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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 2.00PM

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

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

MS HUXLEY: Certainly, Commissioner.

THE COMMISSIONER: Sorry, I'm just struggling here. Yes, yes thanks Ms Huxley.

10

MS HUXLEY: Ms Bhuiyan, have you ever heard of a company called PMLV?---I have to come know of PMLV through this Commission.

Through this, the Commission's investigation?---Yes.

Did you know of it prior to that?---I may have heard it towards the end of my time at council.

20 Do you recall the context in which you heard it?---Council had brought out this, I suppose, payroll app thing called Comensura. Following the commencement of that application, PMLV had come, come up in, around, I guess, contracted staff.

So did someone tell you that PMLV was involved in contracting staff?---I had heard of it in the office, yes.

Do you know, do you remember who told you that?---No.

30 Were you aware that some workers were employed by PMLV through the Spinifex Randstad arrangements?---I had not known that specifically that it was PMLV, but I had known that some staff were contracted through Pietro.

And how did you come to learn that?---A lot of the young project officers had, in passing, mentioned it to me, yeah.

Do you recall when that was?---Not specifically, no.

40 Did you do anything about that?---I did enquire with Spinifex, with Ben Trapman, who reassured me that it was completely aboveboard and okay.

So what did you say to Mr Trapman when you heard that?---I just enquired that, you know, you know, doesn't it seem a bit strange that Pietro should be

working as a member of our team at the same time as supplying people, if that's the case in the first instance, and if that is - - -

Was that around the time of the Comensura app or was that before or after?
---I think it was prior, but I can't remember for sure.

Did you speak to Mr Webb about it?---No.

Why not?---I guess Ben Trapman had reassured me that it was aboveboard.

10

Were you involved in any of the hiring decisions?---No.

Did Mr Webb ever consult you about who to hire or if he had roles that needed filling, who to hire?---Not specifically.

Did you ever hear or see him have conversations with Mr Cossu about who to hire?---I can't speculate on that. I don't know what their conversations were.

20 Okay. Those are my questions, Commissioner.

THE COMMISSIONER: All right. Now questions. Mr Pararajasingham or - - -

MR PARARAJASINGHAM: Thank you, Commissioner.

THE COMMISSIONER: Sorry, Mr, now - - -

MR PARARAJASINGHAM: I'm happy for counsel to go first.

30

THE COMMISSIONER: Yes.

MR RAUF: With your leave Commissioner, I'd like you to have questions on a discrete issue which I've conveyed to Counsel Assisting on behalf of the Canterbury Bankstown Council.

THE COMMISSIONER: Right. Yes, certainly. Okay, well look I don't mind in what order we proceed, but yes, yes, let's, if it's on a discrete issue, yes, why don't we start with you.

40

MR RAUF: All right, if it please. Thank you. Ms Bhuiyan, my name is Mr Rauf. I am the counsel for the Canterbury Bankstown Council. Now you were asked, after the adjournment this morning, you were asked questions about training and, for instance, code of conduct and work health and safety and you mentioned that you'd had some online training on work health and safety. Do you recall that?---Yes.

And in respect of code of conduct, you mentioned that you could not recall whether there had been online training. Do you recall that?---Yes.

10

All right. You attended a record of interview on 1 March with officers of the ICAC. Do you recall attending that?---Yes.

I wonder if I might show Ms Bhuiyan a document which is the record of interview. I have copies if it assists, but the document as I understand is available to parties.

THE COMMISSIONER: Was this on the restricted website? Yes, yes, apparently so.

20

MR RAUF: I see, I see. Can I perhaps show the document to Ms Bhuiyan?

THE COMMISSIONER: Yes. I mean I don't know whether, in terms of technology I don't know, for example Mr Bain, if a document on the restricted site can just be shown to the witness only, is that what can happen? Or, I mean she's got the hard copy anyway. Just for my own interest. Not sure. But anyway we've got the hard copy, it doesn't matter. Yes.

30 MR RAUF: Yes, thank you. Ms Bhuiyan, if I can just ask you to look at that document. Can you please confirm that it's a record of interview relating to the interview that you participated in?---Yes, yes.

On 1 March with [REDACTED] and [REDACTED].---Yes.

THE COMMISSIONER: That was 1 March this year?

40 MR RAUF: That's right, Commissioner, yes. If I can just ask you, I just want to take you to one page which is at, if you look at the top right of the page, I want to take you to page 56 of 74. Can I ask you to look at that? ---56 was it?

Yes. And it should, at the top it should read, [REDACTED], corresponding to him, “Okay, did you receive formal training in conflicts of interest?” Do you see that?---Yes.

Can I just ask you to come down to line 5.---Yes.

10 And you see there, there’s a question, “Okay, code of conduct” You say, “Code of conduct, yes we did training for that and I am aware of”, [REDACTED] says, “What was it, was it electronic online training?” You say, “Online, online, yep.” Do you see that?---Yes.

And that was correct at the time that you gave that response?---I suppose when we’re talking about training and code of conduct, my interpretation was, you know, introductory onboarding training or onboarding activities, which I did undertake electronically online, I definitely recall for Spinifex.

20 Yes. But here, am I correct to understand here you refer to code of conduct training online with the council?---No. I wasn’t sure, I’m not sure if this was in reference to council or Spinifex or generally.

I see. So you don’t, the answer is you don’t know. Is that what you’re saying there?---Yes.

All right.

30 THE COMMISSIONER: But was it about the code of conduct, was it, whoever administered it.---Well I suppose I was referring to general onboarding activities and training that you would normally undertake at the beginning and I’m sure you can find what training I’ve done at the beginning of my time at council through Spinifex or otherwise.

But to your recollection, did it include either code of conduct or general issues that one might find in a code of conduct?---Yes, it did. I remember it having things like, you know, kind of professional attire and work health and safety and - - -

But I’m thinking of more conduct, what did it - - -?---Conduct, it may have. I can’t recall specifically, you know .

40 MR RAUF: All right. Thank you, Commissioner. They were the questions.

THE COMMISSIONER: Thank you. Yes, Mr Pararajasingham.

MR PARARAJASINGHAM: Thank you, Commissioner. Ma'am, my name is Pararajasingham. I am counsel for Mr Webb. I just have a few questions for you. I understand you commenced at council, was it May 2021?---That's correct, yes.

10 And did you give some evidence earlier to the effect that someone from council, someone known to you, alerted you to the fact that they were looking to hire or something to that effect?---That's correct, yes.

And who was that person?---Assad Assaduzzaman.

MR SUTTON: I'm sorry, I've just missed that answer.

THE COMMISSIONER: Well Assad is his first name, is that right?---Yes, that's right.

20 And he's got a long second name beginning with A, correct?---He does.

MR SUTTON: Yes, thank you, Commissioner.

MR PARARAJASINGHAM: And is it right to say that what happened next is that Mr Webb contacted you by email. Does that sound correct?---Yes.

And what then followed was an interview between yourself and Mr Webb, correct?---Yes.

30 Was that conducted in person or over Teams or something of that sort?---It was in person at the council offices.

Thank you. And it's right that, as you understood it, Mr Webb then forwarded your details to Mr Trapman at Spinifex, correct?---Yes.

And you've given this evidence, but you were placed with council through Spinifex.---Correct.

40 You were asked some questions about your knowledge and awareness of GWAC. You recall being asked those questions, those general questions? ---Yes.

If I could just explore that a little bit further with you. It's the case that, as you understood it, GWAC were widely used within council?---Yes, they were.

And by that, you mean used by various teams within council?---Yes, they were.

10 And is it right to say that before your involvement in the projects that you've been asked about today, you never directly had any dealings with them. Correct?---Yes.

And you were aware, however, that people within council had extensive dealings with GWAC. Correct?---Well, I don't know extensive dealings, but - - -

But dealings with GWAC?---Yes.

20 And you were aware that part of the work that council did, and the various teams did, was attend sites from time to time. Correct?---Yes.

And you understood that at these sites, people from council would meet and interact with the GWAC company. Correct?---Perhaps, yes.

Now, you were provided a copy of an interview between yourself and ICAC investigators on 1 March 2024. Do you still have that with you?---Yes, I do.

30 Could you kindly turn to page 7 of that document? I'm just going to take you to a portion of it, and then ask you some questions. So page 7 from line 13. It commences, "██████████" and then "Thank you for explaining that. With GWAC, could you please tell us what you were aware of in regards to their experience?" You then say, "So I'd obviously seen them be part of, like, some of the major projects, such as Greenacre Splash, as I guess mainly, primarily, the builder, but they also sort of looked at design issues and would be there in the design issues meetings. I wasn't involved in it directly, but I'd always see them come into the office or being onsite and" then ██████████ says, "So when you say 'them' is this Jeremy Clarke you're referring to?" You answer, "Jeremy Clarke, yeah. And he had, like, you know, his labourers or whatever, that you'd see around onsite, in various 40 sites. But, but they also do a lot of minor, like, jobs, like, you know, if there was, say, we had, like, a footpath that needed to be rectified, Jeremy would

come in with his, with his labourers, for those emergency sort of repairs that had to be done because it was, you know, a hazard to the community or whatever, on short notice, or whatever. Sometimes the other panel members would not be available because of just other council jobs, et cetera. So he would, he became sort of the go-to person for emergency works, you might say.” You heard me read that out to you just now?---Yes, I did.

I read it out accurately?---Yes.

- 10 It’s the case that GWAC, to your understanding, had been involved in both major projects and minor projects. Correct?---Yes.

And can I suggest what you’re conveying in that answer there is that, to your experience and knowledge, GWAC were responsive at short notice. Correct?---Yes.

And they were, to your knowledge and experience, cost-effective, as well? ---That’s not necessarily what I'm referring to here.

- 20 But do you agree, as a general proposition, that, on the basis of your knowledge and experience - - -?---Well, that varies from project to project and case to case.

But, generally speaking, are you able to - - -?---You would have to assess that on a project-to-project basis.

Sure. I understand that. With that caveat, are you able to say as a general proposition that you found them to be cost-effective?---Yes.

- 30 And is it right to say that those features - responsiveness at short notice and cost effectiveness - were features that had some application in the period in which council was looking to deliver projects during COVID, for example? ---Yes.

Was there ever an occasion where Mr Webb conveyed orally or in writing a requirement that a contractor must be RMS qualified?---Do you have a specific example, ‘cause that depends from project to project.

- 40 Well, we’ll just work through this. So what does it mean to be RMS qualified? What does that expression mean to you?---Similarly, as there are

panels, RMS had panels. So those who have experience on large Transport for NSW projects, they would be pre-qualified on a similar panel.

And do you recall in respect of one or more projects, Mr Webb saying anything to the effect that there is a requirement that a contractor be RMS qualified?---Could you say that again?

10 Sure. In fact, I'll see if I can make it easier for you. Could you turn to page 19 of the document that you have before you? And so transcript page 19, from line 14, you see this appears. [REDACTED] to you, "And do you know if it was a requirement that the potential contractors were needed to be on the relevant RMS and State Government panel list?" You say, "So I remember this actually quite clearly in that once we'd gone out and I started digging into, you know, what the requirements, I know, you know, given that it's, it was a council road, but it's interfacing with a significant project, which is Metro, Bankstown Metro, you know, the requirement for RMS came from actually Ben putting it in, and it made sense, though, because that's a higher standard, you know? That's how you can hold them to varying, verifying the various road mixes or best practice, right, through the Minor Works
20 Panel. Through council standards, you can't really hold them to that. Perhaps Sydney Water can put that down in their requirements, but otherwise you can't really be, like, you are to adhere to RMS standard X, Y, Z. You'd be, you'd be, you know - so I remember that being a conversation that Ben had put in rightly, so I, so, and it made a lot of sense to me, but the checks around whether the respondents were RMS qualified, et cetera, like, I can't recall if that necessarily happened in the first, in the first round. And, like I said, there was two rounds. The open tender ended up having zero submissions, rightly, so files of contract were also not submitted." You heard me read that out to you just now?---Yes.

30

And I read it out accurately?---Yes.

Does that refresh your memory as to this particular issue that I'm inquiring about?---I remember that it was a requirement under the first tender, for the overall, just, the contractor, the, the tender for the contract for Appian Way, for the construction of the project. In that first tender, it was, our Procurement Team had actually, you know, it was recommended that we go through an RMS Panel, for those reasons stated previously, in, in that interview, that, so, yes, in that instance, yes.

40

THE COMMISSIONER: So, sorry, are we talking about the tender that didn't proceed, the first - -?---The one where we received zero submissions.

Yes, the submission one. Right. Thank you.

MR PARARAJASINGHAM: And, just so we're clear, what you're saying there is, on that tender, one of the things that Mr Webb suggested or recommended was that the contractor be RMS qualified. Is that right?

10 ---Yes.

You've been asked some questions about Mr Cossu. I'm just going to ask you a little bit about that. To your observations, it's right to say that Pietro Cossu was very well versed in construction?---Yes, from my understanding.

And it's also right to say, isn't it, that when you commenced at council, he sort of took you to sites from time to time, permitted you to shadow him and sort of spoke to contractors in your presence, that occurred?---Very rarely.

20 And do you recall him being involved in the QA checks for small projects, as well as large projects?---Like I said, he wasn't in my ward, and so I wouldn't have seen him in that capacity very often.

And is it right to say, from your perspective, and indeed, as you understood his experience, he was well versed in design and construction?---Yes, in construction, but I know his capacity in design.

You've got that document still before you. Can you just turn to page 23, please.---Yes.

30

And, just bear with me. Just give me one moment, sorry. Okay just cast your eye to line 20 of page 23. Do you see you referred to Pietro appointed on the tender panel. Do you see that?---Yes.

Then if you just sort of run your eyes over what follows and then picking up from line 29, do you see you say this in relation to Mr Cossu - -?---Sorry, could I have a moment to read it?

Sure. Just let me know when you're up to line 29.---Thank you.

40

Are you up to line 29 yet?---No. Yes.

So from, sorry, line 29, do you agree this appears, and you're speaking here in relation to Mr Cossu, "Yes, so the one that he removed himself on was the supply of the culvert but there is no doubt that he's clearly very, very well versed in construction and I say this because when I first started in council, he'd taken me to site and, you know, let me shadow him around, speaking to contractors, and you know like doing the, I guess, QA checks on, you know, albeit small projects at the time, but also large projects such as Milperra Drainage which was a significant drainage project and those
10 were complex projects, and from my perspective and from I think everyone's", going over the page to page 24, "perspective, he had, he's clearly well-versed in design and also construction." Do you agree I've read out that portion correctly?---Yes.

And that's something that you said to the ICAC investigators in March of this year, correct?---Yes.

You don't resile from any of that?---I agree with construction, but I've never seen him actually do design work.
20

In fairness to you, you do qualify your answer and say "from my perspective and from I think everyone's perspective", is it possible that in that answer where you referred to his design credentials, that may have been based on something that had been relayed to you as distinct from something you had observed. Do you accept that as a possibility?---That's a possibility, yes.

Thank you. Now it's right to say, isn't it, that for the period that you were at council, and you've touched on this in your evidence, the evidence, sorry,
30 the atmosphere was, and you use this expression, high energy. Do you agree with that?---It could be described that way.

And this was due, in large part, to the pressure that was placed on everyone to deliver projects. Do you agree with that?---Yes.

Can I just ask you to kindly turn to page 52 of the record of interview. And if you just follow with me, from line, this appears from line 12, so you're asked a question here about, or you're being questioned here about the atmosphere or the environment at council and you're asked a question about
40 the impact of impending local elections and your answer picks up from there, "I wouldn't say, no, I wouldn't say so. It was more commitment to

the community, more commitment to what was communicated during council meetings and also grant funding requirements that the asset management would, you know, say that we've got budget for this and if you don't use the budget at this time, we lose the budget, so I wouldn't say elections are a particular thing that was pushing us. We were aware of the election and we knew that we couldn't get things approved at council during the shutdown period of a, I've forgotten what it's called, but during that period, but I wouldn't say it was a particular driver, no." Question, "Okay, so when you say it was community needs and promises to the community made by whom?" You say, "Often times by the councillors and we do, we would take the councillors on site visits and we would have this process of the comms team having, doing pre-emptive briefs to the councillors that we are scheduled to do this project at this time and the councillors may go and speak about it and we would be told that, well, Councillor El-Hayek has communicated that we're doing this carpark upgrade wherever, that's the date that's been promised so, or this park is due to open because it's summer and the kids need a place to play and it's Western Sydney." Question, "And were they realistic deadlines?" You say, "Not always, no." Question, "Often, mostly, sometimes?" Over the page, "It's possible if you don't sleep, you know what I mean." Question, "So it made life difficult?" Answer, "It did make life difficult for all of us." You've heard me read that portion out to you?---Yes.

I read it out correctly?---Yes.

And does that sort of capture part of the environment at council?---Do you mean in reference to the pressure?---Certainly.

MR RAUF: Sorry, Commissioner I do object to that on this basis, that the question has been couched in terms of the council. Now what that precisely means in areas or persons or units or what we've heard from this witness speaking in terms of a ward, so as it's couched it's liable - - -

THE COMMISSIONER: Well it's a bit vague, but I think Mr Pararajasingham is just trying to build up an atmosphere of, you know, everyone working very hard, lots of pressure, all of that. That's the way I take it anyway.

MR RAUF: Yes, thank you.

40

MR PARARAJASINGHAM: The question was framed deliberately broad, Commissioner. It picks up on a line of questioning that I've adopted in this enquiry to date and really what I am exploring with this witness is trying to get a sense of the sorts of pressures that we're operating for time and I am simply asking this witness whether - - -

THE COMMISSIONER: That's all right. I'm allowing it, Mr Pararajasingham.

10 MR PARARAJASINGHAM: Yes. So I will just ask you this way, you don't resile from anything you've said in that extract I've taken you to? You agree that it's accurate?---Yes.

Thank you. Just finally, you gave some evidence about a conversation with Mr Webb after you learned that Mr Cossu had withdrawn from the evaluation panel. Do you remember giving that evidence?---Yes.

20 And it's right to say that in that conversation with Mr Cossu, when he advised you that he intended to withdraw from the evaluation panel, that didn't cause any alarm in your mind at the time, did it?---Not at that time, not then.

Sorry, I missed that last bit?---Not then.

THE COMMISSIONER: Not at that time.

MR PARARAJASINGHAM: Yes. As you approached it, that was a matter for Mr Cossu, correct?---Yes.

30 And what it did mean for you in a practical sense is that you would need to find a replacement panel member, correct?---Correct.

That's what sort of activated your mind when you had this conversation with Mr Cossu. Do you agree with that?---Yes, that was my thought process.

Certainly. And that required you to speak to Mr Webb, didn't it?---As my manager, yes.

Yes. So this development and, can I suggest, the need for that slot to be filled, prompted you to have a conversation with Mr Webb. Do you agree with that?---Yes.

And it's right to say that around this time you were having regular conversations with Mr Webb about any number of topics?---I mean define regular.

Sure. Sort of a few times a week?---A few times a week, yes.

10

Okay, thank you. You don't recall this particular conversation being lengthy?---No, I don't remember it being lengthy.

I gather you didn't take a note of this conversation, correct?---I can't recall.

But as you sit there now, you're unable to point to a note that you took at or about the time of this conversation with Mr Webb? I'm not suggesting you should have, I'm just enquiring as a question of fact.---I may have taken a note, but again this was some years, like it was two years ago.

20

Sure. And I think you described Mr Webb's demeanour at the time of this conversation as, as a matter of fact, or maybe that was put to you and you embraced it. Did you recall giving that evidence, that he was very matter of fact?---Yes.

And I think you said that was sort of his disposition generally at around this time at council?---Yes.

30

This was, as we've established, a busy time, a chaotic time. Do you agree with that?---I agree with that.

And it's right to say, isn't it, that this is a conversation that must have occurred around March 2022, does that sound about right?---It was right after that email, or in between that email being sent to the Procurement Team, so yes.

Right. So you accept that in all likelihood it took place in about March 2022?---Yes.

And given the passage of time from that conversation to date, it's right to say that you don't have a precise recollection of that conversation. Do you agree with that?---Not a precise recollection.

And just finally can you turn over to page 54, please, of this record of interview. And do you see from line 10 you're asked about this conversation, and this is what you say firstly, "Yes, of course. Yeah, yeah, I was very confused because you'd already been working with GWAC all this time, you know? So I was quite confused as to why, why is it a problem
10 now." And then you're asked, "Do you think Ben would have been made aware that he declared a conflict?" You say, "Yes, because I told him that, you know, that this was the panel because he would have to sign or he'd, he'd, the Evaluation Panel would have to go through him so he would have known who was on the original panel. Now subsequent to that he also assigns or sees the evaluation report so he would know that Pietro is not on it, so he knows that, that he was removed from the panel." The question is asked, "You're assuming this or you know this?" Your answer, "I know this because I told him in one of the meetings that, you know, we're about to evaluate. We've had a bit of a delay because we have to appoint someone
20 else." Do you agree I've read that portion out correctly?---Correct.

And you don't resile from that evidence?---Well, I now, following the commencement of this Commission, have been able to remember exactly that moment when, right after Pietro had said it, said, declared the conflict of interest, that he wanted to be removed from the panel, I remember going into Ben's office.

Certainly. I'm not disputing any of that but I'm just asking that what you've said there, you accept what you've said there is an accurate account of what
30 occurred?---Well - - -

THE COMMISSIONER: Were you indicating it was accurate but you've now recalled more detail?---Yes.

MR PARARAJASINGHAM: Commissioner, those are my questions.

THE COMMISSIONER: Yes. Mr Sutton.

MR SUTTON: Thank you, Commissioner. My name is Sutton, I'm Mr
40 Cossu's legal representative. Excuse me. Can we just stay just at the moment, it wasn't where I was intending to be, but just on that point we've

just had, because I'm just a little bit confused. As I recall your evidence this morning when you were shown email, shown two emails, and you said between those emails there was about a seven minute gap, as I understood it, and if I'm wrong, please correct me, that that was when you went in to see Mr Webb to tell him about - excuse me, excuse me one second - about Mr Cossu taking himself off the panel, is that correct?---Yes.

10 But in this answer you say, "We've had a bit of a delay because we have to appoint someone else."---As I've just said, I recalled further details since this interview.

Okay. Can you just go through those details again for me because I must have missed something.---So from what I remember we had received the Tender Box, the email from Procurement listing out who, the respondents - -

20 THE COMMISSIONER: Can you just keep your voice up a bit please. ---Sorry, who the respondents were, and with that the conflict of interest request. I had received all the conflict of interest submissions from the other panel members. Pietro hadn't yet submitted his so I approached him. He then told me he didn't want to be on the panel anymore due to him knowing Jeremy on some capacity and was quite friendly with him. I then proceeded to go to Ben, had a brief conversation with Ben whose office wasn't very far from mine, from where I sit. Had that conversation, then went the, went back to my desk to email Procurement.

30 MR SUTTON: Okay. Going back to what Mr Pararajasingham was talking to you about in relation to the environment that was going on at the time, you did say in your interview at page 51, line 9 or 10, it's a number that seems to be out, but anyway, you're talking about 200 projects being on the go.---Could you repeat what line it was on.

Well, it looks, it's about line 8 but I'm not sure the line numbers are accurate, but it's the third line in the first major paragraph.---Yes.

200 projects, does that assist, or was it more? Have you had more memories since then?---Well, it was within, yeah, within the Capital Works Program it was roughly 200.

40 Okay, and the environment at the time, excuse me, it's put to you if you look above of what's the third typed line, Mr [REDACTED], "Yeah, okay, now

it's come up that there were time pressures." You, "Yeah." Him, "Is that an understatement?" And you say, laughs, "It's an understatement, yes, absolutely. We were working all hours of the day and night. Yes, there was huge pressure. You know, we would sit in these weekly meetings and we would go through 200 projects, each project. There was no rhyme or reason that, hey, you know, for a procurement under 100, these are the documentation that we need and these are the approvals that we need," and it goes on. And you go on further in there using the word chaotic to describe the environment at the time. Do you agree with that?---Yes.

10

You also described it as being brutal, do you recall that?---No, not specifically, I don't recall that.

Just give me a second. Page 11, line 11. "And so each day was actually quite brutal."---Yes.

So we've got a chaotic, brutal time-pressured workplace on your description. Do you agree with that?---Yes.

20 And that was causing processes to change.---Well, I don't know what was causing processes to change. Those were decisions made above me.

Were processes changing?---Yes, they were.

There was an under-resourcing issue. Would you agree with that?---Yes, I agree with that.

30 And people didn't always stay working in the wards they were in. From time to time people would move. Do you agree with that?---On occasion, yes.

Excuse me, Commissioner. I'm not playing with my phone but I just need to refer to something.

THE COMMISSIONER: Yes, sure.

MR SUTTON: With respect to Mr Cossu, he was seen as an experienced resource in the office.---Yes.

40 And people would call on him for advice from time to time given his experience.---Yes.

And indeed you and Mr Dankaro asked him to come to your ward and look at a particular Greenacre Road Works project.---Yes.

And you asked him to assist you and give you opinions on variations that were being sought.---No, I can't necessarily recall that.

And I suggest to you you got him to negotiate on price with a contractor to assist you.---I don't recall specifically myself asking, no.

10

But you do agree that you called into that location and asked him to give you advice.---Yes, on that location, yes.

THE COMMISSIONER: Sorry, is this at Greenacre Roads, is it?---Yes, at the Greenacre Roads Projects, yes.

MR SUTTON: What do you say he was there for?---He was there to look at a constructability issue.

20 And I suggest to you there were variations on that that were being sought and that was what you were looking for advice on.---In the first instance I was looking to find a solution to how we could build this.

In the first instance, and in the second instance?---If there was a variation. There may have been a variation but I can't recall specifically for that project.

Okay. So you're not saying it didn't happen. You just can't recall.---I can't recall.

30

Thank you. In respect of GWAC and Mr Clarke, do you recall saying that, "He was always on time, always really respectful, always pretty hardworking, like he'd always get the job done. Yeah, never really had any issues with him. Very polite person. Like I said, I never really worked with him in detail." Do you recall?---Yes, that was my experience, yes.

While we're talking of experience, excuse me - - ?---Sorry. Could I just ask, was that in reference to a specific time or project, what you just asked?

40 It's an answer that you gave when you were asked to describe Mr Clarke - - -?---In a general sense - - -

- - - in a series of questions. Counsel assisting will clear it up if she needs to.---Yeah. In a general sense, yes, that's true of my experience with Jeremy.

Before you commenced working at council, where had you worked?---I worked at, immediately prior to that, TSA Management.

10 Sorry? What was that?---TSA Management, project management - - -

And how long were you there for?---A year and a half, maybe more? Can't remember exactly.

Sure. And before that?---Before that, I was at Lendlease.

And how long were you there for?---Again, a year and a half.

And before that?---CPB Contractors.

20 And before that?---Is that relevant? I'm trying to understand what you're getting at.

I'm asking, so it's relevant. Yes.---Sorry?

I'm asking, so it's relevant. Yes.

THE COMMISSIONER: Doesn't necessarily follow, but, yes. Don't worry about whether it's relevant. Just answer.

30 MR SUTTON: And how long were you at CPB for?---A year.

And before that?---Before that, I was a student.

So when did you graduate?---2018, sorry, yes, 2018.

Okay. Thank you. And I accept that, Commissioner. I accept what you say. Now, you've told us a number of times, that you were uncomfortable with the Appian Way Project and the matter progressing forward. Do you recall saying that?---In relation to the GM report, yes.

40

So were you a team leader, I know you said you were a team leader and project manager, but does that elevate you to the team leader role principally and you were filling that also with project management? Were you a project manager with some team leader responsibilities?---I was a team leader and a project manager.

10 So if you were uncomfortable, you had the opportunity to issue a stop work notice or even – I withdraw that. You had the ability to say no, we’re not accepting this contract, is that correct, or not accepting - - -?---In what, in what context?

- - - GWAC as a contractor?---Yes. Yes. In consultation with the team.

And if you were uncomfortable, why didn’t you do that?---We did try and proceed down that route, actually, and we did eventually notice, issue a contract letter.

20 But your evaluation, I’m talking about rather than letting the evaluation go out and GWAC being retained, you permitted that to occur - - -?---Could you be a little bit more specific? I’m not understanding the timeline as to what you’re speaking about.

Well, how many – we’re talking about the Appian Way Project. Yes?---Yes.

How many contract tenders did GWAC get on that project?---Just the one.

30 So doesn’t it stand that we’re talking about that one?---I’m asking you as to what do you mean by when the stop works notice, where is the stop works coming - - -

I said – sorry. I withdraw that. Didn’t mean to talk over the top of you. In relation to awarding the contract to GWAC, that occurred. You agree with that?---Yes, the contract was eventually awarded.

Why didn’t you stand in the way of that? Why didn’t you stop that?---As mentioned, they were the last ones remaining, and we had a program to meet.

40 So time pressures?---Yes.

In relation to the slump-testing issue that you spoke about earlier on, doesn't that test the amount of water that's present in the concrete?---Yes, it does.

It's not really a strength test, is it?---No, but I suppose my general response was that it was a QA pre-pour.

But you said it was a strength test, and it's not a strength test, is it?---No, it's not a strength test.

10 And wasn't, in fact, the slump test performed by an independent third-party company?---Not that I recall. I remember being shown a slump test.

And I suggest that was done by an independent third-party company.---I can't recall at this time.

You don't recall or you just don't know?---I can't recall at this time.

But do you accept that's a possibility?---It is a possibility.

20 But that wasn't a possibility that you offered counsel assisting earlier, was it?

MS HUXLEY: I don't think she ruled it out as a possibility. We were talking about a specific instance at the pre-pour inspection.

THE COMMISSIONER: That's correct, yes. We were talking about, on 16 September is what we were talking about or she was talking about, I believe. Is that what you're talking about, Mr Sutton?

30 MR SUTTON: The first pour where the slump test occurred.

THE COMMISSIONER: The slump at the pre-pour on 16 September - - -

MR SUTTON: Yes.

THE COMMISSIONER: - - - you're suggesting to the witness was undertaken by a "third party"?

MR SUTTON: Yes.

40

THE COMMISSIONER: That third party, are you able to identify that to the witness, to assist her?

MR SUTTON: I don't have, I don't, I can't, your Honour.

THE COMMISSIONER: Okay.

MR SUTTON: I just, those are my instructions. It was an independent third party that performed that test, who was present on the scene that day.

10

THE COMMISSIONER: Okay. All right. That's as good as it gets?

MR SUTTON: Yes. Excuse me, Commissioner. I'll just go through these and make sure I don't duplicate with my friend. You said in the record of interview that you'd never heard of PMLV before, before you were spoken to by ICAC. Is that correct?---At the time, that was my recollection.

So you're aware that – sorry. I'll just explore that. What do you mean “at the time, that was my recollection”?---At the time of the interview.

20

Have you got another understanding today?---Well, when I heard of Comensura again, I recalled that at that time, I had briefly heard of PMLV.

Because there were, and I'll tell you, there were 26 at one point in time, or 26 people who were retained through PMLV, who were working there across the time that you were there. Do you understand what I'm saying? ---Yes, I do understand.

And, in fact, there's a gentleman sitting at the back today, you understand, is a friend of yours - - -?---What does friend - - -

30

- - - Najee, and I apologise if I get his surname wrong, Sumreen?---Yes.

And he worked at council the same time as you?---Yes, he did.

And he was employed through PMLV?---Yes.

And I suggest to you, you would have heard of PMLV through him.---I can't recall specifically hearing of PMLV specifically.

40

But you knew he was employed through Mr Cossu?---Yes, that I knew.

And you said you didn't raise this with anyone – sorry, I withdraw that. You were asked if you raised the PMLV issue with Mr Webb. Do you recall that?---I didn't say that I'd raised it with Mr Webb - - -

No, you didn't. Just listen to the question I asked. You were asked if you raised it with Mr Webb. Do you recall that question?---Yes.

And you said you didn't?---Yes. Not to my memory, no.

10

You ask this Commission to accept that you were satisfied on the word of Mr Trapman. Is that correct?---Yes. Yes.

So Mr Trapman doesn't work at the council?---No.

Mr Trapman might be considered as having investment or a basis for preferring one deal over another, in other words, he doesn't have the council's best interests at heart?---That may be the case.

20 And you seriously didn't raise this issue with Mr Webb or Mr Vangi or anyone else in council?---I can't recall.

Can't recall. So you could have raised it with them?---I might have mentioned it in passing to Peter Anderson, but I can't recall.

And did they say anything to you when you might have mentioned it to them?---I can't recall.

So you knew – sorry. I withdraw that.

30

THE COMMISSIONER: Can I just ask you, if you don't mind, Mr Sutton, can I just ask you, Ms Bhuiyan, when you inquired with Mr Trapman, was that by telephone, in person, by email, do you - - -?---Over the phone.

And I think that when you spoke about it earlier today you said you couldn't put a time on that but you thought it was prior to Comensura's involvement?---(No Audible Reply)

You're nodding.---Yes.

40

How long prior? Do you have any recollection?---I wouldn't be able to say.

MR SUTTON: May I continue, Commissioner?

THE COMMISSIONER: Yes, please.

MR SUTTON: Sorry, I didn't want to interrupt you.

THE COMMISSIONER: Sorry to interrupt. I just - - -

10 MR SUTTON: No, no. No. There'll probably be an objection to this but I need to put this to you. Let me think about how I frame this. Mr Cossu never approached you directly to say he was going to go to Wollongong or do anything without your involvement with respect to GWAC and any concrete pours for moulds. So he didn't come to you and personally say to you, "I'm excluding you"? He wouldn't have used those exact words but to the effect that he wanted to exclude you from any involvement in those pours?---He didn't specifically say to me ever that he would be excluding me, no.

20 Not from that and not from anything else?

THE COMMISSIONER: Well you - - -

MR SUTTON: Any other project work in council?---Not explicitly in those words to me, no.

I don't know if Mr Dudley is being called at any stage but I want to suggest to you that Mr Dudley was never told that Pietro Cossu wanted to exclude you from a matter.

30

MS HUXLEY: Well, I'm not sure the witness can - - -

THE COMMISSIONER: No, no, that wasn't it.

MR SUTTON: No, I know.

THE COMMISSIONER: It was that Mr Dudley informed her that Cossu had suggested that Dudley and he drive to Wollongong and then she commented that Mr Dudley had thought it was strange that she was
40 excluded from the conversation.

MR SUTTON: Yes. I think that's as far as I can go with that issue, your Honour, because - - -

THE COMMISSIONER: So, but what are you putting, if anything, in that regard, Mr Sutton?

MR SUTTON: The first proposition, that Mr Cossu wasn't intentionally excluding her from anything.

10 THE COMMISSIONER: Well, that's another proposition. That's - - -

MR SUTTON: That's the proposition I've got to put, that he - - -

THE COMMISSIONER: Well, how would she know if he was intentionally excluding her? That's - - -

MR SUTTON: That he never said that to her directly, that there was no - that's as far as I can go, unless someone else is - - -

20 THE COMMISSIONER: I think the witness agrees that Mr Cossu never walked up to her and said, "I'm excluding you."

MR SUTTON: Yes, correct.

THE COMMISSIONER: We can agree on that, can we, Ms Bhuiyan?---
Yes, we can.

MR SUTTON: Thank you.

30 THE COMMISSIONER: But were you putting some proposition about what Mr Dudley did or didn't do?

MR SUTTON: Well, I can't really because I've got issues with hearsay and Mr Dudley is not here. I don't know if he's coming.

THE COMMISSIONER: Well, I mean, if you want him we can think about getting him. Would you like us to do that, Mr Sutton?

40 MR SUTTON: I'll take some instructions, your Honour, and I'll come back to you.

THE COMMISSIONER: Okay. If you'd let Mr Baine know ASAP if you -
- -

MR SUTTON: Certainly. Almost at the end.

THE COMMISSIONER: That's all right, Mr Sutton. Take your time.

MR SUTTON: Sorry to be jumping around. Just so it's clear for me.
Again, in the record of interview, page 60.---Yes.

10

Line 5, "The submission makes it fairly clear they're not" – sorry. This is
GWAC, and again about the construction of the culverts and concrete
precast.---Yes.

Do you accept there is says, "The submissions makes it fairly clear they're
not manufacturing", that is GWAC, "any of the concrete items themselves."
See that?---Yes. That wasn't me saying that, that's not me saying that.

20 No. And you say, "Ah-hmm", and then he says, "They were going to get it
from elsewhere." And you say, "So I, that was my understanding but then
we were discussing in the team and some of us had different points of
view." I just want to understand in terms of timing, or chronology, are we
talking about the initial – sorry, in this sequence of questions, are they
talking about the initial response to the tender that GWAC, Mr Clarke,
provided or is this somewhere after a clarification?---It could have been any
time during the submission. It just says "the submission" there.

30 Yes, and I'm asking you to think about that and tell me to the best of your
knowledge was this at the beginning or was it after some kind of
clarification?---It must have been after some clarification.

Why must it be?---Again, as mentioned earlier, initially the understanding
was that GWAC were manufacturing at the beginning themselves.

Well, that's what I'm trying to understand from this because this can be read
as them initially making it clear to some but not others that they were not
manufacturing.---Sorry, what's your question. That this, what time period
this is referring to, what part of the process?

40 Yeah, yeah. The proposition that's set out by the questioner at line 5 and 6
that you then say "Ah-hmm" to, and then you talk about, "that was my

understanding but others had different viewpoints” at lines 9 and 10. Was that in the initial supply of documents or was that post clarification?---It’s likely post clarification.

THE COMMISSIONER: I’m at a disadvantage in that I don’t have a copy of the record of interview in front of me. So could you - - -

MR SUTTON: Certainly. I’ll read it out.

10 THE COMMISSIONER: All right.

MR SUTTON: So line 1 - - -

THE COMMISSIONER: So the questioning is about when the witness became aware that GWAC wasn’t doing the manufacturing, is it?

MR SUTTON: Well, ultimately yes but it’s about the answers to these particular questions.

20 THE COMMISSIONER: Yes, yes.

MR SUTTON: So I’ll go back a bit and hopefully it will assist, Commissioner.

THE COMMISSIONER: Okay.

MR SUTTON: [REDACTED], this is on line 1, “Okay, thank you. GWAC’s submission you would have read.” Your answer, “Yes.” [REDACTED], “Their submission would have been discussed.” Your answer, “Yes.” [REDACTED],
30 “The submission makes it fairly clear they’re not manufacturing the, any of the concrete items themselves.” You, “Ah-hmm.” [REDACTED], “They were going to get it from elsewhere.” You, “So I, that was my understanding but then we were discussing in the, in the team meeting and some of us had different viewpoints on the reading of that.” Right. So, the question that I want – or sorry, the issue that I’m trying to get to the bottom of, is when was it that it was fairly clear to you, within the context of this answer here, were the declarations, if I can use that word, that he was not manufacturing himself clear to you on the initial documents, or was it post some - - -?---It was post some clarification.

40

And on what do you base that “post some clarification”?---On what basis?
Because, as I have said, in the initial submission it was GWAC proper.
Like, that was out interpretation.

It was what, sorry?---GWAC proper. Like, General Works & Construction
proper.

10 What do you mean GWAC proper? I’m sorry, I don’t mean to be difficult,
I’m just not understanding your terminology.---Yeah. As in we weren’t
aware of any subsidiaries or other entities being associated with General
Works & Construction.

Thank you.

THE COMMISSIONER: All right. Now, can I just make sure that I’ve got
your position clear? So that initially it appeared to you that GWAC was
doing the manufacturing?---Yes.

20 At some point after “clarification” you formed the view that GWAC itself
either wasn’t or may not be doing the manufacturing?---My understanding it
was still within General Works & Construction.

Or do you mean it was at least with an entity associated with GWAC?
---Yes.

30 All right. So after some clarification you believed that at least the
manufacturing was being done by an entity associated with GWAC. Is that
what you’re saying or not?---Yes, that it was associated with General Works
& Construction.

Okay. Perhaps I might be misleading you a little bit here, just for
clarification, when you agreed that you came to the view that it was being
done by an entity associated with GWAC, do you mean an entity that was
part of the general company structure of GWAC or do you mean that it
could have been an independent third party that just had an arrangement
with GWAC?---That it could have been an independent third party
associated with GWAC. I can’t - - -

40 Just a third-party subcontractor.---Yes.

MR SUTTON: Would your Honour excuse my back for a moment.

THE COMMISSIONER: Maybe I better follow up on that, Mr Sutton. If you then formed at some stage a view that it was or could have been being manufactured by a third-party subcontractor to GWAC, what, if anything, did you do about the fact that that had not been disclosed?---So my understanding was that that had been clarified through that financial check process that Procurement had undertaken around the company structures, et cetera. So for me once I had the go ahead from Procurement, that's their remit, from my understanding.

10

So you thought Procurement had given it the green light, whatever it was?
---Yes.

Okay.

MR SUTTON: Can I just speak to my client, just for one moment.

THE COMMISSIONER: Sure.

20 MR SUTTON: Thank you. Thank you, Commissioner. That's my questions.

THE COMMISSIONER: All right. Were there any further questions from anyone, other than Ms Huxley. I should have qualified that. Yes, Ms Huxley.

MS HUXLEY: Thank you, Commissioner. I took you earlier today to the GWAC submission where they filled out questions. Do you remember that?---Yes.

30

And when asked who would be doing the work or whether there were subcontractors it said Mr Clarke.---Yes.

There was a clarification. I took you to the response to that clarification which indicated that GWAC had a facility in Wollongong. Do you remember that?---Yes. Yep.

And then in the General Manager's report that particular part of the clarification was included.---Yes.

40

So during the evaluation process was it your understanding throughout that process that GWAC or an entity associated with Mr Clarke would be manufacturing the culverts, pipes and pits?---Yes.

10 THE COMMISSIONER: Hang on. I thought you just told me something different, Ms Bhuiyan.---So during the initial evaluation process my understanding was, yes, that it was General Works & Construction, but further to that if there's a certification required or, you know, there's a number of Australian standards that needed to be met around compliance, those could be verified, or they may have engaged a third party around that, but in terms of the production, my understanding was that it was the General Works & Construction production facility.

MS HUXLEY: Or a facility otherwise operated by one of Mr Clarke's companies.---Yes.

THE COMMISSIONER: I think we're all a little bit confused by this.

20 MS HUXLEY: That's why I thought it worthwhile trying to clarify this. And that is what her evidence was earlier today.

THE COMMISSIONER: I thought it was, and then because the way she expressed herself I sought some further clarification which I thought I got, but now it appears perhaps - - -

30 MS HUXLEY: Well, I think that's why the timeline of the submission clarification and the General Manager's report is important because throughout, from the material that we've reviewed it seems as though at all times it was understood that there wouldn't be a subcontractor.

MR SUTTON: Well, Commissioner, the answer was very clear. The answer and the record will show it, that - - -

THE COMMISSIONER: Well, the early answer was clear and the later answer also appeared to be clear but they did appear to be different.

MR SUTTON: Yes.

40 MS HUXLEY: Which is why I'm returning to it.

MR SUTTON: But also - - -

THE COMMISSIONER: Anyway, look - - -

MS HUXLEY: In fairness to the witness, the more recent answer was given in the context without having been taken to the series of documents that I had taken her to earlier.

THE COMMISSIONER: Yes. Can I just try to.---Okay. Yeah.

10 I did ask you at some point whether you thought the manufacturing, that is, the production, presumably means more or less the same thing, the fabrication, let's say, I was intending to ask you whether at some point you thought that it was at least being done by an entity associated with GWAC. Do you remember that?---Yes, as in General Works & Construction.

And then I asked you to, if you could clarify when you said it was being done by an entity, whether that was like a corporate entity in the same company group, if you like, as GWAC, or whether it could be an independent third party subcontractor.---In terms of the manufacturing my
20 understanding was it was General Works & Construction themselves.

Themselves or - - -?---As in, and an associated, like within the General Works & Construction - - -

Well, what did you think might have been being done by a third-party subcontractor?---So the structural certification perhaps, that may have been done by someone else.

I'll allow you to ask some more questions if you want, Mr Sutton, in a
30 minute.

MS HUXLEY: Well, perhaps Mr Sutton should ask those questions, and then - - -

THE COMMISSIONER: Yes, all right. Mr Sutton, do you want to?

MR SUTTON: Your Honour, I think I just rely on the record. Your Honour's last question was quite clear and the answer was independent contractor or third party was one of the variables that could have been there,
40 so this tidying up to get a more acceptable answer is I think really, well, I'll

leave my words to the written page, but, your Honour, the answer to your Honour's question was quite clear.

THE COMMISSIONER: We might have to go back to the documentary evidence to see what was actually happening at the time, I suspect, Mr Sutton.

MR SUTTON: And, Commissioner, without being, using platitudes, the question you asked was very clear and the answer was very clear, and
10 frankly to re-examine in is of no assistance.

THE COMMISSIONER: That's all right. Did you have anything further, Ms Huxley?

MR SUTTON: Sorry, the other part is, your Honour, when your Honour asked the question there was no suggestion about third party doing testing or pulling things apart.

THE COMMISSIONER: No. I didn't think so.
20

MR SUTTON: It was only about manufacturing or fabrication.

THE COMMISSIONER: Yeah.

MR SUTTON: And now we have the witness volunteering constructors doing tests and things that were never part of any questions.

THE COMMISSIONER: Yes, Mr Sutton. Did you want to say something, Ms Bhuiyan?---Mr understanding was that General Works & Construction
30 were manufacturing the culverts.

Okay. All right. Ms Huxley.

MS HUXLEY: Commissioner, I think I might just need five minutes to go through a document to see if we can track down the reference to what Mr [REDACTED] is talking about in that question, in the questioning of Ms Bhuiyan. I can ask some more questions and maybe have a very short adjournment for that to take place.

40 THE COMMISSIONER: Sure.

MR RAUF: Commissioner, can I just briefly interrupt, I apologise about this, there was one issue I had to clarify with your leave in relation to one of the answers given where I wanted to raise it now in case, assuming I'm permitted to seek that clarification, whether I do it now or at a later stage.

THE COMMISSIONER: Okay. Is it do with this thing that we've been stuck on, Mr Rauf?

10 MR RAUF: No. It was the reference to the and reliance in the Procurement Team in respect of a financial check.

THE COMMISSIONER: Oh, well, everything's becoming a bit messy so I may as well make it worse. Yes. Why don't you ask the question now.

MR RAUF: I'll hopefully try and bring a bit more clarity to the Commission. Ms Bhuiyan, you were asked questions about the financial check relating to GWAC, I think, as you've referred to them and why you didn't raise it further or act upon it and you referred to relying on the Procurement Team giving it the green light. Do you recall that?---Yes.

20

Now, the Procurement Team, they undertake what's referred to as an Equifax report.---Yes.

And for the Commission's assistance, can you explain what is that?---So that's a check that's done to clarify the contractor's financial capabilities and a score is given associated with that.

30 And as the relevant project manager, upon getting that report, if you had any concerns or issues, it is a matter that you still can and ought to raise, for instance with your manager?---I had spoken to Ben about it and mentioned that, you know, the financial check and failed.

THE COMMISSIONER: Sorry, who mentioned that, you or him?---I would have said it to him but I can't recall exactly.

MR RAUF: And in raising it, you were exercising what you saw as your duty as the project manager, to raise any issue of concern with your manager?---Yes.

40 And that was something which you understood was an aspect of your role as the project the manager in respect of this project?---Yes.

All right, thank you, Commissioner, that was the matter.

THE COMMISSIONER: All right then. Now, Ms Huxley, you had some other questions before we came back to the messy one?

MS HUXLEY: You were asked earlier about your view of Mr Clarke and you gave a general assessment of him and then asked Mr Sutton if he was referring to a particular project or period of time. Did you want to qualify
10 the evidence that you gave in relation to your assessment of Mr Clarke as a person to deal with?---Well, he wasn't timely on the Appian Way Project, he wasn't responsive on the Appian Way Project.

But in relation to other projects, in your experience, was he?---Generally yes.

Was that more in relation to the minor projects as opposed to the larger projects?---Yes.

20 And Appian Way was quite a large and complex project?---Yes.

Commissioner, if I could just have five minutes to check the submission to see the basis for Mr [REDACTED]'s question then it might help clarify things.

THE COMMISSIONER: Yes, certainly. All right. We'll take a very short break, then we'll come back very briefly to you, Ms Bhuiyan. I'll adjourn.

SHORT ADJOURNMENT

[3.23pm]

30

MS HUXLEY: Thank you, Commissioner. I think it might be better just to go back to the original GWA submission, to take the witness through that and ask questions about what her understanding was about subcontracting arrangements, if that's suitable.

THE COMMISSIONER: Yes. I mean, you've already asked her in her initial evidence. Is there more beyond that?

40 MS HUXLEY: Well, I think just to get to the bottom of what her understanding was and what the effect of the GWAC submission was. I

won't take her to the references that I've already taken her to but there may be other parts of the submission.

THE COMMISSIONER: All right. You can ask anything that arises out of it, Mr Sutton, if that's your concern, yeah.

MR SUTTON: Well, it is, but I also note we've already been through this process once so - - -

10 THE COMMISSIONER: Anyway, this is an investigation.

MR SUTTON: Of course.

MS HUXLEY: So I took you to a response in relation to details of subcontractors.---Yes.

And it said Mr Clarke was the, well, details of staff nominated to perform the services or subcontractors.---Yes.

20 It was just Mr Clarke in that. If I can take you to volume 31.10, page 22.

THE COMMISSIONER: That's going to come up, is it, Ms Huxley?

MS HUXLEY: So that was a company profile submitted with the tender submission. Do you recall seeing that document?---Yes.

And it's not clear from that document whether GWAC has the capacity to fabricate precast concrete items.---Not specifically, yes.

30 And if I take you to the next page page 23, that's the structure. Again it's not clear from that document.---Yes.

Are you agreeing with me it's not clear from that document?---Yes, it's not specific in that document.

And then page 34 is an outline of the project delivery plan and methodology.---Yes.

40 There it says, "Delivery box culvert supply will be limited to two units produced per day."---Yes.

And then under the pipe there's reference to the suppliers interstate.---Yes, it does say that.

But it's not clear from that document whether a subcontractor is being used for that supply or whether it's his own, or entity associated with him facility interstate.---Yeah, that's not clear.

And is that why clarification was issued in relation to the production facility?---Yes, it was.

10

And we've gone through those documents produced by Mr Clarke in relation to that clarification.---Yes.

And so during the Evaluation Panel process and the evaluation of this tender was it your understanding that a subcontractor would be used?---Not during the evaluation, no.

In preparation of the General Manager's report was it your understanding that a subcontractor be used?---No.

20

You were taken to page 60 of your interview and you refer to a company called Obnova.---Yes.

When do you first recall hearing that name in connection with this project? ---My first recollection was around the shop drawings which are required to be certified.

Was that before or after the award of the project to GWAC?---After the award.

30

THE COMMISSIONER: So what are they called, the shop drawings? ---Yes.

So it was in connection with the shop drawings that you became aware of the name Obnova, is that it?---Yeah.

Is it slump or stump, the test?---Slump.

40 Slump test, you were asked some questions about whether a third-party contractor had conducted that. Do you know if a third-party contractor had conducted a slump test?---No.

You didn't see a third-party contractor conduct one on the telephone video conversation you had with Mr Cossu?---No, I did not.

Would that be a requirement by council that it be independently tested by a third party?---I can't recall it specifically being noted.

If it was a requirement, would you expect there to be a record of that testing having occurred?---Yes.

10

And would that be kept on council records or GWAC records?---It would need to be submitted to us, as part of the quality assurance documents.

Those are my questions, Commissioner.

THE COMMISSIONER: Did you have anything, Mr Sutton?

MR SUTTON: No, no, Commissioner.

20 THE COMMISSIONER: Or anyone else? All right. Can this witness be released from her summons?

MS HUXLEY: Yes, Commissioner.

THE COMMISSIONER: Yes, thanks. You're released from your summons. That's the end of your evidence to the inquiry. Thank you. You're free to go.---Thank you. Do I return this to you?

30 Yes. My associate will take that from you, thank you.---Thank you so much.

THE WITNESS EXCUSED

[3.40pm]

THE COMMISSIONER: Now, what did you want to do, Ms Huxley? You have another witness present. Did you want to start the other witness?

MS HUXLEY: I think so, Commissioner.

40

THE COMMISSIONER: Yes.

MS HUXLEY: Keep it moving.

THE COMMISSIONER: Yes. All right. Good. I think that's Mr Dankaro. Mr Dankaro, would you come forward, please? Can you just take a seat there for a minute? I'll give you some information. Mr Dankaro, I understand that you don't have a legal representative. Is that correct?

MR DANKARO: Yeah.

10

THE COMMISSIONER: All right. Now, at this public inquiry, 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 thing that you're required to produce by summons or that I require you to produce. You must answer all of the questions and produce any documents, even if the answer tends to incriminate you. However, you can take an objection to answering or producing a document and if you do take the objection, that will mean that your answer or production can't be used against you in criminal or disciplinary proceedings. That's in the event that you're still employed by council or whatever. I can't recall what the situation is. However, any protection you get by taking an objection will not protect you if you are prosecuted for an offence against the ICAC Act or if proceedings are brought for contempt of ICAC, contempt of the Commission. For example, if you were to give false evidence, any objection that you had taken would not prevent that false evidence being put up as evidence in the prosecution. Do you understand that? Right. So to gain the benefit of the protection, you don't have to object to every question or every production. You can take a blanket objection at the beginning and then that will cover you throughout. I take it that you would like to take a

20

30

blanket objection?

MR DANKARO: That is correct.

THE COMMISSIONER: Yes. 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.

40 **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.**

THE COMMISSIONER: On a different topic, if you've got any trouble understanding anything, ask for it to be rephrased or if you can't hear, ask for it to be repeated. It's important you understand clearly everything you're being asked. And tomorrow I imagine your evidence will go well
10 into tomorrow. If you should need a break, you can let me know and we can take a break. Do you need anything I've said clarified or do you have any other questions about the process?

MR DANKARO: No.

THE COMMISSIONER: All right. Would you like to take a religious oath or an affirmation to tell the truth?

MR DANKARO: Affirmation.

20

THE COMMISSIONER: Would you like to stand up and I'll ask my associate to administer an affirmation.

<NOSAKHARE DANKARO, affirmed

[3.44pm]

MS HUXLEY: Mr Dankaro, when did you first start working at Canterbury Bankstown Council?---That would be October 2021.

And how long did you work there?---Up until May 2022.

May 2022?---Yes.

10

And what was your role at council?---Started as a project officer and then I became a project manager and team leader.

When did you become project manager and team leader?---I'm not quite sure, but it would have been maybe three, four months before I left.

And, sorry, did you say you left in May 2022?---That is - - -

Or 2023?---2023, sorry.

20

2023. And who did you report to while you were at council?---So while, when I started, I reported to Faiza, and then when I became a team leader, I reported to Ben.

THE COMMISSIONER: Reported to Ben, did you say?---When I became a team leader, yes. But when I was a project officer, I reported to Faiza.

MS HUXLEY: And where were you working before you joined council?---I worked for Zenith Workforce.

30

Pardon?---Zenith Workforce.

Zenith Workforce?---Yeah.

What do they do?---It's a labour hire company.

And did you have any placements as part of that labour hire - - -?---Yes. So I worked for most of the Tier 1 builders, so the most recent was Lendlease.

40 Lendlease?---Yeah.

And how long had you been there?---Almost a year.

And what are your qualifications?---Prior to starting or - - -

No, your qualifications, I guess, in the project management, project officer space?---So I have, I have a certification, I've got an MBA and a masters degree.

10 And in your role, what did the role of project officer entail?---So, basically, it was project engineer kind of position, so, basically, we looked after the delivery of the project, did a bit of the contract administration and did the onsite quality assurance and stuff.

And then when you became project manager/team leader, what did that role entail?---Then I had a team of project officers and I took a more broader view of the project management and left the more day-to-day handling of the project to the project officers.

20 So you took over a more supervisory role?---Yes.

And what was your - did you sit on any Evaluation Panels or were you involved in the Evaluation Panel process during your time at council?
---That is correct.

30 And can you explain to me what that entailed?---Well, depends on what role. As a normal member, I guess, you just go through whatever submission and score or rate based on what you think of the capability of the company. And you attend the meeting, give reasons for your scores and take it from there. As the project manager, then you, you have to create the tender documentation and handle the process, so you're in charge of the Evaluation Panel.

How did you come to work at council?---So I got recommended or I got told about it from someone I worked for before.

And who was that?---Ivan.

And did you say you'd worked for him before?---Yes.

40 In what role?---As a site assistant.

And how long ago was that?---That would have been in 2018.

If I can just go back to, sorry, the Evaluation Panel process. Did you understand as part of the Evaluation Panel process, that you had to declare whether you had any conflicts of interest in a matter?---Yes.

And that related to whether you had a conflict of interest in relation to the particular quotes or tenders that you were considering as part of that panel?
---Yes.

10

And did you in relation to every panel that you sat on, did you have to do that?---Yes.

And that required a declaration of whether there was any interest with the prospective contractor, whether there was a financial interest?---Yes.

And whether there had been - you'd received any gifts from that particular person?---Yes.

20 Or any loans?---Yes.

Whether there was a close personal relationship?---Yeah, yeah, not really. It was - I guess what would you consider a close personal relationship?

Yeah, well, there'd be degrees, but if there was a friendship outside of council, for example. Did you understand - - -?---Yes.

- - - you had to disclose that?---Yes, I guess so.

30 But you understood it was more focused around the financial side of things, but it would include gifts?---Yes.

And so after you understood there was a position at council, what happened next? Were you introduced to anyone who interviewed you at council?
---Yes. So I sent my resume and qualifications to Ivan and then I got a call from Pietro.

40 And what did he say to you in that call?---He just, he did, like, a brief interview on the phone and then he said, okay, that I will hear back from him.

And you understood that was in relation to a role at council?---Yes.

Did he explain the hiring arrangements at all in that phone conversation?
---No.

Did you understand that he worked at council?---At that time, no, I did not.

So what did you think his involvement was?---I understood that he was the,
he was in charge of PMLV and PMLV would be hiring me.

10

And then supplying you as a contractor to council?---I didn't understand the
arrangement yet but I knew that we would be doing a project for the council.

Did you discuss pay with Mr Cossu at that time?---In that conversation, no.

And so then what happened after that?---After that he sent me a contract.

And did you sign that contract?---Yes, yes, I did.

20 Do you recall what the pay rate was?---It was \$45 per hour.

And then what happened after you signed that contract?---Then I started
work. Actually, well, I signed the contract and then I, I got put in touch
with Ben Trapman.

Who put you in touch with Ben Trapman?---That would have been Pietro.

So did Mr Cossu say to you, "Contact Mr Trapman" or- - -?---No. He just
said - - -

30

- - - did Mr Trapman get in touch with you? How did that work?---I believe
he sent an email. Yeah, I was copied in and sent it to, with my, like, CV and
documentation and sent it to Ben Trapman and then Ben Trapman sent me
some stuff for Spinifex to complete.

And you completed that?---Yes.

And then what happened after that?---After that I had to wait a bit and then I
got onboarded, I guess.

40

So someone notified you of a start date at council?---Yes.

And who was that?---Pietro.

And then you showed up on your first day?---Yes.

Did you have any interactions with Mr Webb prior to starting at council, Mr Ben Webb?---No.

And so he didn't interview you for a role?---No.

10

And didn't speak to you on the telephone?---No.

Did you meet him on your first day?---On my first day, I, I believe my first day was offsite, it was during the COVID, so working remotely. So I did have a brief meeting with him but maybe, like, ten minutes. He just said, "Oh, this is how it is. Welcome." And, yeah.

Was that by, like, a Zoom or a Teams - - -?---A Teams meeting.

20 A Teams meeting.

THE COMMISSIONER: So you had a brief meeting with Mr Webb, did you?---Yes.

MS HUXLEY: Did you understand what Spinifex was receiving per hour for your role at council?---When I started, no.

When did you become aware that?---Towards the time that Comensura came in, yeah.

30

And you could see it on the application that you opened?---Yeah.

And did you understand what PMLV were receiving per hour for you? ---No.

Did you understand that once you saw the Comensura?---No. It still wasn't quite clear, yeah.

40

No, it was just what council was paying Spinifex on that?---Yeah.

You signed an employment contract with Mr Cossu. Did you understand that you got leave entitlements as part of that contract?---Yes.

And did you take leave during your time?---Yes.

And you continued to receive your pay during that time that you took leave?---I was paid my accrued leave, yes.

And do you know if Mr Cossu paid your superannuation?---Yes, he did.

10

And did you get any training while you were working for PMLV?---I got support (not transcribable) yes.

Mr Cossu providing funding for you to do training?---Yes. Like, partway, or halfway, yeah.

Halfway through your contract?---No, like, not complete funding but, yeah, he supported - - -

20 Oh, he contributed to the - - -?---Yeah, contributed.

What type of training was that?---It was a project management certification.

When you started at council, did any council officers give you any - were there any, like, onboarding procedures done in relation to the code of conduct?---Not that I recall, no.

Were you given a copy of the code of conduct?---Not to my recollection.

30 So your understanding about a conflict of interest and the need to declare them only came about through your experience on the valuation panels? ---Yes. And I guess learning as I go. Did you know if anyone else at council were aware of the manner in which you were employed through PMLV and Mr Cossu?---Could you clarify that?

So, did anyone know that you were - do you know if anyone else at council knew that Mr Cossu had employed you himself and then was supplying you to council?---Not really. Like, it wasn't something that you discuss with everybody, yeah.

40

It didn't come up in conversation. Did you have much to do with Mr Webb while you were at council?---Not at first, no.

Not at first?---Yeah. While I was a project officer, no, I did not.

But when you started reporting to him you did?---Yes.

Did you ever get a pay rise while you were at council?---From PMLV?

10 Yeah.---Yes.

More than one?---Yes.

And did you ask for that or did Mr Cossu just give you a pay rise?---
Actually, yes to both. So at first he was, he just gave me a pay rise and I think the last one I did ask for.

Now, do you know of a company called General Works & Construction?
---Yes.

20

And when did you first hear about that company?---It's hard to recollect. At that time it would have been when they started doing work at Greenacre Splash.

Do you mean the Greenacre Splash Park?---Park, yes.

And when was that?---It would have been maybe early 2022. It's hard to recollect now.

30 Was that the first project that they were awarded that you had experience of?---So, I wasn't involved in the project directly. I just knew that they were onsite there.

Okay.---So, as at that point I hadn't had any actual projects with them, no.

So do you know what the first project that they were awarded that you worked on was?---Directly in my work, it would have been towards the end of when I was in council. It would have been, I think at the golf course shed.

40

THE COMMISSIONER: The what, the golf - - -?---The golf course shed.

Golf course shed.---Yeah. I might be mistaken. I can't (not transcribable)

MR SUTTON: Sorry, just missed that last bit.

THE COMMISSIONER: He said the first project he worked on he thinks was the golf course shed but he might be mistaken, he's not sure.

MR SUTTON: Thank you.

10

THE COMMISSIONER: Is that right, Mr - - -?---Yes.

MS HUXLEY: Do you recall when you first met Mr Clarke?---Same time, at the Greenacre Splash Park. So probably early 2022.

And you understood GWAC to be his company?---Yes.

At the beginning of 2022, what was your relationship with Mr Cossu like?
---How do you mean?

20

Well, he employed you through PMLV.---Yeah.

But did you have a lot of interactions with him at that time?---Yes.

And what were the nature of those interactions?---I would usually go to him for help and he was kind of a friend also.

So you would seek advice from him?---Yes.

30 And you were socially friendly?---Yes.

THE COMMISSIONER: What sort of things did you do together socially?
---We would go out for drinks, I guess, or just have lunch. Stuff like that.

And how often would that happen?---Not that, not that often because he lived far away so he was always travelling but whenever he could manage it.

40 Did you ever observe Mr Cossu and Mr Clarke talking to each other?---Of course they would have because contractor.

But did you have any understanding of their relationship, whether they'd known each other for a long time, or not?---My understanding was, yes, they had.

And is that something Mr Cossu had told you, or Mr Clarke had told you? ---I can't recollect how I knew that, yeah.

10 MS HUXLEY: As at the beginning of 2022 did you know if Mr Cossu was involved from like a business perspective with GWAC and the projects they won through council?---No. I knew, I knew they knew each other and I knew how, how best to put it, like, he would, would talk about him and he would say, would just, how he works and sometimes we just, I knew they were, they were friends, so to speak.

THE COMMISSIONER: Sorry, you knew they were?---Friends.

Friends.

20 MS HUXLEY: Do you recall the Appian Way Project?---Yes.

And what was your involvement in the Appian Way Project?---Mainly documentation, mainly during the tender period, yeah.

Did you understand that at the end of 2021 there was a, that the Appian Way Project had gone out for tender and they had received no submissions? ---Yes.

30 And then a decision was made to separate the components of that project into smaller components.---So I was not involved in the decision-making, yeah, but - - -

But were you informed of the decision?---Yes.

And if I can take you to volume 38.1, page 226, that's an email from you to Mr Webb copying in Mr Cossu, Ms Bhuiyan and Mr Luu. So had you contacted those suppliers prior to Christmas?---Yes.

40 In relation to a request for quote for the supply of precast pipes, pits and culverts?---Yeah.

And you've recorded the response from those suppliers.---Yes.

And GWAC isn't listed in that list.---Not on this one, yeah.

And if I take you to the next page, page 227, see under Recommended Procurement Strategies there's a dot point called Precast.---Okay.

And then Alpha Precast and GWAC are identified there.---Okay.

10 Were you responsible for drafting the recommended procurement strategies?---No, no I wasn't.

Who was?---I can't recall that at the moment.

Do you know who the reference to the Project Team is there?---That would have been myself, Faiza and Anthony to (not transcribable)

And would Mr Cossu be included in that?---In this part of it, not really, no.

20 And you say you've investigated and determined that these companies are able to produce and supply required culverts. Was that something you had investigated?---So my part was the table you showed earlier, so I'd gone out to as many people as I could and recorded what I got, which wasn't very encouraging, and then I had sent that information to Faiza and Ben.

But this is part of the same email.---Okay.

So do you know where that information would have come from?---Not to my knowledge, not really.

30 So you hadn't investigated GWAC.---So at one point after we, prior to Christmas I had sent the RFQ to everything that was listed, all the organisations listed there, and I think at a certain point they were, I was asked to include them in it.

Do you know who asked you to include them?---I can't recall that.

Was it Mr Cossu?---Could have been.

40 Was it Mr Webb?---I can't, it would have been either Ben, Pietro or Faiza.

If I can take you to page 386 of the same volume. So on 19 February you sent out a request for quote.---Yeah.

Whose decision was it to send out a request for quote?---19 February. It would have come from, I would have been instructed to do it. I can't remember exactly.

Do you know who would have instructed you to do it?---I can't recall that.

10 We've heard evidence today that at this point the decision had been made to do an open tender. So do you know why you would have sent out a request for quote at the point in time when it was decided to do an open tender?---I, I believe this was the exact same email that sent out previously prior to Christmas, so it probably got sent to some contractors that were not on the initial list. So I can't recollect them accurately.

If we go down to page 393, a tender ad is discussed. So a decision at least at this point was made to proceed by open tender. Do you recall what the difference between a request for quote and open tender was?---Yes.

20

And what was it?---Mainly it was the, what's it called, the level of requirements or, how do I put it, an open tender had much more restrictions on it as compared to an RFQ.

What do you mean by restrictions?---So for a request or quote, for example, you could send it out for as little as ten days or even seven days, for as long as you wish. For an open tender basically you had to leave it out for three weeks to begin with. Also for an open tender you had to involve Procurement in it and all the responses had to go back to Tender Box, and you had to go through the evaluation which is in conjunction with Procurement.

30

Okay. At page 425 of that volume there's an email from you to a number of people.---Yeah.

And this was notifying the earlier suppliers that it was now going to be an open tender process.---Yes.

40 And who would have directed you to do that?---I would have received the instructions from either the project manager or from Ben.

Did you have any involvement in putting the tender documents together for the Tender Box?---Yes.

And what was that involvement?---To start with collect, actually went through the BOQ and make sure all the technical details were accurate, and then we did different levels of separations, so divided into, what's it called, as per staging, construction staging, and then we divided it as several portions and when it finally got to the point where we had different contracts and (not transcribable) separable portions, we did that also.

10

So separable portions within the particular tender.---Yes.

Yeah. So it was more like the detail and the design, making sure that the tender documents captured all the design requirements for the job.---Yes.

If I can take you to volume 38.2, and page 1 is the, attaching all the documents, the request for tender documents. Did you have any understanding of what the general requirements for tender were?---How do you mean?

20

So I'll take you to an example. If we go to page 13, you see there that there's a requirement for all tenderers to comply with the terms of the code and ethics when dealing with council.---Yes.

So did you have an understanding of that requirement when, at the point where you were involved with the tender documents or during the evaluation process?---Yes, I would say so.

30 If I can take you to page 51, do you see there that the contractor, i.e. the contractor who is a successful tenderer, can only use the subcontractors that are included in the tender?---Okay. Yeah, I can see that.

So did you understand that the prospective contractor had to identify in their submission whether they were going to use subcontractors to complete some of the work?---So, from my understanding or from what was the usual process, so to speak, if we did require that, we would, it would be clearly stated, give or take and not in this portion of the document. It would be a part of the criteria.

So when you say “clearly stated” did you understand that the e-Tendering process required a contractor to fill in a number of prompts, so answer a number of questions?---Yes.

And that was printed off and given to you as part of the panel process?
---Yes.

THE COMMISSIONER: So, sorry? Are you saying that this e-Tender prompting prompted people about subcontractors, did it?---If we wanted it
10 to, then were included as one of the questions or requirements that would be prompted by the - - -

MS HUXLEY: So if I can just take you to volume 31.10? If I could just take you to page 16 of volume 31.10? See, “section 11, 4.12, details of staff nominated to perform the services or subcontractors”? So is that the kind of, is that what would be printed off once the person had filled that in online?---Sorry? I didn’t get that?

As part of the tender process. So see how it says “section 11”?---Yeah.
20 “Details of staff nominated to perform the services or subcontractors”?
---Yeah.

Then it says “question 1, nominated staff”?---Yeah.

And then it’s a bit difficult to read. But it does prompt someone to put in information about subcontractors or the persons who would be nominated to perform the services?---So my understanding was, is that question 1 would be nominated staff, which would be whoever you’re primarily giving the
30 contract to and then if you did require it to be stated who their subcontractors are, there should be a follow-up question that would say subcontractors to be used. So there should be a question 2 - - -

So see how it says “1, nominated staff”?---Yeah.

And then, “2, subcontractors”?---Subcontractors, yes, that’s what I mean.

Tenderers must provide details of any proposed subcontractors?---Yeah.

40 So they’re being prompted to provide details of a subcontractor there?
---Yeah.

If I can take you back to page, 38.2, page 496? This is the evaluation plan for tender. Do you remember seeing this document?---Yes, I would have. Yeah.

And when would you have seen this document?---After I was added to the Evaluation Panel.

So it would have been given to you when you were added?---Yes.

10

You wouldn't have seen it before?---I would have seen a draft copy at one point (not transcribable) but not necessarily this one.

Did you read it?---I would have read some part of it.

If I can take you to page 499? Down the bottom, it says "four general guidelines for assessments" and then at 4.1 "confidentiality". So did you understand that certain items generated as part of the evaluation process were confidential?---Yes.

20

I.e. shouldn't be disclosed to parties outside of council?---Yes.

Including the prospective contractor, whose tender submission you were considering?---That's correct.

Did you understand that you couldn't communicate the confidential information to other people in council or was it restricted to third parties? ---At that point, my understanding was third parties, though I could have been wrong.

30

And then at page 500, it talks about conflicts of interest and the requirement to lodge a declaration of conflict of interest?---Yeah.

And you completed and signed a declaration of conflict of interest form in relation to this tender?---Yes. Yes, I did.

And in that declaration, you had nothing to declare?---At that point, no I did not.

40

What do you mean when you say "at that point"?---As I went, I was on the, when I got put into the panel I didn't have a conflict of conflict.

But did you later have a conflict of interest?---I believe so, yes.

When?---Subsequently.

While you were still on the Evaluation Panel?---Yes.

And what was the nature of that conflict?---I guess you could say (not transcribable)

10

THE COMMISSIONER: Sorry, what was that?---I guess you could say assist in, with documentation for the contractor.

MS HUXLEY: And which contractor in particular?---That would have been GWAC.

Did you declare that interest to anyone?---Not at that point, no.

20 When did you declare it?---I mean, at a certain point where I did declare the conflict of interest I didn't have one.

So at the beginning, when you were first appointed to the panel you didn't have a conflict?---No.

But at some point during the process of evaluating the submissions you did develop a conflict?---Yes, I believe so.

And you didn't declare it to anyone?---No.

30 Did you think you had to declare it to anyone?---Up to that point I guess I did not think so.

You didn't think about it.---No.

THE COMMISSIONER: Do you mean you didn't think you had to declare it or you just didn't think about it?---I just didn't think about it.

40 MS HUXLEY: You said that you were helping out the contractor assisting with the contract. Can you just explain a little bit more about what you were doing?---So basically after we evaluated and, or looked at the initial submissions we could, we got to a point where there was just General

Works & Construction left, give or take, we thought was capable of delivering as we would require or wanted at that point, and basically his submission had technical details that weren't necessary but he just, he didn't put them together right.

So as part of the Evaluation Panel process there were clarifications issued to a number of contractors.---Yeah.

10 And you said he wasn't able to put the information together. Who is he a reference to?---I would say he was the contractor, or, based on the submission I could see he didn't, he, we could tell that he had the experience or he had shown that he had the experience but in terms of communicating that, it wasn't coming across.

And so when you say he, are you referring to Mr Clarke?---I'm referring to General Works & Construction.

20 Okay. And why were you concerned about General Works & Construction not being able to communicate their experience properly?---I guess I'm just used to people, you know, actually having experience, as in, not being able to show that and having that being used against you one way or another.

So then how did it come about that you were assisting General Works & Construction with responding to - - -?---So I had that conversation with Pietro and he said, yeah, he's known him, Jeremy for a long time and he's always been like that, and then I guess a few days afterwards probably said then we could help him.

30 So did you raise it with Mr Cossu first or did Mr Cossu ask you about how General Works & Construction submission was being looked at?---I can't recollect.

And so did Mr Cossu then put you in touch with Mr Clarke?---No.

So how did you assist him then?---So he just told me what, what he needed done, so to speak, like how we could - - -

40 Who's he?---Pietro told me how we could help him which was basically just formalising his documentation, like a letterhead and going through his submission and editing it, so nothing, there was no major change or drastic

change, it was just formalising his submission and I did that and sent it to Pietro.

I'll come to that in a second, I just need to go back and ask you some questions about how you came to be on the evaluation panel. Do you know why you were put on the evaluation panel for the tender?---Yes. I knew that it was because Pietro couldn't continue.

And why couldn't he continue?---I was not aware of that.

10

THE COMMISSIONER: Sorry?---I didn't, I didn't know he was in for it. I just assumed that he was busy or something.

MS HUXLEY: Oh, so you weren't told - - -?---I wasn't told what the reason was.

- - - you weren't told any details about why he was removed.---Yes.

Did you know whose decision it was?---No.

20

Do you know why it was you who was picked to be on the panel as opposed to someone else?---Yeah, because I was originally involved in putting documentation together, or at least I assumed that.

THE COMMISSIONER: Just before we go on, Ms Huxley, I'm fine to sit on for a little bit but I don't know about other people. Mr Sutton may - - -

MR SUTTON: I'm the last one to be, seek an indulgence, but just because of what I've got to do tomorrow.

30

THE COMMISSIONER: Yes, all right. How about we - - -

MR SUTTON: I mean I haven't said anything because I didn't think it would be pertinent for me to do so, but if your Honour is asking - - -

THE COMMISSIONER: No, well how about we go to 'til 4.30, it's another five minutes, and wrap up about then, Ms Huxley, if that's suitable to everyone.

40 MR SUTTON: Thank you.

MS HUXLEY: That's suitable to me. So did Mr Cossu explain to you why he wanted to assist General Works & Construction in their documentation required for the evaluation panel?---Yes, I think so.

And what did you think?---Well my understanding was that he knew they could do the work and he's like, GWAC has always suffered because he lacked the ability to communicate their expertise.

10 So Mr Cossu wanted GWAC to succeed in the tender process?---I guess so, yes.

Did he ever tell you that he had, if he had any financial arrangement with Mr Clarke?---No.

If he wanted to, did he ever, I'll come back to that. I'll just take you to volume 38.5, page 2. That's not the right reference. Sorry, Commissioner, I just have the wrong reference to find it.

20 THE COMMISSIONER: That's all right.

MS HUXLEY: So I think it's page 3, actually, 38.5, page 3. That's an email from you to Mr Cossu at his PMLV address and you've said, "As discussed, documentation and photographs are available to be saved at this location and you've sent him a Dropbox link.---Yeah.

What was that for?---That was to put together like a standard suite of documents for GWAC I guess.

30 So you discussed that with Mr Cossu?---Yes.

And it would be useful to have a location where things can be saved for you to then use to put into - - -?---That's correct.

- - - a document to be provided as part of the tender process.---This was not for a tender process, it was just like a standard template.

But so, so what was it envisaged would happen, that would happen with these documents saved to this?---They were for, for GWAC.

40 But for you, in relation to the Evaluation Panel process or not?---No. Well not specifically.

For use in relation to council projects, winning of council projects?---For whatever they wanted to use it for I guess.

So does that mean at this time did you understand that it would be assisting in documents relating to the Appian Way culvert supply?---At this time no.

10 Okay. If we go to page 45. So Mr Cossu there has forwarded a number of photographs. What did they relate to?---So this was in relation to the Appian Way.

And so why did he send you these?---Oh, because he needed help putting together the clarification.

So this related to one of the clarifications issued to GWAC?---Yes.

Which one?---I can't recall actually which one basically.

20 But when you received this, you understood that it related to one of those clarifications?---Yes, we had discussed.

How had you discussed it?---I can't remember specifically, but it did say that it was, Jeremy was having problems putting together a repose and if I could help I should help.

As part of your role on the evaluation panel, were you involved in discussions on whether to issue clarifications to GWAC?---Not GWAC specifically but to the respondents, yes.

30 Who was responsible for the decision to issue clarifications to GWAC?---I don't, I think that was more of a collective - - -

A collective decision?---Yes.

So you were involved in that decision as one of the members.---I was, yes, I had input. That's correct.

40 And so at volume 38.5, page 80, there's a clarification issued to General Works & Construction. If you go to the next page, they are the matters that the clarification is sought in relation to. Do you remember talking about this as part of the Evaluation Panel process?---Yes, I guess so.

So you were one member involved in a decision to send this clarification to GWAC?---Yes. Well I believe this clarification was sent to every, all respondents, give or take. I can't recall that at the moment.

And then at page 90, it's an email from you to Mr Cossu at his PMLV address and you're using the Gmail address. Why are you using the Gmail address?---I guess because it was like PLMV stuff and not council stuff.

10 But it's in relation to a council project.---Give or take, yeah.

Is it because you didn't want council to know that you were drafting the response for clarification one for GWAC?---Yeah, that was a part of it, yeah.

So you didn't want council or anyone at council finding out that you were assisting them?---Yeah.

20 And if we go to page 92, did you create that document?---Yes I did.

And did you, the items in red, the sentences in red, were they drafted by you?---So the, how to put it, the content no, but the - - -

So someone gave you the information.---Yes, that's right.

And you put it - - -?---Into writing, yeah.

- - - into the words that appear on that page.---Yeah.

30 Who gave you that information?---That would have been Pietro.

THE COMMISSIONER: It would have been?---Pietro.

MS HUXLEY: And if I can just take you to page 97. Was that a document you drafted as part of this clarification?---Yes.

And do you recall who gave you that information?---Yeah, that would have been Pietro.

And did he specifically say to you the GWAC production facility is located in Wollongong?---To be honest I can't remember the conversations, but it would have been.

Did you know if GWAC had a production facility in Wollongong?---No.

You didn't know that?---No.

Did you ask Mr Clarke that?---Clarke, no.

10

Had you had any interactions with Mr Clarke at this point?---At this point I don't believe so.

THE COMMISSIONER: Sorry, you hadn't had any interactions?---At this point, no.

No, okay. We better wind up in a minute, Ms Huxley.

20 MS HUXLEY: Yeah. Can I just ask before we finish up why you did this?
---Sorry?

Like why did you do this work?---Could you be more specific?

Well what was your motivation behind creating these documents?---At that point I guess I was just, I wanted to help give or take, and there was also the consideration of the project like I said earlier.

THE COMMISSIONER: Sorry, what was the first thing you said?---I was trying to help.

30

Trying to help.---Help out - - -

Who, who were you trying to help?---Pietro I guess. I was also trying to help out the projects because we knew that, or we, from our discussions of considerations, they could do the job, but they're not looking good on paper.

MS HUXLEY: When you say we knew that they could do the job, who are you referring to?---Well I guess I could, I should speak to myself.

40 So you'd already formed a view on the information that you had that they could do it.---Yeah, yeah.

Even though this related to a clarification about production of a large part of the works that were being tendered for?---Yeah.

So how did you know that they could do it if you didn't know at that point what their production facility capacity was?---That would have been through my discussions with Pietro.

10 So you had discussions with Mr Cossu before the clarification was issued?
---I'm not sure at what point the discussions took place.

Did you receive any benefit from Mr Cossu for this work?---No.

From Mr Clarke?---No.

Do you know why Mr Cossu was interested in helping GWAC win the contract?---At that point I didn't take much of it, but now I understand that, yeah.

20 Now you understand what?---That, that he had a financial stake in it, so to speak.

And when did you come to understand that?---When this Commission started.

As part of this investigation, okay.---Yeah.

Commissioner, that might be a convenient time.

30 THE COMMISSIONER: Yes. All right then. All right Mr Dankaro, we are going to resume your evidence tomorrow at 10 o'clock, so can you please be back here ready to resume your evidence at that time and I would appreciate it if you don't discuss your evidence with anyone.

THE WITNESS STOOD DOWN

[4.33pm]

40 MR SUTTON: Commissioner, just in keeping, I'm very grateful to the Commission because of my need to be elsewhere tomorrow - - -

THE COMMISSIONER: Oh, all right, yes.

MR SUTTON: - - - I might, obviously I will read the transcripts, but I might need Mr Dankaro to come back on Friday.

THE COMMISSIONER: All right. I will speak to Ms Huxley, I think she's been liaising with you or Mr Bain and - - -

MR SUTTON: She has, but I just wanted it to be on the record.

10

THE COMMISSIONER: Yes. Whatever you and she have agreed is a suitable course, well - - -

MR SUTTON: Great.

THE COMMISSIONER: But it is anticipated that this witness should be called tomorrow morning at 10.00 again?

MS HUXLEY: Yes, Commissioner.

20

THE COMMISSIONER: Yeah, all right, yes. All right.

MS HUXLEY: And I will certainly finish with him tomorrow.

THE COMMISSIONER: Yes, okay.

MS HUXLEY: But it might be that, yeah.

THE COMMISSIONER: All right, 10 o'clock tomorrow then and I'll adjourn.

30

**AT 4.34PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.34pm]**