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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE HELEN MURRELL SC
COMMISSIONER

PUBLIC HEARING

OPERATION MANTIS

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 11 JUNE, 2024

AT 10.00AM

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

THE COMMISSIONER: Good morning, everyone. Ms Huxley, I believe the first witness is Ms Bhuiyan, is that correct?

MS HUXLEY: Yes, Commissioner.

THE COMMISSIONER: Hi, Mr Sutton.

MR SUTTON: Yes, good morning. Can I inform the Commission and hopefully get some indulgence, I spoke with - - -

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THE COMMISSIONER: It's all right, Mr Sutton. Ms Huxley has filled me in, you've got a few pressing issues that have arisen at the last minute I believe.

MR SUTTON: Yes.

THE COMMISSIONER: And you were seeking some indulgence around when you needed to question perhaps Mr Clarke.

20 MR SUTTON: Correct.

THE COMMISSIONER: Yes. I don't think there is going to be any problem, Mr Sutton.

MR SUTTON: Thank you.

THE COMMISSIONER: Just work with Ms Huxley and the matter's comfortably on track so there won't be any difficulty for anyone to meet your needs in that regard within reason of course.

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MR SUTTON: I'm grateful to the Commission. Thank you, Counsel Assisting.

THE COMMISSIONER: All right. So Ms Bhuiyan is it then, Ms Huxley?

MS HUXLEY: Yes.

THE COMMISSIONER: Would you come forward please, ma'am? If you would like to just take a seat Ms Bhuiyan for the minute. Now I can't recall whether you, did you have a legal representative or - - -

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MS BHUIYAN: No, I don't.

THE COMMISSIONER: No, no, that's fine. So I don't know if you've received any legal or other advice, but I just want to explain a few things to you in any event.

MS BHUIYAN: Yeah.

10 THE COMMISSIONER: At this public enquiry, you must take an oath or an affirmation to tell the truth. You must answer all the questions that are put to you and you must produce any document or other thing that you're required by summons to produce or that I require you to produce.

MS BHUIYAN: Yeah, absolutely.

20 THE COMMISSIONER: Now you must answer questions and produce documents that you are asked to produce, even if the answer or the production may incriminate you. However, you can object to giving an answer or production of a document, and if you take that objection then your answer or production can't be used against you in any criminal or disciplinary proceedings, although that protection would not extend to proceedings under the ICAC Act or proceedings for contempt of the Commission. In other words, if you were to be, for example, prosecuted for giving false evidence, then the fact that you've taken an objection won't stop that evidence being used against you, that allegedly false evidence for example, okay.

MS BHUIYAN: Yeah, sure.

30 THE COMMISSIONER: Now to get the benefit of this protection, you don't need to object to answering each and every question. You can take a blanket objection at the beginning and then that can serve as an objection to everything that follows and provide you with that protection. So I am assuming you would like to take a blanket objection?

MS BHUIYAN: Yes I would, yeah.

40 THE COMMISSIONER: All right. So I declare that all answers given by the witness and all documents or other things produced by the witness will be regarded as having been given or produced on objection by the witness.

DIRECTION AS TO OBJECTIONS BY WITNESS: I DECLARE THAT ALL ANSWERS GIVEN BY THE WITNESS AND ALL DOCUMENTS OR OTHER THINGS PRODUCED BY THE WITNESS WILL BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION BY THE WITNESS.

10 THE COMMISSIONER: Now Ms Bhuiyan, if you have any difficulty understanding any question or hearing any question, please ask for clarification or repetition. If you need a break at any time, let me know. Anything else you would like to know before we start?

MS BHUIYAN: No, that's all right. Thank you, Commissioner.

THE COMMISSIONER: Okay, good. Now would you like to take a religious oath or an affirmation to tell the truth?

20 MS BHUIYAN: I would like to take a religious oath.

THE COMMISSIONER: All right. Would you like to stand and my associate will administer the oath.

THE COMMISSIONER: Yes, Ms Huxley.

MS HUXLEY: Ms Bhuiyan, is that how I pronounce your last name?
---Yes, thank you.

10 Thank you. Can you tell us what your role at council was during your time
there?---I started off as a project manager and then I moved onto being a
project manager and a team leader for the Bankstown ward.

When you were project manager, had the unit been divided up into wards at
that time?---When I started, no.

And so when the unit was restructured to deal with wards, you were made
team leader at that time?---Yes.

20 And what period of time were you at council?---I started from May 2021
and I finished up December 2022.

Do you recall when the unit was split into the ward system?---Yes, I do. It
was during COVID. The month specifically I can't recall, but it was mid to
late '22.

Mid to late '22 or - - -?---Oh, sorry, '21, '21.

30 '21. And so what did your role entail as a project manager?---It was
primarily to manage assigned capital works projects. Typically they would
be from the tender process or the procurement of the contractor all the way
through to construction delivery.

So can you explain the process, were you involved in drafting the tender
documents that were put out?---Yeah. So typically yes, we'd receive the
design, and we developed the tender documentation in consultation with the
various, you know, the designer would give us the documents, we'd then
speak to procurement and identify the right, appropriate contract and
procurement method, and then we would take it from there.

40 And, so you're involved prior to the request for tender or request for quote
or open tender process.---Yes.

And then did you manage the tender or quote process after that?---What do you mean by after that?

In your role was there any, what involvement did you have with the process after it was put out for tender or - - -?---So we'd, I would be involved in the Evaluation Panel and the evaluation process, facilitating that primarily as the chairperson and contract, developing the contract documents with the Contract Admin Team and the Procurement Team and then on-boarding the contractor as well.

10

So once the tender was, once the contractor was awarded the tender, you'd be responsible for the contractual documents?---Yes.

If there were any.---Yes, typically, yes.

And then did you have any ongoing involvement with the project after it had been awarded?---Depending if I was, for that particular project, delivering it. Obviously there was several projects and as a team leader, at least for the Bankstown ward, I had almost 50 projects, at any given time it might have been ten within the ward, so my level of involvement would vary.

20

And would that be in a role called the superintendent's representative or would there be - - -?---Typically the superintendent's representative would be Ben Webb as the Manager of Works and Projects. As a contractor, we wouldn't be the superintendent's representative.

So I understood that he was the superintendent and then in relation to each project he had a representative that would report to him about the delivery of that project.---I wouldn't be formally indicated as the superintendent's representative, no.

30

THE COMMISSIONER: Well is that right, like on some projects was there a superintendent's representative who was, in effect, representing Mr Webb on that project or - - -?---In a practical sense?

In either sense. Either sort of in an official sense or in a practical sense. ---Yes, yeah.

Well can you explain that?---So I mean we wouldn't be formally, no one other than Ben Webb would be listed as specifically the superintendent's

40

representative, but any issues that the contractor had would come through the project officer or the project manager.

MS HUXLEY: So how was it determined which project manager or officer would be overseeing the delivery of the project?---So we'd have resourcing meetings and you'd divide the projects up and assign a project officer to a project.

10 So there was an official process by which someone would be assigned to a particular project.---Yeah, we would have resourcing meetings where that would be assigned on a spreadsheet and that would sort of be the process.

Were you a council employee or were you contracted through an agency?
---I was contracted through an agency.

Do you recall which one?---Yes, Spinifex.

Were you contracted through an entity called PMLV?---No I was not.

20 How did it come about that you were contracted to council?---I had an interview with Ben, Ben Webb. Following that, I had another interview with Ben Trapman and I received a contract from Spinifex and - - -

So how did you become aware of the role at council?---I was actually advised of a position through a family friend of mine who worked at council, Assad Assaduzzaman, and he had flagged that this position is available if you would like, you can interview with my manager, his manger being Ben Webb, and that's how I came to know of the role.

30 And that was around May 2021 or prior to, shortly prior to May 2021?---It was prior to then, yeah.

And who did you report to in your role?---I reported to Ben Webb, Manager of Works and Projects.

Did anyone report to you during your time at council?---Yes, yeah, I had several project officers that reported to me.

40 Did you have any financial delegation?---No. Contractors did not have any financial delegation.

Was that something communicated to you on your first day or how did you become aware that you had no financial delegation?---Yeah, yeah, it was, it was made, it was communicated to me.

So when you started, were there any kind of on-boarding procedures conducted in relation to you?---On the first day I remember having a general induction with the admin person, Angela. In terms of documentation, at this time I can't recall if there was any formal, you know, training that had to be done.

10

Did you undertake training during your time at council?---There were various training programs that were run at council that we attended.

So was it the, on your first day as part of that on-boarding that you were told you had no financial delegation?---No, it wouldn't have been then. I can't recall exactly when.

20

Were you given a copy of the code of conduct when you first started at council?---I can't recall if I was given the code of conduct, but I do remember through Spinifex undertaking like general WHS, that sort of training online. In terms of council's code of conduct, I can't recall.

The WHS training that you received, did that cover conflicts of interest? ---I can't recall at this time.

30

THE COMMISSIONER: I think you said that you can't recall if you received council's code of conduct at the time, around about the time you started. Did you ever receive it?---I remember seeing it, but that just might have been through the intranet.

MS HUXLEY: Did you receive any training in relation to the code of conduct?---No.

When you first started, or the first month that you were at council, what was your understanding about whether you had to declare when, and whether you had to declare any conflict of interest?---I mean my understanding of it was any time you're engaging with a contractor, if you are aware of a conflict of interest you should declare it as is practice everywhere commonly.

40

And who did you think you would have to declare a conflict of interest to?

---Anyone that I had a relationship with or had known of or worked with previously. Typically that's when I would declare a conflict of interest.

So if you had a financial interest in relation to someone whose matter was in council, you understood you had to declare that?---Yes.

And a personal, close personal relationship?---Yes.

10 Did you receive any training in relation to conflict of interests at the time?
---No, no formal training.

You spoke earlier about there being an Evaluation Panel.---Yes.

Was there a requirement at council for there to be conflicts of interest declared during the course of that process?---Yes.

20 Can you explain that to us, please?---Typically once a tender is closed and the procurement team has received submissions, they will list out who the companies are and they would be sent to all the panel members and alongside with that, a conflict of interest form. If you believe that you had a conflict of interest to declare that was the time to declare it by completing that form if you were to proceed with the panel.

That wasn't required early on, earlier on in the process?---No, the typical process, council's process was that once the tender closed and they were aware of the list of contractors, as you can imagine with open tenders you wouldn't know necessarily who the list of respondents would be.

30 So, yeah, so in many instances, it would be very difficult to identify a conflict prior to - - -?---Yes.

- - - having the list of people?---That's right.

THE COMMISSIONER: Well, just while we're on that, you talked about that tender process. Well, with this, and I'm probably going to get this wrong, but the RFQ process?---Yes.

40 Well, did those requests go out to sort of nominated people, did, they, or - - -?---Not always. Depends on what procurement process you're undertaking. So, you know, if there was a panel, then you have a sort of broad

understanding of who it might be, but if it's an open tender, you know, that's open to the entire market.

Well, was there a different process for declaring conflicts of interest in relation to RFQs?---I never had to undergo that process, but I suppose you'd self-report that if you felt that you had a conflict of interest.

MS HUXLEY: Because in that process, you've already identified the prospective contractors, so you would be able to, at that point, declare a conflict of interest?---Yes.

In relation to that process, an RFQ process where you've identified the prospective contractors, when it came to the Evaluation Panel, was there a separate requirement to declare an interest before participating in that panel?---Not that I was made aware of.

So was there a cut-off for projects over which you did have to declare - like, how would council, what was council's policy in relation to declaring conflicts of interest in relation to the request for quotes, as opposed to an open tender process or a request for tender?---So, as far, far as I was aware, it would be self-reported to Procurement. There wasn't a prompt in council's processes, as far as I'm, my understanding of it, there wasn't a specific prompt, whereas, comparatively, in the RFT, there was a prompt within the process.

So for RFT, an open tender process, there was a prompt - - -?---Yes.

- - - but for ones underneath that, there wasn't a prompt. Is that - - -?
---Yeah, as, my from understanding, yes.

30

Can I take you to volume 38.4, page 45?

THE COMMISSIONER: So, sorry, what was the reference? Sorry, Ms - - -

MS HUXLEY: Volume 38.4, page 45.

THE COMMISSIONER: Okay.

THE WITNESS: Sorry, I don't have that.

40

MS HUXLEY: No, it'll come up on your screen in a minute.

THE COMMISSIONER: It's going to come up on your screen, sorry.

MS HUXLEY: I'll come back to asking you questions on Mr Dankaro's declaration later, but just this is the declaration that had to be signed?---Yes.

10 And it requires a declaration that "neither the person signing it nor any member of their immediate family have interests, pecuniary or otherwise, which could possibly be construed as having any influence or perceived to have any influence on the proper and objective performance by me of my duties in relation to this tender"?---Yes.

And then paragraph 2, it says, "to keep all information and documents relating to this matter confidential and not to disclose or communicate the same to any person or persons without the prior written consent of the General Manager"?---Yes.

20 What kind of information or documents would that apply to?---I suppose anything within the evaluation package.

Would it cover spreadsheets produced by members of the Evaluation Panel, recording their decisions at various points of the process?---Yes.

Would it cover any of the submissions received, the actual submissions received?---Yes, it would. Yeah.

And at paragraph 7 there, there's a requirement to declare to council any changes that may occur during the course of the panel process?---Yes.

30 If you go down to page 47, that sets out what is regarded as a pecuniary interest and includes owning property, shares in companies or trusts, debts owed to other people, gifts and income from working elsewhere?---Yes.

And then the next page, at page 48, there's a description of what non-pecuniary interests are. If a person declared an interest, what would be the result of that declaration?---They'd be removed from the Evaluation Panel in the, in the first instance.

40 Would members of the Evaluation Panel be notified that they'd declared an interest?---Not necessarily, not the other Evaluation Panel members.

So if you had a situation where someone was removed from the panel, but then, you know, in passing conversations, would be informing other members of the panel about their relationship with the company or their understanding of the experience of the company, how would that be managed?---Could you clarify what you mean, so as in - - -

10 So, say someone's been removed from a panel and then is having a conversation with a member of a panel, and they're talking about the tender process, and the person who had been removed was speaking highly of their experience working with the contract to which they had the interest in, how would that be managed?---Well, that shouldn't occur, that shouldn't occur because it's, you know, it's a confidential process and conversations around the contractor, yes, there are references for the contractor during this process, but it's got to be formalised.

MR SUTTON: Commissioner, is there a specific conversation that is going to be put?

20 THE COMMISSIONER: I suspect there is - - -

MS HUXLEY: I'll come to that.

THE COMMISSIONER: - - - which we'll be coming to, I suspect.

MR SUTTON: Thank you.

30 MS HUXLEY: So you directly reported to Mr Webb. What kind of leader was he?---You know, he, I guess, was very busy in the first instance. You would have to remain agile on his team. Things would change from time to time. Being agile was definitely key to being part of working with him. But he, you know, he did have vision, he did have an understanding of, I guess, the, you know, how to manage a large volume of projects and understanding the strategic components feeding into those projects. Overall, I'd say, you know, like every leader, there was good things and there were bad things.

Was you've joined in May 2021, was there a lot of work on at council at that time?---Yes, there was. Yes.

40 And was there a need for more resources?---Absolutely, yes.

And that would include a need for more personnel - - -?---Yes.

- - - to help carry out the projects?---Yes.

THE COMMISSIONER: I'll just come back to something, Ms Huxley. When you were asked about his style, Mr Webb's style, you actually didn't really describe his style. You said that you, that is the person responding to it, needed to be agile. And why was that?---Processes changed often - - -

10 MS HUXLEY: What kind of processes?---You know, initially, we didn't have the ward structure, for example. We weren't necessarily presented a view as to, you know, this is how we're going to structure and, and deliver projects in the wards. Originally, actually, it was split in to, between myself and another project manager. I had, I think from memory, three of the wards and the other project manager had two of the wards. Then it unfolded into a project manager being assigned to each ward. There was simultaneously a PMO within the council. The interface wasn't always clear. The gateway process came into play further down. But, at the same time, that's the nature of a lot of change management, you know? Things require time to bake and cook and develop - - -

20 THE COMMISSIONER: What about consultation?---You know, we did have consultation in various meetings. Eventually, we did have daily meetings as project managers, with them, in the morning, as a scrum, I suppose you could call it, scrum meeting at the start of the day. Consultation, in a sense, with the ward leaders would occur in those various meetings that we had as a team.

MS HUXLEY: If I can take you to the procurement matrix which I understand is at volume 31.9, page 365. Do you recognise this document?
30 ---Yes, I do.

Was that in existence at the time that you were at council?---Yes, I remember seeing it in the first few weeks of my commencement at council.

And so under \$49,999 there's procurement, you're permitted to just obtain a certain number of quotations?---Yes.

And is there then an evaluation - there is an Evaluation Panel?---No, not, not really for those, for that value, no.
40

Even though on the right-hand side it requires - so Evaluation Panel, does that just mean that the person who obtains the verbal quotation is able to approve that?---Not approve. Recommend, yes, and it would be recommended to either the contract Admin Team or the Procurement Team or Ben. Again like I said, as a contractor we can't approve anything really.

10 So, yeah. So depending on what - if you're a contractor you have no financial delegation. Full-time employees had some financial delegation so if it was within them would that person then be able to approve that expenditure?---Yes.

And then from \$50,000 above there's certain requirements for each particular process. Does that mean, the bottom row there does that mean that every project over that amount on the bottom left-hand corner \$227,272 have to go to open public tender?---Yes, that's correct, yep.

20 And then the next category the 100,000 to 199,999 you see there it says "full RFQ RFT/EOI". Whose choice was it whether to engage in a request for quote, request for tender or an expression of interest?---That would be established with discussion between our team and the Procurement Team. Sometimes others would also be consulted on this but largely speaking was between the Procurement Team and our team.

And who would have the final, who would be making the final decision on that, was there any one person or was it a team decision?---It would finally be decided by, I mean ultimately it's the Procurement Manager's responsibility, but it'd be between the Manager Works and Projects and the Procurement Manager.

30 Do you remember who the Procurement Manager was at your time in council?---Alan Parker often I dealt with. There were often other procurement officers as well.

The process for those bottom three columns where there's a minimum three written quotations, full RFQ RFT/EOI documents and below, how would that process happen. So council would receive the quote or the tender or the expression of interest, would that be stored somewhere?---So it would go through the Procurement Team.

40 So it gets submitted to the Procurement Team?---Yes.

Would the written quote - see the first four rows there which just require the quotations, would that go to Procurement Team?---Oh, no, those would not necessarily go to the Procurement Team. So you can see in the fourth column it says “procurement services to review.”

10 Okay.---So the preferred ones definitely had to go through Tender Box and the Procurements Team. The others could be directly submitted to project officers or the Contract Admin Team within Works and Projects. That’s what my experience and my understanding of council’s processes were at the time.

You referred to the box that said “preferred”. Does that mean for that particular category there was a choice as to whether it would go through Procurement or not as opposed to the bottom two rows which made it mandatory for it to go to Procurement?---I guess to an extent, yes, it was preferred so there was, it wasn’t absolutely necessary to go through the Procurement Team.

20 Who was responsible for making that decision for jobs in that category?
---That would be usually discussed with the Contract Admin Team and Ben.

And so if Procurement were involved did it go, it went directly to Procurement?---Yes.

And then how would Procurement distribute those documents to you and your team?---They will send it via email to us, yes.

30 Were they held in a locked box?---Yes. So oftentimes it was a two envelope process, so there was the qualitative submission and then the price submission, but before all of that, yes, it would sit in a tender box.

And who could access that?---The Procurement Team.

Only Procurement Team?---Only Procurement Team from my understanding, yes.

So no one else at council had access to that?---Not to my understanding, no.

40 Okay. And then Procurement would determine when to release particular information to you as part of the evaluation process?---Yes.

Were there procurement officers on the Executive Panel?---They would be present at the evaluation, yes. That was part of their responsibility.

THE COMMISSIONER: So who headed up the Procurement Team?
---Alan Parker.

And who did he report to?---The Director of Finance I believe. From memory, yeah.

10 MS HUXLEY: Do you know of a company called General Works & Construction?---Yep, I'm familiar with them, yes.

And how are you aware of that company?---Council did a fair amount of work with General Works & Construction during my time at council.

Had council worked with GWAC before you'd started at council?---I'm not sure.

20 But when you started did council have an experience of contracting projects to that company?---I believe yes but I can't be sure. I can only speak to my experience with them and my knowledge of them.

And can you just outline what your general experience of them was?---I, within my ward I didn't necessarily deal with them very much. The first experience I had with General Works & Construction was during a emergency request for works during a rainy period. I don't know if you recall but during 2021 there was a fair amount of rain and we had a sinkage issue at one of our sports fields, significant sinkage, and I was called by Ben to inform me that, you know, we've got an issue on one of your sites within
30 your ward and GWAC would meet you there onsite, meet me there onsite to investigate and do some bore hole testing just so that we knew what to do, get the geo techs out there. That was my first experience with General Works & Construction.

So did Mr Webb tell you specifically that GWAC would be there?---That Jeremy would be there, yes.

Okay.---Yep. But I had heard of them here and there within, undertaking works within other wards.
40

And you understood that Mr Clarke was the head of GWAC or responsible for GWAC?---I came to know that, yes, yep.

Did you know if Mr Cossu and Mr Clarke knew of each other at that time? ---No, I did not know that.

Do you recall a project called Vale of Ah Dog Leash Area? Did I pronounce that correctly?---Yes, yep.

10 And can you just explain what that project was?---From memory we were doing several dog off lease areas so areas where dogs can play freely. I think it was just a bit of fencing for that area, a bit of signage. There wasn't much to that job.

And were you responsible for that project?---It came to be my responsibility during COVID, yes.

And what was your role in it?---My job was to finalise the design requirements with the Design Team and then issue it out for quote.
20

And do you remember who you issued the quote out to?---From memory it would have gone to some of the members of the Minor Civil Panel and I recall that Jeremy was also issued the quote.

Was that at the commencement of the process or later?---I can't recall.

I might take you to volume 36.9, page 1. So this is an email from Mr Hu to you. Who is Kevin Hu?---He was a project officer working within my team during the COVID period.
30

And so was this a request for quote process?---This is him sending me the RFQ submissions, yeah.

And then if we can go down to page 16. Who is Mr Luu?---Anthony Luu was the contract administrator within works and projects.

And so is he responsible for making the decision about who to recommend?---He would definitely be, the final one, I guess decision-maker, he could make the decision for RFQs, yes.
40

And so he is saying there, please recommend to Ben in proceeding with Northern Fencing Specialists. Is that a reference to Mr Webb?---Yes.

If you go to page 18, is then a recommendation to recommend Northern Fencing.---Yes.

Did you, who determined the budget of 60,000?---That would be in the capital works program, and the budget is usually approved at the commencement of the financial year by council.

10

But who, I mean who looks at the documents and thinks that that, is there a quantity surveyor involved in that decision making process as how much to allocate?---Usually the costs estimates were developed by our design team for the smaller projects. The larger projects would go out external to a consultant.

Okay. Did you have any discussions with Mr Webb about this particular recommendation?---I can't recall at this time.

20 Do you recall any conversation with Mr Webb where he suggested GWAC should be approached?---I do remember that, yes.

And can you tell us about that conversation?---I think it was to do with, and again it was so long ago I can't remember the specifics, but I do remember at that time there was generally a resourcing issue with going out to the Minor Civil Panel because it seemed we were trying to get out as much work during that COVID period and from a timeline and program perspective, a lot of the contractors were overloaded and I believe he had made the suggestion that perhaps we get these works done quicker by

30 engaging or sending the quote out to GWAC.

But I mean this particular email, it specifically says that the sheer volume of works conducted by the Minor Civil Panel during this time, the RFQ was sent to the Fencing Panel, so it wasn't done through the Minor Civil Panel.

Yes, but some of the scope was not fencing related, so they would have to subcontract out, from memory. I might be wrong, but there may have been some landscaping component.

40 But there it says Northern Fencing did fully quote the job.---Yes. Again, I can't remember the specifics and the details around this project.

That conversation about GWAC, would that have occurred before or after this email?---I can't say.

If we go to page 26, Mr Cossu sends you Mr Clarke's contact details.---Yes.

Why did he do that?---I think I would have reached out to him or he would have, Ben would have reached out to Pietro to give me Jeremy's number to contact regarding this job.

10

And then at page 27 you sent him an email asking him to quote the works. ---Yes.

What was the urgency in relation to these works?---Generally during that time, the approach was that we needed to get as much work done during that COVID period because the, I guess, you know, in a sense we had more time and space and from a practical sense less community disruptions during that COVID time, so it made sense to get as much of the capital works program completed during that time.

20

I'll take you to page 60. Mr Clarke sent through the quote to you.---Yes, yeah.

And then if you go to page 61, that's the attachment.---Yes.

Do you know why the fencing requirements hadn't been quoted?---We had noted previously in the email that the fencing contractor would be available to complete the fencing component.

30 So this was just in relation to the other components?---The civil works and landscaping component, yeah.

But so the earlier, the fencing, the initial recommendation for Northern Fencing required them to subcontract part of the works out because they were predominately a fencing contractor.---Yes, that's right.

40 And now you're seeking a quote from someone who also will have to subcontract out some of the requirements for the job.---They would not be subcontracting the fencing component. The fencing component would come from our assigned fencing panel.

So council would separate contract that out?---Yes.

Is one situation preferable over the other?---I guess, you know, it depends ultimately a value for money question, what would be more cost-effective and in a practical sense, effective from a delivery point of view.

So if GWAC is subcontracting the fencing work, say it would probably charge a margin on that?---Yes.

10 And council could save that money if it engaged the fencing specialist itself?---That's right.

But then would council have to have a greater role in project managing the delivery of that project by coordinating those two?---Yes, yeah.

So there's a kind of cost benefit analysis.---There is, but also generally with the panels, we have an obligation as council, you know, that we have an assigned panel, we'd give them first preference in the first instance where we can.

20

And why is that?---Because that's why we have panels, one, that it's more efficient, there's also rates associated with that panel that are locked in for a certain period of time, and - - -

Are there quality assurances with panel work as well?---Yes.

THE COMMISSIONER: So was Northern Fencing on the panel?---Yes, they were.

30 All right. So they were on the panel and they quoted for the whole job at 46,000 which was well within the \$60,000 budget.---Yes, but that's not their speciality. Landscaping is not their speciality.

Okay.

MS HUXLEY: So I suppose looking at that pricing schedule, fencing, the item three, was their speciality and grass works, concrete, footpath works, signage works and the dispensers, they would have had to contract that out? ---Yes.

40

Whereas GWAC is only contracting out the fencing works.---Correct. Well they're not, sorry, they're not contracting it out.

Oh, sorry. GWAC is just not completing the fencing works.---Correct.

And then at page 65, Mr Hu emails Mr Webb and a number of other people recommending GWAC. Were you involved in that recommendation at all?
---Kevin probably would have checked that with me before issuing that recommendation to Ben.

10

And he approved that?---Yes.

I'm going to turn now to deal with the Appian Way works.---Yes.

What was your understanding of the Appian Way Project?---My understanding as in the scope of works?

20 Yeah.---That was a culvert duplication project on a Sydney Water asset which ran from North Terrace and then up to Appian Way, towards council's own building. It's a significant project. I think the value was almost between 80 to 20 million total budget for that project, interfaced with a number of other active projects. We had the Western Sydney University being constructed at that time. Paul Keating Park was also in the design phase. We had the public domain works which was part of a voluntary planning agreement with WSU and Built who were undertaking those works. We also had the Sydney Metro works on the North Terrace end, that tied into that, it was quite, we had the underpass, we had the railway platform and that was the start of our drainage project. So there was a number of complex interfaces, a number of contractual interfaces with the
30 various funding agreements and yeah, it was tight timeframe to complete those works.

Were there a number of different aspects to those works? As in were there a number of different tenders that went out in relation to the Appian Way works?---Yes, there was, yes.

And was one of them the non-destructive digging?---Yes, that would have been undertaken prior to my time at council, but yes, it would have been required for the design development.

40

And then the Appian Way, there was initially an Apian Way North Terrace works which had been identified for an RFQ.---Yes.

Did you have any involvement in that?---Yes, so my involvement on the project started in October '21 with the development of a tender for the construction works. We had developed the documents and I believe it went out to market in November '21. Ultimately we received zero submissions to that tender.

- 10 Why was that?---You know, there were a number of risks to the contractor within that tender submission, tender request, particularly around the utilities aspect and the approval, utility approvals aspect. The design wasn't entirely complete at the time. The interfaces with the other projects done by external parties was also a risk to the contractor. That was expressed during the tender process by the contractors as well.

- 20 And then so what happened, how did council then decide to proceed with these works?---Well we had to collapse that tender in the first instance and kind of review where we were at and what we could do depending on the market. You know, during that post-COVID period it was, you know, it was, it was a market that was inundated with jobs to do and contractors had their pick in many ways. Resourcing was an issue. Supply chain was an issue. There was a number of issues, so we had to revisit the strategy for procurement and that was discussed within, within our team, within the ELT, there was a number of discussions had around that.

- 30 And so what was ultimately decided to do in relation to the procurement strategy?---We ended up eventually splitting out those procurements to be the supply separately, so we would procure as council, the concrete elements, so the pits, pipes and culverts separately. We would do some of the utility work separately and we would do the - - -

THE COMMISSIONER: Sorry, some of the what works?---Utilities works, because you need, for example, a Jemena approved contractor or a Sydney Water approved contractor, and then we also did the construction works separately as an RFQ, which eventually went out through the Minor Civil Panel, or to the Minor Civil Panel.

- 40 MS HUXLEY: So what were the construction works? So you've received the pits, the culverts and the pipes, and then was the construction aspect of it putting them all together?---More the installation, yeah.

So do you recall who, you said ELT were involved. Is that a reference to the Executive Leadership Team?---Yes, and my understanding was that a lot of the strategic and management discussions were being had by Ben to the director of procurement reporting to the ELT. Again, this was one of the most significant projects at the time within council and the executive leadership team were interested in receiving updates, especially in particular because of those funding agreements.

10 So the decision to separate out the various components, whose ultimate decision was that?---I was informed by Manager of Works and Projects for that strategy, but I imagine it would have been discussed with the Director of Procurement. My understanding was it had been discussed with the director of procurement and it would have been, I'm sure, discussed with the ELT, et cetera.

So that means there was a further request for quote for this project? Sorry, for the culvert supply aspect of the project?---Yes. There was a separate tender for that, yes.

20

Do you recall what it initially started as, whether it was a tender or a request for quote?---I can't recall. Ultimately it was a tender from memory.

THE COMMISSIONER: Can I just go back to the beginning of your evidence just to understand something. Did you say it was a culvert duplication project with Sydney Water?---Yes.

What does that mean?---So you have one line of culverts, so instead to increase the capacity we had like a dual line of, like two, two lines of culvert running from North Terrace all the way up to Appian Way.

30

And when you say it was a duplication project with Sydney Water, like what was their - - -?---It's their asset. So large drainage infrastructure is often a Sydney Water asset. So we would undertake those works on behalf of Sydney Water.

Oh, I see. I see, okay.---But the road reserve would be ours, so it's under our road reserve, but the asset itself, the culverts themselves are a Sydney Water asset.

40

MS HUXLEY: So who was funding the actual purchase of the culverts?

---Largely speaking we had a number of funding sources, but council, that came from a capital works budget.

If I can take you to volume 38.1, page 226. This is an email from Mr Dankaro to Mr Webb with a number of people copied in. Do you recall what was happening with this project around this time?---Yes. We had collapsed the first tender and we were exploring the different ways we could procure, including separating the precast elements.

10 And so a number of precast suppliers, if I could call them that, were contacted?---Yes, to see what the status was and what they're, you know, it was widely known at the time that a number of precast elements were not available for months, so it was a sort of sounding and understanding of whether this would be a viable option for us to proceed with.

So were they, that wasn't necessarily a request for quote process, was it?
---No, no.

20 Okay. This was just a going to market and seeing who is around.---Yeah, and if they, if, you know what would be actually returning with submissions if we went out to the market.

What was Mr Dankaro's role in this?---Well he was a project officer within my ward and Ben had asked us to find out what the, I guess, market conditions were at this time and he was assigned the role of just ringing around and sounding the market.

30 Who was responsible for delegating that task to Mr Dankaro?---From memory actually this, Ben had spoken to Nosa prior to speaking to me, but that just could have been because he was in the office at the time.

When you say prior to speaking to you, is this prior to the emails going out before Christmas?---It would have been during that Christmas period.

Okay. And see how Mr Cossu's copied in to that email?---Yes.

40 What was his role in relation to this project at the time?---He didn't have a formal role on the project, but he was a senior member of our team who probably had the most experience in delivering this sort of infrastructure.

Okay. If I can take you down to page 227? See item 3, recommended procurement strategies? So Ausgrid, is that a reference to the utilities aspect of it?---Yes. You'd need an ASP 1 contractor for those scope of works.

And then the precast, that's the supplier of the pits, culverts and pipes?
---Correct.

And it says there, "single select RFQ to Civilmart". What does that mean?
---I'm not sure what that's in reference to. I don't have memory of that.

10

What about the next dot point, "Alpha Precast and GWAC, Project Team have investigated and determined that these companies are able to produce and supply required culverts for these projects within the required time frame"?---That may have been the result of conversations during that sounding and ringing around, that Nosa had conducted during that time.

Can I just take you back up to the first page? Do you see GWAC there?
---No.

20 But you see Alpha Cast there?---Yes.

And there's no response?---Yes.

But then "re-contacted January and requested drawings". Would that have been Alpha Cast requesting drawings or would council request drawings from the supplier?---Typically, the design drawings would come from us and they would assist the supplier in determining whether they can provide those items or not.

30 So that's likely a reference to Alpha Cast asking for those drawings, rather than council requesting drawings from Alpha Cast?---I would assume so, yes.

Who's the Project Team that's referred to in page, so if we just go back to page 227, they say, "A Project Team have investigated and determined these companies are able to produce and supply required culverts." Like, who was the Project Team at that time?---It would have been, the Project Team would be myself and Nosa at the time, though I'm not sure specifically who this is referring to - - -

40

Did you have any involvement in investigating those two companies, to see if they were able to produce and supply the required culverts?---No, not personally. And, like I said, there were some conversations had without my presence during that time.

So would that likely have come from Mr Dankaro?---The ringing around, yes.

10 But are you saying other people may have been involved in investigating and determining those two companies are able to produce?---Yes.

At the time, in January 2022, did you understand that GWAC was a manufacturer or fabricated culverts?---I wasn't familiar with GAWC in detail and what their breadth of services were.

What had been your experience to date as to the breadth of services that they offered?---Like I said, I'd just dealt with them on small, civil jobs.

20 And this was a large infrastructure project?---Yes. But it's not uncommon for companies to have different branches and different services.

Do you know how many people GWAC had working for them at the time? ---No.

If we go down to page 386, and from the bottom half of that page, on 19 February, Mr Dankaro sends an email. Is that the kind of email that you'd send out to people that you're asking to quote on the job?---Yes, it'd be similar to this in nature.

30 And so it was determined at that time to go through the request for quote process?---Yes. It would have been established by that time, yes. However, I've never seen this email before.

Yeah. I'm not suggesting you have. I'm just asking for our own purposes. Page 393, there's an email from Mr Luu to Tender Box and it cc's you and Mr Dankaro and it's the tender ad. So there was a decision made from sometime between 19 February and 22 February to do an open tender. Is that right?---Yes - - -

40 Do you know how that came about?---It would have been through discussions with Procurement - actually, we probably would have

established it being an open tender prior. It takes some time to develop these documents, so we would have come to the conclusion of developing it as a tender somewhere between January and February.

So an open tender has a lot more documents that - - -?---Correct. Yeah.

- - - are sent to the prospective tenderers for their - - -?---Yes.

10 And what kind of documents are they?---So you would have a services brief, you would have the drawings, you would have a standard RFT cover document, you'd have the BOQ. Those documents were more detailed.

So why would, if the decision had been made prior to 19 February for an open tender, why would Mr Dankaro have sent out that request for quote? ---I'm not sure. I wasn't aware that that request for quote was issued.

Okay. So you had no knowledge of that until seeing that email today?---No.

20 So it wasn't something that was discussed with you at the time?---No.

If I can take you to page 396? I think this is in the context of updating - does BOQ stand for bill of quantities?---Correct. Yes.

30 And you say that the BOQs, these need to be split into two separable portions, similar to the previous tender. What does that mean?---So the job was able to be separated into the northern section and the southern section of the culverts. And I was requesting that it be separated out into those two sections, so the culverts and the utilities, et cetera. So, sort of, the northern scope would be separated into one and the southern separated into another bill of quantities.

Was this to maximise the number of potential contractors who could participate in the tender process?---Not necessarily, no. It was more to do with the delivery strategy.

40 And then you say, "AP and Nosa, I will call you shortly to discuss." Did you discuss this with Mr Dankaro?---Yes, to undertake the works of separating it out from the original single BOQ that's given to us by the Design Team, into the two sections, yes. I imagine I would have, if I said, said I would. Can't remember exactly, but - - -

And then at page 412, there's an email from Mr Dankaro to you, with a list of suppliers as requested. Why did you request a list of suppliers?---Just to understand who we'd gone out to and who we might be expecting - - -

As part of the open tender process, if council have already identified potential contractors, is it council practice to notify those potential contractors that something's been put out for open tender?---Sometimes the Procurement Team would, yeah.

- 10 If we go to page 425. So this is an email from Mr Dankaro to a number of people to inform them that there's a now formal open tender process.---Yes.

And did you see, he refers to those who have responded to a previous email regarding the major drainage project.---Sorry, where, which line?

Sorry, the first full sentence.---Yes.

So that's actually if you go to the next page, 426, that's a reference to that earlier email.---Yes.

20

So the people that were included on this email at page 425, they were likely people who had already responded to that project, showing interest in it?---I imagine so, yes.

Who approved the tender documents and the evaluation plan?---Ben Webb, the Manager of Works and Projects.

Is that done in consultation with you?---The approval?

- 30 Or the, I mean who compiles the tender documents and makes sure - - -?
---Yes.

- - - and checks, do you check the tender documents to make sure that they're accurate?---Yes, and I would send that in draft, usually, to, for review, and I would discuss it with procurement and I would discuss it with the contract admin team before issuing it for formal approval to Ben.

And is part of the tender documents like a contract for the works?---A draft contract.

40

A draft contract.---Yes.

And who is responsible for that document?---That's a standard document that's given by Procurement and the Contract Admin Team.

And who is responsible for drafting the evaluation plan?---That would be my responsibility.

And you identify who is to be included on the panel?---I would recommend, yes, who would be on that panel.

10

And then that would be approved by Mr Webb?---Yes.

And in this case, at page 428, you see down the bottom, Mr, is that Ms or Mr Ho?---Miss Ho.

Miss Ho sent the document for his review.---Yes.

And Mr Webb approved that.---Yes. So again, she is from the Procurement Team, so it wouldn't be uncommon for us to work together in developing those documents.

20

If I can just take you to 38.2, page 507. So this is the Evaluation Panel that was approved by Mr Webb.---Yes.

And it lists Mr Cossu there.---Yes.

At the time that this was sent to Mr Webb for approval, GWAC had already been notified that it was now a formal open tender process. Was there any requirement at that point for Mr Cossu before this Evaluation Panel was finalised to notify of a conflict of interest?---No. There was no formal prompt to notify at this time, at this stage.

30

So there wasn't a prompt for him to do so, but was it your understanding if there had been a conflict that it should have been declared at that time? ---Yes.

If I can just take you to volume 38.3, page 3, and in the middle, towards the top of that page, there is an email from you to Miss Ho saying, "There is another potential supplier requesting access to the tender."---Yes.

40

Do you know how that email came about?---I can't recall exactly how that came about at this time, no.

And if we go to page 2, you forward this to Mr Cossu. Had Mr Cossu raised anything with you about GWAC having access to the tender documents at this time?---He may have, yes.

10 And I'll take you to volume 38.4, page 38. So procurement is notifying you, Mr Anderson, Mr Cossu and Mr Luu that there's been four submissions and asking for the attached conflict of interest form to be returned, completed and returned.---Yes, yeah. This was standard practice with tenders.

And that was, so every panel member had to fill out that form before they could continue to participate in the evaluation process?---Correct.

20 And it says there that only the project manager is required to complete page 2 and 5. Do you know why that is?---I can't recall what page 2 and 5 was at this time.

I can take you to it. It's page 46.---Yes.

So that's page 2 and then page 5 is at page 49.---Yes.

And then I can take you back to the first page, which is page 45. So that's one that everyone has to complete, but then you have to complete 2 and 5. Do you know why?---That was standard practice.

30 Just the practice. And if I take you back to page 37, you've responded to Ms Ho's email and you say, "We need to replace Mr Cossu on the Tender Evaluation Panel. Could we replace Mr Cossu with Mr Dankaro?"---Yes.

40 Why did you have to replace Mr Cossu?---Well at the time of signing of the conflict of interest, I recall having received everyone's except Pietro's and obviously we were on a time constraint and we would like to move on with the evaluation, so I had approached him. I think it must have been two or three days after issuing, I can't remember exactly how long it had been, but I had already received the other conflicts of interest, approached Pietro, he then notified me that he would like to be removed off the panel because he felt that he had a conflict of interest with General Works & Construction because he had known Jeremy in a previous life, on other jobs, which you

know, given his seniority it's not surprising that he might have known someone from the industry. On that basis, I just proceeded to tell, inform Ben that there was a conflict of interest, we needed to replace Pietro.

When, if I can just take you back to that page 43, sorry, page 38.---Yes.

So there, Miss Ho's email is sent on Thursday, 24 March at 2.53pm and then your email is 24 March at 3.00pm, so there is a seven minute period. Does that assist you in your recollection about how that conversation came about?---Again, like I said, I remember having received everyone else's conflicts of interest, so Pietro was in the office, I remember approaching him saying that, can you sign the conflict of interest because I haven't received yours and I've received everyone else's, and he had proceeded to inform me that he would like to be removed from the panel.

So it was his suggestion to be removed?---Yes.

And he didn't sign a declaration to that effect?---I can't remember if he had signed a conflict of interest but he asked to be removed from the panel.

THE COMMISSIONER: And what he said was because he'd known Mr Clarke on other jobs?---Yeah.

Which had - - -?---And that he had some level of relationship with Jeremy on a friendly level. He didn't go into details of it just that he'd known him for a long time.

Okay. Because as you pointed out knowing people from other jobs would be quite common.---Exactly. So it didn't strike me as particularly, you know, you know, a black and white conflict around this project specifically but if he wanted to be removed off the panel, you know, I proceeded to replace him.

So the way he explained it it didn't strike you as a clear conflict but you took the view that if he wants it that's fine?---Yes, at the time.

Would that be correct or - - -?---Yes.

MS HUXLEY: Whose suggestion was it to replace Mr Cossu with Mr Dankaro?---I can't recall exactly whose decision it was but it would make sense to replace with someone within my own team and secondly,

there was a number of procurements running at the same time that required a certain amount of effort in reviewing the documentation for the evaluation. Whoever was available and whoever was likely appropriate for the project would be assigned and at that time I guess Nosa's name came up.

So was it Mr Cossu, did Mr Cossu suggest in any way that it should be Mr Dankaro?---No, not from recollection, no.

And Mr Webb?---I can't recall at this time.

10

After Mr Cossu came and told you of this potential conflict did you speak to Mr Webb?---Yes, I did.

In person?---Yes.

What did you say to him?---I remember going straight to his office.

20 So you spoke to Mr Cossu and then went straight to Mr Webb's office and what did you say?---I said, "There's a, Pietro is saying there's a conflict of interest and I need to replace the panel. I'll be sending that email around replacement of a panel member for your approval." Because it had to be approved by him to proceed to the next step of the procurement.

And so did you have a discussion about Mr Dankaro at that point?---I may have. I can't recall specifically but I would have spoken to him about one, the need to replace and two, who's available from a resourcing perspective.

30 Did you tell Mr Webb precisely what Mr Cossu had said about the nature of the conflict?---I would have, yes.

Do you recall what his reaction was?---He wasn't particularly, like he was just matter of fact I suppose.

Is that the kind of person he is?---Yes, he is a very matter of fact person.

So the fact that he was matter of fact about it doesn't - - -?---It didn't strike me - - -

40 It's not unusual for him - - -?---It wasn't unusual.

- - - to be fairly matter of fact?---Yeah.

At that point did you know if Mr Cossu had had any involvement with GWAC contracts or work for council prior to this date?---I know that Canterbury Ward had engaged GWAC on a number of jobs and Pietro wasn't part of my ward, he was part of Canterbury Ward primarily, yeah.

So did you know that the ward that he was in had engaged GWAC to do that work?---Yes.

10 Did you have any greater understanding at that point how involved he was with those projects?---No, because I didn't keep tabs on the other ward projects. I was busy enough with my own.

So you wouldn't have been aware of whether that conflict had been disclosed in relation to those?---No.

If he was primarily involved with a different ward why was he on this?
---Again like I said, he was probably one of the most senior members of our team and a person who had the most experience in delivery of this sort of
20 infrastructure.

At this point did you think back to other jobs that GWAC had been awarded and think maybe there was a potential cause for concern in relation to any involvement Mr Cossu had with those?---No.

During the evaluation process there were a number of clarifications sent to GWAC. Do you recall this process?---I recall there being several clarifications, not just GWAC but - - -

30 To all the - - -?--- - - - to all of them. Generally that was the practice to send out the clarification to those remaining of those who had submitted. There was definitely a number of clarifications because it was such a complex job and given the three separable portions, you know, it was quite a lot.

Do you recall if GWAC identified - sorry, I'll go a step back. As part of the tender process did the contractor or prospective contractor have to identify whether it would be using subcontractors to deliver any of the project?
---Yes, it would have to.

40 And why is that?---It assists us in understanding any issues on their end which might pose a risk to the delivery of their items or their services so

that's usually the reason why we request that they submit. Also there is a requirement for a subcontractor's agreement to be signed if there is a subcontractor issue. Generally that is a process that is applied.

And is that a document that council requires as part of - - -?---It depends on the contract.

But for a large open tender contract?---Yes, they would need to notify us of their sub-consultants or subcontractor.

10

And this was a job that involved the fabrication and delivery of a large number of precast items?---Yes.

So if the precast items were subcontracted that would be a significant factor for your decision-making process?---Yes, it would be, yes.

20

Do you recall if GWAC identified any subcontractors as part of its submission process?---Not originally. I remember it coming up during the further clarifications that were sent out and the financial checks and the investigation around company structures, et cetera which came subsequent to the initial review.

Commissioner, I wonder whether now is a convenient time for the adjournment. I just need to check - - -

THE COMMISSIONER: Yes.

MS HUXLEY: - - - a document that I'd like to take this witness to.

30

THE COMMISSIONER: Sure. Can I just clarify something just before we take the break.---Yes.

I think you said that if a contractor identified a subcontractor for a significant project that council would require for the subcontractor to sign something with council or for - - -?---No, that wouldn't be our contract.

No, no, but you'd want to what, see the subcontractor's contract with the - - -?---Some contracts, and I wasn't talking specific to this project.

40

No, no.---But some contracts require that a subcontractors, it's more for payment I suppose but that a form is submitted with the progress claims, et

cetera. So that would also have to be provided by the person who is, the contractor who isn't the primary, the one submitting the claim to us. They would have to demonstrate that they have passed on that and that's dependent on the contract.

So you would want some verification that the head contractor was passing on the part payments or the relevant part of them onto the subcontractor?
---Yes, and that would be dependent on the contract type.

10 Right. And so you would want to see what the program was as between the head contractor and the subcontractor for the payment of the subcontractor's invoices or - - -?---Sometimes, yes, depending on the project and the contract type, but in this instance we didn't require it. It wasn't, it wasn't required at the time. That was more of a general comment not project specific.

Sure. All right. We'll take a break. So probably about 15 minutes or something like that.---Yep.

20 MS HUXLEY: Thank you, Commissioner.

THE COMMISSIONER: I'll adjourn.

SHORT ADJOURNMENT

[11.39am]

THE COMMISSIONER: Just give me a minute, Ms Huxley.

30 MS HUXLEY: Ms Bhuiyan, I think I asked you some questions earlier about the code of conduct and online training and I just wanted to clarify if you had done any online code of conduct training during your time at council?---I can't recall if we had done online code of conduct training.

Had you done any, do you remember doing any training in relation to the code of conduct or requirements to sign declarations of interest?---Honestly, I can't recall. Before we continue can I just clarify two things about what we spoke about prior to the adjournment. The superintendent's rep question I must have not registered or realised, but the superintendent would be Ben
40 and the superintendent's representative would be the project officer undertaking the work.

So the project officer supervising the role?---Taking the - - -

Oh, sorry, the project.---Yes.

And so the superintendent's representative, who would decide who was the superintendent's representative?---It would most likely be Ben.

10 Okay. And their role would be overseeing the delivery of the project and dealing with variations as they arose or - - -?---Yes, and presenting that to the, to the superintendent.

Have you ever performed the superintendent's role?---The superintendent's role, no.

Oh, sorry, the superintendent's representative role?---On projects that I've done, well I would have been the superintendent's rep most likely on the Appian Way if we were, yeah.

20 THE COMMISSIONER: Sorry, did you say you would have been the superintendent's representative on the Appian Way?---Yes.

You're nodding, that's fine. I just need to record.---Yes, sorry, yes.

30 Good.---And then just regarding the question prior to the adjournment around subconsultants and subcontractors, what I was referring to was the SOPA Act requires the signing of a subcontractors agreement for the payment schedule, that's what I was referring to, to kind of demonstrate that the schedule of payments were being passed on to all subcontractors. I just wanted to clarify those two things, if I wasn't clear.

MS HUXLEY: Sorry, what Acts did you refer to?---The SOPA Act. The Security of Payments Act.

And is that an Act that governs the payments in the construction industry in particular?---Yes, yeah.

40 And so is it a requirement, or is it your understanding that under that Act there's a requirement for notification of subcontractors to ensure, so that council can ensure that payments are being made.---Yes.

If I can take you to page, sorry, volume 38.2, page 1. So this is an email from Ms Ho to a number of people, including yourself, on 1 March and she says there that it's been published on the eTendering and APET and then attached is a copy of the RFT documents, and so they were the documents that would have been uploaded or published on the eTendering website?
---Yeah, yes, eTendering and APET, yes.

So does that mean the evaluation plan would be included as part of the documents available to the - - -?---No, not to the public.

10

Okay. To the prospective contractors, would they be aware of the evaluation plan?---Not the plan itself, but criteria would be listed within the documents.

So is that a reference to the criteria by which council and the weighting by which council would assess the tender?---The weighting wouldn't necessarily be published.

20 Okay.---But the sort of criteria around methodology, previous experience, that sort of thing.

Okay. And so if I can take you to page 5 of that volume, 38.2. That's a summary of, general products and services summary of terms.---Yes.

So is this the contract, like what is this document?---This would be generally the conditions of tendering, the services brief would be attached to this, general information on how to submit, that sort of thing, would be included within this document.

30 If I can take you to page 13. So there, there's a reference to code of conduct and probity.---Yes.

And a requirement that tenderers must comply with the terms of the code and ethics and when dealing with council.---Correct.

And there it notifies that tenderers must not engage in certain practices and corrupt conduct. Is that correct?---Correct.

40 And is this something that was included in all tender documents at council?
---This is a standard document, yes.

If I can take you to page 51. There, there's a provision, section 8, there's subcontractors.---Yes.

So would this be, it says the contractor must only use those subcontractors to provide services that are included in the tender or approved by the council, so is this part of the contract that would be signed by the successful contractor?---These are the terms and conditions. This would be included in that.

10 So there's a requirement as part of the tender documents to notify council of the proposed subcontractors?---Yes, there is, yeah.

And then there's a contractual requirement to only use those subcontractors to provide those services?---Yes.

And if I can take you to page 508 of that document, so this is the evaluation plan score sheet for this project.---Yes.

20 And there's, see at the bottom three rows, or the bottom four rows, there's percentages. What do those percentages represent?---So those would be the weighting for each of those aspects of the criteria.

So see where it says experience and past performance, previous relevant experience and past performance for CBC"? Is that a reference to the council?---Yes.

And so that's 15%?---Yes.

30 So is that the usual weighting that you would give that or in more significant projects, does that have a higher rating?---Well, it depends, project to project. In the instance of this particular project, obviously, program and the delivery methodology was pretty critical. So therefore that's been given a greater weighting.

So, by that, do you mean the bottom two - - ?---Yes, the bottom two.

- - - the 20% and the 15% greater weighting?---Yeah.

40 What do you mean when you talk about methodology?---So the method of delivery, whether they're meeting our program, how they will supply it, the schedule of supply - - -

So that's obviously the time the program will take. Is it also the actual manufacture or fabrication of these?---Yes.

So where the pits and culverts and pipes are being fabricated is an important aspect of that methodology?---Yes. I mean, not necessarily where, but how.

10 Yeah, I mean, not location, but the facility that's fabricating, the competency of the facility fabricating the culverts, pipes and kits would be an important consideration?---Who is manufacturing it, I suppose, yes.

So with this particular project, there were two aspects to it, the fabrication of the three different types of items that were required and then its delivery? ---Yes.

Was there anything else that was involved in the project?---Primarily, it was the supply, the manufacturing, supply and delivery.

20 Is supply and delivery different?---Well, it can be.

So, on one hand, they can supply the culverts and then someone else delivers them?---Yes.

With this particular project, is it the case that the fabrication of the culverts represented the largest part of the project?---Yes. Yes.

Both in, particularly in terms of the cost of the project?---Quantity and value, yes.

30 So in this kind of project, if the fabrication is contracted out to a different entity, that would be quite an important piece of information, from council's perspective?---Sorry? Could you repeat that?

If the contractor, the prospective contractor, was subcontracting the fabrication of the culverts, pipes and pits to another entity, that would be a quite significant consideration?---Yes. Yes.

40 And if there had been notification that that was going to take place, would council have done any due diligence in respect of the subcontractor?---Yes.

And would that have been done as part of the clarification process with the prospective contractor or would council have gone direct to the subcontractor?---Either way.

If I can take you to volume 31.10, page 138? Do you recognise this document?---I believe this is a printout from APET or eTendering that Procurement would provide.

10 So as part of the eTendering process that the prospective contractor would have to go through and answer a number of questions?---Yes.

And then submit additional documentation or upload certain documents? ---Yeah.

And so if I can take you to page - and so this one, the respondent there is General Works & Construction Pty Ltd?---Yes.

20 And if I can take you down to page 141? Section 11, is that where a prospective contractor would notify council of the proposed tenderers? ---Yes.

And that was as part of that earlier document that we saw, that required the tenderer to only use those particular subcontractors?---That's right, yes.

And what is the response, GWAC's response there?---it says, "Jeremy Clarke, director, degree qualified engineer, B Tech, manufacturer, Manfu, 20 plus years construction and engineering experience, precast concrete production and supply five plus years."

30 So do you remember reading this at the time?---I don't recall specifically reading this - - -

But was it your understanding during the Evaluation Panel process that there were no subcontractors used?---Originally, yes. Yeah.

40 When you say "originally, yes" what do you mean by that?---Well, further down through the clarification process, and, I guess it had come to light that there were other parties involved and Procurement were dealing with that and, in identifying the company structure and that became a discussion point within or between Procurement and - - -

Is that something that occurred during the financial assessment?---Yes.

And are you referring to other entities owned by or controlled by Mr Clarke that were part of a group of companies?---Yes.

And that group had been involved in other projects of a similar nature, to your understanding?---That's right, yeah.

10 If I can take you to volume 38.5, page 80? This is a first clarification issue to GWAC?---Yes.

20 So after the tenders are received, is there a process by which the Evaluation Panel sits down and works out who to ask clarifications of?---Well, generally, clarifications are issued to all the respondents, but the practice is once conflict of interest forms are received, et cetera, the Procurement Team would release the responses to the Evaluation Panel members. We'd have a chance to review it. There's a spreadsheet that's given to us by Procurement, that each Evaluation member fills out or, sorry, not a spreadsheet. There's a, a, I guess, an application through which you put in your responses and your review. That gets collated into a spreadsheet and presented at the first Evaluation Panel by the procurement officer and then during that meeting, if there are any clarifications, it's noted down. It would be the responsibility between myself and the procurement officer to collate those clarifications and then it's issued out by the Tender Box and through the procurement officer.

30 So you're saying sometimes clarifications apply across the board to all prospective contractors, in which case, the clarifications are issued across to every person who's tendered or - - -?---Yes.

- - - entity that's tendered? And then there may be one specific to each - - - ?---Yes.

- - - particular prospective contractor and it's a more targeted clarification process?---Yes.

And so do you recall what gave rise to clarification 1?---No.

40 If I can take you to page 81? This is the document that was sent to Mr Clarke and raises those five things. Does that prompt your memory about how this came about?---I need a bit of time to read this.

Yeah. Sure.---I can't recall specifically, but it would have been following the discussions of the first evaluation meeting.

And so you see point 5 there, it's asking for details about plant equipment and the location capacity of the manufacturing facility?---Yes.

10 And so it was important for council to have an understanding of where these, and what kind of facility the culverts and other concrete elements would be manufactured in?---Yes.

And that was relevant not just to the methodology, but also past experience?---Yes, but we would need to know where things are being stored, how it's being delivered, what, where it's coming from, those sorts of things, and if those were omitted from the original response we'd need - -
-

Clarification.---Clarification.

20 And does everyone on the evaluation panel have access to the clarifications that are issued?---Yeah, they would, they would be issued, they'd be collated and often times it would go out in draft to ask the panel if there was anything else they'd like included prior to issuing.

I'll just take you to volume 38.5, page 90. So that is an email from Mr Dankaro to Mr Cossu at a PMLV email address, and Mr Dankaro's email address is a Gmail address.---Yes.

30 And he says, "Hi Pietro, please find attached clarification one, response for review and issue." Did you understand that Mr Dankaro, or did you know if Mr Dankaro was assisting Mr Cossu and/or Mr Clarke in relation to responding to the clarification one?---I had no knowledge of that. No.

What would you have done if you were aware of that at the time?---He would have to be removed from the panel and it would have to be notified to Procurement.

40 Would you have spoken to anyone at council about that?---I would have gone up my chain of escalation, which would have been Ben. I'd probably also notify Peter Anderson.

And then if I take you to page 138, this is an email from Mr Clarke to the tender box attaching documentation regarding response one.---Yes.

Sorry, clarification one.---Yes.

And if you go to page 140, is that a response to item 5 on the clarification one?---Yes.

10 And reading that now, do you recall if at the time your understanding was that it was a GWAC production facility that would be producing these culverts?---Yes. I would have still interpreted this as GWAC.

If I take you to 38.5, page 285, and as at April 2022, the preferred prospective contractors for each of the separable portions are identified in that email.---Sorry, I'd need to, I need a moment to read.

Yeah, it's at item 3.---Yes.

20 And so if it saying there that Cadia Group was the preferred supplier, but there was, if GWAC was content to only supply that first item, then you would proceed with GWAC? Do you recall what any of that means now? ---No, not entirely. I can't recall.

30 Can I take you to 38.6, page 90. This is an email from you to Mr Webb seeking him to approve and review a file note so as to allow the preparation of the general manager report. Do you remember that?---Yes. I remember that not all elements were able to be provided by, so for example, under a separable portion, not all items within that separable portion were able to be provided by one, the one supplier and on that basis, there was a fair amount of discussion between the panel as to whether that was a practical solution for us in terms of contract management and project management, so on that basis we were looking to set aside some of the, I can't remember the specifics of it, but - - -

I'll take you to the file note in a second, so when you say set aside, there are some things in the evaluation process that means that some, that a prospective contractor is completely ruled out of consideration?---That's right, yes.

40 And then other times where you might be evaluating two complete tenders. ---Two complete tenders.

So none of them have been, there's been nothing that has resulted them being set aside, so then it's just a comparison of the two. Is that - - -?---Yes, so that's how the report is written to compare the remaining - - -

Yeah. But so there are certain things that basically disqualify someone from being considered, in which case they're set aside.---Yes.

10 And then there are, but if both contractors are able to supply everything in the bill of quantities, then it then becomes an analysis and awaiting comparison process.---Yes, yeah.

And so in this case, was it the case, do you remember, if the three other prospective contractors were each set aside?---From memory, honestly it was so long ago I can't remember.

20 Yeah. If I can take you to page 95, this is a file note that's attached to that email and there's recommendations to set aside certain prospective contractors. Would you have to do a file note every time you made a decision to set aside a particular contractor for a portion of the tender?---Not always, but it would be up to procurement. I would rely on procurement's advice as to whether I'd need to develop a file note or not.

And so in this instance, Cadia Group is set aside for the separable portion one because they are unable to supply all items.---Yes.

And the same in relation to separable portion two.---Yes.

30 And then in relation to separable portion three, which is on the next page at page 96, there's a decision to set aside BCP.---Yes.

And do you remember why this, how this decision came about?---Yes, because I do remember this briefly, that there was a clause around, BCP were able to refuse the acceptance of an order and that posed a risk to the project in that we may not have a steady supply of the culverts and would have to go back to identify another supplier and that would pose a program risk.

40 And I'll just get you to read that paragraph 9, and let me know when you get to the end of it and I will take you to the next page.---Yes.

So a decision was made not to go back to BCP to negotiate better terms and conditions for the council?---Yes.

Do you recall that decision?---I remember speaking to Ben and also considering the time constraint that we were under. The negotiation would take time and it was made, the decision was made not to, not to go and I think it was also discussed at the Tender Evaluation Panel.

10 So whose decision was it ultimately?---Ultimately it was - - -

Was it Mr Webb's decision?---Yes.

And in the course of that conversation did you indicate that if that occurred that GWAC would be the one that would be the likely contender for that separable portion?---I can't recall.

Do you recall sometime in May 2022 whether you were informed that GWAC had failed the financial assessment?---Yes, I do remember that.

20 And how did you become informed of that?---So usually the financial check is conducted by the Procurement Team and I would have received a call from either the Procurement officer, even Alan Parker himself to inform me that the financial check had been failed by GWAC.

30 Did you have any involvement in discussions about how to proceed with awarding the project to GWAC even though they'd failed the financial assessment?---How to proceed with them being appointed? No, I left that to the decision of, you know, whatever Procurement came back with. If they had said that they've done checks and done further clarification I was relying on them to say yes or no. I believed in the separation of function around that.

Did you conduct reference checks for GWAC?---Yes, I did.

And do you recall what the outcome of those, what happened when you were doing those reference checks?---I remember all of them being quite detailed and by, you know, similar projects and Jeremy's capabilities around delivering and involvement in delivering projects of a similar nature.

40 Did they specifically refer to Jeremy in them?---From recollection yes.

If I can take you to volume 38.7, page 135. Were you assisted in completing the reference checks?---Yes, I guess.

And if I can take you to page 136. That's a spreadsheet that sets out the outcome of those reference checks and if we could just zoom in on the far left-hand corner, left-hand column. Do you remember reading this document when it was sent to you?---I don't remember specifically, no.

10 If I can take you to page 325 of volume 38.7 and you can just scroll out so they can see, or zoom, go down so they can see the bottom. So Ms Tran says, "Per our discussion earlier attached clarification for approval." And then if you go to the next, page 327, it's asking for two additional client references.---Yes.

And going back to that email at 325 you say you need to discuss this with Mr Webb. What did you need to discuss with him?---I can't recall but I imagine needing to go out for more references.

20 But couldn't he have just seen that from you sending that document to him? ---I suppose.

So do you understand if Mr Webb had any relationship with Mr Clarke? ---No.

If I can take you to volume 30.8, page 1 and if you can just read from pages 1 to 3.---Yes. Yes. Yes.

30 So are they text messages referring to the financial assessment of GWAC? ---Yes.

And see at the top it says, "Alan has called Jeremy from his personal number and promised he will push." Can you just explain what you meant by that message?---So from memory it was just getting a response from Jeremy and Alan was in charge of corresponding and contacting Jeremy.

Was there a reason why council were eager to progress the issuing of the contract?---Simply we needed to get, get that project going.

40 So there were time pressures on getting the project started?---Like I said, yeah, there's, there was pressures around the VPA agreement with WSU. There was pressure from Sydney Metro as well.

Was it your understanding that during the evaluation process and in the course of recommending GWAC to be awarded the project that GWAC was going to fabricate the culverts, pipes and pits itself?---Originally that was my understanding like I said previously based on the clarification where he said the GWAC production facility.

10 And when you say originally, did that change?---Further down the line Alan Parker was liaising with Jeremy to understand the company structure and that's when there was an understanding that there were other arms of GWAC. And personally I wasn't across the details of that company structure but it became apparent that it wasn't GWAC proper or GWAC proper.

But it was still an entity controlled by Mr Clarke?---Yes.

20 THE COMMISSIONER: So when you said that you came to understand that the pits, pipes and culverts may not actually be manufactured by GWAC, at that point it became your understanding that they would however be manufactured by some associated entity?---Yes.

Thank you.

MS HUXLEY: Were you aware that the bill of quantities had particular measurements and specifications for the culverts?---Yes.

In particular there was a specification of 2.44 metres for the units?---Yes.

30 If you had been notified during the tender, in the tender documents submitted by GWAC that a culvert of only 2.4 metres could be supplied would that have changed your assessment of GWAC's submission?---It would definitely be discussed within our team to understand if there was ways to mitigate that or deal with that.

And would one of those ways be supply of extra culverts to cover the shortfall?---Supply of extra culverts, you know, hooking methods or different, different ways of building it, yes.

40 Installation?---Yeah.

Could it have ended up in a situation where GWAC was set aside because they couldn't meet the specifications for the project?---Yes, it could have been, yes.

Depending on what the outcome of the discussions were.---Yes.

But it was a relevant piece of information from your perspective as a panel member to know whether they could produce culverts for that particular size.---The specifications are critical to the project, yes.

10

I'll just take you to the general manager report at volume 38.8, page 224. ---Yes.

Did you have any involvement in drafting this document?---Yes I did.

And you're aware that this document recommends the award of all three separable portions of the project to GWAC?---Yes.

At page 333 - - -

20

MR SUTTON: Sorry Commissioner, I just wanted to get this wound down so we can see the volume numbers and the page numbers at the bottom.

THE COMMISSIONER: Oh, I see, yes.

MS HUXLEY: So it should be page 233.

THE COMMISSIONER: So volume - - -

30

MS HUXLEY: Sorry, volume 38.8. And do you see under that first dot point, "Capability and Available Resources"?---Yes.

And that repeats the clarification, what was communicated as part of that clarification process?---Yes.

So that was an important aspect of the assessment of GWAC?---Yes.

40

Were you confident in the recommendation of GWAC as part of this, as the successful contractor?---Well I simply reported what was the agreement of the panel.

THE COMMISSIONER: Yeah, I think Ms Huxley is asking, regarding what was in the report, not so much about that, but more about your personal opinion and whether you had any reservations whatsoever at that time.---I recall not being entirely happy with, I suppose, I would have liked more time to have drafted it thoroughly. Again, there was time pressure associated with this on a personal level, but ultimately, like I said, I reported what was agreed by the panel.

10 What would you have liked to have given more attention to, what aspects?
---Probably in detail the company structure that Alan Parker was investigating separately and understanding that in more detail.

MS HUXLEY: Did you feel like there were particular people within the evaluation panel that were pushing for GWAC to be recommended?---I didn't, it didn't stand out to me as someone pushing for GWAC's appointment, but it just felt like circumstances lead us to having GWAC, ultimately we need to think about the practicalities of delivering this project and they were the only ones who could provide all three separable portions.

20 So in a sense they were the last contractors standing and the only one that, on paper, had the capacity to deliver the job - - -?---That's right.

- - - rather than them being assessed against any other contractor.---That's right.

I mean we've spoken a little bit about Mr Webb's role in this process, but did you regard Mr Webb to be quite involved in this particular project?
---Yes, he was, and it wasn't unusual for him to be involved on the larger projects.

30 And this was a larger project?---Yes.

Did you think that he was pushing for GWAC in particular?---I mean it seemed like he was pushing for this project to progress, but that was, again, justified based on the pressures around WSU and Sydney Metro and ELT and all of that.

40 Once the contract was awarded to GWAC, did Mr Cossu have any role to play in the delivery of the project?---Sorry, can you repeat that again?

So once the project has been awarded to GWAC, do you know if Mr Cossu had any role in the delivery of the project?---He had no formal role in the delivery of the project.

Did he have an informal role?---Yes. He seemed quite interested in the project. He'd often come and have conversations with, if he'd see me having a conversation with the design engineer, for example, sometimes he would come past and have, put his input in. He also was in attendance for the first pre-pour inspection for the moulds which - - -

10

Do you know how that came about?---Yes, I do remember. It was the expectation that Jeremy should notify me and it was clarified to him that when the first pre-pour happens, it should be scheduled with myself and the design engineer so that we could go down to Wollongong and inspect the slump test, the steel that's going into the culverts, and you know, just generally the QA checks that we need to undertake. I remember coming into the office and receiving a text message from Jeremy that the first pour is today. I was quite frustrated, as you can imagine, that this should be scheduled and I wanted to, my initial response was give a stop work notice or not proceed with that contractually, so I went into Ben's office and I was like, you know, we need a stop works notice or something issued so that he doesn't pour until we're available to inspect and Ben had told me that, well, Pietro is in Wollongong anyways, let him do the inspection and he can Teams you or video link you to kind of observe the pour. So that's how that came about.

20

Were you happy with that proposal?---I wasn't entirely happy, no.

Were there limitations on how you can do a quality assessment over video? ---Well yes, it wasn't easy for me to see exactly what was happening and I was reliant on pictures or Pietro communicating to me.

30

And so did he video call you while he was - - -?---He did.

And what did you see happen?---They did a slump test. I asked him to measure the mould and the length of the mould, but I couldn't see very well through that video link, it was choppy.

Did he tell you what it was?---He did tell me what it was, but I can't remember.

40

Would you have been looking to, looking at the specifications for the culverts at the time that you were - - -?---He called me during lunch.

Okay. So you may not have had the - - -?---No, I didn't have it at hand.

- - - material in front of you. Did you rely on him to make sure that it met the specifications?---Yes.

10 Why did you think he had the specifications?---Well the supplier had the specifications.

What was Mr Cossu's involvement in the project once the culverts started to be delivered?

THE COMMISSIONER: Sorry, just before we go there, can I just understand, now you've mentioned a slump test. What is that?---Sorry, yes.

20 That's okay, just in very general terms what is that?---So you measure the consistency and the strength of the concrete based on, there's a test where they basically use a standard bucket and they tip out the concrete and they measure how much it slumps.

And is that something that you could accurately assess via this video link? ---No, I'd be reliant on someone measuring and telling me because you wouldn't be able to see it very easily necessarily.

30 Right. And regarding the, what did you say, the length of the mould, are we talking about whether the mould was like two, this would cover a situation where the mould was not the, I think it was meant to be 2.44 but was shorter or longer, that would, that's what you meant by measuring the length of the mould is it?---Yes.

Right. And do you recall Mr Cossu pointing out any difference between what the specs said in that regard and what he was seeing?---I can't recall. From memory, I mean, eventually it was short.

But how important was it that these mould, or that the mould be the right length?---Yeah, it was very important.

40 Well, had he mentioned to you that it was not in accordance with the specs what would you have done?---We would have had to issue a stop work

notice and asked for the mould to be redone. That's what I would have done in the first instance.

Okay. Thanks.

MS HUXLEY: What was Mr Cossu's involvement once the culverts started to be delivered?---He had no formal role.

10 Okay. But to your knowledge was he still involved in overseeing the project?---Again, like I said, he was interested. I know of two instances when he spoke to the design engineer separate from myself. I know that he approached the construction manager and suggested that they go for a drive to Wollongong, possibly without me.

Who was the construction manager?---Robert Dudley.

Anything else?---He always just seemed very interested in the project. He would express that it was just an interest out of, you know - - -

20 THE COMMISSIONER: Regarding this drive to Wollongong with Mr Dudley, what was the stated purpose of that excursion?---Just to inspect the moulds and the facility.

And at what point in the proceedings was that, like, was it before or after this pre-pour inspection?---Possibly after. I can't recall the exact time, but Rob had come to me later saying, "Interesting conversation."

Did Rob go with him on that excursion?---No. No. No.

30 No. He declined the offer.---Yeah.

Right.

MS HUXLEY: And did he relay the terms of that conversation to you? ---Well, he said that it was strange, that suggestion of excluding me from that, and that had I been aware of the possibility that we were to all go out to Wollongong or for me not to be going, he just thought it was odd, and I agree it was odd.

40 THE COMMISSIONER: So you mention that that was one sort of odd thing that happened. So, sorry, what was the other slightly odd thing that

stood out to you? I think you mentioned a second thing.---He had approached the design engineer to discuss the redesign following the culverts being short.

Who was the design engineer again?---Geoffrey Wang.

MS HUXLEY: And would you have been expected to be involved in that conversation?---Yes.

10 THE COMMISSIONER: And how did that come to your attention, that that had happened?---Geoff had come to me.

And what did he say to you?---He said that Pietro had approached him to discuss and advise on how to design the culverts from his point of view and his experience working on culverts previously.

So timing wise, roughly when would that have been?---Well, obviously after we had discovered that the culverts were short, but I can't recall the specific time, in all honesty.

20

Right. Okay.

MS HUXLEY: Commissioner, I'm about to move to a different topic. I don't know if it's a convenient time to take the luncheon adjournment.

THE COMMISSIONER: Sure. You will be more than five - - -

MS HUXLEY: I might be five to ten minutes but there may be other questions so - - -

30

THE COMMISSIONER: Yes, of course. Okay. All right. Well, look, unfortunately, Ms Bhuiyan, Ms Huxley is getting to the end of her questions only now, you heard her, five or ten minutes, but other people might have a few questions, so I think it's best if we take the lunch break.---Okay.

Which will be until 2 o'clock, and then I don't anticipate your evidence will be too much longer after that. Just excuse me. All right. We'll take the lunch adjournment.

40

LUNCHEON ADJOURNMENT

[1.04pm]