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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE HELEN MURRELL SC  
COMMISSIONER

PUBLIC HEARING

OPERATION MANTIS

Reference: Operation E22/1852

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 17 JUNE, 2024

AT 2.00PM

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THE COMMISSIONER: Excuse me a moment Ms Huxley. Yes, thank you.

MS HUXLEY: Mr Cossu, just before the break, I was asking you about those variations that Mr Clarke had sent through to you. Do you recall if, at the time he sent those through to you, that he'd done that work?---If he's  
10 done the work?

Yeah.---What - - -

THE COMMISSIONER: Like had he already done the work?

MS HUXLEY: Yeah, had he already done the work when he'd sent those variations through?---I couldn't, I couldn't confirm that.

Is it typically the case that the variations need to be approved before the  
20 work had been completed?---It's not the case.

So you can have a retrospective, oh, I won't use that word. You could approve the variations after the variation work had been done?---Yes.

Okay.---Depend, depend what is.

Depending on, yeah. What happened if there was a dispute about the variations in that case?---We'll have to face it, I guess, I don't know.

30 Okay. GWAC also came to be awarded the non-destructive digging works at Appian Way. Do you recall that?---Yes.

Do you recall when you first became aware of the non-destructive digging works at Appian Way?---No, not when - - -

I'll take you to volume 36.2, page 125. That's an email from you to Mr Clarke.---Yeah.

40 And you used your PMLV address.---Yeah.

Do you know why you used your PMLV address there?---No idea, no.

And if you go to page 126 you attach a photograph.---Yes.

Is that a photograph you took?---Yeah, this is mine.

And is that depicting where the digging had to occur?---Say that again.

Would that depict where the digging, the non-destructive digging would have to occur?---Yes, I guess, yes.

10

And the same with page 127.---Yes.

Was that a photograph you took?---Yes. Strange that there's no dates, I'd usually put the dates, but anyway - - -

Okay. And page 128.---Yeah.

129.---Yeah.

20 130.---Yeah.

And 131. Do you recall how you obtained these documents?---No.

Did someone send them to you?---I could have even discussed it with, with the designer. It's not, was not the secret what we had to do, no.

Did you know that at, so the date of this email is 13 August 2020. Do you recall if at that time there had already been a request for quote put out and five contractors responded by 12 August?---Repeat the question, sorry.

30

That's okay, I'll repeat the question. So you sent this email - I'll take you back to page 125.---On 13 August?

Yeah.---Yes.

At the time you sent this email there had already been a request for quote in relation to this project?---It must have been, could be, could have been, yes.

40 But so why - - -?---To whom, to, to who was the request for quote, sorry, if I may?

No, that's okay. There had been a request for quotes to five other contractors.---Okay.

So do you know why, if there had already been a request for quote, you're sending this to Mr Clarke?---Probably to see if he could do the job. I know that he can do the job. He's a very good man.

Did you speak to anyone else at council about seeking Mr Clarke's quote?  
---I'm not sure, no.

10

Would you have spoken to Mr Webb about it?---No. I don't think so. I don't know. I don't think he is the type of person to discuss these sort of things anyway.

And so in sending this to Mr Clarke, did you want him to put a quote together for the works?---Yes.

Now, I'll take you to page 132 and that's another email attaching some images. And I'll just take you to page 133.---Yep.

20

Is that another example of a photograph you took?---I think this is in the same list.

So you sent him a number of photographs over a series of emails. Does that sound about right?---Yes. Sounds about right.

Those drawings that I had taken you to at page 128, did Mr Webb send them to you?---I doubt but I don't know, I can't, I can't recall.

30

If I can take you to page 145. Now, this isn't an email to you but it's an email from Mr Clarke to himself attaching a photograph and if I take you to page 146.---Yeah, yep.

Do you see that there?---Yeah.

Does that relate to the non-destructive digging works?---Yes, definitely.

40

And did you provide Mr Clarke access to that document?---I can't recall that but this is not council, is this not this council email, drawing? Is this one, is something - - -

This is a response from one of the - this was part of a submission by Durkin for the non-destructive building works.---No idea.

You have no idea how Mr Clarke got access to that document?

THE COMMISSIONER: Is that correct, Mr Cossu?---I don't understand the - sorry, what's the question? If I knew that this one was from some other contractor or - - -

10 MS HUXLEY: Well, did you have any involvement in giving Mr Clarke access to this document?---I can't say yes, I can't say no.

THE COMMISSIONER: So you don't know if you had any involvement? ---I don't know, no. But- yeah.

But what?---Thinking that he was doing the, a quote, like, this is probably council requirement. I don't know why is Durkin there. I really don't know if I, if I, if I gave that to him or not.

20 MS HUXLEY: If I take you to page 152. It's an email from Mr Clarke to you attaching a document relating to non-destructive digging investigations.---Yep.

If you go to page 153.---Yep.

And then page 154.---Yep.

30 He's priced those works at \$179,940.50 excluding GST. Why was he sending this to your PMLV address?---I don't know. Not for the price definitely, probably for, if you go back one page, probably to see if the clarification were there.

But he wanted you to review the quote?---I don't know. We probably, if he forgot something or something like that.

So he wanted you to have a look at it before he sent it to council? ---Possibly.

40 And if necessary give him advice about what had been included in it? ---Possible.

Did you discuss this quote with him?---With him?

Yep.---I can't recall. I could have, I don't know.

Did you see the prices of any of the other five contractors who had already quoted for the job?---I wouldn't have be able to.

You wouldn't be able to?---No.

10 Why is that?---Because you can't have access to other people prices.

So they would have been locked in a locked box somewhere?---I don't know how works but you don't be able to see other prices.

Now I'll just take you down to page 155. So later that day he sends you the quote to your council address. Do you understand by that he was formally submitting it to council?---He must have.

20 And page 156 and 157, that's a document that we've just seen that he'd sent you earlier.---Yeah. Same.

Did you tell him that it was okay to send to council in that form?---Form, I don't know.

Why wasn't this submitted to other people for the non-destructive digging works?---I wouldn't be able to answer that.

30 Do you recall a point in time when the scope of work changed for the non-destructive digging works?---I can't recall it. Sounds strange. So you, you telling me that this quote was only for him?

I'm saying nothing happened with this quote at council.---Nothing? Okay. I don't know.

So do you recall when there was a time when the scope of works for the non-destructive digging works were amended and a new request for quote was issued?---No. I wouldn't be able to tell you that.

40 You don't remember that happening?---No.

Did you speak to Mr Webb about amending the scope of works so that GWAC could be included in the project?---No. Was not for me to, to do that.

Do you recall that a request for quote was subsequently set out to three contractors?---No.

Do you know how those contractors would have been identified?---I don't understand the question.

10

Do you know whose decision it was to nominate the contractors that the quote would be sent to?---I doubt it was me.

I'm not saying it was you, I'm just asking a question.---No, no, I don't know.

I'll take you to page 175 of volume 36.2. So Mr Clarke has forwarded to you Mr Luu's email requesting a quote for the works. Do you remember that?---No. I can't remember.

20

And he sent it to your PMLV address?---Yep. Okay.

Did you and Mr Clarke discuss what Mr Clarke should quote for this works?---Mr Clarke quotes for his work.

Well, did you discuss with Mr Clarke what he should quote for this work? ---I wouldn't do that.

Why not?---It not got me to, to give a price to him.

30

Because you're on council?---No. It's, it's logical. You can't tell somebody to, how much he is going to spend for anything.

Well, did you tell him how to go about putting together a quote for this job?---The words or, or what do you mean?

Well, did you say, "You should contact so-and-so to get a price for this particular aspect of the works"?---Oh, he knows more people than I do in construction. No, I didn't. No.

40

At this time did you have any role in the non-destructive digging works on the council side of things?---I wouldn't be able to reply to you on that, ma'am.

Okay. Because you can't remember?---No, I can't remember.

I'll take you to, so he sends that email on 16 September. I'll take you to volume 36.15, page 1. Sorry, that's not the right, that's the wrong, no maybe it's the right, no it is, 36.15, page 1. So do you see there on 20  
10 September you have two phone calls with Mr Clarke at around just before 2.00 and just after 2pm.---Yeah.

And one of them goes for four minutes and 29 seconds.---Yeah.

Did you speak about this job with Mr Clarke?---I can't recall about - - -

THE COMMISSIONER: Sorry, what was that?---I don't recall it, ma'am.

Don't recall.---I had many calls.  
20

Did you tell Mr Clarke to contact CMB Excavations and get prices?---No, no.

You didn't.---Me ask (not transcribable) to contact somebody else? No.

Are you confident about that?---Absolutely.

Why are you so confident about that?---It's not my role, no, I wouldn't do that. No, I didn't do it.  
30

Okay. I'll take you to volume 36.2, page 188. Mr Clarke there is forwarding you on an email that he received from CMB Excavations attaching the rates as requested. Why would he be sending you that email? ---What's the rates?

The CMB rates.---To me?

Yeah.---Okay. I don't understand what's the question, ma'am.  
40 So do you know why he would have sent you these rates?---No, I haven't got no idea.

Well did you speak to him about it?---No, I can't remember.

Did you say why are you sending this to me?---No idea ma'am.

This wasn't part of the arrangement you had where you'd help him get work at council?---No.

I'll take you to page 192.

10 THE COMMISSIONER: Sorry, did you answer that?---No, my lady, no.

MS HUXLEY: He said no.

THE COMMISSIONER: No, okay. It must have been a head shake or a very soft no because I didn't hear it.

MR SUTTON: Or if he could keep his voice up that would be very helpful.

20 THE COMMISSIONER: Yes, keep your voice up, please, thanks.---Yeah, okay. I will come close.

Thanks, yeah.

MS HUXLEY: So this is an email from Mr Clarke to you attaching a document NDD Investigations.---Yeah.

And that was sent to your PMLV address.---Yeah.

30 And if we go down to page 193 and 194, does that look like the earlier quote that he'd given you?---This is the same quote to me for, yeah.

Did you understand now the project scope had been changed?---Do I understand what?

The project scope had changed between when he first did that quote and this quote.---Where is the changes?

Pardon?---What is, what is the changes?

40 No, the actual project that was sent out for quote had changed. The project scope had changed from council's perspective.---I don't know.

You can't recall.---No.

MR SUTTON: Your Honour, I wonder if, sorry, Commissioner, I wonder if I could, and it's obviously entirely up to council assisting how she does this, but I am concerned there is some confusion and if there is a scope change, the actual putting of that change might provide some clarity.

10 THE COMMISSIONER: Actually I would be interested to know what the scope, exact, I understand that it had gone back and they didn't proceed on the original plan, but it might be helpful to look at what the scope change was and - - -

MR SUTTON: And that's my point.

THE COMMISSIONER: - - - put that to the witness.

MR SUTTON: Thank you.

20 THE COMMISSIONER: If you've got that, Ms Huxley.

MS HUXLEY: I'm not sure we do have that.

THE COMMISSIONER: No.

MS HUXLEY: The first set of documents that went out, I'll see.

THE COMMISSIONER: Right.

30 MS HUXLEY: But maybe I will come back to that.

THE COMMISSIONER: It might have been, I'm just looking at, was it split into design and construction maybe, I'm not sure? I might be a furphy saying that. Anyway - - -

MS HUXLEY: I might come back to it.

THE COMMISSIONER: Yes, sure.

40 MS HUXLEY: And try and, I can find my questions if possible. So that email was sent on 22 September at 6.06am and then at volume 36.15, page

1, do you see on 22 September you have a number of phone calls with Mr Clarke? Did you talk about the quote that he'd sent to you that morning?---I can't recall what you're talking about, ma'am.

So you don't know if you spoke to him about what the proposal or the quote should be? You don't recall?---No.

I'll take you to volume 36.2, page 209. That's an email from Mr Clarke to you at your PMLV address on 22 September at close to midnight.---Yeah.

10

Did you read through those documents, and I can show you those, that's at page 210.---Yeah.

And 211. 212. And 213. Do you recall reviewing that bill of quantities? ---I don't recall this one. I don't even know why he sent it to me, but yeah.

Well he seems to be sending you emails relating to work with council. Did you ever ask him why he was sending these to you?---No.

20 Why not?---He's a friend, so we want, if he feels comfortable.

Well did you give him any advice in relation to how to quote for council jobs?---How to do the work, yes.

What do you mean by how to do the work?---If I see that you forgetting something, I will do to any contractor, not only to him.

Were any other contractors sending you their bill of quantities for the work?---But I, but I speak on site to the other contractors, I guess.

30

Is this in the course of the projects being delivered?---Yes.

Would it be before they'd won the award for the project?---Could be too.

So you're saying other contractors have sent you your bill, a bill of quantities for a work they're submitting to council?---I never see that.

MR SUTTON: Objection.

40 THE WITNESS: I never see that.

MS HUXLEY: Well so can you explain - - -

THE COMMISSIONER: No, just a moment. Sorry, Mr Sutton has objected.

MR SUTTON: Yes. That was not the evidence that was given. The evidence was that he said he would speak to contractors on site.

10 THE COMMISSIONER: Well, okay. I was unclear on what he said. So I think the thing is that you said you would speak to other contractors on site. ---Yes.

Did you say that sometimes other contractors sent their bill of quantities to you?---No.

So they didn't send their bill of quantities to you.---No, no.

They certainly didn't send it to you before they got a contract?---No.

20 All right. You're agreeing with that proposition?---Yes.

Okay.

MS HUXLEY: So was Mr Clarke the only contractor who sent you his proposed bill of quantities before submitting them to council?---Yes. And did you ask him why he was doing that?---No.

When he sent them to you, would you review them?---No.

30 You wouldn't review them.---I don't think so, no. Also can I see the date of this? If this is before the, the, the - - -

This is on the, I'll take you back to page 209. It said on 22 September 2020.---And when was this submitted?

Yeah, on page 228.---So it was the day after.

Yeah. Yeah, so you submitted it the day after.---This was submitted the day after that he sent it to me.

40

Had you told him that it was okay to submit like that?---No.

I'll take you to volume 36, so the date that it's submitted is, the time is 12.30. Sorry, where is it. Can you just go down to the next page, 230. No, no, 230. So that's the email seeking a quote and then 229. So that's sent through at 11.53pm. I can take you to volume, and then sorry, Mr Cossu, I will take you back to 209. So that was actually sent after at 23.56. So when he says "I attach the files sent", that's "I've attached the files that I've sent", so I apologise to you for that. If we go to volume 36.15, page 1, and on 23 September at about 14.08, there's a four minute 19 second conversation. Do you recall if you spoke about the submission for this job?---No, I can't recall even the call.

I'll take you to volume 36.2, page 232. That's an email from you at PMLV Consulting to Mr Clarke attaching a BOQ and then it says, "Dear Anthony, we are happy to review the quote, complete the sections and reply to your queries. Please find attached revised BOQ. I will need to have another look and talk to you personally in regards to the program with the information we have. It's difficult to change the program." What is that, why did he write that?---Can I, can I, can I see the attachment?

20 Sure. Page 233.---So this is sending this?

This is the attachment to that email that you sent. Page 234.---It's not the same one of the, show me the total.

I'll show you where the change is. If you go to 235 and 236. So is the change there the discount?---So this is changed?

30 See the, just above 104,509.50 there's a discount of \$3,790.50 applied. ---What is the reason?

Well that's the change.---Yeah.

Did you put that in? I can take you back to the one that had been sent through to council.

THE COMMISSIONER: Sorry, did you answer that question, Mr Cossu?  
---I don't know what this meant, honestly.

40 Okay. So you were shown this page with this discount that had been put in. ---Yes.

You see the discount and Ms Huxley asked you whether you had put that discount in or suggested it.---No. No, I didn't.

You didn't, okay.

MS HUXLEY: But it's in a document that you sent to Mr Clarke. I'll take you back to page 232. That's the document that's attached to this email and you had sent that to Mr Clarke.---But I couldn't have changed the price or replaced the price, ma'am.  
10

Pardon?---If - - -

Sorry, what did you, what was that answer?---I said I didn't touch any prices.

You didn't change the document that had been sent to you?---No.

So how do you explain that addition there?---The what?  
20

How do you explain that a discount has been applied in this document? Who made that change?---I didn't make the change.

Yeah, but so who did? If you didn't this is a document that's attached to one of your emails.---You can't, I can't tell you that, but definitely not me. Well so at one point this document was in your possession because you were able to email it to Mr Clarke.---Most probably I didn't even read it. I'll tell you the truth. That was not - - -

30 You're attaching this document to an email that you were sending to Mr Clarke. So has someone else put that document on your computer?---I'm not denying that this one comes from me or not. I'm just telling you that I didn't change any prices.

Okay.

THE COMMISSIONER: Well I'm just, just sticking with that for a minute, Mr Cossu, my understanding of the evidence is that at lunchtime, let's say, on 23 September, about 12.30 Mr Clarke got the, needed, got something from Mr Luu, wanting some clarifications.---Yes.  
40

And then after that, at about 2 o'clock, there were a few telephone calls between yourself and Mr Clarke and then at like roughly 6pm you sent Mr Clarke a revised bill of quantities with a draft sort of note for him to give to Mr Luu.---Yes.

And that revised bill of quantities had a different price in it, had the discount in it, for one thing.---Of 3,700.

10 Yes. And so do you have any explanation for that sequence of events?---I don't have any explanation.

Okay. Yes, Ms Huxley.

MS HUXLEY: Do you have an explanation for why you've put a proposed response for Mr Luu into that email for Mr Clarke?---Probably, that one is probably mine, this one, yes.

And so why did you do that?---No idea (not transcribable)

20 Was it to help Mr Clarke in his communications with council?---Yes.

So that he could win the project?---Probably, yes.

Did Mr Clarke tell you if he sent this to Mr Luu?---I don't know.

MR SUTTON: Sorry, was there a response there?

MS HUXLEY: He said "I don't know."

30 THE COMMISSIONER: He said "I don't know."

MR SUTTON: I'm sorry, thank you.

THE COMMISSIONER: Just keep it up so that everyone can hear you, Mr Cossu.

MS HUXLEY: I'll take you to volume 36.3, page 1. So this is an email from Mr Luu to you. What was Mr Luu's role at council?---He was an administrator.

40

And do you know why he sent this to you? Did you ask him to send this to you?---I can't remember why he sent it to me but Anthony is very, is very much by the book. If he sent it to me it would have been no, no issue.

Do you recall that there was a meeting onsite on 1 October 2020?---Can you  
- - -

I'll take you to page 9. So in that middle email Mr Clarke is saying  
"Anthony/Pietro, thanks for the meeting today and going through the  
10 details." That would likely be a reference to Mr Luu and you?---(NO  
AUDIBLE REPLY)

MR SUTTON: Sorry, Commissioner, can I also note the email immediately above, "Anthony, this time you should get it." It would tend to suggest - - -

THE COMMISSIONER: All right. Thanks. I think it's all part of the evidence, Mr Sutton.

MR SUTTON: Yes. But as I understand the proposition that's being put, or  
20 suggested, or implied, that that's some kind of draft put together for a particular purpose - - -

MS HUXLEY: I'm not suggesting that, Commissioner.

MR SUTTON: Then I withdraw the objection.

MS HUXLEY: I'm just taking the witness to this to remind him of a meeting he had onsite with Mr Clarke and Mr Luu. Do you remember that meeting?---Absolutely, yes.  
30

And so you met onsite with Mr Luu and Mr Clarke?---Yes.

And was that to discuss additional trenching?---Usually you take the person there to confirm the job, how it's done and - - -

Is this before or after the contract is awarded that you usually take them to site?---I cannot remember, no. Before you do it with everyone and after, or during the time, you know, once they're there, the guy has got the job.

So, do you recall if you met anyone else that day?---I can't remember. I can't even remember - I, I know that this is a meeting, that we have the meeting because I can read it here but I can't recall if it was anybody else.

If you were the one attending, does that mean that at that point in time you had responsibility for the project?---If I was there in that meeting, that means that the guy had, want the job and I was supposed to make sure that he understood the job.

10 So at this point in time there's evidence that GWAC hadn't won this job yet.---Can you check the date and confirm if we had or not?

Yep. If you would like me to take you to it, I can. I'll take you to volume 36.3, page 15. This is the Evaluation Panel report. You can see your name there, you were an Evaluation Panel member.---Yep.

Did you write this report or did someone else write the report?---Somebody else must have done the report.

20 But you agreed with what was in the report?---Yes. I guess, yes.

See there it says, "GWAC, \$104,509.50"?---Yep.

And NDEA, the next one is \$105,449.64.---Yep.

So because that discount was applied, GWAC came in as cheaper than the NDEA quote?---Yep.

30 And then at page 16, there's a recommendation to award it to GWAC.  
---Yep.

And you see the date that that was reviewed and recommended and then approved, is 6 October.---Yep.

So that occurs five days after that meeting with Mr Luu onsite.---Okay.

Did you meet with NDEA or Aqua Assets onsite on 1 October?---I don't know, ma'am.

40 Did you tell Mr Luu or Mr Coelho that Mr Clarke had sent you the bill of quantities prior to submitting it with council?---No.

Why not?---I can't recall but I don't think so.

THE COMMISSIONER: Sorry, what was that?

MR SUTTON: Sorry, can you keep your voice up?

THE WITNESS: There is no really reason. I don't even know why he sent that to me. That's all.

10

THE COMMISSIONER: So, sorry, just to clarify, you didn't tell Mr Coelho or Mr Luu that that document had been sent to you by Mr Clarke? ---No, I didn't. Definitely not.

And what was the reason?---There is no really a reason.

Not really a reason.---No, no.

MS HUXLEY: Do you recall when in the process you became aware of the price from Aqua Assets or NDEA?---No.

20

Is it possible that you found out that price a day after those tenders had been submitted, the quotations had been submitted?---You're asking me if I find out the price of the other people?

Yeah, within a day of them submitting their quote.---Once submitted the quote, that is public, I would have find out about everyone.

So once they submit the quote then it's public?---Yes but only when the last one is submitted.

30

So does that mean that you would have been able to see the NDEA quote? ---I'm lost a bit here. So let's go back.

THE COMMISSIONER: I think, are you saying that you wouldn't have been able to see these quotes until after all of them came in?---Yes.

Including GWAC?---Yes.

MS HUXLEY: And so when all of the quotes came in you could see that NDEA quote was \$105,449.64?---I can't recall it but I must have seen it.

40

Did you then speak to Mr Cossu and tell him that he had to reduce his price?

MR SUTTON: Sorry, this is Mr Cossu.

MS HUXLEY: Sorry. Mr Clarke.---Excuse me?

Did you then speak to Mr Clarke and tell him that he needed to reduce his price?---Why he lower or higher?

10

The first one was higher.---?---So he had to come down. I don't think I would be able to speak to him about price, ma'am.

You don't think you'd be able to speak to him.---About price, no.

So you can't explain how he came to a lower price on that document that you sent to him that applied the discount?---No, you're right (not transcribable)

20 THE COMMISSIONER: Well, you see, Mr Cossu, originally GWAC had put in a quote at 108,300.---Yeah.

And then presumably the quotes from the other two came in after that. ---Yeah.

So does that mean that you would have seen the quotes of the other two after GWAC put in its quote for 108,000 but before it put in its quote for 104,400?---I, I never get involved with no prices. That's why I can't remember.

30

Okay.---It's, I can speculate about it but - - -

Hard to say at this stage.---Hard to say.

Okay.---I can, I can speculate.

MS HUXLEY: Well, Mr Cossu, I suggest that that is not a truthful answer. ---You - - -

40 I'm suggesting to you that that is not a truthful answer.---Okay. It's no then.

Because the discount was applied in a document that was produced by you. You had put the discount in the document and sent it to Mr Clarke. We saw that from that earlier email.---I disagree on that but if you think that - - -

Okay. I'll take you to volume 36.3, page 19. This is a notification to Mr Clarke that he'd been awarded the jobs and it nominates you as the superintendent's representative.---Yep.

10 And so you were responsible at council for overseeing the delivery of this project.---(NO AUDIBLE REPLY)

I'll take you back to page 34. This is an email from Mr Clarke to Mr Luu and you with some pricing back on the sucker trucks and the acceleration, "I'm happy to handle this as a variation to the contract." Was that a reference to that earlier meeting that you'd had on site on 1 October?---Can you go back and then we can see?

20 Sure. I think it's volume 36.3, page 9.---This once is they think that you've got another trench the same length and an acceleration four/five days. Let's go back to the other one. Just a sec.

Page 34.---Okay. Yes. Looks like the same, yes.

And so it was handled as a variation to the contract.---Yes.

Why was the contract awarded before Mr Clarke had provided a quote for the additional work?---That I can't tell you. That I can't tell you. But here it says the four/five days.

30 But when you say you can't tell me, weren't you responsible for evaluating the quotes?---Had to make sure the job is done properly, and that's it.

And that evaluation panel report was finalised on the 6th, well, approved by Mr Webb on 6 October.---By Mr Assad first.

Yeah, Assad first, and then Mr Webb - - -?---Yeah.

- - - on 6 October.---Yeah.

40 But the meeting that you had with Mr Luu and Mr Clarke on site was on 1 October.---Yeah.

And that's where the additional works were raised.---Yeah.

So did you go back to NDEA and Aqua Assets and get them to quote on the additional works?---I can't recall.

But the fact that it's not referred to in the evaluation panel report suggests that you didn't.---Probably.

10 So you only spoke to Mr Clarke about the additional works.---It's not something that I'm doing in my house. This is, must be public.

What do you mean by this is public?---Like you say, I was with Anthony and Anthony must have gone to Assad and the designers. There must have been a reason why five days early too. It's not something that I can decide.

Okay.---I can decide only if the job is done properly, that's all.

20 I'll take you to page 54. So this is an email from Mr Clarke to you attaching the invoice on 26 October.---Yeah. Yeah.

And were you responsible for then making sure that got passed onto the appropriate person in council?---Says nothing to me. It's just that it's an updated invoice.

But when a contractor sends you an invoice do you then send it on to someone for it to be paid?---It has to be approved, but yes.

30 Yeah. So you sent it to Mr Anderson.---Yes.

And then they - - ?---Assess it.

Assess it and pay it.---Discuss sometimes, but yes.

Did Mr Clarke tell you when he was paid for the non-destructive digging works?---(NO AUDIBLE REPLY)

40 Did he tell you when he received that money from council?---You're talking about October 2020, ma'am.

You don't remember. Is that what you mean by that?---(NO AUDIBLE REPLY)

If I can take you to volume 39.3.

MR SUTTON: Sorry, what page number is this? I can't see the bottom.

THE COMMISSIONER: Yeah.

10 MS HUXLEY: Oh there's no page. It's just one page. So that's an email from Mr Clarke to you at your PMLV address.---Yeah.

"Thank you for the work done to date."---Yeah.

"I'm reconciling the job so far and I'm after your invoice for the work done. I've totalled it to being 26,000 including GST and if you're numbers confirm with this please send the invoice." What work had you done for Mr Clarke at that point?---My lawyer says one thing to me when I came here, "Tell the truth, otherwise I can do nothing for you," and I stick to that. I  
20 helped Mr Clarke because I wanted him to do the work. Probably this is coming back to me, of money that I gave him, 'cause Mr Clarke is a gentleman. If I gave him something he pays me back. That's it. If we didn't come back, and I'm sorry to say this, but that's how it is.

So you accept that this payment was made to you in connection to helping him get council jobs?---No. No. This is coming back, money that I lent to him and is coming back to me. That's all it is.

30 So when do you say you lent this money to him?---I can't remember, ma'am.

But he's not saying, "I'm paying back a loan."---Yes.

He's saying, "I'm reconciling the jobs and I'm looking for your invoice." ---It doesn't say the true - in this case he's not saying that but this is money, is my money that's coming back.

40 Why would he not be saying the truth?---I don't know, ma'am. That's, that's not - - -

Well, did you declare this in your income tax return for that year?---This is probably to show my company that it was a bigger, a bigger turnover, I guess, I wouldn't mind that. If I wanted to sell the company, that would have been better, isn't it?

So it suited you because it makes it seem like PMLV is, has a higher turnover than it actually has.---Yeah.

THE COMMISSIONER: Is that correct?---Yes.

10

MS HUXLEY: But so did you declare this as income in your financial accounts?---Excuse me?

In your financial accounts that you prepared for PMLV.---Yeah.

And your tax return that you prepare for yourself and for PMLV, was this amount declared as income?---Absolutely, yes.

20 Why would you be paying, happy to pay income tax on a repayment of a loan?--- Because it would show my company that we'll make more money.

So you're happy to forgo the \$12,000 or so in income tax to make your company look better?---It's less than that, but yes.

THE COMMISSIONER: Well at this stage what were your plans about selling your company?---What do you mean, ma'am?

Well you wanted to make your company look more valuable.---Yes.

30 And that was because you wanted to have a better sale price, but - - -?---At that time I was not in the best physical condition and I thought that I was actually worse than what I was.

So you were intending to sell the company at this point?---Yes. I thought that I had cancer to my bowel. I've been in the - - -

Right, we don't need to go into the medical aspects, Mr Cossu.---Okay, and that, so at that time I was thinking to, to, to sell everything, yes.

40 And at that time, when did you think you might sell it?---I was hoping for, I didn't, I didn't really plan it, but I was thinking to make all my books a

hundred percent, pay all my tax, just make sure that I paid everything, make sure that it was, the company was proper and, and sell it.

So what, so you could sell it in a few months' time, a few years' time, a few what?---At the first opportunity, I guess.

And what were you doing to create opportunities?---Working. I mean I had, I had workers working for me, making sure that all the taxes were paid and -  
- -

10

I mean had you listed it with a business broker or anything like that, were you just selling it?---Not yet, no. No, not yet.

What were your plans in that regard?---I didn't, I didn't catch that. What I was planning?

Yes. How were you planning to put it on the market?---I didn't have a specific plan, but I had a plan to sell it, to make a little bit of profit first, make a little company, a little turnover, and then put it on the market.

20

Okay, all right.

MS HUXLEY: When had you given Mr Clarke the \$26,000?---It must have been in little pieces, in bits and pieces, like paying the labour or hiring things or - - -

So was it in connection with work done at council then?---Yes, probably yes.

30 Okay. I'll take you to volume 36, oh, Commissioner, I tender that document. I understand it will Exhibit 68.

THE COMMISSIONER: Thank you.

**#EXH-068 – Email from Jeremy Clarke to Pietro Cossu dated 2 November 2020 re work to date**

40 MS HUXLEY: I'll take you to volume 36.3, page 69. It's an email from you the same day, "Please find attached the invoices required."---Yeah.

And we'll go to page 70. So you're invoicing for work done as per agreed quote. So you say that's not true, that sentence there.---I can't remember.

And then it says "project management".---Yeah, 2020, I can't remember.

And the you apply the GST to that, so it ends up being 28,600.---Yeah.

And Mr Clarke paid that into your bank account.---Yeah.

10

If part of this, I think you just said, and correct me if I'm wrong, that part of the money that was being paid to you here was his reimbursement for costs that you'd incurred, like labour.---Yeah, see, yeah this was reimbursement, yes.

Is the reimbursement for, cover the whole 26,000 or was it partly, is only part of that money a reimbursement? Did you need to be reimbursed 26,000 - - -?---You're suggesting that this one could be a profit that you made or what is your suggestion?

20

No, I am just asking on your evidence, does the 26,000, is that all a reimbursement or is it, is reimbursement only part of that money?---And what would be the other one? Just I'd like to understand.

Well I suppose, so you gave evidence that this was repaying a loan.---That's it.

You said, so repaying a loan, and so that would, and by that you also mean it's to reimburse you for certain costs?---Yes.

30

So you paid for some things.---Yes.

And then did you also give Mr Clarke some money, loan him some money that he was paying you back for or was it all just a reimbursement?---I cannot recall that.

Okay.---I can't recall.

40 THE COMMISSIONER: Did you keep any record of these loans?---No. But I can tell you if you give a pen to Mr Clarke, Mr Clarke will give you back the pen.

But also it seemed to me, and I might be being unfair and you may disagree, but it seemed to me that Mr Clarke was not very good at paperwork and he was a bit muddled up. Would that be correct?---Yes. But he will never take away something from you. He's a very good man.

Yes, but how would you, how would he know what he owed you if it's so muddled up?---Well he doesn't, that one, if I give him a glass of water, he will bring back the glass of water.

10

Right.---He's really an honest man.

But if you give him \$11,000 - - -?---Yes, he will bring it back.

- - - will he remember it was \$11,000 - - -?---it will - - -

- - - or might he think it was \$12,000?---He may not remember to eat or wash his boots, but he will remember to give you back your money. He'll, it's the way that he is.

20

A good head for figures, did he have Mr - - -?---Not the figures, but the principle.

Oh, okay, thank you.---He is a very good man.

MS HUXLEY: Did you bill to Bulk Conveying Equipment because that's what Mr Clarke had told you to bill to?---Ma'am, I can't remember.

30 Okay. Did you and Mr Clarke have an agreement where you would invoice bulk conveying equipment even though the work you were doing related to GWAC work?---I honestly, no, I don't know that. I can't remember. It could be for his tax purposes, I don't know.

Mr Cossu, I'm going to take you to a spreadsheet that was found on a USB stick at your premises. Volume 39.11. Do you recognise this document?---I think I saw it yesterday.

So the one located on your USB stick was slightly different to the one located on Mr Clarke's computer.---I don't know.

40

Do you know why you have this document in your possession?---Because I, because he gave it to me, I don't know.

Did you make any changes to it? Did you make any changes to it?---I don't know.

Why would he give you this document?---No, I would like to understand it.

To understand it?---Yes.

10

To understand what?---I don't know, why it's with me. Can you - - -

That's what we're trying to find out, why is this document with you.---I don't know, he probably gave it to me.

Do you know why he gave it to you?---No.

Did you ask him why he gave it to you?---No.

20 I suggest the reason he gave it to you was so that both of you could keep tabs on the profits that were being made through GWAC and council work.---And what is the profit? Just - - -

I can take you to that now, Mr Cossu, if you would like.---Yep.

So see the running totals?---The what?

Running totals on the right-hand side?---Yeah.

30 So you've got company registration and then GST registration, company insurance, public liability, workers comp and then a loan from MC, which is McGoo Civil. And then if you go down to the bottom projects you've got BLAKC tower, that's the cooling tower, isn't it? The cooling tower works? ---Yeah, yep.

And they had been awarded to GWAC?---Yep.

And they had been awarded to GWAC on recommendation by you?---Yep.

40 Can you see there's \$14,874.05?---Yeah, okay.

If I just take you to page 2.---Oh no, stay. Could you mind - - -

Oh, yeah. No, see up the top there it says “Revenue”?---Okay.

The ordinary meaning of “revenue” is that the total amount coming in.  
---Which one is that? The one of six, or which one?

No, the 14,000.---Yes.

10 So I’ll just take you to tab 2, the next page.---Yep.

That figure comes from that top box. Do you see it says “Total revenue,  
\$36,080”?---Yeah, yeah.

Total costs, around 21,000?---Yep.

And a net result of \$14,874.05.---Okay.

20 And then if we go back to the first page, that’s the profit that is identified for  
the cooling tower.---Yep.

And then you've got Appian Way NDD. That’s the non-destructive digging  
works, isn't it?---Yep.

That’s another project that had been awarded to GWAC.---Ma'am, the more  
you explain it to me, the more I think that this is absurd.

What’s absurd?---This type of profit. You’re talking about 53,000, an  
enormous amount. It’s an enormous amount.

30

It is. I’ll take you down to page 3.---And I mean, and because - - -

Mr Cossu, I’m asking questions.---Yeah, yeah, yeah.

Go down to page 3. See at the top box there - you might need to zoom in.  
---Yeah.

That figure comes from that net result.---I honestly want to see this, so - - -

40 Pardon?---To me it’s impossible, that’s all.

Why is it impossible?---You say that Mr Clarke has put the quote lower than anybody else, isn't it? For, because somebody lower the price. All of a sudden, this, this young man, or this man is making those enormous profit. There is two things here, or he doesn't know what he is writing down, or he is in a dreamland or, or maybe actually going to - - -

THE COMMISSIONER: No, no. Mr Cossu, I think we're getting a bit off track.---Absolutely.

10 Counsel's asking you about this document. So just listen carefully to the question and then just as the question, all right?---Yeah.

Yes, Ms Huxley.---Okay.

MS HUXLEY: And then if we go back to page 1.---Yep.

That's the figure there, the profit of \$93,000 is put in there. Do you see that?---Yep.

20 And then there's \$3,600 for the Northcote Park. Do you see that?---Mm-hmm.

And so when you take into account those profits and then you subtract the setup costs, there's a profit of \$106,340.17. And then in the bottom two rows there's JC. Do you know what that is a reference to?---Jeremy Clarke, I guess.

And what's PC a reference to?---Normally Pietro Cossu.

30 And so there's that 106,340.17, it's divided into two there to equal \$53,170.09 each.---Mm-hmm.

And then the 26,000 is deducted from that. So is this spreadsheet showing that as at the date of this spreadsheet each of you were entitled to \$53,000 of a share in profits and you had been paid 26,000 of that?---I disagree with that, but you say it to me. If I see it, I see it.

Well, what's the explanation for you having \$53,170.09 against your name there?---I don't have no explanation.

40

THE COMMISSIONER: Well, do you remember seeing it when Mr Clarke sent it to you?---I don't remember seeing it, ma'am.

Because you must have been quite shocked to see this, were you?---I am now. I imagine then.

Yes, well, I just can't understand that if Mr Clarke sent it to you and it was such a shocking document that you don't remember a think about it.---Look, I don't - like you, like you say, you reply, I must to the question. I am.

10

MS HUXLEY: I tender that volume 39.11 as Exhibit 69.

**#EXH-069 – Volume 39.11 Spreadsheet Company Project Cost Tracker  
Jeremy Clarke**

MS HUXLEY: GWAC went on to win some other jobs at council. Do you remember them?---No, I can't remember them all, but yes.

20

Did you have any involvement in the Vale of Ah dog leash works?---What's it called?

The dog leash park works.

THE COMMISSIONER: Dog off leash.

MS HUXLEY: The dog off leash, sorry.---No, no, no.

30 Do you remember - I'll take you to volume 36.9, page 26. This an email you sent to Ms Bhuiyan with Mr Clarke's contact details. Do you know why you sent her his contact details?---I think they couldn't find anybody and I send it to them.

So who told you that they couldn't find anybody?---I can't remember.

Did you have a discussion with Mr Webb about this?---No way.

40 Why do you say "No way"?---Because I don't think I waste my time asking, telling him that, you know - - -

So who would you have had a talk to about it?---I don't think so, no.

But then who at council would you have had a talk about this work with?  
---What you ask me?

Well, you just said that somebody at council would have told you that they had trouble finding someone. So who would have told you that?---Was general knowledge at the time there was not many people to find, was a lot of work and not enough contractors. Probably Faiza herself must have  
10 asked me if I knew somebody.

I'll take you to volume 36.9, page 39. So there Mr Webb is telling you to "call Mr Clarke and say we need him to start it on Monday." Do you see that?---Faiza to Ben Webb. So Faiza sent something to Ben and Ben told me "make sure that he starts on Monday", yes?

Yeah. So he's asking you to contact Mr Clarke.---He knows that I know him, yes.

20 And to tell him he needed to start on Monday?---Yeah.

Had you spoken to Mr Webb about it?---Oh, I can't recall, ma'am. It's many years, a long time.

And I'll take you to page 52. Mr Clarke has sent to your PMLV address a copy of the BOQ, and if we go to the next page - - -?---Yeah.

- - - he had filled it out.---No.

30 Pardon?---No.

No.---Are you asking me if I filled it out?

No, sorry. I said and he had filled out the bill of quantities that he sent to you.---I'm sure he did.

And did you review that document?---No. I can't remember. Like I said before, he probably sent it to me but - - -

40 Did you ask him why he sent this to you?---I can't recall.

If we go to page 58, now he'd been sent by council another bill of quantities and then he sent this to you and at page 59 he'd filled it out.---No.

I said he had filled it out, Mr Clarke had filled this out.---I'm sure he did.

So did you review this document?---No, I didn't review this one, this document.

10 If I take you back to page 58, that's sent at 9.51. See that there? AM.  
---Yeah.

And I'll just take you down to page 60. This is an email from Mr Clarke to Ms Bhuiyan attaching the quote and that's at 21.06. Can I take you to volume 30.1, page 95.---Sorry ma'am, can I see it again, what's - - -

Oh, sure. Sorry, can you just go back to volume 36.9, page, do you want to see the final one?---Yeah.

20 I think it's page 58 is it?---Is anything changed here or - - -

I think the fencing works had been included in that, that's the, sorry can you just go up one page. So that's one that Mr Clarke had sent to you.---Yeah.

And then at page 60 is the quote sent from Mr Clarke to Ms Bhuiyan.---This is the same day?

30 Yeah. And if you go to page 61 it's lower, but that's because the fencing works had been removed and council had obtained a separate quote for the fencing works, so Mr Clarke was only quoting for these works.---Okay.

But so if I take you to page 30.1, sorry, volume 30.1, page 95, you send a message to Mr Webb, "How much is a good price for that work approximate? I need to price it." That's a reference to the Vale of Ah works, isn't it?---For which one is this, ma'am?

Well this is a message that you sent to Mr Webb on 14 October 2021.---Can I see this?

40 Do you want to see the one above? We can go to page 94.---Yeah, I saw that. I don't understand. I don't understand, honestly.

So on the 13th, I will take you back. Volume 36.9 at page 39.---Yes, we saw this before.

Yes. Mr Webb had sent an email to you on 13 October 2021 asking you to call Mr Clarke and say that we need to start on Monday. That's in relation to the Vale of Ah dog off-leash area, is that right?---If this is asking me to start on Monday, is the quote been supplied already?

10 No. See underneath that, "Hi Ben, FYI I have spoken to Jeremy from GWAC this afternoon. He's had a preliminary look. He'll be able to commence works next week - - -?---Can you see - - -

- - - he will be providing prices and program tomorrow. I will forward as soon as available."---Yes (not transcribable) and otherwise that would be able to commence work on the Vale at mid next week. Then Ben says to me, "Make sure that he starts on Monday."

So he hadn't submitted a quote at this time.---I was not part of that.

20 And then I took you to an email, sorry, at page 52, 13 October at 23.05, Mr Clarke emails you the bill of quantities for this job. Do you see that?  
---Yeah.

Now I'll take you to page 54. There's a change in scope to the project and there's a new BOQ.---Yeah.

And then at page 58 this is sent to you.---Yeah.

On 14 October at 9.51am.---Yeah.

30

And then at page 60, 14 October at 9.06pm, Mr Clarke submits the quote.  
---Can I, can I see the page that they sent me, that they sent me please?

For the first - - -?---The previous page.

The first one or the second one?---That one previously of this one.

So that's page 58 and then page 59.---One second, just this. Okay, thank you. I am not interested. I wouldn't put any prices on this.

40

But so when I take, I'll take you back to volume 30.1, page 95, and you say, "How much is a good price for that work approximate? I need to price it." That's a reference to this work, isn't it?---I can't say that.

Well it's around 14 October, 8.17am.---Ben would never do that.

And then he, and then you say, "He can start Monday." That's a reference to Mr Clarke starting on Monday.---I just don't under - - -

10 As we just saw in that email.---It could be anything, ma'am, I cannot - - -

It could be anything.---Yes.

So that could be a, so around 14 October 2021, could that refer to a completely different job? Well we just saw an email from you, from Mr Webb to you, saying can you call him and get him to start on Monday and then a day later this is the message you send to Mr Webb.---So this one, you can relate it to one of my workers as well, like one of the contractors or it can be anything.

20

It could be anything. Is that your evidence, that could be anything?---I don't have any evidence. I don't even remember these messages, ma'am.

So then I'll take you to that screen, and then Mr Webb sends a screenshot to you. Do you see that down the bottom of the page?---That's what I was asking, yes.

And that's at page 250. Do you see that?---But he's not doing the fencing.

30 This is a photograph of an email Mr Webb had received for that particular job. Is that not correct?---But you said to me that (not transcribable) is not doing the fencing.

This doesn't just relate to the fencing. This relates to the whole scope of works.---And - - -

40 So he sent you this picture after you'd sent him those two messages saying, "What's a good price for this? I need to price it, and he can start on Monday," and then he sends you this picture.---I don't recall this, but it's here.

So Mr Webb is disclosing to you what other quotes had been received in relation to this.---It does look like, is - - -

Did you then communicate that to Mr Clarke?---(NO AUDIBLE REPLY)

You don't know?---No.

You did not? Sorry, what's the answer?---I don't know.

10 Okay. I'll take you to volume 36.3, page 217. This is an email from you to Mr Webb at both your council addresses saying, "Please find attached memos for your perusal."---Yeah.

Did you draft those memos?---I usually don't but probably I did, I don't know.

I'll take you to page 218. So that's the first memo.---Yeah.

20 Is the purpose of this memo to seek approval of costs in relation to that particular job, the heritage timber from Central Station?---Yeah. Yeah.

If I can take you to page 219. The costs there identified are about 53,625. ---Yeah.

Had you worked out those costs?---I can't remember, but if they're here I must have.

And then the recommendation is to approve the contract work to GWAC. ---Yeah.

30

For the total value of \$53,625.---Yeah.

Can I take you to page 220. This is in relation to repairs to the Appian Way trenches as a result of the non-destructive digging works. Do you recall that?---Can I see a little bit more than that?

Yeah, go to the next page.---Yeah, this is damage.

40 So GWAC had already performed the works and so they were engaged for the variation.---Yes.

And you're seeking approval of the variation?---Yes, for this one, yes, absolutely.

Page 222. Variation of the Belmore stadium fence.---Yeah.

And on the next page that's the total of the variations - or variation, so it's seeking approval of the, I think it's the 10,000, 'cause the contract had already been issued.---Is there a reason you didn't put the GWAC in there?  
---It was here. It was there already, I guess.

10

But that's not clear from this memo.---Sorry?

That's not clear from this particular memo that GWAC had already been awarded the works.---This is after the work.

The memo doesn't say that the variation was for GWAC like it did with the other one. I'll take you back up. Page 221, it says, "Please approve variation to GWAC." Do you see that?---Yes.

20 So it clearly identifies GWAC. The memo identifies GWAC - - -?---Yeah.

- - - as the person doing the work.---Yeah.

Then we go down to 223. It doesn't identify GWAC there.---And?

Well, I'm going to put to you that the reason it doesn't include that is because you didn't want to draw attention to the fact that you were seeking to get work for GWAC in preparing these memos.---And the people would have sign it (not transcribable)

30

Well, in particular, you didn't want Mr Vangi to see four memos, all of which were awarding work to GWAC.---I don't believe that Mr Vangi would have signed it like that, but whatever.

You don't believe he would have signed this document? These documents are seeking his approval.---Yes.

So he would have read the document.---I am sure.

40 And your intention in drafting it was for him to read it.---I'm sure.

And approve it.---Yes.

And so you didn't want him to have four documents each identifying GWAC as the recipient of the council projects.---I don't know what you, what you're implying.

I'm putting to you that you deliberately did not put GWAC there because you didn't want the arrangement that you had with Mr Clarke to profit off council jobs to be discovered by Mr Vangi.---I disagree completely.

10

Then we go to page 224. It says, "Cleaning and removing furniture at Leslie Street depot." Again, quote received on the next page, 225. Quote had already been received.---Again.

Again you don't identify GWAC as the person who the quote had been received from. You agree with that, you don't identify GWAC as the person who submitted the quote?---I don't agree in the fact that I did any of this on purposely, that I didn't put that on purpose.

20 Okay, but you accept GWAC doesn't appear there.---That the job is done by WAC?

Yeah.---Yes.

And you knew that at the time that you drafted this memo, that GWAC had provided the quote for the work?---I just didn't remember that I didn't put GWAC there, that's all.

30 And I put to you again that the reason you did that is because you wanted to conceal that you were trying to get work for GWAC.---I disagree with that.

Okay. So if you just go back up to page 217, this email's dated 22 August, and I'll take you to 30.1, page 58. Here's a message from you to Mr Webb, "Hi Ben. Jeremy is calling for anything we may have. How can I help with the memo?"---Yeah.

That's a reference to the memos that you'd sent to him on 22 August, isn't it?---Yeah.

40 And Mr Clarke was calling you for work?---Yes. Looks like it.

He needed more work at that time?---Probably, yeah.

Did he have money problems at that time?---Say that again?

Did he have any money problems at that time?---I don't know. I can't recall it. I can see, I can read this messages, yes.

And so you were asking Mr Webb how you can help with the memos?---I was asking Mr Webb if he had any work that he could give me.

10

So you were trying to help Mr Clarke win work?---Yes.

And Mr Webb says, "I can't approve single sources for over 50,000".---Yes.

And you say, "That's why I prepare those memos"?---Yep.

And then again on page 59 you say, "Anything I can do from my side?"  
And then he gives some instructions in relation to that. Did you talk to Mr Webb about getting more work from Mr Clarke after these messages?---I can't recall, ma'am.

20

Did Mr Webb like Mr Clarke at this time?---He was delivering the work. He didn't like him personally but he, he, he liked the work that he was delivering and everybody else was happy with him.

I'll take you to volume 30.6, page 158. I'm sorry, I might start at 157. Can you see that you've sent Mr Clarke an image?---Can I see it?

30 Yeah, I'll take you to it now. I'll just find it. It's at page 474. Does that look like a council document to you?---Yep.

That's a bill of quantities document?---Yeah.

Do you know what job that related to?---Doesn't bring anything to mind.

Doesn't ring any bells?---No. It's very standard.

So why would you sent it to Mr Clarke?---Why did I send it to him?

40 Yeah.---Or that he sent it to me?

You sent it to him. So why did you send it to him? I can take you back to page 157. That's where you send it to him.

THE COMMISSIONER: Can you expand that? I can't read the first line. Thanks.

THE WITNESS: So I sent this picture but no, I didn't ask him for anything or - - -

10 MS HUXLEY: Well, I can take you - so that's on 1 December at 5.48pm. If you go up to the next - this might jog your memory, 156. In the afternoon Mr Clarke has tried calling you and then he talks about the length is 1,773. Does that jog your memory of what this would be about?---1,773. It's, it's very small, this - for what is this? 1,773. Doesn't ring a bell, no.

And then on page 158 you send him a message, "Don't change your price." And he says, "I won't." And you say, "I will look into it." Do you know what that's a reference to?---No.

20 Can I take you to page 160? And he says, "Call are you want", and then says, "Call if you want." Do you see that?---Yeah.

And then you send him a message saying, "Send me the quote." Do you know what that would be in relation to?---No clue.

Would it be in relation to a quote that he was preparing for council?---Like I say before, I don't have idea, an idea. I don't know.

30 And he says, "To which account?" And then on the next page you say - page 161 - you say "There was one other one for the scaffolding only" and then you tell him "PMLV". So you were asking him to send it to your PMLV account?---According to this, yeah.

Can we go to page 165? It's a message from you to him, "37.600" on 13 December 2021 and then Mr Clarke says to you, "In your inbox".---37,600. Sending PDF to council.

40 So at 11am you've told him a price and at 11.36 he says, "In your inbox." And then you say at 11.53, "Send it in PDF to council." So you're telling him what to put in his quote to council, aren't you?---I don't have idea.

You don't know if you did, even after seeing that exchange, you don't know?---Can we see - - -

Do you want to see what's on the page before it?---Excuse me?

Did you want to see what's on the page before this page?---No. I don't know what is in relation. I'm sure that you will tell me now.

10 Well, I can take you to volume 36.11, page 5. So that's Mr Clarke sending to you at your council address shortly after you said, "Send it in PDF to council", a quote.---Yeah.

And that quote, on the next page, is 37,500. So \$100 cheaper than the price you'd identified. And so this relates to the text messages that you sent where you said, "Send it to council".---Yep.

And you had told him what price to include in that document.---Yep.

20 I'll take you back to 30.6, page 169. See that first message, Mr Clarke to you, with an attachment? I'll take you to page 487. Do you know what that document is?---No clue.

Did you ask Mr Clarke why he had sent it to you?---Has this been sent to me?

This was sent to you. That's the picture that was sent to you on 23 December 2021.---Okay.

30 Are they all council, council jobs?---Yeah.

I can take you to volume 30.1, page 188. You see you've sent Mr Webb a pricing schedule. That's at page 314 and 315.---Okay.

Who had prepared that document, sorry and go down to page 315, there's two - - -?---He must have - - -

Who must have?---Jeremy Clarke I guess.

40 Mr Clarke. And then sent it to you.---I can't recall this document, but - - -  
Okay. I'll take you back to page 188.---Yeah.

So you sent that on to Mr Webb?---According to this.

And then at page 189 you say, “Hi Ben, Jeremy is quoting for the attached. Any idea?” Are you asking Mr Webb there what other quotes had been received for that job?---I was asking if he could do the job if he couldn’t find anybody else.

Well - - -?---Did he do the job?

10

He did not ultimately get this job, but you’re asking, and then Mr Webb says, “They are for all the light poles, a pretty straight forward job.” And then you say, “They also screw piles not chip.” And then at page 190, “Have you looked at the BOQ?” Are you asking there if Mr Webb had looked at the BOQ? And then you ask him, “Does he have any chance?” So you’re trying to work out if Mr Clarke has any chance to win this job. ---And he says, “The minor panel was very expensive.”

20 Yeah. So you’d already sent the prices through, Mr Clarke’s proposed prices through to Mr Clarke.---Yeah. No, I didn’t send any prices, he prices.

Yeah, but the document that you sent Mr Webb had the prices that Mr Clarke had put into it.---I guess.

So you had sent Mr Clarke’s prices to Mr Webb?---I can't recall it, but I can see that this message is here.

30 And then if I go to page 191, you’re asking Mr Webb, “And we go up or can we go up?” You’re asking Mr Webb if Mr Clarke’s prices can go up.---I didn’t mean, I don't know if I meant it that way, that’s all, but I can see the message.

Well what way did you mean?---I don't know. I really don't know. Probably bringing it down, but - - -

Sorry, probably bring it down?---Yeah.

40 Bring the price down?---I never talk about price. I never talk about price.

You say that, Mr Cossu, but you are clearly talking about price here.  
You're talking about lifting the price.---Say that again?

You say you don't talk about price, but you are talking about the price here.  
Do you accept that?---I accept that.

When you say "can we go up?" you are talking about whether you can raise  
the price.---I accept that.

10 And you had spoken about the price before, because we had seen in that  
earlier message that you told Mr Clarke the price of 37,600. So you do talk  
about the price, don't you?---I never give him an idea of prices, but - - -

See there you say, "Can we go up?" We is a reference to you and Mr  
Clarke, isn't it?---No idea.

Well you don't say "can he go up" or "can GWAC go up", do you?---(not  
transcribable)

20 So the reference to "we" there is you and Mr Clarke, isn't it?---I disagree,  
but - - -

Okay. Commissioner, I'm about to move to the culvert works.

THE COMMISSIONER: Yes.

MS HUXLEY: But given the time it might be, rather than start for five  
minutes and then come back, it might be better if we start together.

30 THE COMMISSIONER: That's right. So we will be starting, everyone will  
be all right to start at 10 o'clock tomorrow, presumably? All right. We'll  
resume your evidence at 10 o'clock tomorrow morning, Mr Cossu.---Okay,  
thank you.

And please don't speak to anybody about your evidence.---Yes, all right  
(not transcribable) anyway.

I'll adjourn.

40

**THE WITNESS STOOD DOWN**

**[3.57pm]**

**AT 3.57PM THE MATTER WAS ADJOURNED ACCORDINGLY**  
**[3.57pm]**