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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE MEGAN LATHAM

PUBLIC HEARING

OPERATION YANCEY

Reference: Operation E13/1916

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 22 JUNE, 2015

AT 10.12AM

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

THE COMMISSIONER: Yes, this a public inquiry into allegations which will shortly be outlined by Counsel Assisting in the opening address. Consistent with the usual practice the standard directions apply. After the opening there'll be a short adjournment followed by a resumption at which point I'll take applications for leave to appear. Yes, Mr Brady.

MR BRADY: Thank you, Commissioner.

10 From 2009 to 2015 Anthony Andjic was an assistant director in the Asset Management Branch of the Department of Justice. He was in charge of the Capital Works Division. The Capital Works Division were responsible for managing the upgrade works on various courthouses. Mr Andjic's role included allocating the projects for the various upgrades to those courthouses to officers within his division. That officer would then become the project owner of that project. It was Mr Andjic's decision as to who would be the project owner of any project. That decision was entirely his and could be made by him without any consultation or any review. There was nothing to prevent him from making himself a project owner and in fact in 2012 and 2013 he did so on a number of occasions.

20

Fatima Hammoud commenced working within the Asset Management Branch in 2011. She worked in the Procurement division as a procurement officer. She was responsible for opening tender responses and for establishing the Tender Opening Committee. She would normally sit on the Tender Opening Committee. Ms Hammoud was near the bottom of the hierarchy in the Asset Management Branch, her role was at quite a low level. She had no real experience in project management. In 2013 she commenced assisting Mr Andjic in project managing. She did so because she wanted to gain some experience in that area. She initially assisted one day a week although it became more regular. Ms Hammoud continued with her role as procurement officer while assisting Mr Andjic.

30

Before Ms Hammoud starting assisting Mr Andjic he was also being assisted by Kerrie Kent. Ms Kent was the Fleet manager for the Asset Management Branch, however she also wanted some experience in project management. She assisted on a part-time basis while also attending to her other work. She moved departments in February 2013 and that's when Ms Hammoud started assisting Mr Andjic.

40 In 2012, before Fatima Hammoud started assisting Mr Andjic in project management, Mr Andjic and Fatima Hammoud started seeing each other outside work. In 2012 they'd begun a relationship and by 2013 others in the Department had noticed their relationship. In 2013 it became a well-known secret in the Department and became more and more noticeably particularly when Mr Andjic's supervisor, Kerry Marshall resigned in early 2013.

Ultimately, Mr Andjic and Fatima Hammoud continued their relationship and became engaged in 2014 and bought a house together in 2014. They

were then married in early 2015. They are now living with Ms Hammoud's family while renovations are being undertaken on their new home.

10 In January, 2013 Mr Andjic's supervisor, Kerry Marshall, who is the director of Asset Management resigned and was replaced on a temporary basis by Jamie Maslen. Mr Maslen was only expected to be in that role for some six week. This change in early 2013 gave Mr Andjic considerable freedom from supervision and freedom from decision review. At about the same time Fatima Hammoud also started assisting Mr Andjic in project management.

20 In 2012 the refurbishment of courthouses at Camden and Picton were selected as projects for capital works. Mr Andjic made himself the project owner. In August, 2012 New South Wales Public Works was selected as the role of project manager. Kerry Marshall selected them on a single select tender process. New South Wales Public Works are an exception to the usual course of requiring a selective tendering process where three prequalified companies are invited to tender, and I'll go into the explanation of the tendering process a little later in this opening.

30 It then appears that New South Wales Public Works in relation to the courthouses at Camden and Picton didn't undertake the tender process for a construction company in a timely manner. They accepted as much and then sent in a submission saying how they were going to get the process back on track to ensure that the works would be completed by 30 June, 2013. Notwithstanding that submission, in February, 2013, shortly after the resignation of Mr Marshall, Mr Andjic directed his subordinate, Kerrie Kent, to dismiss New South Wales Public Works from the project management position rather than negotiate with them to ensure the project be finished by 30 June. The Commission will hear from Geoff Baker about the role of New South Wales Public Works and their dismissal from that project.

40 Kerrie Kent was then directed by Mr Andjic to replace New South Wales Public Works as project managers for the Camden and Pictor courthouse projects with a company called the Triton Group. The Triton Group was not on the prequalified list of consultants or contractors for the New South Wales Government. The Triton Group was selected directly by Mr Andjic and without any appropriate tender process being undertaken.

The Triton Group had not previously done any project management work for the Department. The Triton Group had not previously done any project management work for any Government department. The Triton Group only came into existence in 2012. Before the Triton Group was set up, the director of the Triton Group, Shadi Chacra, rang a business called Trion Construction. At Mr Andjic's recommendation, Mr Chacra in early 2013 was given a contract to perform a very small amount of building work at Blacktown Court. That was the only engagement by any Government

department of Mr Chacra's business before being awarded this contract or project managing the Camden and Picton courthouses by Mr Andjic.

Mr Chacra was the sole director and shareholder of the Triton Group. Mr Chacra was also in a relationship with a person known as Fayrouz Hammoud. Fayrouz Hammoud is now his wife. Fayrouz Hammoud is the sister of Fatima Hammoud. It is alleged that at the time that Mr Andjic gave the contract to the Triton Group without any tendering process and without the Triton Group being on any prequalified list and without the Triton Group having any track record with the Government and without the Triton Group being suitably qualified to undertake the work, that Mr Andjic was in a relationship with Fatima Hammoud and knew full well of the relationship between Fatima's sister, Fayrouz, and Mr Chacra.

That is the reason why he granted the contract to the Triton Group. Mr Andjic, on behalf of the Department of Justice awarded a contract to a company owned by his now brother-in-law to project manage a courthouse upgrade. That particular contract saw the Triton Group paid \$65,670. At around the same time Mr Chacra also set up another company called SAFF Projects. Mr Chacra was the sole director and shareholder of SAFF Projects. SAFF Projects was also not on the pretty-qualified list nor have SAFF Projects done any work for any Government Department.

The public face of SAFF Projects in its dealings with the Department was Fayrouz Hammoud. However, when dealt with the Department she didn't call herself Fayrouz Hammoud. When she dealt with the Department she presented business cards and went by the first name, Fay, last name, Rouz. Fayrouz Hammoud had no project management qualifications or experience at all. She didn't have any construction qualifications or experience. She was in fact employed as a teacher.

In February, 2013, Mr Andjic awarded a contract to project manage the construction of one of his projects, a courthouse upgrade at Cessnock to SAFF Projects without any tendering process at all. There was then a purported tender process for the construction work for the Cessnock project. Three companies were invited to tender in a selective tender process. One of those companies invited was Mr Chacra's other company, Triton Group. The Tender Evaluation Committee that made the decision about which construction tender would win consisted of Fayrouz Hammoud, the girlfriend and now wife of Mr Chacra, Fatima Hammoud, her sister and Mr Andjic.

Unsurprisingly, the Triton Group won the tender process and was awarded the contract for the construction at the Cessnock courthouse. That project saw SAFF paid \$60,870 and saw Triton paid for the construction, \$301, 725. Ultimately, Mr Andjic awarded some six projects to SAFF Projects and 11 projects to the Triton Group. Of those, five for each company was selected as examples and investigated.

Although the timing overlaps the projects awarded and investigated were in the following chronological order. First the Camden/Picton courthouses. Triton was given the contract as the project manager. Second, the Cessnock courthouse. SAFF Projects was given the contract as project manager, Triton was given the contract to undertake refurbishment. Third, the Cowra courthouse. SAFF Projects was given the contract as project manager. Fourth, the East Maitland courthouse. SAFF Projects was given the contract as the project manager and Triton was given the contract to undertake the refurbishment. Fifth, the Gunnedah courthouse. SAFF Projects was given the contract as the project manager. Sixth, the Spring Street, Sydney office refurbishment. Triton was given the contract to undertake the refurbishment. Seventh, the Tamworth courthouse. Triton was given the contract to undertake refurbishment. And eighth, there was a consultancy on a general basis for SAFF Projects.

In each case where SAFF Projects and the Triton Group were rewarded contracts by Mr Andjic there were substantial breaches by him of the New South Wales Government and Department Procurement Policies and Procedures. Mr Chacra's companies were not on the pre-qualified list. They did not have any particular expertise in project management, nor any particular expertise in refurbishing heritage-listed buildings. They were often directly appointed without a selective tendering process.

During 2013 Mr Andjic caused the Department to pay to SAFF Projects and the Triton Group approximately \$1.3 million in contracts. During the course of that at no stage did Mr Andjic or Fatima Hammoud reveal any conflict of interest in the selection of either Triton Group or SAFF Projects for any of the projects. Each of the payments made to Mr Chacra's companies was authorised by Mr Andjic. In order for the payment to be made the process required the project owner to certify that the work had been completed correctly and that the invoice was accurate. The project owner was then required to have the authorisation signed by a superior.

Mr Andjic regularly bypassed the usual procedures and arranged for one of his subordinates to sign off on the payments as a project owner when in fact they had absolutely nothing to do with the project. Both Robert Ingram and Neil Murphy, officers in Capital Works, signed authorisations for Mr Andjic. Both knew it was irregular and Mr Ingram did it once and refused to do so again. Mr Murphy on the other hand felt obliged to do what was requested of him by a senior officer and in fact the head of his division. Once the invoices had been approved for payment they were sent to account payable who would manually enter them into the system, the only check they would really do was to check for duplicates. The invoice would then be paid.

After the investigation into the awarding of these contracts commenced an assessment was made in relation to the payments made to SAFF Projects

and to the Triton Group against the work they actually performed. The assessment has been made by various people. They include Steve Honeywell who is now the Director of Asset Management, Richard Hemsworth who conducted a review of the work done at the Cessnock Courthouse, Paul Richardson from Patterson's Group in relation to the work performed by Triton in project managing the Camden Picton project and Louise Pounder in relation to the refurbishment of Spring Street.

10 The assessment of the work performed against the amounts actually paid to the companies is as follows. The Camden Picton project. The work performed by Triton as project manager was assessed at being about \$5,000 worth. The amount that Triton was paid was \$65,670. That is an overpayment of \$60,670. The Cessnock Courthouse. The work performed by SAFF Projects as project manager was assessed at being about \$1,500. The amount paid to SAFF was 60,870. That is an overpayment of \$59,370. The work performed by Triton in the refurbishment was assessed as being \$47,355. Triton Group was paid \$301,725. That is an overpayment of 254,370. The Cowra Courthouse, the work performed by SAFF as project manager was assessed at being zero. They actually did nothing. They were 20 paid \$39,358. The East Maitland Courthouse, the work performed by SAFF was assessed at being zero. They did nothing. They were paid \$20,405. Triton the other hand in the only time in relation to any of the contracts actually did the work as assessed, that is \$117,216 and that's what they actually got paid.

The Gunnedah Courthouse, the work performed by SAFF Projects was assessed at being zero. Nothing was done. They were paid \$36,245. Spring Street, the work performed by Triton in refurbishment was assessed at being \$10,000. They were paid \$115,905. That is an overpayment of 30 \$105,905. Tamworth, the work performed by Triton in refurbishment was \$44,592. They were paid \$91,592. That is an overpayment of \$47,000. In addition to those amounts SAFF was also paid a further \$50,160 which seems to be unallocated to any project.

I take the opportunity to tender a summary of the project payments from SAFF Projects and to SAFF Projects and Triton Group from the Department.

40 THE COMMISSIONER: Yes. Thank you. That will be Exhibit Y1.

#EXHIBIT Y1 - DOCUMENT TITLED SUMMARY OF PROJECT PAYMENTS - SAFF AND TRITON GROUP CO

MR BRADY: What the Commission will see is that going down the page sees on the left-hand side whether it's SAFF or Triton, in the middle the amount that was paid, next to that the project that was undertaken and then

there are the totals on the right-hand side. One can see in relation to the projects that I've just been through the total paid to both SAFF and Triton is some \$1,051,658. The other projects which they also received contracts from the Department of Justice, total sum \$359,547. Ultimately SAFF and Triton between them were paid \$1,285,537.48, just shy of \$1.3 million.

10 An assessment shows that almost \$1 million of that almost \$1.3 million was profit. Between April, 2013 and December, 2013 Mr Chacra withdrew in cash the sum over time \$760,159 from Triton's bank account. He further withdrew an amount in cash from SAFF's bank account. Of that amount, most was then transferred to Mr Chacra and Fayrouz Hammoud's bank accounts. However, about \$150,000 in cash remains unaccounted for. Fatimah Hammoud on the other hand deposited into her account or used in the purchase of her and Mr Andjic's house cash in the sum of approximately \$150,000.

20 In 2013 there was a decision made to fill a vacancy for a development officer within the Capital Works Division. This is the most senior position in the Asset Management Branch under the position of assistant director. On 7 May, 2013 Fatimah Hammoud created a submission for the vacancy. That submission appears to have been created on Mr Andjic's computer. Fatima Hammoud then submitted the application on 12 June, 2013. There are several misleading statements about her qualifications and experience in both the application and the résumé.

30 Other officers from the Department and from the private sector applied for the position. One of those people was Neil Murphy. Mr Murphy had been a project officer for the Asset Management Branch for some ten years and had private experience before that. He and Fatima Hammoud were shortlisted for interviews. Mr Murphy had significant qualifications and experience. Mr Andjic and a person from Human Resources conducted the interviews. After the interview, Mr Andjic informed the acting director, Mr Maslen, that Fatima Hammoud was his preferred candidate.

40 This raised a concern in the mind of the Acting Director, Mr Maslen. It raised concern in his mind because he was aware of Ms Hammoud's low position in the Department. He was aware of her lack of experience. And he was also aware of the rumours about the relationship between Mr Andjic and Ms Hammoud.

Ultimately, all these matters we referred for investigation. When the investigators attempted to access the paperwork they discovered that numerous document appeared to have been destroyed and numerous emails were deleted. A number of the deleted emails have been recovered. Records relating to contracts to SAFF Projects and Triton were on occasions deliberately destroyed while on other occasions they were simply never created. There was not a single hard file found for any of the projects of Triton Group and SAFF Projects.

Lydia Klement, who the Commission will hear from and is the Executive Assistant to the Director of Asset Management attempted to contact Mr Andjic for information. When she did she would simply be directed to a blue manila folder he kept on his desk. When the internal review was being conducted she attempted to locate the files in relation to the projects controlled by Mr Andjic. She could not locate any hard file for any of the projects undertaken by Triton or SAFF Projects. Further, the blue folder to which she was often directed was also unable to be located. Her
10 investigations showed that often files were simply never created.

That is a simple summary of the allegations. The Commission will hear from each of the people of interest, Anthony Andjic, Fatima Hammoud, Fayrouz Hammoud and Shadi Chacra. What I propose to do now is to go into a little more detail about the background that led to the allegations and the systemic failures that led to corruption opportunities.

I'll outline these matters under the various headings. The courthouse upgrade program and background to that program. In 2001, the Department
20 of Justice commenced a 10 year program to upgrade all New South Wales courthouses. At the time of the programs commencement, courthouses throughout New South Wales failed to adequately support court operations and to meet building standard requirements. In total \$250 million was allocated to the program and the funds were to be regularly released over a ten year period. Additionally specific amounts were allocated to each courthouse. Ultimately, completed of the program was delayed and is now due to be completed at the end of the 2016 financial year. Although all of the smaller upgrades similar to the ones that are being investigated will be
30 finished this year.

One of the key reasons for the delay was the necessity of work which differed from that originally approved. For example, the scope of many courthouse upgrades changed from that originally planned due to things like changes in legislation, such as Disability Access legislation.

The program consisted of a series of projects. Each project corresponding to a different courthouse. Because different courthouses had different needs the upgrade program was viewed as a program of projects rather than a single big project. The Asset Management Branch of the Department of
40 Justice undertook overall management of the program. The overall management wasn't outsourced because of the belief that Asset Management Branch could better manage the relationship with the Judges and the Senior Registrars during the process as well as properly manage the need to access courthouses to ensure the justice system continued with as little interruption as possible.

At the start of each financial year a decision needed to be made as to which courthouses would be upgraded for that year. The initial program design

had a loose sequence, however, the number of projects funded and allocated for each year was then resolved between the Deputy Director General of the Courts and Tribunal Services and the Capital Works team, the Capital Works Division being one of the four divisions of Asset Management.

10 Once a particular project to upgrade a courthouse had been approved a project owner within Capital Works was then appointed. That person had control of the project for the Department and liaised between consultants, contractors and client. They managed the tender processes, the engagement of contractors and signed off on relevant works.

20 The systemic failure within the courthouse upgrade program. There were a number of difficulties with the program. First, there was a failure of communication between the Assets Management Branch and in particular the Capital Works Division and the Courts and Tribunal Services. That is, a failure of communication between the division undertaking the courthouse upgrade and the division actually using the courthouses. As a result the projects that were chosen under the program were often not those that best matched the Courts and Tribunal Services' priorities. Asset Management simply determined what upgrades were priorities for them in terms of the asset and the work that needed to be done on that asset. That was generally without reference really to the needs of the users. A disconnect developed between the courts' needs and the projects actually undertaken and a perfect example of that is that Asset Management as a part of their program had planned to perform a \$6 million upgrade to the Hornsby Courthouse. At the same time Asset Management were making this decision the Chief Magistrate had decided to no longer hold sittings at that courthouse.

30 The disconnect between what was actually needed by the courts and the work that Capital Works decided was needed created corruption opportunities. Another example was work done on the Camden and Picton Courthouses when they were in fact no longer intended to be used as courthouses. What that meant is there was little scrutiny of the projects undertaken by Capital Works outside of Capital Works.

40 The second difficulty with the program was the amount of money allocated to each project changed over time. Unfortunately there was little control outside Asset Management of the use of funding for the projects. Often projects went over or under budget and those variations were resolved simply by transferring funds from one project to another. Those transfers were simply negotiated internally by Asset Management and it led to a lack of scrutiny of projects running over budget.

Management of the Capital Works projects. Another area of problem was that there was very little accountability and responsibility regarding project delivery within Asset Management and Capital Works. Very few controls were in place to ensure a project was delivered efficiently and to ensure governance of the project. There was very little involvement of the client in

the process. While registrars often provided wish lists of what they would like with their courthouse it was Asset Management and Capital Works who decided what would be done and when it would be done. There was no ability for the registrars or Courts and Tribunal Services to really assess the project's goals and outcomes. While it was possible to determine project expenditure it wasn't possible to link that to project progress.

10 There also appeared to be no corroboration within the various divisions within Asset Management. That in itself led to corruption opportunities because each division kept to themselves so that there was no oversight by other divisions. Unsurprisingly poor project governance led to poor project outcomes. There has since been an overhaul of project governance in Asset Management including the establishment of project governance committees, the use of stop/go points, broader stakeholder involvement and the prohibition of the director of Capital Works managing their own projects.

20 The acting director role. The director of Asset Management from 2008 until January, 2013 was Kerry Marshall. In January, 2013 Kerry Marshall resigned and from January, 2013 to July, 2013 Jamie Maslen, who the Commission will hear from, was acting in the role of director. His was a temporary appointment. Before that appointment Jamie Maslen was an assistant director of Asset Management and the head of Facilities Maintenance Division. He continued to fulfil his role as the head of Facilities Maintenance Division while acting as the director of Asset Management. Initially it was intended that Mr Maslen would act in that role for only six weeks. In fact, his role as acting director lasted six months.

30 The systemic failure in that case was this, when Kerry Marshall resigned he provided a very basic handover to Mr Maslen as it was anticipated that Mr Maslen would be in the acting role for a short period of time only. The information Mr Maslen provided about capital works was simply this, Mr Marshall told Mr Maslen that Mr Andjic knew what he was doing and had everything under control. Before Mr Maslen was promoted to the acting director role he and Mr Andjic were at the equivalent level. They were both assistant directors in charge of their own division.

40 During the period of time that Mr Maslen was acting as director almost all of the information Mr Maslen received about the projects, sorry, the progress of capital works came from Mr Andjic. Mr Andjic provided very few documents to Mr Maslen notwithstanding numerous and more and more strident requests by Mr Maslen. Mr Andjic would simply tell Mr Maslen that he had everything under control.

Mr Maslen was unable to independently obtain information about project scope, budget, status and expenditure. However, because of the advice of Mr Marshall that Mr Andjic had everything under control and knew what he was doing and the fact that Mr Maslen believed he was only going to be in

that acting role for a very short period of time, Mr Maslen initially was not overly concerned.

10 The failure to backfill Mr Maslen's position of head of Facilities also meant that he was doing both jobs, being head of Facilities and the acting director role. On occasions during that period he was working 16-hour days. This workload resulted in fatigue that affected his ability to manage the branch. Additionally, because he was only acting director and initially supposed to be acting director for six weeks, his authority to control the divisions was clearly reduced.

20 The tender process. The New South Wales Government Procurement Guidelines set out the process for engaging organisations for the delivery of Government services. There are three types of tendering methods, open, multi stage and limited. Open tendering is to the general public by way of public advertisement, multi stage tendering is a selective process involving a prequalified list of contractors, and limited tender involves known service providers who are invited to tender. There is also some capacity for direct negotiation, however that's only allowed in unusual circumstances and requires high level authorisation.

The guidelines set out the numbers of quotes or tenders recommended for contracts according to value as follows, up to \$30,000 one quote or tender for all kinds of contracts, between 30 and \$50,000 three for construction, one for consultancy, three for goods and services, between 50,000 and \$150,000 three for all kinds and \$150,000 and above three and/or open tender for all kinds.

30 The Department of Justice procurement policies followed the Government code of practice for procurement. For capital works constructions there were three types of projects, those over 500,000, those between 30,000 and 500,000 and those for less than 30,000. All projects worth more than 30,000 required the submission of a procurement method selection form.

40 That is a form setting out the intention in relation to the project management and the construction and the nature of the selection process. The Commission will hear from a number of officers in the Department including Robert Ingram, Neil Murphy, Martin Gordon, Jamie Maslen and Steve Honeywell who will, amongst other things, give evidence about the procedures to be followed to award a contract for project management and construction. For courthouses the policy states the delivery methodology of separate managers, designers, contractors is preferred for the Department in order to maintain control over the process.

Within the Department of Justice a further procurement policy was developed for construction. It incorporated the Government Procurement Policies but was more specifically designed to deal with capital works usual

within the Asset Management Branch. It required that between 30,000 and \$250,000 a minimum of three quotes or tenders was needed. However, the process would be a selective tendering process. Suppliers were selected and invited to participate in the process. The suppliers from a pre-approved list were selected and invited to tender. Direct negotiation was still only available in special circumstances and was to be avoided.

10 There was further guidance from an internal Asset Management Branch document called the Service Provider Selection Matrix which distinguishes between project management projects under and over \$50,000. It further makes a distinction for construction work below 30,000, between 30,000 and 150,000, between 150,000 and 500,000 and above 500,000. Project management and consultancy all require selective tendering and construction projects over 30,000 requires selective tendering. Those under 30,000 may be single or selective tendering. The companies invited to tender for service should be prequalified pursuant to the prequalification scheme. There was also, not unsurprisingly, sorry, not surprisingly, a Code of Conduct in relation to tenders requiring that parties must not collude and that any party with conflict of interest must declare it.

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In this case each of the contracts awarded by Mr Andjic to Triton and SAFF required a selective tendering process and should have included only companies that were prequalified. There appeared to be no controls over awarding of a contract to a company that was not prequalified. In 2013 there was no process in place to reliably detect a failure to select a company from a prequalified panel. There was also process in place to reliably detect a failure to undertake a selective tendering process.

30 Recording-keeping. The record-keeping system of the Asset Management lacked transparency and organisation. It allowed for corruption opportunities. On occasion, projects were commenced, contracts awarded and payments made without a physical file ever being opened. Further, records were destroyed once an internal investigation commenced.

40 Procure to pay process. In order for SAFF Projects and Triton group to be listed as vendors for the Department all that needed to occur was for Mr Andjic to submit a requisition form for payment and that was then interpreted as approval to create a new vendor. There was no check in relation to whether the new vendor was pretty-qualified nor was the procurement system linked to the accounts payable system. SAFF Projects and Triton Group were added as vendors without a great deal, if any, scrutiny at all. Once invoices had been approved for payment they were then sent to accounts payable who would manually enter them into the system. The only check they would do is to check for duplicates. The accounts payable division was essentially a payment processing unit who had minimal control over the procure to pay process. Mr Maslen, for example will say that he never had accounts payable question a single invoice he sent them. There also appeared to be in Assets Management a

culture of signing off on other people's work. An additional signature is now required on payment vouchers. The extra individual is required to check the work has been completed in addition to the project owner saying the same.

In summary, the investigation will focus on the corrupt conduct of the people of interest but also the systems in place which tendered to create these corruption opportunities. It will also investigate the steps taken and the steps to be taken to remedy those system. Thank you, Commissioner.

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THE COMMISSIONER: Thank you, Mr Brady. I'll take a short adjournment. Thank you.

SHORT ADJOURNMENT

[10.55am]

THE COMMISSIONER: Yes. Just before I take the applications for leave to appear I want to ensure that the parties understand the scope and purpose of the inquiry. The following allegations are being investigated. Firstly, that Anthony Andjic, Assistant Director Capital Works Assets Management Branch of the Department of Justice corruptly engaged SAFF Projects Pty Limited and the Triton Group as project managers for upgrades to Department of Justice buildings. Secondly, that Anthony Andjic co-opted Fatima Hammoud to act contrary to the interests of the Department of Justice in managing court upgrade projects which he corruptly awarded to SAFF and Triton. Thirdly, that Anthony Andjic and Fatima Hammoud deleted or destroyed pertinent Department of Justice records pertaining to the engagement of Triton and SAFF once they became aware of the investigation into their conduct, and fourthly, that Anthony Andjic was the convenor during the recruitment by the Department of Justice for a project officer and used his position to award the position to Fatima Hammoud without declaring their relationship and for which she did not hold the necessary qualifications and experience.

20

30

Yes. Now, yes, who wishes to seek leave? Yes.

MR SILVER: Peter Silver.

40 THE COMMISSIONER: Yes, Mr Silver.

MR SILVER: I have been instructed to seek leave to represent the New South Wales Department of Justice.

THE COMMISSIONER: Thank you, Mr Silver. That leave is granted.

MR SILVER: Thank you.

THE COMMISSIONER: Yes, anyone else?

MR HARRIS: Commissioner, my name is Harris. I seek leave to represent Lydia Klement.

THE COMMISSIONER: Thank you, Mr Harris. That leave is granted.

MR OATES: If the Commissioner pleases, my name is Oates.

10 THE COMMISSIONER: Yes, Mr Oates.

MR OATES: I seek leave to appear for Anthony Andjic.

THE COMMISSIONER: Yes, thank you. That leave is granted.

MR OATES: The Commissioner pleases.

MS HUGHES: Commissioner, my name is Hughes. I seek leave to appear on behalf of Mr Neil Murphy.

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THE COMMISSIONER: Thank you, Ms Hughes. That leave is granted.

MS DAVID: Yes, Commissioner, if it pleases, my name is David, D-a-v-i-d. . I seek leave to appear for Abdul Hammoud.

THE COMMISSIONER: Thank you, Ms David. That leave is granted.

MS DAVID: Thank you.

30 MR AYACHE: Good morning, Commissioner. With your leave, appearing for Mr Chacra. Ayache, A-y-a-c-h-e.

THE COMMISSIONER: Thank you, Mr Ayache. That leave is granted. Yes.

MR CHALMERS: Good morning, Commissioner. Chalmers, Solicitor.

THE COMMISSIONER: Yes, Mr Chalmers.

40 MR CHALMERS: Commissioner, I seek leave to appear for Fatima Hammoud.

THE COMMISSIONER: Thank you, Mr Chalmers. That leave is also granted.

MR DUNNE: Commissioner, my name is Dunne. I seek leave to appear on behalf of Alex Cheung.

THE COMMISSIONER: Yes, Mr Dunne. That leave is granted.

MR STEWART: Yes. Good morning, Commissioner. Stewart, Solicitor.

THE COMMISSIONER: Yes, Mr Stewart.

MR STEWART: I seek leave to appear for Kerrie Kent.

10 THE COMMISSIONER: Yes, Mr Stewart. That leave is also granted.

MR STEWART: Thank you, Commissioner.

MR PATTERSON: Good morning, Commissioner. Patterson, Solicitor.

THE COMMISSIONER: Yes.

MR PATTERSON: I seek leave to appear for Mrs Hakime Hammoud.

20 THE COMMISSIONER: Thank you, Mr Patterson. That leave is granted.

MR PATTERSON: Thank you, Commissioner.

MR BRUCE: Commissioner, Bruce, Solicitor. I seek leave to appear for Fayrouz Hammoud. For abundant caution I identify that her married name is Abouchacra. I'll spell it.

THE COMMISSIONER: Yes.

30 MR BRUCE: A-b-o-u-c-h-a-c-r-a.

THE COMMISSIONER: Thank you, Mr Bruce. That leave is granted. Will that conclude the applications for leave? Yes. Thank you. Yes, Mr Brady.

MR BRADY: Yes. Call Mr Maslen.

THE COMMISSIONER: Thank you, Mr Maslen. You're not represented here today I take it?

40 MR MASLEN: No.

THE COMMISSIONER: Could I just ask you if anyone has indicated the effect of a Section 38 Order?

MR MASLEN: No.

THE COMMISSIONER: No. All right. I'll explain it to you. You are obliged as in any witness before the Commission to answer questions

truthfully and you must answer them truthfully even if the answers might implicate you in some future criminal or civil or disciplinary proceedings. Because you are compelled to answer and because the answers might implicate you in the Commission of an offence of some kind it would be available to you to object to each and every question as it is asked and that would in effect prevent the use of your answers against you. But to obviously save time and make it a more convenient process I can make an order under Section 38 of the Act which operates as a blanket objection to every question that's asked of you so that in effect once the order is made all
10 of your answers are thereby protected from use against you in any future proceedings. Do you want such an order to be made?

MR MASLEN: I'm happy to have that made, yes.

THE COMMISSIONER: All right. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be
20 regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN
30 GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Mr Maslen there's one very important qualification to that order and that is that it doesn't protect you if it should be found that you've given false or misleading evidence because you would nonetheless be liable to prosecution under the ICAC Act. Do you
40 understand that?

MR MASLEN: I do, yes.

THE COMMISSIONER: Yes. Do you wish to be sworn or affirmed?

MR MASLEN: I'm sorry, I don't understand the value of either?

THE COMMISSIONER: They're both entirely the same from the point of view of your testimony. One requires you to take an oath on the Bible, the other simply requires you to promise to tell the truth. It's a matter for you?

MR MASLEN: The second.

THE COMMISSIONER: All right. Can he be affirmed, please.

THE COMMISSIONER: Yes, Mr Brady. Yes, Mr Chalmers.

MR CHALMERS: Thank you. Sorry, to interrupt, Commissioner. Mr Maslen completed some statement which was made available to – one of them is 27 April and in that it refers to some emails as exhibits. Now those emails would be helpful in relation to any possible cross-examination. They might not have been provided on purpose or they might just have been omitted. But what I'm specifically talking about is the exhibit on page 16 of 17 of the last statement of 27 April, 2015. I only raise it now because if I do cross-examination and those exhibits were available they would assist me in relation to understanding the paragraphs.

THE COMMISSIONER: Have they been overlooked, Mr Brady, is there a reason that they haven't been produced at this stage?

MR BRADY: Would your Honour excuse me just one moment?

THE COMMISSIONER: Yes.

MR CHALMERS: Just to assist it's page 16 of 17 of that statement of April. It's page 371 of the brief.

MR BRADY: I wonder if I might have some inquiries made in relation to that, in the meantime I understand there to be no difficulties in commencing?

MR CHALMERS: Oh, no, I don't seek to hold up things, Commissioner.

THE COMMISSIONER: All right. Well, when we get to the point that it might be a problem for, Mr Chalmers, we can deal with it then.

MR CHALMERS: Thank you, Commissioner.

THE COMMISSIONER: Yes, Mr Brady.

MR BRADY: Yes, thank you.

Would you please tell the Commission your full name?---Jamie Bruce Maslen.

And what is your occupation?---I'm the principal asset management consultant for a company called Jacobs.

Before that what did you do?---Before that I was the enterprise asset management expert working with the New South Wales Department of

Finance.

And before that?---Before that my substantive position was assistant director for Facilities within the Asset Management Branch the Attorney-General's Department.

You said your substantive position, did you hold another position within that department as well?---I did, for a period of around six months I was the acting director for the Asset Management Branch.

10

When did you start with the Asset Management Branch?---I started with the Asset Management Branch I think in about 2011.

And what role did you go into in the Asset Management Branch?---acting director, sorry, the assistant director for Facilities.

The Asset Management Branch, how many divisions are there?---Four.

20 What are they?---You have Capital Works, you have the Finance, sorry, Procurement, apologies, Procurement, you have the Facilities Branch and we also have Fleet.

I'm sorry, I missed that?---Fleet.

I might just get you Mr Maslen if I can just to keep your voice up?---Sorry, yes.

30 In 2012/2013 can you tell me who was in charge of each of those divisions, let's start with Capital Works?---Capital Works was Anthony Andjic.

Facilities was you?---That was myself.

Procurement or Finance?---Martin Kuskis.

And how do you spell that?---K-u-s-k-i-s I believe.

And Fleet?---It was Kerrie Kent at the time that I arrived.

40 The role of Capital Works within Asset Management, what was that?--- Capital Works Group had carriage all of the capital works major upgrades program and they reported directly to the director of the Asset Management Branch.

The time before you took over in the acting director who was the director? ---Kerry Marshall.

How long was Kerry Marshall the director for?---I'm not aware of when Kerry actually started, I worked with Kerry for about a year, I know he'd been there for several years prior, his actual start date I couldn't tell.

What's the role of your department within Asset Management?---The Facilities department, we were looking after basically the maintenance and the routine upgrade of the facilities and general routine repairs, emergency repairs and also the management of the facilities maintenance contract which at the time was run by Brookfields.

10

And what was the role of Procurement?---Procurement was to assist with the procurement of any large scale procurement process and also provide advice on routine procurement matters.

And the role of Fleet?---The Fleet was to manage the fleet vehicles on behalf of the Attorney-General's Department.

Can I just go back to Capital Works and ask you some questions about what their role is. You indicated the role of major works in relation to upgrades?
---Yeah.

20

Did they have a particular role back in 2012/2013?---I'm unaware of what you're referring to.

When you're talking about upgrades, upgrades of what?---Oh, upgrades of the courts, one of the main programs, we had several large projects which are handled slightly differently, very large capital works but there was the court upgrade programs, the primary program.

30

What was that program?---I believe that several years earlier five, six, maybe seven ago there was a report which identified that the courts generally across the state had gone into a state of disrepair and there was a major program of works and funding allocated to bring those back up to an acceptable standard. That was a rolling program that was meant to go over roundabout a seven year program to the best of my knowledge.

All right. And that was still running in 2012/2013?---That's correct. It was getting towards the end of the program.

40

How would courthouses that needed to be upgraded be allocated to people within the division?---That was managed by the Assistant Director of the Capital Works. He would designate which person took carriage of those projects.

And how many projects were running to your memory or courthouse upgrades were running back in the beginning of 2013?---There was usually around about anywhere from six to 10, maybe even 12 running at any one

time. Some finishing some starting. But generally around about six to 10 going at any one time.

Can I just talk to you about the process of obtaining someone to do work as either a project manager or for construction. What is the starting process to get someone for example, to do project management?---Project management. If you needed someone to do project management you would go to the, the panel that we had for a pretty-qualified staff. If the internal panel wasn't acceptable we generally went to the Public Works panel for assistance.

Can I start with the panel that you're talking about to start with. What was that panel called?---Pre-qualified panel list.

Who held that?---For the Capital Works that would've been held and managed by the Assistant Director of the Capital Works. I wasn't aware of that panel.

Okay. How are panels generally pre-qualified?---There's generally an expression of interest. My understanding is in the past, this process hadn't occurred while I was there but my understanding was that an expression of interest was put out and advertised and people were invited to come in under a set of criteria to be pre-qualified once they'd past that criteria.

Did you know what that criteria was?---No.

How would someone who is starting a project go about getting people from that panel or getting companies from that panel?---Again I wasn't involved in the Capital Works so I was unaware. But my understanding was that there was a selection from those – from that panel and that was decided upon by the assistant director about which person would get that role.

The procurement policy for your division and the procurement policy for Capital Works was that different or the same?---It shouldn't have been. The procurement policy that we were using, we were following the New South Wales procurement guidelines.

All right. So what would be the usual way of procuring a contractor to do a project management for example?---But depending on the dollar value, if was under \$30,000 we would use one of the people that we had used many times that was part of the – part of the previous panel, had experience. If it was over \$30,000 we would invite three tenders.

And where would those tenders come from?---They would come from people that were on the pre-qualified list or had substantial history. I have no knowledge of anyone not from a pre-qualified list being invited.

Would there be circumstances in which you would get someone not from that pre-qualified list to tender?---The – not for a tender. The only time you would use anyone that was not on a pre-qualified list that I can recall would be from emergency work and you're generally talking about places that were quite remote.

Now in order to get people from or get a company from that pre-qualified list did you need to fill out forms to do so?---Again, I wasn't aware of the operation within the Capital Works team so I can't comment, I'm sorry.

10

Now I'm talking about the – get three people to – or get three companies to tender. How would you go about doing that?---Three companies. Again selected from the panel, the project scope and the specification and the requirements would be delivered to each one of those, those companies in the case of something between say fifty thousand and one fifty. They'd all be given the documents. They would attend, if necessary, a mandatory site meeting and they would be given a reasonable amount of time to submit their tender and it would be submitted into the tender box at the office.

20 How were they given the documents to start off the tender process?---They – in most cases they should be sent out by either registered mail and now we're using electronic deliveries more and more.

And is that an eTender?---Yes.

When companies get that would they often do a site visit then?---Yes.

And who would they go with on the site visit?---They would go with the project manager as project owner depending if they were the same.

30

All right. Now, some of those, particularly in relation to Capital Works, was there a project manager on occasions outside Capital Works?---Yes.

In what circumstances would it happen that you get a project manager external for Capital Works?---If the project was high risk or difficult in nature and outside the skill level of the existing group then you have the opportunity to obviously engage somebody with more experience that could manage that project better.

40 Would a project manager within Capital Works still be working on that particular project as well?---The project manager should be the project owner and their responsibility would be to manage that project manager.

When companies would go out with the project owner and do a site assessment what would happen there from the tendering process point of view?---Sorry, can you repeat the question.

Yes. After companies would go out with the project owner and assess the site what would then happen generally in relation to a tender?---Oh, then they'd, they'd have the, the designated time to put their tenders together. If they had any questions they, they should be sending those questions in as a formal request and they would be – the responses from those requests would then be sent out to all tenderers so everybody was aware.

10 Assume that the date for the tender has come. How does the Department go about getting those – opening those tenders?---All tenders should be submitted into a locked tender box at the, at the office. A Tender Evaluation – sorry, Opening Committee would be assigned to go down and open those tenders and their job is to record the details of those tenders. They have then to hand that over to the Tender Evaluation Committee.

Can I just start with the Tender Opening Committee?---Yes.

20 Who, who oversees that?---That would generally be advised by the Procurement Department. That was their group. Their, their group was really there to assist us arrange us but it basically needed someone with some – reasonable amount of experience in opening up tenders and recording details that's all. Their job was not to assess.

Back in 2012 who would normally take that role?---In 2012 that would have been anyone from the Procurement Department. Given that you're only opening tenders it could be somebody reasonably low level.

30 Did Fatima Hammoud ever do that?---My understanding is she did but I couldn't be 100 per cent sure. My recollection is that she was, that was one of her duties.

So what then is the role of the Tender Opening Committee?---The Tender Opening Committee is to record how many tenders were there, the contents of the tenders, record that detail, sign that and hand that over to the convenor of the evaluation committee.

Who then convenes the Tender Evaluation Committee?---The Tender Evaluation Committee would usually be convened by the project owner.

40 Who would normally be on the Tender Evaluation Committee?---Again, not being part of the Capital Works team, my understanding was that it was the project owner, usually, depending on the value, an independent from one of those – from a different department and perhaps somebody with experience in that, that sort of a project. My understanding was it was generally preferred to have around three.

What would the Tender Evaluation Committee do?---They would assess each tender against the criteria for the, the contract and what was requested at the tender to ensure that one, that they could satisfy the requirements, that

all the necessary documentation to support their bid was there and that they would give a – test those documents if required, test that information to be able to make an evaluation. There would then be a recommendation for approval.

10 Did the Tender Evaluation Committee have to sign anything in relation to conflict of interest?---Yes. Before any tender starts, when the tenders are – when the Tender Opening Committee are provided, if there is any conflict of interest there is a standard conflict of interest form that is signed and presented to the convenor for the convenor to decide whether a tender – sorry, a conflict of interest does actually exist and whether they should continue or not.

If it was the convenor’s conflict of interest what would they do?---The convenor would have to take that to his supervisor.

20 If there was a conflict of interest just with one of the panel members rather than the convenor, could the convenor make a decision about whether that conflict is a problem?---Could you repeat the question please.

If it was one of the committee members rather than the convenor who had a conflict of interest - - -?---Yes.

- - - could the convenor make a decision on that conflict of interest?---My understanding is yes, they could, given – but you’ve got to be able to justify your decision, yes.

30 What sort of things would lead to a conflict of interest in a Tender Evaluation Committee?---They could be anything. They could be real or perceived. Perceived is just as dangerous as real. It could be that somebody has been seen having regular coffees with one of the tenderers. It could be a personal or a family association. It could be consistent work being awarded to the same person that could raise the ire of a perception that that’s a captured client or you’re a captured officer and that you’re receiving some sort of benefit or, or favour, given favour even without benefit.

40 Sorry, a captured officer?---The term that I’ve been aware, I don’t know if it is the right term but when somebody likes a contractor so much because it makes them feel good and they’re personable and they become captured even without any financial or personal gain, they are giving favour by their relationship.

If a convenor had a conflict of interest and stated that they had a conflict of interest and went to their superior what would normally happen from there? ---My understanding is the superior makes a judgment call based on the Government’s, sorry, the Department’s criteria or whether he believes that that conflict of interest is such that it could damage his or her ability to

perform their function and if that case was, if it was a, the case was good then the person was excused from the committee.

Now the Tender Evaluation Committee makes a recommendation?---Yes.

That recommendation is based on a number of criteria?---Yes.

Some of that criteria is in relation to price?---Yes.

10 And in relation to non-price matters?---Yes.

Once that recommendation is made who is it made to?---The recommendation based on the value needs to be made to the supervisor with the delegated authority to approve that, that engagement.

Right. And how does the superior go about approving that?---If the superior gets given a copy of the tender evaluation report, if everything seems reasonable on all the information provided is acceptable then the, the supervisor would make a decision or a judgment call on whether he was
20 satisfied with the Tender Evaluation Committee's report and approve or deny.

Would the superior on occasion speak with the convenor or speak with the Tender Evaluation Committee?---He would speak to the convenor. I, I doubt that they would speak with the Evaluation Committee but they would speak to the convenor.

Once approval was given what would then occur?---Approval was given, approval was given basically to allow those funding to be provided to that
30 project and to award it to that contractor, that would then be given approval then to the project owner to initiate that project.

All right. Once the approval for a certain sum has been given what happens in terms of notifying payments?---There should be an official letter of award notifying the successful contractor that they've been successful, they should also then be given a purchase order as a formal contract and there should also be a letter of notification going out to the unsuccessful tenderers.

Sorry, you said a purchase order?---Yes.
40

Can I just show you a document if I can. I just got you a document there, page 3509. Tell me what that type of document is, don't worry about the filling out at the moment?---Yeah, that's the, that's a purchase order that goes out to the service provider.

Right. Goes out to the service provider, does it go anywhere else as well? ---Yes, that should also be going to the Finance Department.

Right. Can I just look at that if I can and ask you a couple of questions about it. First there's obviously a supplier up the top on the left-hand side?
---Ah hmm.

That's the person, that's the company that's been awarded the contract?
---Yes.

In this case and though not relevant to this but APP Corporation?---Ah
hmm.

10

Underneath that it says "Description"?---Yes.

And that's a description of the work that is to be performed?---Yes.

Obviously that's not in great detail?---Ah hmm.

I'm assuming that there'd be more detail somewhere else?---Well, they should, that would be, it should be making reference to the actual tender submission and the tender documents.

20

Right. There's then across a quantity and then a unit?---Ah hmm.

Quantity's obviously one, when one is dealing with consultancy contracts rather than for example goods and services - - -?---Yeah.

- - - one would assume it generally would be one, would that be - - -?
---That'd be correct, yes.

30

And what's the unit?---Each, just one each, just saying one each of that, that, that value unit which would be the tender lump sum price.

And the tender in this case is 124,700?---Yes.

All right. Underneath that there is a contact, would that normally be something that would be put on there, the person who's actually the contact officer for this particular purchase order?---I must admit I haven't seen that in the past for purchase orders, that's normally contained in the documents, the tender documents.

40

Okay. Can I then go down if I can to the bottom half of the page?---Ah
hmm.

There's then at the bottom half of the page a heading saying "Please quote order number on all deliveries and invoices" and then under that there's "Order authorised by under section 13 of the Public Finance and Audit Act", what's the signature there represent?---I'm sorry, I'm just reading that to make sure.

Of course?---My understanding is that authority is that someone with the delegated authority to release those funds for that project.

Underneath that there is another signature there where “I certify the goods were received in good order and condition and correct in every particular” and signature there, what would that normally represent?---That’s somebody with the, the ability or the authority to say we actually received the goods that we’ve said we were going to pay for.

10 Would that be for example in a capital works matter the project owner who would normally sign off on the fact that the goods and services were received?---That’s right, that should be the project owner.

And then they would then take that to a person, another person to be authorised?---That’s correct.

And that’s a person with the delegated authority for that amount of money? ---That’s correct.

20 And is that what you meant by a purchase order?---Yes.

A payment voucher, have you heard of that?---Payment vouchers?

Yes?---Yes.

30 What’s a payment voucher as opposed to a purchase order?---Payment vouchers, my understanding of a payment voucher is something that may have a very small dollar value or very, very low risk, generally to make things happen very, very quickly, there may be some urgent need, and its meant to reduce administration costs.

Right. So for example for a matter where you’ve gone through a tender and you’ve got a project manage or construction for hundreds of thousands of dollars would you use a payment voucher?---No.

40 Is there any circumstances in relation to a capital works program where a payment voucher should be used?---Again the only reason that I would see a purchase, sorry, a payment voucher being used would be for very low dollar value in the case of an emergency, if you had a contract with a supplier to do construction work if there’s an emergency I would have expected those people would have been able to do that work under a variation instruction and then a variation form that would be managed in due course.

Did you become aware that perhaps payment vouchers were being used for variations of contracts within Capital Works?---No, I was not aware of that.

Can I just show you this. This is at page 3511. Is that what you were referring to as a payment voucher?---Yes.

There is a signature at the top there where it says “Asset Management Branch section 12, expend approval”?---Ah hmm.

What’s a section 12 approval?---I’m unaware, I couldn’t say for certain what a section 12 approval, I’m unaware - - -

All right. In terms of - - -?--- - - - of what that Act is.

10 - - - who signs that is that the project owner who would sign the top of that document?---The project owner is to sign the top that’s to say yes, that’s correct, we’ve got that.

And then down the bottom it’s got on the left-hand side “Certified correct under section 13”, do you see that underneath the gridlines there?---Yes.

And that’s marked against authority order. Would that be someone with the authority to then sign off on that amount of money?---I’ve got that round the wrong way. That’s, my understanding is that’s someone stating that the
20 works have been done and the other signature is someone saying it’s okay to pay.

THE COMMISSIONER: The reference to the PF&A Act, does that strike a chord with you?---That would be the Finance and Order Act, yes. So Section 12 I’m - - -

Of that Act?--- - - - I’m not aware of Section 12 but I’m sure that would be the Finance and Order Act that we must adhere to, yes.

30 MR BRADY: Now how long would it take between receiving the tenders and ultimately deciding on who should get a contract?---Again, based on the size and scale. If you could turn round within a week you’re doing extremely well I think by the time you convene the committee and get all the information together. I’d say a week and a half, two weeks would be a good, a good assessment period.

All right. How long after the committee met would you anticipate being able to get the tender evaluation report?---Though for a large project they’re, they’re usually reasonable involved. It would certainly take a few days
40 before that would be made available to whoever it was to have it signed off in the case of a – of that position within the Capital Works. That would have to go up to the director. And it’s not so much about the time of – to produce it, it’s also being able to meet with the director as well.

All right. What sort of things would a person who’s doing the tender evaluation report look at in relation to the companies that have put in a tender?---If they’re doing the report they would be assessing the qualifications of the team – of the contractor as they claim.

How would they go about doing that?---They should be supplying references from previous projects and the convenor should be testing those reference to ensure that their claims are substantiated.

10 How do they test the references?---It could be by phone call or by written submissions so there would be a claim or references that gives us a guarantee of past performance and service and they would be – they should include a contact name and number so they could be contacted to ensure that reference is actually correct.

20 In addition to assessing their qualifications against references what else would they do?---They'd also be checking the, the ability of the financial management, the financial sustainability I suppose, I'm trying to find the right words of those companies to ensure that they could actually manage and support projects of that scale and size. In the past I'm aware that the New South Wales Government had a contract with Kingsway and their role was to do financial assessments on projects. It was - my understanding was a standard practice for projects to have an assessment done by Kingsway to guarantee that the company that you're involved with was not going to go bankrupt surely.

Set to a certain extent helped by now the pre-qualified list?---Yes.

30 How was that helped by that?---The pre-qualified list, my understanding again is that those assessments are already done to ensure that they can still – they should be on the panel in the first place. But there's nothing to say in my understanding is you'll still be doing those assessments anyway because those panels have been done for several years. Those companies still need to be – we need to be sure that those companies are still viable.

That's one of the things you would check to see how long the company's been running?---Yes.

And how many projects they've done?---Yes.

And how much – whether or not they've worked for the Government in the past?---Yes.

40 Would the convenor of the Tender Evaluation Committee sign off on the tender evaluation report and award the contract without going to a supervisor?---My understanding is no, he can't do that. The convenor must make a report to be accepted, reviewed and accepted by someone with delegated authority. They don't have the authority to award a contract that they've done the self-assessment done. You're by passing a control.

Once the contracts been awarded and the work has started what happens if there's a variation in the work that's needed?---Variations for contracts,

there should be a variation request form or document that is sent to the contractor. The contractor gives you a quote, a price or clarifications on that variation. The project manager should decide whether that variation is reasonable for what they're charging and it's still within the bounds, acceptable bounds of a variation in the contract.

10 How would they go about assessing whether it was reasonable?---A project manager is expected to have the knowledge and experience to understand that how many hours, material and equipment would be required to perform a certain function. I would expect a project manager would've done some preliminary measurement and scoping of that variation to know that they – what was required.

I want to talk to you if I can now about your time as acting director?---Yeah.

First, when did you take up the role?---I took that role up in, in January after Mr Marshall left.

20 How did you get awarded that role?---Kerry Marshall made a recommendation to the Assistant Director General that, that I be offered that position for a period of six weeks.

THE COMMISSIONER: So January, what year are we talking?---January, 2013, 2012/2013. I'm sorry, I'm trying to go back a couple of roles here.

30 MR BRADY: If I was to suggest to you 2013, would that accord with your recollection?---It should be 2013, January, 2014 I started with Triton Finance and then finished up just recently so yes, that would be correct. Sorry.

So you were initially given the role for a six week period?---Yes. That's correct. It was expected for six weeks.

All right. Did Kerry Marshall give you a hand over?---Yes. Kerry gave me, it was only a small hand over, the best he could do at the time. Things happened fairly quickly.

40 When you say things happened fairly quickly do you mean for him, for you, for both?---For both, both. There was a considerable of work going on at that stage.

All right. Okay. So the hand over was small, I think you - - -?---Yes

- - - used the term?---Yes.

What did it entail?---It gave me a basic understanding of the key issues, the key problems to focus on. At that time the department was trying to merge from being a single department, being the Attorney General's, also bringing

in the Corrective Services and the Juvenile Justice team. There was a considerable focus on trying to mould those teams together. My focus from Kerry was to continue that alignment and that relationship building with those teams. I was across my team. The procurement team, Martin was going through the procurement accreditation processes and he had those processes in hand. And Anthony was in charge of Capital Works. The statement from Kerry was around the fact that, don't worry about Capital Works, Anthony has that under control. He's got carriage of that. There's a lot going on. He'll hand over any – I've spoken to him and he'll hand over to the new director when that person comes on board.

Now at the time before you became Acting Director?---Yeah.

Your role and Mr Andjic's role were they the same level?---The same level, that's correct.

All right. Okay. When Kerry talked to you about Capital Works and indicated to you don't worry about it what were your thoughts?---I had a great deal of faith in Kerry Marshall. He had a very strong reputation within the department. When I'd spoken to other members within the department and we're talking about, you know, very high ranking people within the Attorney General's and the Judges, they had a very high regard for Kerry. I saw no reason to question his judgement. He was somebody at that time that I looked up to. He stated to me that he believed that Anthony was in control and everything and was okay and that he would manage these things and take that load off me because I had a lot of other things to do with two jobs. I accepted his advice.

All right. Did the fact that you were going to be in that for six weeks had any role to play in accepting that advice?---Yes. Yes. I mean - - -

What was that?---Basically because it was such a small period of time my advice again from Kerry was Anthony would be able to look after it. Just give him the support he requires and he'll be able to manage things over that period and then hand over to the new person. So for a short period of time I believe that that risk was very low.

Do you know why it was that you came in as an acting director rather than them actually appointing a director when Mr Marshall left?---I just believe the timing was such that they hadn't completed the procurement process was my understanding. They hadn't had time to get that happening.

Did you anticipate only being in the job for six weeks?---Yes.

Did that change?---Yes.

How long did you stay in the job?---Six months.

When did you get told, if you did get told, that it was going to be six months?---I would regularly meet with the, with my supervisor, which is the assistant director general, and just to review where we're at and make sure that she was aware of the control that was in place and she would tell me that look, can you stay on a little bit longer, can you stay on a bit longer. That was generally can you stay on for another month and it was generally a month-by-month appointment.

10 So after the first six weeks you got that extended by a month?---Yes.

And did you anticipate only being in that for another month?---Yes.

And then after that month it got extended by another month?---Yes.

20 Again, I have no doubt you anticipated only being in that for another month?---Yes. It was – this is an extremely senior position with a great deal of responsibility. I was managing that job plus my own substantive role. It was extremely difficult to believe that I was doing it full justice for what was required considering the changes that were going on. My belief was that the agency was going to act as quickly as they could to have somebody put in that position permanently.

30 All right. When did you come to the conclusion that you needed to say something about how long you were going to be in there?---Probably after about four months it – the effect of the, the amount of workload was having an impact on, on me personally but also my ability to perform all the duties required. There were other issues happening which indicated to me that I needed to take a much stronger or firmer role in some aspects and I started asking for some very clear clarification on whether that role was going to be stying for much longer or somebody was going to be coming, being appointed.

And ultimately, after six months someone else was appointed?---That's correct.

Okay. Can I go back to what you were saying about doing your other role as well?---Yes.

40 That was effectively still acting as an assistant director in charge of - - -?---Facilities.

- - - Facilities?---Yes.

That wasn't backfilled?---No.

What did that mean in terms of your workload?---It was an enormous amount of workload. That, that role was a full-time role in its own right and it had its own issues and problems of trying to I suppose improve standards

in governance in that role. That made it very, very difficult to give as much attention to that role as it required as well. I, I'd suggest that to be able to do that role in eight hours was, you know, an eight-hour day was a stretch in its own right.

All right. Add to that the acting director role - - -?---Yes.

- - - and how long were you working in a day?---It was quite regular for me to do 16 hours. I do recall being at the office at 3.00 in the morning.

10

THE COMMISSIONER: Can I just ask you, Mr Maslen, were you ever told why the selection process for the director was not undertaken any sooner?---I made several requests and unfortunately that information couldn't be disclosed.

20

But at some stage you became aware that they had started the selection process, presumably there were, there were ads placed in various publications?---They were and, and I was actually an applicant for that position. You always applied for a position even though if you, you don't want it in case you don't know who you're going to get but yes, I was aware but that process had happened or been completed quite early on in the piece but the decision seemed to take an extraordinary amount of time to be finalised.

Oh, so the selection process actually did take place somewhere in that six-month period?---That's correct. The, the, the interviews had happened quite early on.

30

And can you estimate the lapse of time between the conduct of the interviews and, and a decision being made?---Oh, at most it was around about three to four months.

Three to four months?---It was quite unusual and the response that I got back from the assistant director general was there were some unusual circumstances involved in this. She couldn't elaborate because that process hadn't been completed and it was inappropriate for her to do so and she was trying her best to have that finalised as quickly as possible.

40

Thank you.

MR BRADY: Had you made an application for the position yourself?
---Yes.

So had you been through the then interview process during that period of time?---Yes.

So the interview process you went through was quite early in your tenure as the acting director?---Yes, which led me to believe that the whole thing would be sorted out quite quickly.

Right. And then it dragging on?---Month by month by month, yes, extension.

10 All right. In fact, in the – had you had your interview process within the first six weeks of your tenure as acting director?---I'm sorry, I can't recall exactly when it was. I know it was reasonably early on and then you – for a process on a position like that you would normally expect there to be anywhere from two to four weeks for assessment before you would then make a decision that would get approved, in this case by the assistant director or director general. It would be the director general I would assume. So to wait for a month, maybe even six weeks to get a decision on it I would have thought would have been quite normal. It could have happened sooner and I was hoping that it would happen sooner given the, the impact it was having on me.

20 How were the long days that you were doing in the workload affecting your ability to manage as director?---It was, it was making it quite difficult to, to focus on, on issues or problems, that's your job to solve or keep things running along. It – if there was something that I believe was – required my attention, my ability to give it the amount of time required was, was usually impaired.

Your authority as acting director as opposed to being appointed as the director - - -?---Yeah.

30 - - - was there a difference?---Very much so.

What was that?---It's perceived that you're in a babysitting role and you don't really have authority to, to govern and enforce issues or problems or changes or whatever you want to call it. Yeah, you're not – despite the fact that you're told you have the full authority in effect you're acting and you are treated as such.

Sorry, I missed that one?---You are treated as such, yes.

40 Yeah. When you say treated as such, treated as such by whom?---By, by the rest of the, the staff there. You are in a caretaker role only and in fact that was well known that I was in a caretaker role. It was only assumed to be six weeks and that was common knowledge.

And how did that then affect your ability to effect work?---When I – the main, the main effect I think is when I started to request information that should have been provided with someone with authority. I don't think that authority was taken seriously and the information wasn't provided.

Let's talk about the interaction then with Capital Works and particularly information provided in relation to that. Initially you say that it was effectively told to you that it was under control?---That's correct.

In that first six weeks for example before you realised that you were at least going to go another month - - -?---Ah hmm.

10 - - - what role did you take in relation to supervising Capital Works?---I would sit down with Anthony generally once a week. He was very rarely around the office running projects, very busy as he said, and we had a review and he'd, he'd give me an update on how projects were going and generally everything was fine and okay. I had nothing to worry about.

20 Okay. When you say he'd give you an update, what was the detail of the update that was given to you?---The detail was generally on the progress of projects and, and how the, the contractors were performing and quite – in all honesty, the main issue was how we were interacting with the courts and not upsetting normal court function. One of the key issues or roles is that these projects need to happen at the same time generally the court operations are in, are occurring and that's quite sensitive, of course.

When you'd sit down and have these discussions once a week, did you see any paperwork with it?---No. We would use the spreadsheet which had basically all of the projects on them and we would just review them verbally.

30 Okay. During that first six-week period, did you take an active interest in each of the projects?---No.

Why?---My – I was instructed to, to concentrate my efforts elsewhere and as I said, I was told that Anthony was well and truly across those, there was no issues and that could be managed by the new director when they came in, it really was not the best use of my time.

Over the then six-month period, did that start to change your attitude to try and direct Capital Works?---Yes.

40 Over what sort of period of time did that change?---I suggest after say the first three months I started to become concerned about the amount of visibility that I have over the projects because each month I had to issue a financial report on the status of the projects and at that stage I was not confident that I had enough information to substantiate the claims that we were trying to make.

When you say enough information to substantiate the claims you were trying to make, what do you mean?---I was not confident that I was fully aware of all the information and the financial management and the actual

projects' performance to be able to make a statement to the executive team to say this is the – this is where the projects are and this is where the money is being spent. I had a responsibility to sign off on that is my understanding.

10 So as you were longer in the job started to be concerned about what was happening in Capital Works, what did you do about it?---I initiated several meetings with, with Anthony and the team to try and get some sort of clarity on each project, what was going on, what the status was, what the financial position was. Those – from those initial discussions, those, those meetings I wasn't satisfied that I was getting the information in a manner that still gave me the level of confidence I needed.

Why is that?---Sorry?

20 Why is that?---I believe that there was – well, I don't, I can't, can't say for sure, my understanding was I felt that people were trying to hide information from me or didn't want me know what was going on for whatever reason, what the reason was I didn't know, all I knew was I was not getting the level of information to make me fully confident that I understood where the project was at.

30 What was it that was happening that led you to the conclusion people were trying to hide things from you?---The amount of information that I was getting on the financial position was generally all the financial pieces were rolled up, I could not see any visibility on individual projects, individual expenditures that would normally constitute what you would expect to see from a typical project. When I asked for the information to be provided it wasn't, there was always an excuse. On one particular occasion the excuse that I was given was that the boys won't, the boys won't put up for this, you've got no right asking them for information, they're busy.

Can I just ask you this, firstly who said that, that word?---That was from Anthony Andjic, words to those effect, that it's all right, the boys won't put up for this, they're too busy.

THE COMMISSIONER: Who were the boys, do you know?---The project team under his control.

40 Right.

MR BRADY: Can we just talk about that conversation. In what circumstances did that conversation take place?---Basically that conversation came about when I was becoming increasingly concerned that I didn't have enough visibility to be confident in the status of those projects and I started to demand to see the project files and that was the response I was getting.

Okay. Did you do that in a formal setting or was it in a - - -?---That was an informal setting but I also sent numerous emails to Anthony requesting this information and then towards the end I initiated a project reporting format which I had received from the Public Works Department which is a very good format, it gives all the basic information about a project and can give you clarity on all of the basic aspects of a project, a good start.

10 I'll just go back to the conversation in relation to the boys won't put up with it, you obviously knew who he was referring to?---Yes, that was his project team.

What did you say to him about his comment the boys won't put up with it? ---Well, I said well, I'm not terribly interested whether they put up with it or not, this is information that needs to be supplied, I would like that information, it's your job to get that from your staff.

And what happened?---I gave him deadlines to supply that information and those deadlines were never met.

20 How often would you give deadlines to supply the information?---This was probably every week, every two weeks at the most.

And what did you do about it when those demands weren't met?---I went back and reaffirmed and then after continual failed attempts I enlisted the support from the Assistant Director-General to order that the information be supplied.

30 When was that?---The exact time and date I don't know but it's getting back towards the end of my tenure as the director, this was a continual build-up of a lack of information and also an increase in my concern about what was going on.

When you enlisted assistance what did you do?---I went to the Assistant Director-General and said I'm requesting this information, I need to sign off on, on these projects and report on their status, I don't feel confident, this is what I've done, showed her the evidence and I believe from memory there was an email response from her to Anthony demanding that information be supplied.

40 And what happened when that happened?---The information that was supplied on the forms that we requested was very scant.

Did you ever get the information that you were asking for?---Towards the very end of the project I'd suggest that probably about 80 per cent of the information I was after may have, the end of my tenure as the acting director perhaps at best 80 per cent of that information we required was there, that's at best.

In what way did it come to you?---That was on the forms, we set up a file on the shared drive and I wanted a form with all of the details, particulars for every single project listed.

At any time while you were acting director did Mr Andjic come to you with a conflict of interest whether perceived or actual?---No.

10 While you were acting director did anyone come to you with a conflict of interest perceived or actual?---Not while I was acting director. The only time I had a conflict of interest form was from, in my role as the assistant director Facilities and that was from Mitchell Woodward who was head of our Security, he also had pest management projects and he had his own private pest management consultancy that he made me aware of as being in place I think for some time, many years.

20 If Mr Andjic was on a Tender Evaluation Committee and had a conflict of interest who would he need to go to?---If Mr Andjic was on that committee he would either go to the committee convenor, which in most cases I would suggest would be himself, if that was the case then he'd have to bring that to his supervisor which would be the director of the branch which would either by myself, Kerry Marshall or as the case later was on Steve Honeywell.

That never occurred in the time that you were there?---No.

Did Fatima Hammoud ever come to you with a conflict of interest issue?
---No.

30 If, this is hypothetical, but if someone had come to you with a conflict of interest as a convenor for a Tender Evaluation Committee what would you do?---I'd, I'd assess that and if I, my judgment was that it was something that would warrant help I would go to the HR Department and to be honest I think that would most likely be my first move because my experience is not great in determining those matters and I used to bug the HR Department quite a lot in matters as such.

40 And what would happen if there was an actual conflict of interest?---If there, if there was an actual conflict of interest then that person would be stood down, they, they'd take no further part in that process and that's, that's the way the process should work.

If there was perceived conflict of interest?---Again they'd be stood down, perceived or real there isn't a great deal of definition, it's about the ability to pass judgment in a fair and transparent way that would be acceptable to the public, perceived is enough to, to cause that, that issue to be a problem.

Now at some stage during your position as acting director was there a decision made to recruit a development officer into Capital Works?---Yes.

Whose decision was that?---My, my recollection is that decision had been formulating prior to me taking that position over and it was brought, brought forward by Anthony during my tenure.

Did you have any role then in what occurred in the process of granting interviews or otherwise?---No, that was not my role, my role was to, to accept the report from the evaluation and make a determination on that, whether I supported it or not.

10 Did you learn before the report was given to you who was interviewed for that position?---Yes.

Who did you find out who was being interviewed?---Oh, not sorry, that I found out some of the members that were being interviewed and that was from, from Anthony.

20 Who were they?---I knew that Neil Murphy was one of the interviewers, one of the people being interviewed, I knew that Fatima Hammoud was being interviewed and there was a third person independent, from outside the agency, I can't recall that person.

How did you find out that they were being interviewed?---In conversations with Anthony when he was keeping me up to date about how that process was going.

Ultimately did he come to you with a recommendation?---He did.

30 What was the recommendation?---He came in and me and informed me that Fatima was going to be recommended for that position.

Fatima Hammoud?---That's correct.

What did you think about that recommendation?---I ah, found it extremely suspicious considering the level of experience that that person had, particularly against at least one of the other respondents, being Neil Murphy, who had a considerable amount of experience in project and contract management.

40 How did you know how much experience Fatima Hammoud had had?
---Because of the interactions with Fatima and the rest of the team in her time there and the fact that she was a very low grade procurement officer within that team and had to the best of my knowledge very little experience, however I wanted to test that.

When you say you wanted to test that, what did you do?---That's right. I requested the, the, the full report to be given to me so I could, could see the information on how that process was, was assessed.

Was a full report given to you?---No.

Was anything given to you to help with that assessment?---No.

Did you get the opportunity of looking at the application made by Fatima Hammoud?---I did, I did. I sought assistance from the HR department on my concerns and yes, I saw that, because the decision to either accept the recommendation or stop the whole process under the HR guidelines as I was informed was entirely mine.

10

When you saw the application by Fatima Hammoud what did you think?
---I could not believe that the level of knowledge and experience that was written on there could have been the ownership of Fatima Hammoud, particularly given some of the references to holding high-ranking meetings with very high officials within the Justice Department. I couldn't possibly understand how she would be engaged in those processes – and I made some inquiries with some of those agents and the response was they had no recollection of that.

20

Did she have indications of her project management experience?
---Yes, and my suspicions were that the information that she was providing was actually the work that was done by Anthony himself, not by her.

Why do you have those suspicions?---It was making references to projects, from memory Camden and Picton, which Anthony had informed me that he was looking after and the documentation and the reports that I had on the projects and who was in charge of them stated that Anthony was the project manager, not Fatima Hammoud, but on her application it stated that she was the project manager.

30

Were there other reasons that caused you concern in relation to the recommendation of Fatima Hammoud?---Yes. Just before Anthony had spoken to me I noticed Anthony arriving to work with Fatima Hammoud in the car. If you're going through a recruitment process and you have a personal relationship in any shape or form there is the, obviously there is a conflict of interest, whether it be perceived or real, and no such declaration was made by Anthony – in fact I even asked him straight out.

40

What did you ask him?---I asked advice from the HR department and I, and I asked him that if he had, that a relationship was happening and he said no. I was giving him the opportunity to come clean, so to speak, and he flat out refused it and said, no, it's nothing, it's just, he's sick of all the rumours and innuendos, words to that effect, and there's nothing to be declared. Again taking advice from the HR department there's very little I could do about it if he flatly refused and I had no real firm evidence so there's nothing I could do about it in that respect, but I didn't have, I did not have to accept the report from the Evaluation Committee for that position, that was a different matter.

When was it that you asked him about whether he was having a relationship with Fatima Hammoud?---It was around about the time that the – he'd informed me that he was going to recommend her for the position.

Right. Now, was that towards the end of your time as Acting Director?
---Yes, it was getting very close towards the end, yeah.

10 You referred earlier to Neil Murphy - - -?---Yes.

- - - and his qualifications?---Yes.

How did you know about those qualifications?---Ah, Neil Murphy had actually worked within my own department, being the Facilities Department, on a project at our management role when we had a large amount of projects happening at one particular time, so he came over to assume that role so I was fully aware of his capabilities in that respect.

20 When Mr Andjic recommended Fatima Hammoud, what did you say to him?---I requested that information and I had concerns, something along those lines.

Ultimately what happened to the process of the development officer applications?---It was stopped.

By whom?---By me.

30 Why?---After I did not receive the information so I could do an assessment on the process I sought advice from the HR department and was informed that I actually had the authority to stop that process and in fact under the current guidelines I didn't need to give a reason for it at all, but I made that recommendation and my recollection is that a letter was made by the Assistant Director-General stating upon that recommendation that the process would be stopped.

The recommendation you made for the process to be stopped - - -?---Ah
hmm.

40 - - - did you do that in writing or did you do that verbally?---I did that in writing and I sent my concerns through to the HR department. Again this was something a little bit out of my experience so I was seeking support from the, the HR department on how this should be handled.

Was there a time when you became concerned about people having access to your files?---No.

The recommendation that you made in writing, did you do that on your work computer?---I would have done, yes.

Who did you send it to?---The recommendations on, on cancelling the process, I would have sent that through to the HR department and I would have believed I would have cc'd that into the Assistant Director-General as well.

Right. Did you - - -?---Again it's from recollection.

Did you send it to Fatima Hammoud at all?---No.

10

Sorry, just going back a step. Before Mr Andjic would inform you that Fatima Hammoud was his preferred choice - - -?---Ah hmm.

- - - would he contact her referees, would that be the usual process?
---Yes.

Now, can I just ask you some questions about the recordkeeping within Asset Management?---Yes.

20

If I can get your thoughts on what the recordkeeping was like in Asset Management?---Generally they weren't at a level that I was used to. I came before then from the New South Wales State Library, their recordkeeping management there was, was, was very rigid, very strong, they used a TRIM system.

What does TRIM stand for?---I don't know. I don't know, but that was our file management system and they were, they were pretty serious about it. Coming to the Attorney-General's Department there was generally paper file copies and they usually resided on people's desks to look after them.

30

The system was not to the standard that it should be in my opinion.

Right. Was there any controls over whether a file was opened?---I'm unaware of any file management system there to any great degree. The majority of files that I wanted to start up I generally asked Lydia Klement to assist me with that because she appeared to be the main person with the knowledge and experience on how to try and get a file that was controlled.

Was there then a shared computer system as well?---Yeah, there was a shared drive.

40

What was that?---Everyone had their own files but the, the shared drive had general information that would be, should be open access to, to all employees.

Sorry, can I just go back, I'll just have brought out 2573. I just want to show you a document, it's at 2573, giving evidence about having sent an email to Human Resources in relation to the recruitment process?---Yeah.

Just have a look at that and tell me whether that's it?---Yeah, that's, that's my recommendation.

Now that's not something that you then sent to Fatima Hammoud I assume?
---No.

Right. Over on the page 2574 you will see there that the new director Asset Management is due to start within two weeks, you see that in the second paragraph there?---Yes.

10

All right. By the time you had decided to stop the recruitment process it was clear that you knew that you were no longer in the job and - - -?---Yes, I think, I can't recall how long earlier than – it was I think four weeks, maybe, maybe six weeks, it wasn't a great lead time.

THE COMMISSIONER: Was that recommendation ever provided to Mr Andjic?---I don't recall giving that recommendation to Mr Andjic, given the nature of that I was dealing with the HR Department and my relationship with Mr Andjic had broken down at that time.

20

MR BRADY: When you say your relationship had broken down - - -?
---Yes.

- - - why?---It slowly deteriorated over a period of time, the more questions I started to ask and ask for information or to support what was, what he was claiming was going on, the more I asked the, the more hostile he became.

Now who came in as the new director?---Steve Honeywell.

30 Did you do a changeover with Mr Honeywell?---I did.

What was the changeover that you did with him, how long did that go for?
---I spent several days with Steve, as much as possible. I tried to give him as much information as I could, I gave him as many of the documents that were left over from when Kerry turned up plus my, any information that I had that I thought was, was relevant to Steve.

Did you do a handover in relation to Capital Works?---Yes, yeah.

40 And what did you tell him?---I basically told him about the history of how it started, that, that I wasn't really worried about it but the, the longer my tenure, acting tenure went on the more concern I had and the, the difficulty I was having in, in, in getting information to make me feel comfortable with the position of the, the projects.

Did Mr Honeywell say what he was going to do about it if anything?---He, Steve, he holds his cards to his chest and he's pretty straight, he basically said that he would take that on, he'd look into that.

Commissioner, would you excuse me just one moment?

THE COMMISSIONER: Yes.

MR BRADY: Can I just show you this document?---Yeah, I, I recall these emails, yeah.

10 In your statement at 371 at paragraph 48, can I just take you and make sure that's your statement, you'll see your signature down the bottom?---Yes.

At paragraph 48 you've indicated "I was shown an email dated 16 July, 2013 being an email chain between Anthony and myself."?---Yes.

Is that the email chain you're referring to?---Yes, I think so, yes.

I tender that email chain.

20 THE COMMISSIONER: That will be Exhibit Y2.

**#EXHIBIT Y2 – EMAIL CHAIN RE PROJECT REPORTING
TEMPLATE BETWEEN MR MASLEN AND MR ANDJIC AND MS
RIDLEY**

30 MR BRADY: I don't have anything further of this witness, I've just been handed a note in relation to another matter that I'm just getting some instructions on.

THE COMMISSIONER: All right. Thank you. While you're doing that can I just ask you a question, Mr Maslen?---Sure.

At one point in your evidence you said that you generally spoke to Mr Andjic once a week but he was rarely in the office?---That's correct.

40 Under what circumstances would an assistant director of Capital Works have to be out of the office?---In my view he shouldn't have had to have been out that much but he had a considerable program to manage, he'd taken on the direct management of several projects which he informed me that he was extremely confident that he could manage, it was a short-term issue only to get over the hurdle of that projects and that. One of those was brought about by the dismissal of the Public Works from that project and given that there was a very tight time constraint he could manage that and get that up and back on time.

So when you say he was doing direct management of projects he was in effect undertaking the role of project management on, on the projects that

his division was responsible for, is that right?---That's correct, that's correct so instead of having the Public Works running those project he – because they'd apparently not performed, he'd dismissed them, and he'd take on that role which meant that his ability to be in the office was, was impaired for that short period of time.

And how many staff did he have under his supervision in Capital Works roughly?---Oh, four.

10 Four?---Four that I can recall. Yeah, four, yeah.

And were any of those people able to undertake direct management of projects?---I did question Anthony on those and I also offered to pull in other resources to assist. He said that those other people were already committed and that he could manage these within his, within his capabilities and his time and gave the assurance that he had it all under control and he was going to help me out.

Yes, Mr Brady.

20

MR BRADY: Thank you. Can I show you this document. Just have a look at that email chain if you would?---Yes.

I'll just take you if I can to page 371, paragraph 47 of your statement. 371. See at paragraph 47 of your statement referring to an email?---Yes.

In particular an email dated 5 April, 2013?---Yes.

30 Is that the email or email chain, that email that you're referring to?---Yes.

Yes, I tender that document.

THE COMMISSIONER: Yes. That email chain will be Exhibit Y3.

#EXHIBIT Y3 - EMAIL CHAIN RE TRANSITION BETWEEN MR ANDJIC, MS FAYROUZ HAMMOUD, MR KUSKIS AND JAMIE MASLEN

40

MR BRADY: Yes. Just to take up on a couple of things the Commissioner was asking you. Did Anthony Andjic ever come to you to authorise payments for any of his projects?---Not that I recall.

If he had come to you to authorise payments what would you do?---As – if he'd come to me with the documentation to support that then I'd have no question – no reason to question it.

Okay. Yes, thank you, Commissioner.

THE COMMISSIONER: Any cross-examination of Mr Maslen? Yes.

MR CHALMERS: Yes. Thank you, Commissioner.

THE COMMISSIONER: Go ahead, Mr Chalmers.

10 MR CHALMERS: I'm acting for Fatima Hammoud. Just in relation to when you commenced, would it be fair to say that you didn't have much idea about how Capital Works operated within Assets Management when you started as assistant director in January, 2013?---No, I don't think it would be fair to say that. I had a reasonable understanding from my interactions but I certainly did not have the full detail.

You didn't have the nuts and bolts?---I most certainly did not have the nuts and bolts.

20 So to some extent it kind of suited you that Anthony Andjic was taking control of that because you didn't have time, given that you initially were only there for six weeks and you had so many responsibilities and two jobs, you didn't have time to find out the nuts and bolts?---I wouldn't agree with that statement at all. It didn't suit me at all. The circumstances around the appointment, the time that I had and my visibility were not, were not acceptable to me but I was constrained and I was also following instructions about how I'd manage my time going forward.

30 In relation to when you arrived – sorry, when you were appointed director general, were you aware that up till about January, 2013 that Kerrie Kent who had been fleet manager was providing assistance to Mr Andjic?---I was. My understanding was that Kerrie was doing that to, to gain some experience in, in an area that she may – in project management that she may want to further her career. It was a fairly standard sort of an operation with Government departments where you allow somebody to, to expand their capabilities.

Were you aware how many days on average a week she was working for Mr Andjic?---No.

40 So on occasions could it be up to two to three days a week, would you be able to comment either way?---No, I said I, I don't – I wasn't aware - - -

All right?--- - - - so I can't comment.

And essentially Kerrie Kent was leaving. Is that right?---Yes.

She left. And essentially Fatima Hammoud was essentially taking over what she had previously done with Mr Andjic. Would that be a fair assessment?---I can't comment on that.

All right?---The arrangements were made between the previous director and the people involved, not myself, so I have no knowledge on that. These things happened before my time.

10 All right. And in relation to Fatima Hammoud assisting Mr Anthony, was it – wasn't it the situation that in fact you were asked about that when you arrived and you agreed to that arrangement, that it wasn't an ongoing arrangement so far as Fatima Hammoud was concerned but one that you were asked to initiate when you arrived there?---No, that's not my recollection. My understand was that agreement had been discussed with the former director, Kerry Marshall, prior to my start.

20 And do you agree or disagree with this proposition that Martin Kuscus approached you with the idea that Fatima be allowed to work with Anthony Andjic?---No, I don't agree with that. I don't recall any conversation with, with Martin regarding the start-up of Fatima with that, that role. My recollection is that those, those discussions happened before my time of taking over as the acting director.

And now, you completed a statement on 27 April, 2015 for the Commission so you did one statement in January and two in April. Do you recall that – sorry, two in January and one in April.?---I recall, yeah three occasions, yes.

30 All right. You said in paragraph 40 of your statement of 27 April, 2015, and it's on page 368, you came to a conclusion that someone who is part of a Tender Opening Committee cannot take part in a Tender Evaluation Committee. Do you recall that?---That's, that's my understanding of the process so - - -

All right. Can I suggest to you that there's no Department policy to that effect and no documentation or anything to support that conclusion?---You can suggest that. That's my understanding of standard New South Wales Government Procurement Guidelines.

40 Where, where do you get that understanding from?---From my past experience being involved.

Any documentation?---I can't recall.

THE COMMISSIONER: Insofar as you refer to the New South Wales Government Procurement Guidelines, they're guidelines that apply to every Government department are they?---That's correct, and, and my understanding has always been that they are always the basis and that

departments may make more stringent requirements but they can never undermine those basic requirements.

MR CHALMERS: And I assume that you – and I assume you haven't been shown any statements by the Commission where people have contrary opinions to that. Is that right?---No.

10 All right. Can I – in relation to – you state concerns you had in relation to the fact that Mr Andjic and Fatima Hammoud would arrive together at work?---Yes.

Were you – did you make any inquiries as to why that might be the case?---Yes. I asked Anthony formerly. Because at that time that I noticed that occurring that was in the middle of the recruitment process. So I could form no other opinion that some relationship was there. Whether it be a friend or otherwise it had the ability to be a conflict of interest.

20 All right. You didn't – did you for instance ascertain that they might be arriving together because they both came in separate cars and that she was picked up from a parking spot and taken to, to Parramatta? Did you ever make those sort of inquiries?---No. I was in a car park and I saw them get out of the car together.

Were you aware that Mr Andjic assisted other people to get to work, for instance Mr Cheung?---No.

All right. Did you ever see that?---No.

30 All right. Okay. You weren't aware that sometimes Mr Cheung and Mr Andjic arrived together?---No. Mr Cheung wasn't involved in a role that he was going for at the time in my understanding.

But you wouldn't have surmised even if you saw Mr Cheung arriving with Mr Andjic they were necessarily in a relationship, they might just be arriving at work at the same time or using the same car?---It's not the relationship that was the issue it was whether there was a conflict of interest when they were going through a recruitment role. That was my concern.

40 Yes, I've got – got nothing further.

MR AYACHE: Yes, Commissioner. Michael Ayache for witness Chacra.

Sir, you were shown an email trail between yourself and Mr Andjic which attached a template for the purposes of financial recording for various projects. Do you recall being shown that email?---Yes.

Was that information ever provided to you?---The information that I got from that template was, was scanned. I think that question was already

asked and answered. At best I believe that I maybe received around about 80 per cent of the information that really should be included on that template to give full visibility of a project.

Right. And as a result of that did you ultimately sign off on anything?--- There was no signature required on those. This was to provide information. This wasn't the signature required.

10 Right. I think so part of evidence was that you were not confident on signing off on reports, financial reports that you were asked to sign off on because the information that had been provided or lack of thereof didn't contain sufficient particular into, in relation to each project and it was all rolled up?---Yes.

20 So now that you'd received approximately 80 per cent of the information in that format that you'd requested did you then go on and sign off on anything?---I doubt I probably had to. At the time that information was supplied it was basically almost right at the very end of my tender in that role anyway. So that would've been part of my hand over. I would be very surprised if there was any signatures that would've been required at that time.

All right. So does that, does that mean you don't recall signing anything or?---I don't recall signing anything. The timing of that is – that information was provided was basically within the last week or two of my tenure in that position.

30 Okay. And in terms of signatures that were requested of you by Mr Andjic, what were you asked to sign off on exactly?---My role was to give a report on the management of the Asset Management Branch. And I had to supply that to the – to the Executives, the Executive Board of the Attorney General's Department. That required getting in reports from every, every division, every branch and passing that on.

40 And so in the six month period that you were there you never furnished such a report?---We did regularly furnish those reports but as time progressed I made my concerns well made to the assistant director to say that I had concerns over the validity of the data and I couldn't be one hundred per cent confident on their – whether they truly reflected the position.

So would it be fair to say that the reports that you did issue in that six month period were qualified?---It would be fair to say that, yes. That I had concerns over them and we were trying to ascertain that – that information so we could be confident.

Okay. Finally, did you look at engaging an independent party to verify the figures that were being provided to you which ultimately made their way into your reports?---The – I don't recall looking to engage someone to do

assessments on that. I was taking some advice from HR and the Assistant Director General how to manage that process.

So in summary the reports you submitted were based on information provided to you – financial information provided to you which you had reservations about at first instance - - -?---No. That’s not correct. I had no reason to question the information that was given to me initially. My brief that I was given at hand over was that information and the people were, were sound and they had things under control. The longer that process went
10 on the more visibility I requested, the more requested information the lack of support I seemed to achieve. And this of course, in anyone’s mind would raise concerns. It basically took until the entire end of my tenure there, getting support because this is outside the bounds of my experience and knowledge from the HR and from the Assistant Director General to force that information to be supplied.

And when it was supplied there was no reporting following the provision of that information?---I don’t recall what – with the timing of that and the timing of hand over to the new Director, Mr Honeywell about whether
20 reports were done or not. That was some time ago.

Nothing further.

THE COMMISSIONER: Yes, Mr Silver.

MR SILVER: Thank you. I represent the Department of Justice and Mr Honeywell is sitting on my left and he’s mentioned some things to me which I’d like to raise with you to try and clarify some aspects of a procedure and so forth?---Sure.
30

Please excuse my possible misuse of some phrases but I’ll do my best. In terms of the prequalification panel you mentioned I think that that was held by Capital Works unit. My questions is, is it possible that that might be incorrect and that it was held with New South Wales Procurement?---That is correct. That could be correct, yes. We had – there was some internal panels that have been done is my understanding and this is – I’m drawing on my experience from within the Facilities branch where they had a limited pool of small contractors or resources. I didn’t have visibility over the way things were done within the Capital Works. When they were talking about
40 their prequalified panel I – my natural assumption was similar circumstances as what happened within the Facilities when they were talking about the panel that had been approved for their, for their use. It may well have been the, the New South Wales Government’s prequalified panel.

Secondly, you mentioned that the project manager should have sufficient specialised knowledge in order to know and appraise correctly the amount of hours spent, prices and so forth - - -?---Ah hmm.

- - - before appraising or signing off on jobs. Would it be though that a project manager would not have necessarily all of the expertise all of the time and would not be expected to have that but will engage for example a QS for project appraisal and for variations?---Absolutely. If anyone's signing off on their understanding that, that is correct they're justifying – they're basically stating that they've got enough knowledge and experience to, to back up that claim. If they haven't then they should have been engaging other services to give them that surety.

- 10 Right. You've mentioned as well that you were given a guideline or a suggestion, maybe an instruction as to where to put your focus going forward in your temporary role?---Yes.

Who gave you that direction?---Kerry Marshall. At the time of handover the, the Department was going through considerable pain for want of a better word in trying to meld three simply traditionally separate organisations into one cohesive unit. I'd been involved in those discussions with Kerry for some time and we were trying to form good working relationships with those groups. Kerry believed that that was the best use of
20 my time given that we were only talking six weeks.

Right. So it was Mr Marshall?---Yes.

And this difficulty that you had getting information and documentation from Mr Andjic, was there an actual obligation written down somewhere in the processes that required him to give you this documentation if called upon to do so?---I'm not sure about actual process or documentation. I know that I made verbal and written requests for this information with Mr Andjic.

- 30 And as his superior giving, you giving him that direction was he obliged to respond to that by giving you that information?---Yes, he, he was and the, I think the email trail would, would show that that information was not forthcoming despite numerous requests.

Yes. And it's correct is it not that part of the procurement regime, one of the fundamental bases is that proper records have to be maintained?
---Absolutely.

- 40 And hence if you called for proper records and they were not provided to you that would be an irregularity?---It would be and naturally this would raise concern with anybody.

One of those documents that you referred to as a purchase order, you also mentioned, I'm not sure whether you said you were sure about it or not but that the purchase order went to suppliers, are you sure about that? Mr Honeywell seems to think that purchase orders did not or should not have gone to suppliers?---Supplier, my understanding is that a supplier is

given a purchase order which is their, their contract to do the work, that's my understanding.

Is that the third party supplier?---Third party supplier, yes.

10 And is that from your direct knowledge or is that from what you understand the position to be?---That's been my understanding for the years when somebody's engaged, they're, they're given a letter of award and they're given a purchase order or a purchase order number, they quote back on their, their, their claims for payment.

Purchase order number I can understand perhaps but the actual internal purchase order?---The internal purchase order, I'll be honest I can't comment on because I've actually never been involved in that actual issuing of that, that process.

Thank you. Now you also mentioned the Tender Opening Committee is it called?---Tender Opening Committee, yes.

20 Committee, and also the Tender Review Committee?---Yes.

And the fact that the parties sitting on those should not be in both - - -? ---Again, my understanding - - -

Sorry, could I ask the question?---Sorry, yes, my apologies.

30 Whether or not it is a written down policy was it a well-established practice and understanding that that should not happen?---The best of my knowledge in every department I've worked for that is the case. I would be surprised if it's actually not a written policy. My very clear understanding and training was that the Opening Committee and the Evaluation Committee should never be the same people for governance.

And no one would be in doubt about that obvious rule?---I, I'd be amazed.

40 And the reason for it I understand is because of conflict of interest or the possibility of a conflict of interest?---Conflict of interest, governance, there have been occasions in the past where people open up the committee and there's been blank pieces of paper and they can fill in the information then pass it on to the Evaluation Committee, its, its meant so there is a separation of information and those conflicts can't occur.

And if Mr Andjic was doing his job properly would he have known of that practice?---Yes.

Thank you very much.

THE COMMISSIONER: Mr Oates, do you have any cross-examination?

.MR OATES: Yes, Commissioner.

THE COMMISSIONER: Yes.

MR OATES: But I have also a request to see the email chains that were tendered in evidence before I cross-examine Mr Maslen.

THE COMMISSIONER: You don't have them either?

10

MR OATES: No.

THE COMMISSIONER: At this stage, no?

MR OATES: No.

THE COMMISSIONER: All right. Well, we might take the luncheon adjournment and they can be supplied over the luncheon adjournment. I'm sorry, Mr Maslen, you'll have to return at 2 o'clock. Thank you.

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LUNCHEON ADJOURNMENT

[1.04pm]