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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 WEDNESDAY 19 JUNE, 2024

AT 2.00PM

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

<BENJAMIN WEBB, on former oath

[2.12pm]

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

MS HUXLEY: Mr Webb, I took you to a document earlier at volume 31.3, page 213 and I will take you back to it. It was that list of agency workers that you'd included in a document recommending that the purchase orders
10 be extended. Do you recall that?---Yes.

And you said that in relation to number 6, Mr Istanbuli, you couldn't remember if he was a PMLV officer or not.---Yeah, I didn't recall.

If I can take you to volume 30.1, page 63. Do you see that first message there from Mr Cossu to you on 16 September 2021.---Okay.

With Mr Istanbuli's resume. Does that refresh your memory as to whether he was a PMLV candidate?---Yes, he could have been, yeah.
20

Is that something you would have known as at October 2022 when you sent Mr Vangi that memo?---Possibly. I wouldn't have considered it when I put the memo together.

You wouldn't have considered it.---No.

You wouldn't have considered who were the PMLV candidates in that memo?---No.

30 Was a person called Ms Lyell at council?---Sorry, Ms - - -

Ms Susan Lyell.---Oh, yes.

Who was she?---She worked in the Commercial Team, so, in a, it's a procurement role.

So was she a part of Procurement or was she in your unit?---No, she was in, in, in my unit.

And so what exactly was her role?---She worked in the Commercial Team, so there was a team that managed the contracts and commercials and otherwise.

And did she report to you?---Indirectly, yes. Yeah, probably.

Well who was her direct supervisor?---It could have been me. I can't really recall.

10 Were you responsible for allocating her tasks?---From time to time, yes.

Did she have any decision-making ability in relation to who to engage or who to terminate the contract in relation to?---I'm not sure what you mean.

I'm just asking if she has any role at council in determining who to engage at council as a worker.---No. She was a contractor, so she could have made a recommendation otherwise.

20 Did she have any role in council in determining which contract workers to terminate?---Not really. She managed a team, so certainly she could have recommended something.

Do you recall a contingent worker called Mr Osborne?---Yes.

And what was his role in the unit?---He was working on the overall restructure for us, yeah.

Did he report to you?---To Susan, yeah.

30 He reported to Ms Lyell?---Yeah, that's right, yeah.

And did he have any, did you have any role in allocating him tasks?---Yeah, I did.

And what kind of tasks would you allocate him?---We were working towards the restructure in a document that proposed what the unit should look like.

40 And that was something he was doing?---He was working on that, yes.

And was he doing that in consultation with your wishes for the unit?---Yes.

And what were your wishes for the unit?---Well there was an increasing workload continuing to come. Projects like WestInvest and others had been announced, so there was a large influx coming and what we were doing is setting up the unit to be successful going forward.

And did you have input into, did you express any views to Mr Osborne or other people at council as to what the makeup of the workforce should be?
---Yes, so the structure we got to and trialled seemed to be working quite well and that - - -

And what was that structure?---So the, the Delivery Team was broken into wards to deliver with a leader in each ward that allowed them to communicate with the community much better and allowed them to understand their backyard, so to speak, so that was working better and that's how I've seen it going forward.

Did you express any views about what proportion of permanent or fulltime employees to contract staff was an optimal level?---No, not really. I don't think we landed on that. There was certainly a recommendation that a number of the roles were to be converted to full time.

Did Ms Lyell raise with you an issue that Mr Osborne had raised with her in October 2022 about Mr Cossu supplying staff to council?---Yes, I think she did, yeah.

And what did she say to you?---Something to the effect of, "Richard has a concern with Pietro." Yeah.

Well did she say to you that Mr Cossu, that Mr Osborne had raised an issue with her that Mr Cossu was earning 50% commission on people who were hired through his company to work at council?---I can't recall that discussion.

And did she say to you that Mr Osborne had said that, expressly said that you knew about that arrangement?---No, I can't recall.

Did she tell you what she told Mr Osborne in response to him raising that issue with her?---No, I don't recall the detail of that discussion.

Do you recall what happened with Mr Osborne after that was raised with you?---No.

I'll take you to volume 2.1, page 207. Do you see down the bottom there's an email from Ms Figueira to you on 5 October 2022?---Yeah.

And see the bottom paragraph there "Another issue". Do you see that?
---Yes.

10 So Ms Figueira is telling you that "Another issue that has been raised is that Richard has also approached Sarah concerned about a deal that he has uncovered with another agency team member getting a," if you go to page 208, "commission from an agency for getting other agency workers employed by council. We have asked him to raise this with you for discussion and action but I thought to give you the heads-up as he has rung Sarah two times to advise of the same issue." Do you recall having a - and then, sorry, go back to page 207. You thank her and say you will look into it and speak with him in the morning.---Yes.

20 Well, do you recall what you did when you received that email?---No.

Did you speak with him the next day?---I don't think he turned up. From memory he didn't turn up.

THE COMMISSIONER: Sorry, who turned up?---Oh, Osborne. I don't think he come to work.

MS HUXLEY: Is it the case that he had a pre-booked day of leave on 6 October?---I don't know.

30

Did you speak to anyone else about this issue?---Not that I can recall.

Did you instruct Ms Lyell to contact Randstad and ask what the notice period was under his contract with council?---I don't recall doing that.

Did you ask her to contact Randstad to advise Randstad that Mr Osborne had completed his contract assignment with the council and - - -?---No, I don't - - -

40 - - - that you would be informing him of that on 7 October?---No, I don't recall.

You don't recall that. I'll take you to page 209. So you don't recall receiving this email?---No, I don't recall but I accept it come to me.

Well, do you accept that Ms Lyell acted on your direction?---No, I don't accept that.

Well, she didn't - - ?---I don't, I don't agree.

- 10 You just gave evidence that she didn't have - I withdraw that. Why would she be informing you that this had occurred if you hadn't asked her to do that?---I don't know.

Well, did you instruct her to contact Randstad to find out what the day notice period is so that he could be terminated the next day?---I don't recall doing that, no.

Well, I put it to you that that's what you did.---I don't recall.

- 20 And you were concerned that if he - and I put it to you that if he, the reason you did so was so that he didn't have an opportunity to raise this issue with anyone else?---I reject that.

THE COMMISSIONER: So just did you say that you recall Ms Lyell telling you that Richard had a concern with Pietro?---Yeah, I think so, yeah.

And did she say that Cossu was earning 50% on people hired through his company?---I don't recall that conversation.

- 30 You don't recall it?---No.

You mean it may have happened and you just don't recall it?---No, I just, yeah, I don't recall having a discussion to that effect.

All right. So you don't know whether it happened or it didn't happen?---No, I don't.

You don't know one way or the other?---No.

- 40 All right. And what about it was suggested that when Ms Lyell raised this with you you said you knew of the arrangement. Do you remember that

happening?---No. No, I don't recall that. I recall her raising the issue but I don't recall the discussion and the detail of it.

Right. But if she just told you that Mr Cossu was earning 50% on the people he hired through his company that would have been an extraordinary profit to your mind, wouldn't it?---Oh, I had no idea what Cossu was earning so I, you know, had no opinion either way.

10 Well, what would you expect a recruiter to earn as a profit margin?---Oh, I don't know.

You don't know?---No.

You don't know what Spinifex or Randstad were earning for example?
---They're slightly different in that they don't offer full-time employment but, no, I don't know, no.

Okay. Yes, go on, Ms Huxley.

20 Do you remember Mr Osborne leaving?---No.

No recollection of that?---No. I remember him not turning up and I remember being not happy that him sending the unit structure review and we hadn't finalised it.

To whom did he send it?---He sent it to HR.

30 And what did you do about that when you found out?---Well, they contacted me and said, you know, this document says you need 100 full-time people and that was never going to be accepted anyway.

So you thought he'd gone over your head?---Well, he had.

Did you raise it with him?---I didn't get the chance.

Because he left?---He didn't come to work.

He just didn't show up?---Yeah.

40 Okay. Yes, Ms Huxley.

MS HUXLEY: Well, according to this email Mr Osborne's contract was terminated before he had an opportunity to attend on 7 October.---Well, according to that email, yes. Not my recollection of events.

Not your recollection of events?---No.

So your recollection of events is that he didn't show up on 6 October?---I don't think he did. I remember him not coming at one point.

10 Yeah. And did you make the decision on that day that he should be terminated?---I don't know that I ever made that decision.

So is this Ms Lyell just informing you that she has made the decision to terminate him and has indicated that to you that she told them that you will be informing him tomorrow?---That's what that email said.

Well, if she had made the decision to terminate why would you need to inform him?---If people were terminated I informed them all.

20 Regardless of whose decision it was made to terminate?---Regardless of who it was.

And so who was able to terminate these contractors?---Myself and either coordinator I think would have been able to but it's not really mapped out.

So can you, sorry, repeat that? Not enough?---It's not, it's not, there's no process. It's not mapped out in any way.

30 So you said a coordinator. What type of coordinator?---Well, somebody in a coordinator's role so Mr Anderson, Mr Assaduzzaman, Susan sat in an equivalent role but she was a contractor.

But she didn't have financial delegation to hire someone, did she?---No, she didn't have any financial delegation.

But she was able to terminate people in that role?---I don't think that's clear whether she could or she couldn't.

40 So her role wasn't clear as to whether she could terminate and she's just terminated someone and informed you.---I don't think she terminated. She just - - -

So you didn't ask her why she did that?---No. If, if someone had made a decision I would, one of my leaders in the team I would have supported that decision.

And what role did she have at this particular time?---She was leading the Commercial Team.

She was a leader at that time?---Yeah.

10

Is the Commercial Team different to the Project Controls Team?---Oh, similar. Project Controls, Commercial, it's the same thing.

Is it the same thing?---One and the same.

Okay. I'll take you down to page 210. See that this is on 7 October and you announce that Mr Osborne will be leaving and you thank them for their contribution and then you say, "From Monday Ms Lyell will move to lead the Project Controls Team." So is it the case that at that time she wasn't actually leading the Project Controls Team as at 6 October?---No, I don't think so. She was in that role for a while, or may have been - - -

20

Well then so why did you write that in this email?---Well I was just about to tell you that.

Okay.---That I might just be formalising what was already occurring.

Well you're not saying "just to confirm, Ms Lyell is the lead of the Project Controls Team", you say, "From Monday, Ms Lyell will move to lead the Project Controls Team." So the explanation you've given there is inconsistent with what you've written.---Maybe - - -

30

Do you accept that?---No.

In response to some questions that the Commissioner just asked you, you said you weren't sure what the charge, the difference between the charge rate and the pay rate was for Spinifex and Randstad.---Yes.

Pardon?---Yes, that's correct.

40

Yeah. I will take you to volume 3.2, page 26, and I took you to this email earlier, but do you see there that Mr Trapman sets out what the pay rate and charge rate is?---Yeah, sure.

So at least as at 2021, you did understand what the percentage Spinifex, or sorry, what the amount Spinifex would be taking as part of that arrangement?---Oh, not really. That was a pay and charge rate. It's set in the head contract, so I, I understand it's a sliding scale as well, so what it is, I don't know, as a percentage or otherwise.

10

But so, I mean there it's about a \$14 difference per hour.---Sure, there.

And he's asking you there if the PMLV arrangement will be based off the current pay and charge arrangements in place for Mr Vertsonis.---That was for a single role, yes.

But so you generally understood, at least for that kind of role, what type of role was Mr Vertsonis?---The project manager.

20

Yeah. So for project manager roles, Spinifex would take about \$14. ---That's what that says, yes. I don't know what the head contract says is my point.

Well did you check the head contract when you were approving any of these workers to see what the agreed pay schedules were?---No.

Why not?---There was no need for me to and procurement and otherwise had control of that contract.

30

But you're the one that's actually engaging the workers? Procurement has no role in engaging these workers?---No, but they will make sure that the contract is, is adhered to.

But you'd already signed the client agreement in relation to particular candidates, as we saw in relation, for the Randstad ones.---Okay. If there was an issue they would have sent it back down to me.

40

I'll take you to volume 2.1, page 216. This is an email to you on 15 November from Mr Naidu advising that all current recruitment for positions in the works and projects unit will need to be placed on hold until further notice.---Okay.

Do you know why, did anyone tell you why it had been placed on hold?
---No, I don't believe so.

Did you ask anyone?---I don't think so. I think I had already resigned at this point.

You hadn't resigned at this point.---I think I had already told Mr Vangi.

10 I'll take you down to page 217. On Monday, 21st of November - - -?---I think, yes.

- - - you submitted your notification of your resignation.---My formal notification.

Okay. So why did you resign?---Because I had taken another role.

Taken another role where?---Well I had already, sorry, I had been actively looking for another role and was interviewing for other roles.

20

So you hadn't taken another role?---Not as yet.

And what roles were you interviewing for at that time?---I interviewed for a number of roles in similar, similar roles to this.

And were you ultimately successful in relation to any of those roles?---Yes.

Which role?---I took a project manager role to manage a project for the Northern Beaches Council.

30

And what was the name of the entity that you were employed by? Was it Northern Beaches Council?---No, it was Randstad through an ACN company that I have.

Okay.---That our family has.

And how long did you work there?---14 months.

THE COMMISSIONER: Was the ACN company the W Project?---Yes.

40

Why didn't you just say so?---Sorry?

Why didn't you just say the W Project?---Oh, the ACN, sorry, I think that, I thought that was the correct - - -

Okay.

MS HUXLEY: When did the role at the council start?---December.

December 2022?---'22.

10

So you'd resigned before you got that role?---Before I formally got that role, yes.

But were you confident you were going to get it?---Well I was confident I was going to get a role. I had interviewed for other roles and been offered other roles and I was confident. My role finished in December anyway and I had told Mr Vangi well before this in August that I wasn't extending my contract.

20

Did anyone raise with you, aside from this Mr Osborne issue, did anyone else raise with you concerns about Mr Cossu or PMLV supplying staff to council and profiting off the arrangement?---I think Mr Anderson raised, not that issue, but that some of the staff, or boys to his words, were not happy.

And why weren't they happy?---Because they believed there was a discrepancy in their pay rate to what they were getting paid.

And when did that, when were you notified of that?---Yeah, I'm not sure of the date exactly.

30

Did it coincide with Comensura starting as a managed service provider for the contingent workers?---Yeah, I think that's when they've seen it, yes.

Did he tell you what that discrepancy was?---I don't believe so.

Did you do anything about it?---I had a discussion with him and a number of the staff. A number of the staff didn't understand that they also had annual leave entitlements and super and workers comp and all that sort of stuff put in. And that was, they seemed to accept that.

40

So you sat down with some of the staff and explained to them that their employment contract had that, those leave entitlements?---Peter and, both Peter Anderson and I did, yes.

Did you see their contract?---No.

So how did you know that that contract had leave entitlements?---Well I asked them are they full time and they said yes.

10 Okay. Did they tell you what their hourly rate was?---No.

You didn't ask them?---No.

Even though the context in which this is being raised is a big discrepancy between what they were being paid and what the charge rate was?---I didn't ask.

Why not?---I had no reason to ask.

20 If the explanation related to them having leave entitlements, wasn't that more properly a matter for Mr Cossu to discuss with them rather than you? ---Not when they, I was their manager and they'd come to me with an issue.

But Mr Cossu is the employer and the employment contract under which they have leave entitlements is with PMLV, not council, so isn't that a matter more properly for Mr Cossu to address with them?---And I am sure I said to them that they should go and speak to Mr Cossu.

30 Okay. Why didn't you say that when I first started asking you questions about this? Why didn't you say, why didn't you give evidence that you'd also told them to go and speak to Mr Cossu about it?---I just did give evidence to that effect.

THE COMMISSIONER: Sorry?---I just did.

MS HUXLEY: Well you didn't volunteer it at the beginning when I asked you what you spoke to them about, did you?---Well I'm sure I just finished the question.

40 Okay.---Not the first time that I've been cut off halfway.

Do you know of a person called Mr Jeremy Clarke?---I know of him.

You know of him. Have you ever met him?---A couple of times.

Pardon?---A couple of times.

And so when were those - is that two times?---No, sorry, like, like, I don't know him - - -

10 You don't know him?--- - - - I mean, I - sorry. No, that's not what I said. I don't know how many times I've met him.

Okay.---We don't frequent each other, if that's - - -

Well, how long ago do you think you first met him?---Look, I first met him when he was doing some work for a contractor on the B-Line Project, which would have been five or six years ago, I guess, whatever the time frame is, be longer.

20 And what was your role in the B-Line Project?---I was a project manager.

And what was his role?---He was a contractor or a subcontractor to a contractor.

Were you managing some of the works that he was doing?---No. He was working on something for a contractor.

In that role, did you have to give him direction or ask him to do anything in particular?---No.

30

Whilst you were working at B-Line, did you understand that Mr Clarke and Mr Cossu knew each other?---Not really, no.

After you left B-Line, did you have anything to do with Mr Clarke from that period of time until you started working at council?---I don't believe so.

Were you aware of any of Mr Clarke's companies at the time you were working at council?---No. Sorry? At the time I was working at council?

40 Yeah.---Yes, I, I understand the GWAC company.

Did you know if he had any other companies?---No.

And so how did you become aware of a company called GWAC?---Because they were, we were looking for contractors at the time and, to complete the larger works program and they, I don't know how, but they, I, I became aware of them quoting some work.

Did Mr Cossu present them to you as someone who could do work at council?---I don't know if that was the case, but he may have.

10

Did you have any experience at that time of the level of work Mr Clarke was capable of executing?---I understood he, well, I, I'd seen him do the work at the B-Line and that was a \$100 million project. So undertaking smaller works for council was not, not out of the question.

Did you know if Mr Cossu had any arrangement with GWAC to help them win work at council?---No.

20 Did you know if Mr Cossu was receiving any money in connection with winning work for GWAC at council?---No.

Did you have any discussion with Mr Cossu about you assisting in that arrangement?---No.

I take you to volume 35.1, page 83. Do you see that email there is from Mr Cossu to you - - -?---Yes.

- - - at your personal email address in June 2020?---Yeah.

30 And it has a shareholders agreement attached?---That's what the email says, yes.

Had you asked him to send you a shareholders agreement?---No.

Did you open this document?---Probably not.

Why not?---Mr Cossu sends a lot of things. I don't read them all.

40 So he sends you an email with an attachment, you don't bother reading it?
---Not if it didn't bother me, no.

Well, how would you know just from reading that, whether it bothered you or not?---Well, I had no need to look at a shareholders agreement.

Did you speak to Mr Cossu about it?---No, I don't think so.

You didn't call him and say, mate, why did you send me that shareholders agreement?---No.

10 Well, what if there was something important in there that he was trying to draw to your attention?---If there was something important, he would have raised it with me.

And how would he have raised it with you?---Would have spoke to me about it or said, "Did you see that?" Nothing was raised with me.

So for important things, was it more his practice to communicate that by telephone with you?---No, not necessarily, but he sends a lot of things. You don't, you know, some of them make no sense at all.

20 So you didn't know where this document came from?---I have no idea who either, well, who the entities are or who they're talking about.

I take you to volume 34.2, page 2, to Exhibit 72. Do you recognise this?

MR SUTTON: Sorry? Can I just get the reference again?

MS HUXLEY: 34.2, page 2, which is Exhibit 72.

MR SUTTON: Thank you.

30

THE WITNESS: Right. Yes.

MS HUXLEY: What is it?---Looks like a sketch of something, of an entities structure or some, some effect.

And is the W Group your structure?---Maybe it might have been a discussion with, with Cossu at some point.

And there it says GWAC 30%?---Yeah.

40

So you're having a discussion with Mr Cossu about the W Group having a 30% in GWAC?---No, I don't think that was the discussion.

So what was the discussion?---It was just about, certainly just about how things could go forward. This is after I left council.

Whose writing is that?---It's mine - - -

10 So it's how things would go forward after you left council?---No, no. After I'd left council.

That's what I said, after you left council.---I was - - -

THE COMMISSIONER: No, no. I mean, I think the witness is saying that - - -

THE WITNESS: I had left council.

20 MS HUXLEY: Yeah. At the time this was created.

THE COMMISSIONER: - - - that he had left council when the discussion - - -

THE WITNESS: Yes.

THE COMMISSIONER: - - - occurred. Is that what you're saying?---Yes.

Right. You're not saying that - - -?---No - - -

30 - - - the discussion happened while you were there about what would happen?---Correct.

You're saying that the discussion and the document was generated after you left?---Yes.

MS HUXLEY: And so what were the terms of that discussion?---Just a general discussion. Pietro has lots of discussions. I was sketching out what he was trying to say to me, but, yeah.

40 Was Mr Clarke present for this discussion?---No, I don't think so.

You understood at this time that GWAC was his company?---Yes.

And did you ask Mr Cossu if Mr Clarke was prepared to give the W Group a 30% interest in the company?---He had indicated that, that civil works, going forward, if work could be won in that entity, that there might be an opportunity to do so.

Do you recall when this discussion took place?---No. February-ish '23, not sure.

10

And is there a name James Bejar there? Is that that second name there?
---Yes.

And what was his role going to be?---There's a builder there, and an electrical engineer there. So James was a builder.

Okay. And then there's LGP Panel?---Yes.

20 What's that a reference to?---It's a local government panel. I don't know if it has a reference to the top piece or not. Just my scribble.

So GWAC came to be awarded a number of projects at council while you were there?---Yes.

And are you aware of what the first job was?---No, I don't know what the first job was.

30 Some of those works, they would have been approved by you?---Ultimately, yes.

And some of them would have involved you recommending their approval to Mr Vangi?---In a process, yeah.

Depending on what the quote was for, I mean, the quantum of the quote for the tender?---Well, yeah, it depends what avenue it come through, from procurement.

40 Do you recall that GWAC was awarded the cooling tower project?---No, other than from this hearing.

Do you recall what role you had, if any, in that process?---No, I don't.

I'll take you to volume 36.1, page 33. Before that document comes up on the screen, what was the process, and I should actually take you to the prosecution matrix, the procurement matrix first. So volume 35.1, page 122. Do you remember that this was the procurement matrix?---Yeah.

And so see on the left-hand side column it says "Total estimate contract value." Who would have come up with the estimate for the contract value?
---Who would come up with the estimate?

10

Yeah. Would the Design Team have an estimate for each project?
---Typically the Asset Team would have an estimate.

Okay.---Yeah.

And then depending on what that estimated contract value is that would dictate what the procurement process was?---Well, it wouldn't dictate. It would, it would set some framework around which way to go but quite often the estimate given may be completely blown out of the water.

20

Or sometimes it may be much higher than what the actual job ends up costing?---The, sometimes the estimate might be?

Yeah, sometimes the estimate is higher than what the quotes come in under.---Sometimes.

And so if it was - were you responsible for allocating projects to particular people in the unit?---No. But Peter used to do that, Peter Anderson.

30

So how did it work? Did you have a list of projects under the Capital Works Program that had to be completed in any given year?---So each year you got a list. It could be 200 plus, somewhere between two and 300 projects. Some of them were ready to be delivered, some of them not. More often than not they weren't ready given that the, the Asset Team simply hadn't got them ready in time and then there would be a budget set to them. That budget would be based on preliminary estimates and then as the, as the design and otherwise was fleshed out, any issues were raised, then that budget would become firmer.

And who would do the first budget so to speak, that first indication?---The first budget, so to set the budget because the budget is adopted by council - -
-

Okay.--- - - - that would come from the Asset Team.

Yeah. And was that separate to your team?---Yes.

10 And then you would have a list of projects and then would you and Mr Anderson allocate them to people or Mr Anderson would be responsible for allocating them to a particular project manager?---So it was, when I got there it was ad hoc.

Okay.---And as we moved into a ward structure, wherever the project was located, in which ward that project manager then dealt with that project.

20 And could they delegate to project officers depending on the size of the project and what was required, you know, whether it was just one or two quotes required as opposed to a full tender process?---Well, they would give that project officer a project based on, typically on its complexity or workload.

Okay. Was that a fairly fluid process? So there might be some times when a project officer has a lot on so a project might get allocated to a different officer?---Very fluid.

30 On a needs, yeah, on an as resources required basis?---Yeah. There was, we were short on resources and the, sometimes it wasn't easy to see which project was ready to be delivered and which one wasn't.

When you say some projects weren't ready to be delivered, what do you mean by that?---Well, some projects simply haven't had the required planning - well, sorry, let me rephrase that. Most projects hadn't had the required planning done upfront to allow design to be completed so the project could commence in that budget year.

And whose responsibility was that?---The Asset Team.

40 Okay. So is it the case that sometimes the Asset Team would send documents as if the project is ready to proceed and they were inadequate for the project to proceed?---Sorry, could you ask that again.

Sorry. So were there some occasions where the Asset Team would send your team documents that were ready to proceed as a project that were inadequate for that project?---More than the odd occasion.

Pardon?---More than the odd occasion.

Yes.---It was a regular event.

10 Okay.

THE COMMISSIONER: And what would you do if that happened?---Well, there would be very little option of what to do, Commissioner. We would have to, the pressure was on to deliver those projects. We would need to work it out as we were going.

Okay.

20 MS HUXLEY: Would that sometimes result in a number of variations having to be issued in relation to a contract?---Yes, it would.

The cooling tower project. Do you recall that project?---Not specifically, no.

I'll take you - - -?---Sorry, I, I recall it. I don't know the detail.

Do you know, do you remember what role Mr Cossu had in relation to that project?---I didn't recall. I've watched the proceedings so I understand.

30 Yeah. Do you know whose responsibility would it have been to allocate Mr Cossu that project?---No.

You don't know?---No. No.

I'll take you to - - -?---I can't recall at the time.

- - - volume 36.1, page 33.

40 THE COMMISSIONER: While we're waiting for that to come up, you said that the projects went to the relevant ward.---Yeah, yeah.

When the ward system came in, when was that the award system came in?--
-I can't recall, Commissioner. It wasn't straightaway during my tenure. It
had taken me let's say six months or so to work that out.

This is the Evaluation Panel report. I'll take you to page 34. Signed by you
and Mr Anderson.---Yeah.

And the recommendation there was to award it to GWAC for that particular
amount.---Yes.

10

Did Mr Cossu tell you that he had any interest in GWAC at the time?---No.

Did he tell you that he had any expectation that he would receive some
money for the award of this contract to GWAC?---No.

It says there that you accept and approve the recommendation. Did you
review the recommendation?---I would have reviewed that document. The
main thing I would have looked at given my overall portfolio was that it was
under budget and could be done.

20

Under budget and?---And could be completed in time.

And could be done?---So we would have had a time frame for it to be
completed. So I would have looked at time and cost.

And where does the, where would the time frame be nominated?---Possibly
wasn't. I would have had the discussion with Peter.

30

Okay. Do you know what the time frame for this was?---I remember it was
quite complex because the theatre, there's a theatre in the, in the, in that area
and they had some sort of performance on.

And was that known at the time that the panel report was signed?---No, I
don't - so my understanding at the time was it wasn't and when there was
liaison between the library, theatre and the Project Team that that become,
that become known.

And that may have been after the award of the project?---Possibly.

40

Yeah. And would you have a clear recollection one way or the other?---No,
I don't, no.

I'll just take you to page 35 and it nominates Mr Cossu as a superintendent's representative for the project.---Right.

What's that particular role? I know you spoke about the superintendent earlier, but what's the role of the representative?---It's to oversee the contract, the contractor generally. It's a, it's a delegate of the superintendent.

- 10 And are they in part responsible for ensuring that the project is delivered to a particular quality?---Yes, that would be part of their role.

And what the time frame and the program allocated for the job is?---Yes, that would be part of their role.

What's their responsibility in relation to variations?---They can recommend.

They can recommend variations?---Yes.

- 20 If a need for a variation was identified by the contractor, would it be expected that the superintendent would evaluate the need for that variation? ---Superintendent or the superintendent's representative?

Sorry, the superintendent's representative.---Yes, you would expect so, yep.

And if it was a cost that should have been borne by the contractor you'd expect them to push back on that?---Yes, if it was a cost to be borne by the contractor.

- 30 Do you recall that a project at council, during your time at council, was an Appian Way Project that had a number of aspects to it?---Yes.

And one of those aspects was a non-destructive digging?---Yes.

And another aspect was the culverts?---Yes.

At one point were they all joined together?---I don't know if - I can't recall if the non-destructive digging was ever a part of that. You understand the purpose of the non-destructive - - -

40

To find out where the utilities are?---That's it. So that may have been leading to design, so it makes sense that that come first. I just can't recall. But yes, yes.

Was this the first phase of the Appian Way upgrade?---The Appian Way, yeah. Yep.

The first kind of major project. I mean, you'd have the design aspect of it. ---Well, that would have informed some of the design.

10

Were you, given the significance of the project, were you a decision-maker in relation to the procurement strategy for these works?---Which works?

The non-destructive digging works.---I, yes, I, I would have been in the general trail. I don't think they're significant.

Do you recall that some time prior to 30 July 2020 there was a decision to do a request for quote for the non-destructive digging works?---I don't recall but that would have been the normal course.

20

Would you have been involved in that decision?---To do a request for quote? Not normally.

Well, whose decision would that normally be?---The Project Team.

And who determines who's on the Project Team?---Oh, either Peter, myself, the project managers. It's a general discussion. It's - - -

Who would be responsible for identifying the people for the quote to be sent to?---That would be the Commercial Team did that, so it was Anthony and a few others, yep.

30

And how would they - I mean, did they have, were they people from the civil works industry? How would they know which companies were capable of carrying out that work?---They would, they would either contact people that had been used before or people that they knew had undertaken works. The Asset Team often give recommendations.

I'll take you to volume 36.2, page 46.

40

MR PARARAJASINGHAM: Commissioner, just at an appropriate time, I wonder whether we could take a short five-minute break just when there's a natural opportunity for that.

MS HUXLEY: I'm happy to take a break now if you'd like, Mr Pararajasingham.

THE COMMISSIONER: Yes, okay. Adjourn.

10

SHORT ADJOURNMENT

[3.04pm]

MS HUXLEY: Mr Webb, I'll take you, so see that document there, volume 36.2, page 46. It's an email from Mr Coelho, if that's how you pronounce it, on 3 August to you.---Right.

And Assad had asked him to forward one of the requests for quotes to you.---Okay.

20

Do you know why Assad had asked him to do that?---No.

Did you speak to Assad about it?---I can't recall.

Yeah. In your mind is there any particular reason why you'd need to be sent this document?---No. I may have been asked where it was up to in progress.

Okay. And on page 47, you see there, the quotes are to be emailed by 12 August 2020.---Yeah.

30

Would you have read that?---Oh, possibly at the time, yeah.

Did you speak to Mr Cossu at all about this, the non-destructive digging works?---I can't recall.

Did you and Mr Cossu have any discussions about whether GWAC would be a suitable candidate for the job?---I'm not sure.

40 I'll just take you to volume 36.2, page 158. It's an email from Coelho to you on 21 August and he is letting you know that he'd created a new folder for the Appian Way non-destructive digging works.---Right.

That includes the relevant quote email summary information for the project.---Okay.

And it says there, “You will find the Word document which contains the same summary table that I showed you in our last meeting with Assad and Kevin.”---Okay.

10 Is Kevin a reference to Mr Yip?---Possibly. It could be Mr Jain. There was two Kevins, so - - -

Okay.---Kevin Yip is copied to that email, so I would assume it’s him, but I don't know.

And do you recall what that quote summary was?---No.

Do you recall if it’s set out the five contractors and what the prices were? ---No, I don't recall.

20 Was it a standard practice in council to produce a quote summary in relation to quotes received for projects?---Reasonably standard. Depending on what was occurring, there could have been a budget issue, there could have been, I'm not sure. I'm not sure why it would have been created, but it, it occurred from time to time, yes.

Do you know why you would have had a meeting with Assad and Kevin about the quotes?---No. Assad would typically touch base on these things.

30 THE COMMISSIONER: Typically what?---Just touch base on what he was doing, yeah.

MS HUXLEY: I’ll take you to page 160. That’s an email from Mr Yip to Mr Coelho and it cc’s Assad, Mr Luu and you.---Right.

And it says, “As discussed, the revised NDD plans are attached and they are now separated, one for design, one for construction.” Why had they been separated?---I don't recall why they were separated.

40 Did you have any discussions with Assad about this?---I don't recall, no.

Did you think it's strange that they were being, there was a change in scope even after you'd received five quotes for the original project?---No, that's not strange at all. I think - - -

That wasn't something you and Mr Cossu had discussed?---No, I don't believe so. I think, what, what he is saying here is there's two, there's two separate plans, so the utility, the location of the utilities for a design purpose and the location of those for a construction purpose could be quite different. So you may not construct over a utility but you may need to locate it in
10 order to actually relocate that utility.

But in terms of the investigations, that would take place in terms of locating where those utilities are. Wouldn't they be similar?---No, not necessarily.

So you don't know whose decision it was to separate that?---No.

Whose decision is it normally if there is to be a change in scope or a change in design?---Well a change in design would normally be necessitated by an issue and the Design Team would, would raise that. A change in scope
20 would typically come from the asset owner.

And when you say, who do you mean by an asset owner?---The council is divided into different units.

Yeah.---The Works and Projects Unit deliver construction, as such. The asset owner is, they're broken into three groups, or they were, roads, buildings, parks, and they would develop their own plans for forward works.

I'll take you to page 159. So there's a further revision to the plans and
30 budget and then you say, "Thanks. Are we ready to get this back to the market for formal quote?" So why were you asking that?---Well I, I would have been interested in the progress of it.

And did it, is that a direction for it to go off to formal quote? Whose decision is it for it to go to market?---The Design Team was handling this, but that's - I asked were they ready to go back.

And did you speak about - sorry. I take you to page 162. Do you see there, there's a meeting between Mr Luu and Mr Coelho and yourself - - -?---Yes.
40 - - - to speak about their non-destructive digging works?---Right.

Do you know what was spoken about in that meeting?---No, I can't recall that meeting.

Well, would you have ever had a discussion about who to send the quote to?---Not necessarily.

Why not?---Why not?

10 Well, why do you say "not necessarily"?---Why would I - sorry?

So you had a discussion about the non-destructive digging works - - -?
---Well - - -

- - - and you said - - -?--- - - - I can't recall that discussion but, yes, it appears that that's the case.

And you say you wouldn't necessarily have discussed who to send the quote to?---No, could have been results of the quote, it could have been overview
20 of the works, it could have been impact on stakeholders, could have been what power outage was going to occur. Could have been a number of reasons to have a meeting.

Well, I take you back to page 159. That morning you'd asked if it was ready to go out for quote, for a formal quote?---Okay.

And then at 11 o'clock, you're having a meeting about the project?---Okay.

And so would you have talked about putting the matter out for a formal
30 quote at that meeting?---It's possible.

And is it possible that you spoke about who to send the quote to?---It's possible. Can't recall.

Do you recall which contractors were mentioned as to who to send the quote to?---No, I don't recall.

Would you have looked at the contractors that the previous quote had been sent to?---I would assume that, that the Project Team would have, and I'd
40 guess it would have worked on their availability or otherwise.

But if you'd just received five quotes for those works, for a larger scope of works that were then separated into two phases, would it make sense to put the quote back out to all five of those contractors?---I would have expected that the team had called them and made sure their availability was there and things like that, but there's a number of factors of why that may not have occurred, but, yes, I, I accept your proposition that it, it would have made sense to go back to those.

Well, do you recall what happened with this instance?---No, I don't.

10

And you say you don't recall any conversations that you had in relation to who to send this quote out to?---No, I don't recall.

Would you have had any input or did you, during your time at council, have input into who to send a quote to?---From time to time, I was asked who might be available or otherwise, but not, not as a regular, and, you know, not that I got involved in.

I take you to page 163. Later that day, the quote goes out to Aqua Assets, GWAC and NDEA?---Okay.

20

Does that refresh your memory as to whether those particular contractors were discussed on 16 September at that meeting?---No.

Do you recall if there was any discussion about what NDEA or Aqua Assets' previous quote for the non-destructive digging works was?---No.

If you'd received quotes - I withdraw that. When council receives quotes, is there any reason why the more expensive quotes would be favoured over less expensive quotes?---There could be a number of reasons, but, typically, you would try and get the, the most value for money.

30

Were you kept informed of the procurement process between the request for quote going out and the Evaluation Panel report being prepared for you to review?---No, not normally.

I take you to volume 36.3, page 15. Do you see that there is the panel report for the non-destructive digging works at Appian Way?---Yes.

And that was prepared by Mr Luu, Mr Coelho and Mr Cossu?---Prepared by Mr Luu, yes.

40

Both prepared by Mr Luu?---Yeah.

Author Mr Luu?---Yeah.

The panel members, what role would they have had in this document?
---They would have sat together and reviewed the quotes.

10 And they would have come up with a recommended contractor?---Yes.

That would generally be a joint decision?---You would think so, yeah.

Do you know if they would review the report before submitting it?---If they would review?

Would all panel members review reports before they were submitted?
---Yes, I would assume so.

20 Do you know why Mr Cossu was put on the panel?---No.

Who determines who gets put on the panel?---No one in particular. Peter, myself, Assad - - -

Do you have to prove evaluation plans?---Yes, when an evaluation plan - for a, depending on the procurement matrix. Peter could approve some, and I could approve some, yes.

30 And so would you need approval for anyone to be on an Evaluation Panel or was it just cost-dependent?---Dependent on value, I think, from memory.

So if it was over a particular value, then approval would be required from either you or Mr Anderson?---Depending on value is my recollection, but - - -

So there may be some - - -?---Or it may have been just tenders that required an evaluation plan. I, I can't recall.

And so do you know how Mr Cossu ended up on this?---No, I don't.

40 It wasn't a decision you made?---I can't recall, but no, not normally.

And do you see at page 16, the recommendation is for GWAC to be awarded the works?---Yes.

And you've signed that on 6 October 2020?---Yeah.

Did you know at the time that you signed this that there'd already been discussions about additional works being conducted for the non-destructive digging?---No, I don't believe so.

10 No one had - - -?---There's a, there's an explanation there by the team.

Pardon?---There's an explanation by the team in the - - -

And where's that?---Sorry?

Where's that?---So in the, if you go back to the first page - - -

Yeah.--- - - - it says "suitability of price offered" and then it talks about Aqua Assets and the Design Team's concerns - I'm just reading this, as I go.

20

Yeah. When you say there's an explanation for why Aqua Assets wasn't chosen?---Yeah.

Yeah. But I'm asking about, there were at the time this was signed, were you aware that there were discussions about additional works in relation to the non-destructive digging at Appian Way?---No, I don't recall that.

Did Mr Cossu talk to you about that?---I believe so.

30 If there had been discussions with contractors about the need for additional works, would you expect that to be put in the Evaluation Panel report?
---If there had been discussions with contractors? The contractors pricing the works? Somewhat dependent. You're asking them to price the scope of works, so you would expect that they'd price that scope of works. If there is a discussion around additional works, it may not make its way in but it depends the context of that discussion, I guess.

40 Well, is it common practice at council at the time that you were there for a contract to be awarded even though there were discussions with one contractor about additional works?---It shouldn't be common practice that one contractor has a discussion. Should be had with multiple contractors.

And that should be a transparent process?---Yes.

Is it unusual for that to occur, discussions about additional works to occur prior to the award of the contract but that not be resolved? Sorry, is it unusual for there to be a discussion about additional works that remained unresolved at the time the decision is made to award the project to a particular contractor?---Sorry, you lost me there. Can you - - -

10 Is it unusual, in your experience at council, for there to have been discussions with the contractor about additional works in relation to a project prior to the project being awarded to that contractor?---It's probably not uncommon because a lot of the times when tenders were sought, given the program we were working to and the workload, that scopes weren't detailed enough and there was uncertainty around things. But my expectation would have been that all of those quoting would have been quoting the same works but there could have been additional works required.

20 And where additional works were required, was it the practice then for that just to be dealt with as a variation as opposed to being resolved prior to the award of the contract?---Oh, well, the practice would have been to try and resolve the additional works as whether they were or weren't required. But, yes, it could have been issued as a variation.

But so did you just say the practice was to resolve it to see if they were required? Does that mean before the contract's awarded?---No, not always. There might be some that can't be resolved.

30 THE COMMISSIONER: All right, so I think you're saying that, where possible, the need for additional works should be worked out one way or the other - - -?---Yes.

- - - before the award of the contract. Sometimes that wasn't possible - - -?
---Correct.

- - - because there was an element of the unknown.---Yes.

In which case it might go to a variation.---Yes.

40

But where there were discussions before the award of a contract regarding the need to have or have not additional works, that conversation should have been had with all the prospective tenderers or all the actual tenderers?
---Yes, that's correct, yeah.

Okay.

MS HUXLEY: Can I take you to volume 36.3, page 217. Do you remember receiving this email from Mr Cossu?---I don't recall it
10 specifically but I - - -

He attaches a number of memos to you on the 22 August 2021?---Yep.

Had you asked him to prepare these memos for you?---No, it's normal that the Project Teams would prepare memos.

Well, what team is he on here?---He looks like he was helping out in Canterbury. Sorry, that would be - - -

20 Are there a number of different wards? Are those projects in a number of different wards?---Well, that's, it's in, yeah, looks like, well, no, I, I don't know but I know he was helping out Kevin Jain at the time. It was, yeah, Canterbury. No, yes, Canterbury, that's right.

And was there a team leader for Canterbury?---Yes, Kevin Jain.

Okay. And so - - -?---So but some of those aren't - yeah, sorry, some of those memos aren't all in the same ward, so, yeah.

30 And so what other wards are they in?---Well, looks like one in Bankstown. Yeah, one in Bankstown and some in Canterbury.

And which ward was Mr Cossu allocated to?---Well, I don't know if we're in the ward structure at this stage but he was, he was Canterbury, typically. But as we sort of spoke about earlier, depending on workload, people were helping out all over the place.

And so did you say the Project Team would have prepared these memos?
---Typically, yeah, that's how it would work.

40

And would they do so on their own initiative?---This was the process for, for memos, yep.

And so they would then be submitted to you?---Either Peter or myself or Assad, depending on what needed to happen.

And depending on what the identified quantum of works were in the memo?---Yes.

10 Where they were submitted by a Project Team, would the members of that project team be identified in the memo?---Typically they would have prepared the memo, yeah.

So if only one person is mentioned in the memo, then it's most likely just come from that one particular person?---Well, that person would have been the project officer handling that portion of work.

So if I can take you to page 218. This is for heritage timber from Central Station. Do you remember what this was, what works this related to?

20 ---Yeah, so we were dealing with Sydney Metro at the time, so I remember this, this one. Dealing with Sydney Metro, they had some timber that could be reclaimed out of Central Station during the demolition when it was being rebuilt. We had to collect it for its reuse in a project.

And what project was it going to be reused in?---It was reused at Earlwood. I can't - I can see the project, down by the Cooks River. Can't quite recall what it was called.

30 And who became aware that Transport for NSW were getting rid of the timber at Central Station?---So there was a group of us managing the interface with Sydney Metro, and Sydney Metro were regularly reaching out to anyone who could reclaim or reuse materials.

And so who would that have been? Who would have that contact person been at council who became aware of that?---It would have been myself and someone from the Comms Team and one of the interface people that we have.

40 So would you have communicated this to Mr Cossu?---I would have communicated it to the team generally, so probably to the Canterbury ward that this had to happen.

Did you suggest to Mr Cossu who might be a suitable contractor for this job when you mentioned that to him?---No, I don't think so.

You see the next page there's a day rate and a total for 15 days.---Yep.

Do you know who would have come up with those figures?---Oh, the contractor I assume.

10 And then it says, "Please approve contract work to GWAC Pty Ltd for the total value of \$53,625 excluding GST."---Yep.

And that's proposed by Mr Cossu?---Yes.

And supported by you?---Well, it's unsigned but - - -

Yep. And then there's a box saying "supported by Mr Vangi."---Yes.

20 Why would it need to go to Mr Vangi?---Because it looks like it was a sole source procurement.

Okay. So did you speak to Mr Cossu and say if you got another quote then we would be able to proceed with, you'd be able to evaluate those two quotes rather than it needing to go to Mr Vangi?---I don't recall. There was some time pressure on this, but I don't recall having that discussion.

Did you do anything in relation to this document?---No. I don't recall. I know the project got done, but I don't know how it got done from memory.

30 If I can take you to page 220. This was another memo attached to that document.---Right.

This is for approval of variations, and go down to page 221. Why was Mr Vangi's approval required for this?---Because it would have exceeded my delegation.

Okay. And there was a request to approve GWAC for that project.---I think this is suggesting a variation to the existing project.

Yeah, and they were already the, they had already been awarded that project. So they had already been awarded that project, the non-destructive digging works, and this was a variation relating to that project.---Yes.

And at page 222, the Belmore stadium fence. Did you have any role in this project?---Mr Vangi and I went out and had a look at that project, yes.

When did you go and have a look at the project?---I don't know.

10 Well was it before the works were put out for tender?---I think so. We worked out, we had a look at the fence itself and worked out how much of it was going to be pulled down or otherwise given the stakeholder.

And were you involved in the procurement process for the stadium fence?
---I don't believe so.

If I take you down to page 223, this is talking about approving a contract variation. Why did you need Mr Vangi's approval for that contract variation?---I don't know. Maybe just a cut and paste. They all have the
20 same one on it, so it might be, given the way those documents have rolled through, it might be just a cut and paste, a template that was used. So if it was a case where it just was within your financial delegation, would you just sign it and ignore that last column?---I'd probably delete the last column, normally, but, or put a line through it. Yeah.

Do you recall who received, who was the contractor on the Belmore stadium fence?---No, I don't recall.

30 Did you ask Mr Cossu who it was when he sent you this?---I'm assuming that, well this wasn't signed so I don't know if it had come back another way, form, or otherwise. I may have had comments on it.

Well looking at it now, what comments would you make on it?---Well - - -

Is it deficient in any way?---Well no, I think, sorry, well I'm only looking at page 2. Can we go back to page 1?

40 Yeah, we can go back to page 222, please.---Yeah. It doesn't have a contractor on it.

And would you normally expect these memos to have contractors, the contractors listed on them?---Yeah, well you would, you know the, yeah, you would.

And so, you know, looking at it now, you would have - - -?---We'd normally expect them to be - - -

Would you have raised that with Mr Cossu at the time that that didn't disclose that it was GWAC?---Well - - -

10

Or the contractor?---I, I would have, could have made that comment.

If I take you down to page 224. This is for cleaning and removing furniture at Leslie Street Depot.---Right.

Do you know why, sorry?---Right, yes.

Do you know why Mr Cossu was involved in this project?---No, I don't know.

20

Do you recall the need for this project?---Yeah, I understood there was some issues with fire compliance, so there was a heap of old council desks and furniture just thrown into an old shed and that was blocking some fire compliance.

And do you know which contractors had been contacted in relation to these works?---No, I don't.

30

I'll take you down to page 225. There it says "quote received" and then the amount.---Yes.

And then is part of the reason, is the reason this is required to go to Mr Vangi because it was a single source quote?---It could be. I'm not even sure that was signed.

Was it common to receive single source quotes, sorry, is that how you refer to them?---Single source, yep.

40

Yeah. Is that common or unusual that council, for there to be a single source - - -?---It's not common but it does occur when there's, typically when there's a time pressure, yeah.

And again, it doesn't identify the contractor there. Do you know who ultimately got that work?---No. I'm assuming you're going to tell me it's GWAC, but no. And I haven't seen a signed one or otherwise either, so - - -

Yeah, okay. Well I will take you to volume 30.1, sorry, just go back up for a second. This email is dated 22 August 2021, at page 217.---Right.

10 And I'll just take you to volume 30.1, page 58. So on 30 August, Mr Cossu messages you saying, "Hi Ben. Jeremy is calling for anything we may have. How can I help with the memo?" And you say, "I can't approve single sources for 50K plus."---Yeah.

So that's a reference to those memorandums that we just saw.---Possibly, yeah.

And who did you understand Jeremy was in that message that Mr Cossu sends to you?---I would have understood that was GWAC.

20 Okay. And he then says, "I understand. That's why I prepare all these memos." And then at page 59 he says, "Morning Ben. Anything I can do from my side?" So did you understand that Mr Clarke was looking for work at this time?---Lots of contractors were, we were trying to keep contractors engaged, given our program, COVID, lots of other things during the period, so that wasn't uncommon, but I didn't think he was looking for work or otherwise. I didn't think, it didn't enter my mind.

Well Mr Cossu says to you at page 48, "Jeremy is calling for anything we may have."---Well that's, that's wonderful. Contractors call all the time.

30

Well when you read that did you think perhaps the reason he sent me those messages is because Mr Clarke needs some work?---No. I didn't think that. I have contractors call all the time looking for work.

And then at page 59, "Morning Ben. Anything I can do from my side?" And you say to him, "I need another quote for the shed, the timber I will sort out this morning." How did you sort out the timber that morning?---I can't recall.

Is it possible that you advanced things such that GWAC could be awarded the work?---It's possible I had a discussion with Mr Vangi. I know that timber had to come out of Central Station, so it's probably a priority for us.

And then, sorry.---Sorry.

Do you want to add anything else? Sorry, I interrupted you.---No.

And then the next message, "Hold on Belmore stadium."

10 ---Yes.

You're telling him don't push the Belmore stadium works at this point?

---I'm just saying don't do anything, yep.

And then at page 60 you're saying, "Just patch Appian Way." Is that a reference to those additional trenches that were in part of that variation memorandum we saw for the Appian Way digging works?---I'm probably saying - I think I say, "Just patch it." We're going to dig it back up again so just patch it.

20

And then Mr Cossu says, "If you send back the memo, I'll put them in formally." Do you remember if that occurred or not?---No, I don't.

I'll just take you down to page 72. So Mr Cossu sends you a picture there and then at page 73 and page 74. And I'll take you to those actual pictures so that they're a bit clearer for you. Page 234 is the first one. Do you see that?---Yes.

Do you know what that is?---Precast.

30

And page 235. Do you know what they are?---Precast.

Precast what?---The - - -

Are they a particular type of precast structure?---They're, they're culverts.

Yep.---The other ones weren't.

And page 236. That's the same?---Yeah, they're culverts in various forms of manufacture, yep.

40

And page 237?---Yep, precast culverts.

And page 238?---A variety of mixed precast by the look of it.

Do you know why Mr Cossu was sending these to you in September 2021?

---No. He'd - no, not why he was sending them to me. We were on the lookout to secure precast culverts at the time.

10 Why?---Why? Because given the infrastructure boom at the time, precast culverts were difficult to source.

But what project did you want them for?---We were needing precast culverts for Appian Way.

Yep.---Yep.

So had you spoken to Mr Cossu about needing to source precast culverts for Appian Way?---We'd spoken to the team generally.

20 Well, had you had specific discussions with Mr Cossu as at September 2021 as to where to source culverts?---I don't think so.

So he just sends these to you without any context?---Quite often.

Did you know what manufacturing facility that was from?---No, not at the time.

30 Take you to page 75. After he'd sent you those photographs, he sends you a message, "Hi, Ben. What you think about the capability of this guys? They have the mods we need and they doing work for Transport. I spoke to them today. Mike, the owner, said if I give them the loads required, he will prepare the design to submit for his culverts. At the moment they are doing something similar of ours online only and they do floors also." And he goes on about the capabilities.---Yep.

And you say, "It won't matter. If they are not on the panel, we cannot use them."---Mm.

40 What panel are you referring to there?---I think I'm referring to the Transport Panel. I can't be sure.

And then was it at that time within council, was it a requirement for the Transport Panel to be used for the culverts on the Appian Way upgrade? ---Transport or Sydney Water Panel. I can't remember. It was one of those.

Okay.---Yep.

But was that a requirement from council's perspective or was that because there were other, like, Transport and Water also involved?---Oh, I think I added the requirement from memory, but, yeah, I can't recall.

10

And was that requirement ultimately removed?---Not sure.

So then you see Mr Cossu says, "I thought we were going to use GWAC, that's why I was talking to them."---All right.

So had you had a discussion with Mr Cossu before September 2021 about using GWAC for the Appian Way culvert works?---No.

You hadn't?---No.

20

You respond, "I asked you if they were on panel." And then you said - sorry, if you're at page 76. "I asked you if they were on panel." ---Yep.

And then he responds, "No." And then he says, "Not in our panel."---He clearly misunderstood.

But in response to him saying, "I thought we were going to use GWAC," you didn't respond, "What are you talking about?" did you?---No. I was, looks like I was quite frustrated. My response was quite blunt, "I asked you if they were on the panel."

30

You're generally speaking quite a blunt person? You're quite a direct person?---I can be perceived that way, yes.

So that's not particularly unusual for you to respond in a blunt way?---No, it's not.

Page 77. You say, "No, the State Government Panel." And then you ask, "What's the business called?" and Mr Cossu says, "Obnova."---Right, yep.

40

So at least at that point you understood that Obnova was capable of manufacturing culverts?---Well, at that point we knew there was a potential supplier. That's all.

Why were you asking what the business was called?---Well, 'cause I wanted to see if it was on the State Government Panel.

Was that something that you could look up quite easily?---Yeah, it's online.

10 And were they on a State Government Panel?---I don't know that I even - never checked.

Okay. Mr Cossu responds to you at page 78, "But if they bid directly, we get nothing."---Right.

So you already had a discussion with Mr Cossu at this point about GWAC engaging another subcontractor to provide the culverts and you and he receiving a share of the profits, or reward, for the work done?---Not at all.

20 You didn't respond to that message by saying, "What are you talking about?"---No, that's - - -

You didn't say, "What do you mean we get nothing?"---No.

And then he says, "If you want, I can give you two more that are in the Government Panel."---Yes.

And then you say, "I'll call you tomorrow."---Yep.

30 What did you speak about?---I don't know if I did call him. I don't know.

Did he give you two more names that were on the Government Panel?
---Don't know.

Commissioner, I'm about to go to a different subject matter, so it might be a convenient time.

40 THE COMMISSIONER: Yes, all right. Just so that we all understand where we're headed, any approximate idea as to how long you might be tomorrow, Ms Huxley? Not tying you down, just wondering.

MS HUXLEY: Yeah, I think probably about two hours.

THE COMMISSIONER: Okay. And then Mr Sutton, you'll have - - -

MR SUTTON: Maybe a question.

THE COMMISSIONER: A few questions maybe?

MR SUTTON: Maybe a question.

10

THE COMMISSIONER: Counsel?

MR RAUF: Yes, we will have some questions, Commissioner.

THE COMMISSIONER: You'll have some questions. And how long do you think? Just give me a - - -

MR RAUF: I anticipate it might be an hour or two.

20 THE COMMISSIONER: An hour or two. All right, so, and then we've got Mr Pararajasingham. So - - -

MR PARARAJASINGHAM: Yes, I'm not sure.

THE COMMISSIONER: No, no. So it sounds like at least half a day tomorrow minimum. All right. Well, I will - - -

MS HUXLEY: Before you - - -

30 THE COMMISSIONER: Before I do?

MS HUXLEY: Before you do.

THE COMMISSIONER: Yes.

MS HUXLEY: I have - so just to inform the parties that the tax returns are on the restricted website.

THE COMMISSIONER: Right.

40

MS HUXLEY: And material on the restricted website is subject to an existing non-publication direction.

THE COMMISSIONER: Yes, thank you.

MS HUXLEY: We'd appreciate it if the parties could look at those returns overnight and notify Mr Baine if Mr Cossu is required to come back for any questioning.

10 THE COMMISSIONER: Yes. Yes.

MS HUXLEY: I can indicate that I don't anticipate requiring Mr Cossu to return.

THE COMMISSIONER: All right.

MS HUXLEY: But subject to affected parties' decision, Mr Cossu may need to come back tomorrow. Perhaps if it's likely that Mr Webb will take the morning. If the parties could notify us by 10am tomorrow, and then we
20 can communicate that to Mr Cossu such that if he is required, he can come at 2pm as opposed to being required to sit here in the morning.

THE COMMISSIONER: Yes.

MR SUTTON: I can indicate I'll have no questions, Commissioner.

THE COMMISSIONER: All right.

MR SUTTON: And I don't think Mr - - -
30

THE COMMISSIONER: Does the - you - - -

MR RAUF: I won't have any questions.

THE COMMISSIONER: What about the council?

MR PARARAJASINGHAM: I don't expect so, but if I can have the opportunity, just to confer and advise by 10.00, I'll be grateful.

40 THE COMMISSIONER: Yes. Great. All right, then.

MS HUXLEY: I should also indicate that an unproved copy of the transcript will be provided to the parties for their use in preparing for any questions they may have for tomorrow, but that's on the restricted website. It does undergo significant changes. So if the parties could be mindful of that when reviewing that, that would be appreciated. And then I have some things to tender. I understand that the schedules can be tendered now. Does anyone have any objection to that course? So schedule 1, which is the pay rates for the PMLV contractors will be Exhibit 81.

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#EXH-081 – Schedule 1 - Pay rates - PMLV Contractors

MS HUXLEY: Schedule 2, the GWAC RFQs Exhibit 82.

#EXH-082 – Schedule 2 - GWAC RFQs

20 MS HUXLEY: Schedule 3, the Appian Way T55-22 schedule is Exhibit 83.

#EXH-083 – Schedule 3 - Appian Way T55-22

MS HUXLEY: The volume 1.2 Canterbury Bankstown Council response to section 21 notice Exhibit 84.

30 **#EXH-084 – Volume 1.2 - Canterbury Bankstown Council response to s21 notice**

MS HUXLEY: And volume 2.1 page 216 Exhibit 85.

#EXH-085 – Volume 2.1 p 216

40 MS HUXLEY: And volume 2.1 pages 218 to 235 Exhibit 86.

#EXH-086 – Volume 2.1 pp 218 – 235

THE COMMISSIONER: Right. Thank you. I'll adjourn.

THE WITNESS STOOD DOWN [4.01pm]

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AT 4.01PM THE MATTER WAS ADJOURNED ACCORDINGLY [4.01pm]