?

WATTERS: No.

██████████ No, yeah.

10 ██████████: Was he onsite a lot? I know you were there very, (undecipherable) yourself but?

WATTERS: Yeah, yeah I mean I, not all the time but the Transport project managers, the way that Downer have their, their sites set up, they'll have a site office and we have to provide some space for the Transport representatives -

██████████: Yeah.

15 WATTERS: - so they come and go as they please essentially. So the project manager can spend, stay there, do what he needs to do or -

██████████: Yeah.

WATTERS: - it could be a (undecipherable) or whatever they need on the site so. And it would be a nightmare(?).

20 ██████████ Okay. Are you aware of Nima Abdi having any relationships with in particular, Downer employees?

WATTERS: No.

██████████ No?

WATTERS: None that I know of - no.

25 ██████████ Yeah - or any subcontractors and suppliers engaged by Downer?

WATTERS: Not that I know of - no.

██████████ No. And are you aware of Nima Abdi having a company of his own?

WATTERS: Not that I know of but again, I have very limited interaction with Nima so I wouldn't know.

30 ██████████ Yeah. Just the next person, Benjamin Vardenega?

WATTERS: Yeah.

██████████ Do you know Benjamin Vardenega?

WATTERS: Yeah - so Ben worked for Downer.

██████████ Ah-hmm.

WATTERS: He was the, he was a project engineer. He worked for Andrew Gayed at Glenbrook Station.

██████████ Glenbrook, yeah.

5 WATTERS: He then, he then went to set up his own business, I think he decided to leave Downer to set up his own business.

██████████ Ah-hmm.

WATTERS: I don't know exactly what he went to do but he did, he did appear working for RJS at Wollstonecraft –

10 ██████████ Ah-hmm.

WATTERS: - Station when they were doing the works in 2020/2021, as an engineering support resource. But yeah, I, I mean I only just, at least saw him onsite and said, hello, and –

██████████ Ah-hmm.

15 WATTERS: - he was there representing RJS so.

██████████ Yeah. Did he know what business he set up, the name of that company?

WATTERS: I don't know, I have no idea.

██████████ Do he do – oh sorry.

██████████: No, no, you're alright, you go.

20 ██████████ Did he do any work under his company that he set up for Downer or Transport that you're aware of?

WATTERS: I don't know, I'm not, I'm not sure.

██████████ Okay.

██████████: And when you were onsite at Wollstonecraft, what did you, what did you see Ben, Ben doing?

25 WATTERS: So in real(?) we do a lot of possession(?) shutdowns, possession weekends so you might go to the train station and they'll say, buses replace trains today. That's usually when the rail gets shutdown and during these station works that's when we get an opportunity to go in and do a majority of the works. We'll do real difficult stuff because the trains aren't there so possession weekends are particular in having to be around all of our sites making sure that things were going to plan. Say if I was onsite at Wollstonecraft as part of that possession weekend and just spotted Ben and walking down track and said hello and –

30

35 ██████████: Yeah.

WATTERS: - how you going, sort of thing and yeah, yeah it was, he was there working with RJS at that time.

██████████: And then, and so it sounds like (undecipherable) how did you know that he was working with RJS?

5 WATTERS: Oh well, I said, "What are you doing here?"

██████████: Oh okay, yeah, yeah.

WATTERS: He said, "I'm, I'm helping RJS (inaudible)."

██████████: Nah, (undecipherable) if he had a uniform on or if you, if it was a conversation or?

10 WATTERS: Yeah he may have had an R, an RJS vest on for (undecipherable) but yeah -

██████████: Yeah.

WATTERS: - just a case of I hadn't seen him in a couple of years and said, "How you going?" or something, yeah.

15 ██████████: Okay. Do you know what kind of a relationship he had with RJS or with particularly subcontractors, do you know?

WATTERS: No idea, yeah never been party to that so I don't know.

██████████: Are you aware when Benjamin was at Downer any associations he would've had with subcontractors or suppliers engaged by Downer?

20 WATTERS: Not that I know of - Ben didn't ever report to me and I never worked on a project with him so, fairly limited interaction.

██████████: Yeah. Okay. I'll move onto George Panagarkis(?), do you know anyone by the name of George Panagarkis?

WATTERS: Yeah.

25 ██████████: Yeah. Can you tell me about George?

WATTERS: Transport for NSW project manager.

██████████: Yeah.

WATTERS: He, within the TAP program, he was the project manager for Wollstonecraft Station and Canley Vale Station as well, I think, yeah.

30 ██████████: Ah-hmm. Are you aware of any relationship that George would have with any Downer employees?

WATTERS: Not that I'm aware of - no.

██████████: No. Any relationship he would've have had with subcontractors and suppliers engaged by Downer?

WATTERS: Not that I'm aware of - no.

█ Okay. How would you describe your working relationship with George Panagarkis?

WATTERS: Um look not –

5 █ Like Wollstonecraft would be the most recent project, I guess.

WATTERS: - the most recent, not great. George was quite an evasive character so yeah, we, we had a working relationship - but we weren't particularly friendly.

█ Mmm.

10 WATTERS: Just – yeah, but yeah. We had a working relationship, he was the project manager, I was the construction manager. We had regular interactions about delivery, and you know, whatever else but yeah, we, we didn't have a particularly friendly relationship I suppose.

█ Mmm. I want to ask you a question, on site when we have, when you have the Transport project manager there, what do they do onsite? Are they just overseeing you overseeing the subbies?

15 WATTERS: Yeah - essentially a good, good use of government money.

█ Yeah.

WATTERS: Yeah the um, yes I mean they are, they have to ensure that everything Transport expects –

20 █ Mmm.

WATTERS: - to happen, is, is happening. That's, that is essentially their role. It's more surveillance, then it is anything else but they're also there to help administer the contract as well. You know so if we, they have regular interactions with Sydney Trains and with the local community so if there's anything that gets raised through Transport, they will then discuss that with the, the Downer team onsite and say, hey we've got this problem - so the Trains aren't happy about this, you know, what can we do about it, that sort of thing so they have an active role and, and the, the surveillance and monitoring of works to make sure that everything's going to the program that's agreed and you know, the works being completed you know safely and the quality is good and that sort of thing, so.

25 █

30 █ : And so I may have asked it before as well but with their role, do they contribute much in terms of that tender process?

WATTERS: No - very little. The – so we go through the subcontract recommendation which has to go through Transport for approval, it comes back. When that goes to them, I don't know who's involved with that review process.

35 █ : Yeah.

WATTERS: Essentially it comes back it's from their representative so much of who, who does what? The only thing that would really involve them if anything

is that, those, during the initial phases when we're building the budget estimate for the project, their maybe some scope that we've not done before and the Transport project managers may be able to suggest, well I've seen this done on another similar project recently. They used X, Y and Z contractors. You may want to contact them to –

5

[REDACTED]: Okay, yeah.

[REDACTED]: Mmm.

WATTERS: - to get a, to get some help.

[REDACTED]: Yeah.

10 WATTERS: So, you know we, we, it's a collaborative contract so that's, they're supposed to kind of help a site(?) to help them.

[REDACTED]: And when you said, "Open book before you said that includes all budgets and scope of projects and all that sort of stuff so, yeah it's all worked out together and then it goes back tender.

15 WATTERS: Okay, yeah.

[REDACTED]: Yeah.

WATTERS: So it's all worked out together, it's reviewed and approved by an independent SNL(?) –

[REDACTED]: Yeah.

20 WATTERS: - so it's separate to both parties. They sign off on the, the price to say that they believe it to be fair and reasonable based on the scope that's been presented.

[REDACTED]: Yeah.

25 WATTERS: And the attendances that go with it for staff. We actually have to receive that signature before we can give it to Transport and ask for their approval to start work.

[REDACTED]: Yeah.

WATTERS: They will then say, "Yeah we approve this" and then after that the tendering process starts.

30 [REDACTED]: Yeah.

WATTERS: So during the actual tender process of us tendering with the subcontractor the subcontract, the Transport team on, this is how we're involved -

[REDACTED]: Yeah.

WATTERS: - until such time we're ready to make a recommendation that –

35 [REDACTED]: Yeah.

WATTERS: - we put it to them for their approval.

█ Yeah. Would they –

WATTERS: - (undecipherable).

█ - (undecipherable)

5 WATTERS: Yeah, so unless of course like I said we have a scope where we don't really know who to talk to and we know that – I mean these Transport project managers could be looking after seven or eight or ten projects at one time.

█ Mmm.

█ : Yeah.

10 WATTERS: You know, not just Downer but a lot of contractors so some will have scopes on other places. We'll say, well look how's this being done to stations (undecipherable), who's being used to do this work? So we, we certainly would have those discussions and get some advice from them.

█ Ah-hmm. Would they have much involvement in terms of variations? So you guys will be approving, to submit advice off(?) contractors?

15 WATTERS: Yeah, can be. So variations one of two ways either it's a variation directly from the subcontractor to the, to Downer, i.e. we have not asked the contractor to do some scope and then we've went, shit we've missed that scope (undecipherable), let's get that contractor to do it to variation because it's part of his works. Those ones Transport don't have any involvement with because that's ours to manage. Whereas as a head contract variation and that, it's something that Downer have never made any allowance for it or it's a request that Transport have said, we want you to do extra, we want you to do more than what we originally asked you to do. Then absolutely they'll have a (undecipherable) then. They will detail out the scope of what they want us to do. Talk it through with us onsite and, and also probably lend some assistance to you know, who's capable of doing this type of work you know, if it's something that we perhaps have never done before or that type of thing and they will also be, would be heavily involved with the review process of the price once Downer submits it to Transport. They will, the project managers I would imagine are working with their commercial teams to say, yeah that's fair based on what I know about the site.

20

25

30

█ Mmm. Yeah.

35 █ : Just one last name, Con C---?

WATTERS: Yep.

█ : He's - - -

WATTERS: He is, I don't know what his official title is but he is the principal representative for Transport for NSW for the TAP program.

40 █ :

WATTERS: So he was, in the initial stages back in 2017, he was a project manager for Homebush Station, I think. Yeah – and then he went to (undecipherable) the principal’s representative role for Transport for NSW. I think he’s quite a senior resource within Transport as far as I know.

5 [REDACTED]: Yeah, okay.

[REDACTED]: Well he’s the, he’s the Transport equivalent of the project director at Downer?

WATTERS: Yes.

[REDACTED]: Like the same level?

10 WATTERS: Yeah that’s –

[REDACTED]: Yeah (undecipherable).

WATTERS: - so our, our representative is Andrew, was Andrew Bedwani or, or Greg Barnes or whoever the, the Director was –

[REDACTED]: Yeah.

15 WATTERS: - and they are the representative, there has been a number of people but Con has been one of those.

[REDACTED]: Yep.

[REDACTED]: Okay.

20 WATTERS: So they, essentially their signature is the one that goes on any document that goes backwards and forwards, they have to sign off.

[REDACTED]: Yeah, so all the contracts when there’s a principal representative will be Andrew Bedwani –

WATTERS: Yeah (undecipherable) - - -

[REDACTED]: - from Downer?

25 WATTERS: Essentially unless it’s signed by the contractors or the principal representative, it doesn’t officially exist so if we get a direction from project managers to do something, technically it doesn’t, under the contract it doesn’t exist until such time as we’re instructed by the principal to do so. Unless the principal says, take that instruction as, as your

30 instruction. So yeah, that’s, that’s the role that they play.

[REDACTED]: Okay. Ah-hmm.

(Muffled discussion between [REDACTED] and [REDACTED])

CHRISTLEY: We’ll show you another text message here.

[REDACTED]: Yeah.

DEUTSCH: Thank you. Sorry just so I understand, the (inaudible) in here is that this is the (inaudible).

[REDACTED]: Yeah so we're just going to explain it once that (undecipherable).

[REDACTED]: Yes.

5 [REDACTED]: Yeah. So have we got another one or let's deal with it.

[REDACTED]: Yeah.

(Rustling sounds in background and muffled conversation between [REDACTED] and [REDACTED])

DEUTSCH(?): That's okay.

10 [REDACTED]: Oh that's okay? Thank you, okay. Kevin, when you're ready we'll just go through the messages and (undecipherable).

WATTERS: Yes – it's (undecipherable).

[REDACTED]: Yeah, okay.

(Muffled conversation between [REDACTED] and [REDACTED])

[REDACTED]: Yeah.

15 [REDACTED]: Yeah.

[REDACTED]: And again.

[REDACTED]: Just so you know we are like getting pretty close as well, yeah, should - have to be another like 25 minutes or so or less –

WATTERS: Sure.

20 [REDACTED]: - yeah.

WATTERS(?): Thank you.

[REDACTED]: Alright.

(Silence for a short while)

WATTERS: Yeah, okay.

25 [REDACTED]: Okay we just, I want to start from the start um - so you sent a message to Aiden Cox, 'Overbudget by around 20K plus others. They are coming in around 90K mark with nearly no exclusions.' What are you referring to in that text message?

WATTERS: I'm, I'm not sure. The context here, I don't know. I, I think it was probably had that tender submission that they were tendering for I'd say.

30 [REDACTED]: Yeah.

[REDACTED]: July 2020, today do you have a, a rough idea, does that help out at all, with what was going on around that time?

WATTERS: Argh, yeah it would've been the Wollstonecraft Birrong(?) sort of period -

5 [REDACTED] Okay.

WATTERS: - at that time, yeah. So, yeah I feel this, I think this is probably really to Birrong Station just based on the next message, the bridge going in, that part of the scope there was to put a new bridge in.

10 [REDACTED] Yeah, Aidan replies and he talks about his, the price they gave, we gave, so RJS gave was based on not being able to start until the bridge goes in, (undecipherable) window and the footing is done up, section behind hoarding(?). This was an articulated intendi(?) and others may not have considered it. Also, AEO required for hoarding. I could probably get it down by 20K just to secure the work and the chalk - and chalk our name on the board'. What was Cox saying referring to in that, in that text message?

15

WATTERS: I think he's talking about the tender submission that he's, he's put in. There is obviously some specific requirements that they had to, to meet the, based on this message, they perhaps didn't know about in the tender when they put it in and that they could get the price down to sort of to get the work in and get them, get themselves on the board I think.

20

[REDACTED] Yeah. And just before you said you know around, during, you know around this period July 20 did you recall any conversations you were having with Cox about these tenders he was submitting?

25 WATTERS: Yeah - like I said previously, you know we'd probably had a few discussions about them waiting to tender for works and keen to get more work from Downer so yeah, like massively(?) we probably did have a few discussions about tenders and what's coming and what's possible and yeah.

30 [REDACTED] So, yeah.

[REDACTED]: And vices(?) sorry?

WATTERS: Yeah - that's certainly not something that ever should happen is, is specifics, obviously I've sent a message there telling them that, giving them a (undecipherable) and the, the price that he's at compared to others. Yeah, certainly, certainly wouldn't be a discussion that we would aim to have at any stage.

35

[REDACTED] Yeah.

[REDACTED]: And what, well what's the purpose of telling him, telling him that is, so, that he wins the contract?

40 WATTERS: Oh look the proper things is obviously to make it more competitive in terms of you know the, the tendering that we've received for the market,

5 more competitive is the better for everyone. And yeah, we're also conscious that they were, they were chasing and wanted to get some work and they'd performed well previously so you know, I wanted to see them do well and, and you know try and win some work so, yeah, that's probably the, the thinking behind that message.

[REDACTED]: Yeah. So in, in your own words I mean would you agree to your providing them with some assistance here?

10 WATTERS: Look admittedly that, you know the message certainly looking at it now reads that way that, were giving them a, a gag(?) on the direction that they need to go in. Well rather than just tell them that they need to get their price down. I've actually put in there that a number which is, it certainly shouldn't have been done, yeah.

[REDACTED]: Well, you would've had oversight over the other prices that were coming in? You told Cox how others are coming in around the 90K mark?

15 WATTERS: Yeah, I probably would've had visibility of, or at least discussion with the project manager to see how it works(?), what's the price coming in at, well what we're looking at.

20 [REDACTED]: So and, so just explain how, how that works? I know you earlier we said that all the prices go in and then they're not, you can't get access until the tenders are closed.

WATTERS: Yes.

[REDACTED]: So, what would've been different on this occasion?

WATTERS: I don't think it would've been different.

25 [REDACTED]: Okay. So – all, the tenders closed and then saying they're overbudget by 20, 20 grand.

WATTERS: Yeah. So when the tenders would be received the contractor(?) manager would map out the, the pricing that's received and, and the budget that's allocated to that -

[REDACTED]: Yeah.

30 WATTERS: - yeah that element of work so, yeah. That's part of the initial assessment.

[REDACTED]: Okay. Okay.

35 [REDACTED]: And why, I guess, would you know specifically in this (undecipherable) would you feel the need to tell Cox about this? (Undecipherable) it would be common to, you know texting all the subcontractors who put in a price and give them and, giving them the same feedback, it was just your purpose (undecipherable) and text(?) to Cox.

40 WATTERS: Yeah I suppose just knowing that the, you know just in the off, off the cuff discussions we had with them, that they were very keen to, to secure work with Downer and they'd done a, a recently good job for us in the past and they, you know we trusted that they could, they could perform quite well

5 so – I also, you know in addition to that to try and ensure that we have competitive pricing across the board. I don't specifically remember exactly what this tender includes but you know we, we may have been overbudget with all the pricing that we got back in so, so try and lean on, on that relationship to try and get a better price would probably be part of that as well.

Do you recall any discussions or agreements you would've had with Cox prior or around this time where you would provide assistance to RJS?

WATTERS: Not, not that I can remember no I don't.

10 Okay. Right and just you telling him with nearly no exclusions, would that be, is that a major component in terms of tender submissions? Contractors submitting prices with exclusions and won(?)?

15 WATTERS: It can, it can be. Yeah – you know if a tender submission comes in and it's, it's for a price whether excludes a lot of the things that we have asked for them to do within the scope then we'll look at that and say, well that's going to be a problem for Downer because, well we don't have to allow for those things to be done so whether that's access or you know they need traffic control on the street to do their deliveries and we've asked them to price it and they exclude then we will have to make an allowance for it so, exclusions is probably a big part of the commercial review, the commercial manager will do and the project manager as well. They would get it and say well what are the exclusions because the exclusions can often outweigh what they've actually priced.

25 Yeah. And would you say you providing this feedback to Cox that means he's in a better position you know, in the next negotiation stage in terms of pricing you know, he will know obviously that the others around the 90K mark, mark and depending on RJS if he didn't include exclusions in his price or not?

30 WATTERS: I suppose, I suppose it's possible that it, it gives them a, a gate(?) on, on where they're, where they're going.

: Well it, yeah it definitely gives them a guide if –

WATTERS: Yeah.

: - yeah.

35 WATTERS: Yeah. And unintentional, what you said before wasn't, you know a reasoning to show that they had competitive pricing and that we had trusted people to do the works so you know I think competitively that's, reading this text message now it certainly doesn't read particularly well I'd, I'd fully agree with that but um –

Yeah, okay.

40 WATTERS: - but yeah, it wasn't done with, like you said, any intent.

: Yeah.

██████████ Okay. Okay and then you replied to Cox, ‘Um yeah not sure, only looked at the numbers not the full submission. Have a chat to the boys, see what they need and what you have covered versus the rest’. What were you telling Cox in that text message?

5 WATTERS: Just to have a chat to the, the site team there I would think around the submission and then the initial messages from him is around access and the, getting in over the bridge so if they’ve allowed something and it hasn’t been clear from the tender documents that the team has sent to them then have a chat to well the project team then and just you know kind of
10 question to make sure you know, what has been tendered was correct.

██████████ Yeah. And what were you looking, what were you referring to when you said you’d looked at the numbers not the full submission?

15 WATTERS: Just that I, I’d had an initial glance and I wasn’t sure about the details that are in that message. Whether everybody has made the allowance or whether they have priced what we actually asked them at tender stage. He’s talked about, this wasn’t articulated in the tender, others may have considered it. You know I wouldn’t know specifically what was in the tender scope document for, for example so you know that message there would just say, look I – I don’t know what the, the full details were but
20 I’ve only had a, a glance at the numbers and this is what it shows.

██████████ Mmm, yeah. And I guess why was, you know Cox, you’re trying to chat, Cox to have a chat with the boys, why wasn’t he just you know, just communicating with the project managers on, on the project, you know it’s between you at the time, the construction manager overseeing these
25 stations um since (undecipherable).

WATTERS: Like I’m sure, yeah I’m sure you have sort of, be aware with, and where they’ve been discussion with the project team –

██████████ Mmm.

30 WATTERS: - on the ground. As I’ve said before Jason, our project manager at Birrong if, if this is the station we’re talking about I, I think it is, was very tough with the subcontractors and the tender process and drove them really hard to absolute bottom dollar and don’t care about anything else which obviously could be quite difficult to work with so, and they had no prior relationship with any of the subcontractors so, so I’ve said there you need to go and talk to the guys about the scope that you’ve included, that you
35 discuss something with them and you know you feel that the scope has changed then you need to chat to them about it.

██████████ Mmm. You know you guys have a working relationship but this, you know would you say Cox felt really, you know quite comfortable, you know to message you and you know - - -

40 WATTERS: Yeah he might’ve done you know, myself and Aiden had a previous, I would say previously relationship from works that were done previously. Whereas this, you know team at Birrong Station, you had absolute zero relationship with so it was a cold(?) cog(?) so they probably leaned on me for advice I suppose based on where it was.
45

██████████ Yeah. And we'll just go to the next message so Cox messages you on the 17th of July 2020, 'never heard back on either those tenders. Probably doesn't bode well'.

WATTERS: Yeah.

5 ██████████ And you tell him, 'Getting the boys talk to you. Just looked at the comparison this morning, you guys are about 20 percent higher than the guys that were recommended'. Just what were you referring to in that text message, you looked at a comparison?

WATTERS: I'd say that's probably about the final comparison that would've been done at the end of the tender process once all the submissions were in.

10 ██████████ Ah-hmm.

WATTERS: Yeah that's what the comparison would be and let him know that his, his price is obviously 20 percent higher than whoever the project team has, has actually recommended for the works.

15 ██████████ Okay. And that comparison will be confidential information at that stage, at the end of the tender process when you're evaluating all the prices would you say? Only you and I guess the project team on the station would have knowledge of the prices.

WATTERS: Yeah, I mean guys that were recommended, so recommendation had been made at that stage so that was probably going through the recommendation approval process. Probably wouldn't have gone to Transport, yeah at that stage.

20 ██████████ Yeah.

WATTERS: So there been a point where the recommended contractor had been nominated and it was in process.

25 ██████████ Yeah.

██████████: Would generally, would other tenderers, unsuccessful tenderers be advised of how much they were over or in some cases under but might have lacked in other parts of the tender submission is that, like do you give feedback to the tenderer generally?

30 WATTERS: Yeah we, we tend to give feedback. Some tenderers will seek feedback.

██████████: Yeah.

WATTERS: Others, others won't.

██████████: Yeah.

35 WATTERS: And we'll give them an honest –

██████████: Yeah.

WATTERS: - an honest answer when you do if, if they come back and say, well how come we didn't win it? We might say, well you're, we've got some referencing with your previous –

██████████: Yeah.

5 WATTERS: - your previous performance wasn't good so you know your price was too high or you know it could be any number of things because of that assessment criteria it balances out so some will score better than others depending on what their performance is like you know in a number of areas.

10 ██████ Ah-hmm. And then we'll just go to the last two so Cox responds to you, 'They rang on Monday for clarification (undecipherable) we were there or thereabouts (undecipherable) except draining. They said they would let us know if, let us know the next day. I was getting concerned about the planning timeframe whether we did get it. Can relax now'. And then you respond, 'I'll have a look again Monday see what's done and what's still to go'.

15

WATTERS: Yeah.

██████████ Well, can you just tell us about those messages what were you going to go to look at and what were you going to let him know after looking at?

20 WATTERS: Not too sure, it looks like the site team have obviously spoke to RJS -

██████████ Ah-hmm.

WATTERS: - clarifications. They've gave him some feedback to say that they were you know there, or thereabouts in terms of the submission apart from the, the drainage which must have been part of the scope and that they were let, they would let the guys know in the next, the next day or in the next, in the next few days I would imagine that is. After, I've just came back (undecipherable) I'll have a look at on Monday and see what, what's done, what's still to go at, yeah I don't think there was anything there, it was just that, I suppose (undecipherable) just to (undecipherable) (undecipherable).

25

30 ██████ Okay. I just have some other general questions I wanted to ask you. Just in terms of conflict of interest at Downer have, do you guys receive training often on making declarations in respect of conflicts of interest?

WATTERS: Yeah so, everybody goes through initial Downer induction, corporate induction which you have to complete you know the first day that you start with the business. That will be one of the modules that's part of that and there's usually a, I don't know if it's annual, but it rolls as a training module that has to be completed and covering the safety and enviro and that would be part of those modules.

35

██████████ Okay.

40 WATTERS: I'm not quite sure what the time spacing is on it.

5 [REDACTED] Yeah. So you would've done, you would've training during your time at Downer since you've commenced with them?

WATTERS: Yeah.

10 [REDACTED] So are you aware of your obligations to declare conflicts of interests? If so, can you just give me a brief overview of your understanding of situations that would warrant you declaring a conflict of interest to Downer?

WATTERS: Yeah. Well the obvious one is if, you have a company that are coming to work for you and you have a relation that works, you know brother or a sister or –

15 [REDACTED] Ah-hmm.

WATTERS: - you get, that's a very simple example of course but you, you have to announce that to Downer and report that to your, I mean your line manager would be the first step in the process, to say, look these guys are looking at this work however it's my brother and/or sister or whatever else, so there's a, you know you have to make that known to the business if that is the case. And there's obviously training about how, you know how that can be unfairly or it can have an unfair effect on how people win work as well, that's all part of that training module.

20 [REDACTED] Yeah. Ah-hmm. Does Downer have a policy relating to secondary employment?

WATTERS: I don't know what you mean by secondary employment.

25 [REDACTED] So, so I guess if anyone at Downer was going to take another job whilst they're employed at Downer?

WATTERS: Oh right. While they're still working for Downer?

[REDACTED] Yeah.

WATTERS: I don't know specifically that would be a, a HR type question I would suspect so but I don't know.

30 [REDACTED] Yeah.

WATTERS: That's something that I'm not aware of.

[REDACTED] Yeah, that's fine. Does Downer have a policy relating to gifts and benefits and making a declaration in respect to those?

WATTERS: Again, I would say there probably is a policy but I don't know, I don't know specifically.

35 [REDACTED] Okay.

WATTERS: What that, what it is and what is says.

5 [REDACTED] Yeah, so you wouldn't, you probably wouldn't have, haven't received training on declaring a gift or a benefit?

WATTERS: No, I mean it would form part of the training module that says you know you shouldn't accept a gift in return for doing work or awarding work or whatever. You know that's the obvious sort of stuff but yeah in terms of what the policy document says I, I don't know.

10 [REDACTED] Yeah and during your time at Downer have you made a declaration in respect of receiving any gifts or benefits?

WATTERS: No.

[REDACTED] No, okay. Ah-hmm.

[REDACTED]: Have you received any gifts or benefits?

WATTERS: Not benefits I mean probably gifts might be sort of Christmas tiding(?) with companies that were already working for us and have performed works for us. They, they often you know, a hamper of food or something like that for the site office.

15 [REDACTED]: Yeah.

WATTERS: You know, say thanks for the - thanks for the year and that sort of thing. Yeah that, that's generally quite, quite common I suppose.

[REDACTED] Ah-hmm.

20 WATTERS: Yeah, other than that, no.

[REDACTED]: I'm just going to read there's a, we spoke earlier about North Strathfield Station and you said that you had some meetings with Cox in relation to North Strathfield Station. Could you tell me how many times you met with Cox in relation to that project? So Aidan got - - -

25 WATTERS: I don't know. We had a little bit of an initial site walk before they provided a price to say, this is what the work is.

[REDACTED]: Yeah.

WATTERS: And then probably, fairly regular. I think he was, he was the project manager actually looking after the works so -

30 [REDACTED]: Yeah.

WATTERS: - you know we would see each other on site.

[REDACTED]: Okay. And in that, I guess that walk through pre-tender submission, was anything discussed about pricing - or any confidential information provided to Aidan?

35 WATTERS: Not, not that I'm aware of, no.

[REDACTED]: Was any, any assistance at all given to Aidan?

5 WATTERS: No I think, I think we probably would've submitted a price and we have given them some feedback on the actual price that they submitted given that it was going to be a head(?) contract variation you know to ensure that all the work was covered and the scope was covered and whatever was in there was sufficient. Rather than a work(?) variation and then have a variation, order(?) variation if they needed to do something else so we probably gave them some feedback at that time when they initially submitted the price but um, yeah.

[REDACTED]: And that would've been in general not confidential information?

10 WATTERS: I think so, yeah.

[REDACTED]: Okay. And how many times do you think you would've met during that process with Aiden at North Strathfield and if it's a substantial amount, if you just say how regularly it was during the project?

WATTERS: What, fairly like - - -

15 [REDACTED]: (Undecipherable).

WATTERS: Yeah we would've have met fairly regularly. I mean, any contractor that's delivering works, a project would regularly interact with the supervisors and the engineers and the project managers on the job. You would do that (undecipherable) so it's impossible not to interact you know if they walk into the site office, you're going to say hello so.

[REDACTED]: Yeah. Okay in the North Strathfield Station carpark, were you provided cash from Aiden Cox?

WATTERS: No.

[REDACTED]: You weren't provided any, any money from Aiden Cox?

25 WATTERS: No.

[REDACTED]: Okay. Do you have any questions about the process today, anything that you'd like to ask us?

WATTERS: I, I don't believe so. All I ask was, you know what the next step, and if there is another step in this process, I don't know if that's anything you can talk about or that's all in due course?

30 [REDACTED]: No just that the investigation is ongoing -

WATTERS: Ongoing.

[REDACTED]: - so it's been going on for quite a long period of time. Yeah I'm sure you're lawyer has probably spoken about other steps that ICAC take in relation to investigating in terms of compulsory examinations and potentially public inquiries but none of that's been decided, it's still just in the investigation stage at the moment.

WATTERS: Okay.

█

Yeah. Do you have any additional information that you would like to provide to us?

WATTERS:

I don't think so, no.

5

█

No, okay. And just one other thing, do you, do you have any complaints about the manner this interview was conducted by us today?

WATTERS:

No.

█

No, okay well I'm going to complete the interview now at this time. The current time is 3.41pm.

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INTERVIEW ENDS

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