

DANBYPUB00058
31/01/2011

DANBY
pp 00058-00082

PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

PUBLIC HEARING

OPERATION DANBY

Reference: Operation E10/1603

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 31 JANUARY 2011

AT 2.20PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

ASSISTANT COMMISSIONER: Thank you. Please be seated. Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. The next witness is Mr David Backhouse.

ASSISTANT COMMISSIONER: Yes, is Mr Backhouse here? Yes, Mr Backhouse, please take a seat. You've been called here to give evidence and you are required to answer all of the questions put to you. Do you wish
10 to seek a declaration under section 38 of our Act?

MR BACKHOUSE: No. No, that's fine.

ASSISTANT COMMISSIONER: You are required to take an oath or make an affirmation to tell the truth.

MR BACKHOUSE: I'll take the oath, please.

ASSISTANT COMMISSIONER: Thank you. Could the witness be sworn,
20 please.

ASSISTANT COMMISSIONER: Mr Craddock, I take it you're not representing Mr Backhouse, you're representing the council. Is that correct.

MR CRADDOCK: I seek your leave to appear also for council witnesses who might be called in this inquiry save for those who are otherwise represented.

10

ASSISTANT COMMISSIONER: So you do seek leave to appear for Mr Backhouse?

MR CRADDOCK: I do.

ASSISTANT COMMISSIONER: All right. And you're happy with his decision not to seek a section 38 declaration?

MR CRADDOCK: Yes.

20

ASSISTANT COMMISSIONER: There's nothing in the information that leads me to thinking he needs to, but it's a matter for you.

MR CRADDOCK: No, that's fine.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Downing.

MR DOWNING: Thank you. Mr Backhouse if you'd please state your full name?---David Aubrey Backhouse.

30

And your date of birth?---13th of the 1st, 1956.

And for the purposes of this inquiry, you've prepared a statement dated 4 November, 2010?---That's correct. Yes.

And do you have a copy of that?---Not with me. No, I've got a - - -

I'll have one provided to you. Having had the opportunity to look at that is that the statement that you've given in this matter?---Yes.

40

And in relation to that statement is there anything that you wish to add, correct or change?---I don't think so at this stage.

All right. At this stage I tender the statement, Commissioner.

ASSISTANT COMMISSIONER: Yes, the statement of David Backhouse dated 4 November, 2010 will be Exhibit 5.

**#EXHIBIT 5 - STATEMENT OF MR DAVID BACKHOUSE DATED
4 NOVEMBER 2010**

MR DOWNING: Mr Backhouse, paragraph 10 of your statement you've made, you've described the meeting on 18 August, 2010?---Yes.

10 And you've indicated that that was the meeting at council chambers and that initially you met with Mr Farlow and Mr Armstrong and Mr Hill and in company of Mr Chau?---That's correct.

And is it the case that you asked Mr Chau to attend that meeting?---I had.

And was that because community safety was within his sphere of responsibility for the council?---Yes. Michael's responsibilities included crime and safety.

20 Right. And one of the things you understood from your email communications prior with Mr Farlow was that one of the things that might be presented at this meeting was a system, a camera system that might help with parking safety issues?---Yes, definitely. There was a reference to safety as being one of the key points which was appealing to us.

And that was in the email correspondence that you had with Mr Farlow? ---Yes.

30 And just quickly if I can ask you to have a look at pages 55 and 56 of Exhibit 1, which will come up on the screen in front of you?---Yes.

You'll see on the screen at the moment about half way down there's an email from Mr Farlow to you of 10 August, 2010?---Yes. Yes.

And is that the email you received from Mr Farlow? First making contact with you in relation to Tenix Solutions?---I believe so, yes.

And you responded to that indicating that you were prepared for a meeting to occur?---Yes.

40 And that was the meeting that occurred on 18 August, 2010?---That's correct.

Can I ask you if, if PICS, that is the Parking Infringement Camera System which was presented at that meeting, if that was something that council were to proceed with would the process involve staff at the council beyond Mr Chau?---It most definitely would have, yes.

If I could ask at this point that you be shown a statement from Mr Patrick Wong and I'll have it marked and at paragraph 10, if you could go to paragraph 10 on the fourth and fifth pages. It might just be easier rather than doing it off the screen because it does go over two pages I can just hand you up a copy. Commissioner, the other parties have it and I might just provide a copy so that you can see what we're dealing with. Yeah, if there's no objection I will tender it at this point.

10 ASSISTANT COMMISSIONER: Yes, we could tender it or mark it for identification but I think there's no real question - - -

MR DOWNING: It may be easier and I (not transcribable) tender it later.

ASSISTANT COMMISSIONER: - - - is there that it's his.

MR DOWNING: And it has been provided to the other people at the bar table.

20 ASSISTANT COMMISSIONER: All right. Well, look, we'll make this statement of Patrick Wong dated 19 October Exhibit 6.

**#EXHIBIT 6 - STATEMENT OF MR PATRICK WONG DATED
19 OCTOBER 2010**

MR DOWNING: Sorry, Mr Backhouse, do you have that in front of you?
---I do.

30 And if I could ask you to read paragraph 10 of that statement?---Yes.

In that paragraph Mr Wong sets out his understanding as to what the process would be if the PICS system was going to be adopted. Do you agree with the way he's explained it in that paragraph?---In general terms, yes.

That is certainly before there'd be any decision about going ahead with it you'd need to get costs and research on the product?---Most definitely.

40 Look at any comparisons that were available?---(NO AUDIBLE REPLY)

I take it you would want some review of the technical aspects of the product?---From the initial contact we had we were looking at investigating the claims that were made to see if it was worth progressing any further or not and prior to any decision-making phases.

That is claims in terms of how it would work?---Yes. So investigating all the details associated to their claims.

There'd also need to be financial consideration of it in terms of - - -?
---Absolutely.

- - - what council might adopt?---That's correct.

And what it, what effect it might have on council revenues?---Yes, and staffing.

10 ASSISTANT COMMISSIONER: Mr Backhouse, could I just ask you as I understand it generally in a council situation the general manager makes operational decisions and has a financial delegation to do so. Was there anything in particular in this matter that meant it would have had to go to the council eventually in, in your view?---When, when it was discussed it was considered that the sensitivities with infringements and the likes would certainly be a reason for us to pass it back to council.

So it wasn't a financial limit or anything of that kind?---No.

20 You could have notionally approved it yourself?---Notionally, yes, yes, community expectations and considerations were our, our thoughts in relation to this matter and if we proceeded that's why we were talking about reports to council.

So that was your preliminary view was that it would eventually have to go to council because of the sensitivity and the political nature of installing cameras for example?---Correct.

Thank you. Yes, Mr Downing.

30 MR DOWNING: Given Mr Chau's responsibilities in his job as the manager of Community Services, is it correct that he would certainly have an input or you'd expect some input from him in terms of whether he thought from a community safety point of view there was merit in the product that was being put forward, PICS?---Yes, definitely.

40 But beyond that, in terms of the technical aspects of it and the financial aspects, they were matters beyond his sphere of responsibility, weren't they?---I think initially there would have been an expectation on the manager to investigate some of those parameters to see whether there was merit in us going forward with more detailed investigations.

But looking at those aspects of PICS, that is financial considerations, revenue considerations and the technical aspects, wouldn't they be matters that you would have expected Mr Chau to involve people beyond himself? ---Oh, definitely there would have been other involvement, yes.

Before any sort of recommendation could be made about whether it should be proceeded with or not?---Yes, or, yes, definitely.

You've referred to that initial meeting in your statement. It's the case, isn't it, that whilst, whilst by the end of that first meeting you were interested in seeing whether there might be something in this product, PICS, that might be worth investigating further, there had certainly been no decision about any commitment at that point?---That's correct, yeah.

10 Is it correct also that after that meeting you didn't give any direction to Mr Chau that he was to be in effect your delegate for dealing with, with either VMS or Tenix Solutions?---No.

But you didn't give him any specific authority to deal with him and indicate that you wanted this project to proceed?---There was an expectation that he investigate, so in that sense there would have been some contact, but the contact wasn't specified, we didn't get into that level of detail. So it was purely from an initial contact which was very brief, go and see if it's, my words, but see if it's got legs, if it's worth pursuing any further.

20 Right. But certainly you hadn't formed any strong desire by the end of that first meeting on the 18th that it was a project that should go ahead?---We certainly didn't confirm that it would go ahead, no.

Well, putting aside confirming it, you hadn't formed a view at that point, that is after the first meeting in the council chambers in the 18th, that this was a product that you wanted to see installed on behalf of the council and in the council area?---No, no, we were much earlier in the phasing, so we were still in the looking at investigating whether it would be worth getting to that point. So the answer's no.

30 And in paragraph 10 of your statement, and it's a fairly long paragraph, but in the last few lines you've indicated that you had an expectation that Mr Chau, Mr Bourke and Mr Wong would investigate and verify the claims made by Tenix. Can I ask you, in relation to Mr Bourke and Mr Wong, what role did you expect they would have in, in looking at the product and investigating it and verifying claims made by Tenix?---Again it was associated with their expertise and their portfolios. In the case of Mr Wong, he's in charge of the infringement officers and that function in council and the parking duties, so there is a direct relationship through, through that, for Mr Wong. Mr Bourke's associated with all the traffic and ongoing matters
40 of infrastructure around the town centre, so that would have been his primary area, and Mr Chau from the crime and safety perspective.

Do I take it from that the decisions for instance about where poles might be placed around the municipality would be not something that you would necessarily expect Mr Chau to be involved in?---Not in isolation from the, from the others, particularly Bourke in that situation.

What about the question of any negotiations with Tenix Solutions or VMS about a revenue-sharing if the product were to be proceeded with. Is that something you would have expected Mr Chau to have some responsibility for?---No.

Did you give him any authority to speak to either, well, to anyone on behalf of VMS or Tenix so that he could negotiate a revenue split if the product were to be proceeded with?---No.

10 Did you give him any authority or direction that he was to go to someone on behalf of Tenix or VMS and indicate that you were very keen to see this product proceeded with?---No. We, we were very keen. We had discussions in relation to the PICS aspect of their presentation, which looked that it had some merit that we, we were keen to pursue, so there had been discussions along that line, but again, that was to verify further investigation only.

I'm sorry. Did you give Mr Chau any direction or authority to indicate to someone on behalf of VMS of Tenix that he had in effect been made the
20 delegated council officer who was to make this happen?---No, not directly, no. Well, no, I haven't.

Had you asked Mr Chau to report back to you in relation to any further dealings he'd had with Tenix Solutions or, or VMS?---Yes. I had asked the three officers to report back to us when they'd had some, carried out their investigations and had some information for us to consider.

That is Mr Chau- - ?---Mr Chau, Mr Bourke and Mr Wong.

30 If Mr Chau was to have entered into any negotiations with Tenix or VMS about the adoption of the PICS technology and the revenue sharing between council, who else would you have expected him to involve in those negotiations?---There would have definitely been an association with that, that aspect with Mr Wong and I'm sure that our finance, some financial staff would have also been involved in that consideration.

Was your expectation that if some recommendation was to be made that this PICS should be proceeded with, that it would be on the basis of joint consideration by, well, a group consideration by Mr Wong, Mr Chau and Mr
40 Bourke?---Oh, definitely.

Would it be surprising if only one of those council officers reported back to you with a view?---It really wouldn't have mattered if one had reported back, as long as it was with the collective team. We had formed basically like the panel and they were the three representatives to have a look at the investigation and then report back to us before we could consider what next steps we would take.

You've indicated in your statement that you had no knowledge of the 27 August, 2010 meeting?---That's correct.

Do you understand that that was a meeting attended by Mr Chau and also briefly by a parking officer?---No, I didn't. I didn't know about the meeting.

You're aware that it was at Gloria Jean's café in Strathfield, which is in the vicinity of the Strathfield Square area?---I am now, yes.

10

If there had been a meeting which was going to involve in any way a trip to areas of the municipality where there might be problem parking locations, would you have expected someone beyond Mr Chau to have been present? ---At this early stage I would have expected some input from one of the other two officers, that's Bourke or Wong, as directors.

20

Had you at any point up until the contact you had from Mr Farlow on the afternoon of 3, I'm sorry, 6 September, had you at that point expressed any desire to Mr Chau that you wanted PICS to be installed and up and running by the end of October?---No, definitely no deadlines or dates.

Now, before the 3 September, 2010 meeting, you had no knowledge of that, that it was about to occur?---Which one was that, sorry?

The 3 September, 2010 meeting?---No.

30

And if at that point any representation had been made on council's behalf about revenue sharing if PICS were to be installed you should have been informed of that. That's correct isn't it?---Oh, I would have definitely expected that to come back with the reports.

Do you recall on 3 September receiving an email from Mr Chau?---No.

Can I ask you to have a look at Exhibit 1 at page 70. Do you see that email?---I do.

It's an email from you to Mr Chau on 3 September at 2.28?---I do.

40

And do you not recall receiving that at the time and reading it?---I didn't note it at the time it came through nor open it. I was, it was brought to my attention by one of the officers investigating, ICAC officers and since that time I'm aware of it.

So you hadn't opened it and read it at the time?---No.

Mr Chau hadn't spoken to you about it on the 3rd?---No.

The next knowledge you had of, I'll withdraw that. The first knowledge you had of the meetings on 27 August and 3 September, is this correct, was when you'd received some contact from Mr Farlow?---That's, that's correct. Yes.

And that's when he contacted you on 6 September?---I'm not quite sure of the date, I'd have to look back, but yes, about then.

10 And a meeting was organised for the following day?---That's, that is correct. Yes. Yes.

Right. And in the course of that meeting Mr Farlow gave you an account of what was alleged to have, what Mr Chau was alleged to have said to Mr Armstrong?---Yes.

And provided you with some documents?---That's right.

20 And those documents are annexed behind your statement. But if you can just have a look at the file notes at the end of Exhibit 1. I seem to have lost them for the moment, can you just perhaps go to the documents right towards the back of your statement, the annexures. Do you see about five pages from the back of the annexures there is a document headed File Note - Tenix Solutions/Strathfield Council - Monday, 6 September, 2010?---Yes.

And do you recall that was one of the documents that Mr Farlow provided to you?---Yes, I do.

30 And then if you go back some pages, there's an email, it'd be about eight to ten pages, an email from Mr Armstrong to Mr Farlow dated 6 September, 2010 at 4.23pm under the heading, Notes Re Friday, September 3 Meeting with Mr Chau?---I do.

And was that also one of the documents you received?---Yes.

40 And there were some emails in between which are a chain of emails going back to earlier involvement, that is the email on 20 August and then subsequent emails through to that meeting on 3 September?---Yeah. I remember Mr Farlow bringing in a number of documents including these ones on the screen.

What was your response to what you'd been told in the documents you'd been provided?---I was quite taken back, quite shocked at a number of the comments that were alluded to in the documents or the allegations made in the documents.

And what was your decision in terms of what to do about it?---It was at that point I finished conversations with Mr Farlow. But decided to contact ICAC.

You've told us that you at the time of Mr Chau's email of 3 September where he annexed his draft report that you hadn't opened it and read it at the time. Have you since had an opportunity to read that report?---Yes, I have.

10 And having done that, at page 71 to 74 of Exhibit 1, would that or does that report meet with your expectations of what you should receive if a recommendation is made to proceed with something like PICS?---No. There's, that report certainly would not have proceeded any further in that format.

20 Do you recall at the initial meeting, I'll withdraw that. Can you tell me what, what's deficient in that, in that report?---There are a number of issues that, which would have concerns, one's the probably the lack of detail. Certainly also comments in relation to our processes. Minimal process would have been required for us before proceeding and once a decision had been made, which the executive hadn't made, was to look at, was, would have been to look at, you know, at least calling for some quotations for proceeding prior to us determining a group or giving a recommendation for one company.

Was it your expectation that if a report like this would have been provided by Mr Chau it should have either been looked over by Mr Wong and Mr Bourke or countersigned by them?---Yeah, I'm not sure if the intention was to do that from him or not. But yes, the whole process would have been a process that would have required the input of those other two officers and myself before we determined what next steps would be taken.

30 Do you recall at the initial meeting on 18 August that either Mr Hill or Mr Armstrong had provided you with some brochures in relation to PICS? ---Yes. I think they provided us with brochures on four different services.

One of them being PICS?---Yes.

Okay. If you have a look at page 66 to 69, Exhibit 1. I'm assuming that the document you received at the meeting was probably in colour, but in black and white do you recognise this as the brochure in relation to PICS?---Yes. It's familiar. Yes.

40 At any point have you had the opportunity to compare the content of that as against Mr Chau's report?---No. No.

If parts of that document, if certain paragraphs of that pamphlet were in fact reproduced in whole in Mr Chau's report to you, would that be something that would concern in you in terms of the adequacy of that report?---It definitely would need to be much more detailed information attached with reports prior to us even making decisions that the report would go to council. So I think the answer is yes.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes, thank you. Is there any application to cross-examine? Yes.

MR McILWAINE: I have some questions, Commissioner.

ASSISTANT COMMISSIONER: Yes, Mr McIlwaine.

10

MR McILWAINE: Mr Backhouse, I represent the interests of Mr Chau. I'll take you to the meeting on 18 August, 2010 and I your evidence is that you initially called Mr Chau to the meeting with Mr Farlow and the others because the question of community safety was his area of responsibility or one of his areas of responsibility. Correct?---Yes.

20

And then because some technical issues appeared to be arising from that you then called for other council officers to join you at the meeting. Is that correct?---That's correct. Once the meeting had commenced and they were covering a number of issues and the four services they were offering were put on the table, that's when I realised it was much more than just safety.

At the meeting was there any discussion about how council would pay for the service?---There were some suggestions made by the, I can't recall whether Tenix or the other group as to how they'd functioned in Victoria I think and that's where there had been some discussion about the percentages, yes.

30

The concept of a percentage payment of revenue collected was discussed at that meeting?---There was a, there was a discussion at that time.

In any event you said, you say in your statement that there was a matter, at least one matter, in the proposal which you were interested in. What part of it was, was that? Can you enlighten us?---That was the PICS which was the camera operated service.

40

Right?---The reason that was appealing to us was because we had had a number of complaints in regards to parking and traffic issues around our town centre, that's the Strathfield Town Centre and this was offering a 24-hour surveillance which was certainly beyond our normal capability.

Just by way of background, had you previously had dealings with Mr, Mr Chau about traffic issues, parking issues in the course of his employment?---(NO AUDIBLE REPLY)

Perhaps if I take you to a specific example?---Please.

Do you remember an occasion where Mr Chau raised with you an innovation he'd seen at Marrickville Council where it had solar-powered pedestrian warning lights, do you remember that?---Yes.

And - - -?---In school zones, yes.

And Mr Chau bring that suggestion to you?---Yes, that was raised, yes.

10 And did you authorise him to develop that initiative further, have a look at it?---From what I recall, yes.

20 And did he also approach you from time to time about street lighting issues?---There were issues that you're referring to which were dealing with safety and public safety, the solar panels, we were looking at some flashing light system in and around school zones so there was a direct relationship to his portfolio so in that case, yes. Some of the street lighting issues which we'd discussed also came and emanated from our involvement with the local police and looking at some issues where there'd been some crime incident and looking at methods to alleviate perceptions of dark spots et cetera.

And Mr Chau in fact was one of the council representatives on what's called the Police and Community Meeting?---That's right.

With senior officers of New South Wales and other councils - - -?---Yes.

- - - and local MPs for those issues that would arise from time to time?
---Yes.

30 And he would come to you about issues that were arising?---Yes, and those meetings were minuted, yes.

And did he come to you directly or through some other director?---I can't recall in all cases there, certainly with the one you mentioned earlier with the flashing lights around the schools, that was something that Michael initiated and had contacted myself and it had been something discussed with the other executive officers, yeah.

40 Now, you say in your statement at paragraph, at the bottom of paragraph 10, do you have your statement in front of you, Mr Backhouse?---I do.

The fourth bottom line, the fifth bottom line, there was one aspect of the presentation that was of interest and worth further investigation, we've canvassed that. "There would have been an expectation that Chau, Bourke and Wong would investigate and verify the claims made by Tenix in relation to their presentation which may have included further contact with Tenix." Now, you used the words there "there would have been an expectation," is there a particular reason why you've used those words? I

mean, do you have a specific recollection of that or was that your usual practice?---No, I think in this situation it was an unusual situation because we had someone come to council and make an approach to council about a service which they thought would be of merit for council which was unusual in a sense that it wasn't council pursuing a service. So from very initial discussions with those, with the, Tenix and other group we saw some merit in, in one particular aspect of their presentation which was very initial steps so were not decision-making steps for, which would warrant further investigation so in that sense we didn't specify at that very preliminary stage the details of the investigation, just that there would be an expectation for the officers to have contact with Tenix in order to carry out those investigations.

So do you say that you have an expectation that one or other or more of those three officers would contact Tenix to take the matter, the investigation further?---Yeah.

That was your expectation?---Yes.

20 And - - -

ASSISTANT COMMISSIONER: Sorry, Mr, could I just interrupt.

MR DOWNING: Sorry.

ASSISTANT COMMISSIONER: Sorry, Mr Backhouse, in terms of your statement and your evidence you're - - -?---Mmm.

30 - - - talking about this expectation, do you recall now what was said after Tenix left? What did you actually say to these officers about what they should do?---We had a very brief, the presentation was fairly brief. We had a brief conversation where we confirmed and all agreed that one of the services was worth a further look at - - -

Yes?--- - - - and that's all it was at that time.

So it went no further than that? You all agreed, the four of you I take it, that it would be worth a look at PICS?---Yes, further investigation.

40 But you gave no specific directions to any officer as to what, how it would be taken forward?---No, not at that time.

Yes, sorry, Mr McIlwaine.

MR McILWAINE: Well, you had an expectation that something would happen, nothing was going to happen unless somebody did something, that's correct?---(NO AUDIBLE REPLY)

You're nodding, you agree with that?---Correct, yes.

Who did you expect to be the person who might do something about this?
---Well, I thought the three officers would be pursuing matters pertinent to their portfolios.

Well, from your experience of dealing with the council officers - - -?
----Mmm.

10 - - - which of any of those officers you would have expected to take the first step in contacting Tenix, from your experience?---I, I had an expectation that the three officers each would have a requirement to contact Tenix to have a look at the information pertinent to their portfolios, including Mr Chau.

All right. So you had an expectation that they would individually contact Tenix?---Yes.

20 And in fact the only person who contacted Tenix was Mr Chau, as you understand it now?---Oh, as I understand it now.

Ah hmm. He's the only person who acted in accordance with your expectation, that's correct, isn't it?---As I understand it now.

Now, I think you've been shown the statement of Mr Patrick Wong which was Exhibit 9 I believe.

ASSISTANT COMMISSIONER: 6.

30 MR McILWAINE: 6. Do you have that in front of you still?---I do.

If you could just turn to paragraph 7 of that statement it reads, "At the end of the meeting no decisions were made by those of council at the meeting as to whether or not they would trial the system. We left it that the company would either contact Michael Chau or David Backhouse to organise another meeting and to arrange for a trial of one camera. Usually external companies would contact David Backhouse but in this case I believe Michael was also suggested as a point of contact as in his role as Manager of Community Services he deals with council safety issues and regularly
40 liaises in meetings with the local press." Is that consistent with your recollection of what took place at the meeting?---No.

Do you have a recollection or - - -?---Yes, I do, yeah.

You do. Do you say that Mr Wong is wrong about that?---My recollection is, well, my recollection is different.

I'll just take you to one other topic. You were shown Exhibit 1 and have Exhibit 1 in front of you, it's a bundle of documents, if I could take to some emails at page 70, do you have that?---(not transcribable)

Well, if it might be brought up on the screen it might be - - -?---Yeah.

That's Exhibit 1, page 7. Do you see that email on the screen?---Yes.

Now, as I understand, your evidence is you concede receiving that email.
10 Correct?---Correct, there's an email, yes.

At that time and you were at work on 3 September, as far as you recall?
---As far as I recall, yeah. I don't really remember.

Is your evidence that you opened the email but not the annexure or did you not open the email at all?---No, I didn't open the email at all.

Can you give the Commissioner some explanation, I withdraw the question.
20 So you had discussions with Mr Farlow on 7 September, I think, which is the Tuesday afterwards, sometime afterwards. At that stage you still hadn't opened this email. That's correct?---Yes.

So it sat in your email system for a number of days. Correct?---Sat in my email system until it was pointed out to me by the ICAC investigators and that's when we opened it.

Right. So this was an email from the manager director of community services, the manager of community services. Can you give the
30 Commissioner some explanation why you didn't open this email?---Um, I have no explanation other than it was probably just an oversight, but there was a large a number of emails coming through um, and, yeah, no, it was overlooked, as were a number of emails around that same time.

Just going to the first line of the email, it describes what's attached as a draft report. Do you see that?---Yes.

Now, I think you've given some evidence about what you would expect from a report going to go to council?---Ah hmm.

40 The input that you would require from various other officers in council?
---Yes.

It's true to say this document never purported to be the final report that was going to go to council, did it?---No. As you're pointing out, it's referred to as a draft report.

No further questions.

ASSISTANT COMMISSIONER: Thank you. Mr Backhouse, is it your evidence that you saw this email at the time but overlooked opening it or that you can't recall seeing it at all?---No. There was a bank of emails around that time which were, remained unopened and I can't recall whether it was because of my attendance, whether I was on leave at the time or not, but it was one of quite a few emails in and around that period which would probably suggest I was on leave, but I haven't actually gone back to check.

10 Yes. Thank you, Mr Backhouse. Yes. If there's nothing else, this witness can be excused. Thank you for your attendance, Mr Backhouse.

THE WITNESS EXCUSED

[3.02pm]

ASSISTANT COMMISSIONER: Yes, Mr Downing?

MR DOWNING: Commissioner, the next witness is Frank Ianni.

20 ASSISTANT COMMISSIONER: Yes. Mr Ianni, take a seat, please.

MR IANNI: Thank you.

ASSISTANT COMMISSIONER: Mr Ianni, you're not legally represented?

MR IANNI: (NO AUDIBLE REPLY)

ASSISTANT COMMISSIONER: You are represented by Mr Craddock?

30 MR IANNI: Yeah.

ASSISTANT COMMISSIONER: You are. Yes. Does your client wish to seek a Section 38 declaration, Mr Craddock?

MR CRADDOCK: Yes.

40 ASSISTANT COMMISSIONER: He does. 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 during the course of his evidence at this public inquiry are to be 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 DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE 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.

10 ASSISTANT COMMISSIONER: Mr Ianni, you're required to take an oath on the Bible or make an affirmation. Do you have a preference?

MR IANNI: A Bible.

ASSISTANT COMMISSIONER: Yes. Could the witness be sworn, please.

ASSISTANT COMMISSIONER: Yes, Mr Downing.

MR DOWNING: Thank you, Commissioner. Mr Ianni, if you could tell us your full name?---Francesco Ianni.

And your date of birth?---4/6/64.

10

Right. Now, Mr Ianni, you've prepared a statement for the purposes of this inquiry dated 30 September, 2010. That's correct?---Yes.

Do you have a copy with you?---No.

I'll have one provided to you. One of the things you've referred to in the statement is that you can read but not particularly well?---Yeah.

Is that correct?---That's correct.

20

I'll provide one and tender it at this time, Commissioner.

ASSISTANT COMMISSIONER: Yes. The statement of Mr Ianni dated 30 September, 2010 will be Exhibit 7.

**#EXHIBIT 7 - STATEMENT OF MR FRANK IANNI DATED
30 SEPTEMBER 2010**

30

MR DOWNING: Now, do you recognise this document as your statement?
---Yes, yes.

And have you either read this to your satisfaction or had someone assist you in reading it?---My wife.

And are you happy that this represents your evidence in this inquiry?
---Yeah, as far as I know, yeah.

40

Is there anything you wish to add to it or - -?---No.

- - -to correct or change?---No.

Now, it's correct, isn't it, that you are the Senior Team Leader, Engineers at Strathfield Council?---Yes.

And you've held that position from 2007 through to the present time?
---Roughly.

Now, in that job, are you in charge of a team of workers who look after things like road repairs?---Ah, um, engineering work, like um, how do you call it.

Well, perhaps if I give you some examples?---Yes.

Things like repairs to the kerb and footpath?---Yes.

10 The roads?---Yeah.

To gutters and kerbs?---Civil work, civil work (not transcribable) It's called ah, kerb and gutter, pits, roads (not transcribable) road driveways, all that sort of stuff.

And is your working background and experience in concreting- - -?---Yes.

- - -and steel fixing?---Yes. The building, the building work.

20 The building work?---Building.

Do you have a particular trade qualification or certificate?---Well, not certificates, but it's like more or less a handyman thing, but it's qualified as a labour, it's not like a tradesman.

Now, the actual position is senior team leader engineering?---Yes.

You're not an actual qualified engineer?---No, no, no, no.

30 But you- - -?---I wish.

Is it correct that your team works underneath council engineers in the council structure?---Yes.

Now, have you ever done any work in an office job?---(NO AUDIBLE REPLY)

You need to say yes or no, I'm sorry, you just can't shake your head?
---No, no.

40

Now, I've asked you already and you indicated this in your statement, that in paragraph 9 you've indicated that your wife assisted you in reading the statement because you can read but you're not a good reader?---Yeah.

And are you able to write?---A little bit, but not, not big words, but- - -

In your statement you've described your recollection of some events involving a meeting with Mr Chau and some other people on 3 September, 2010?---That's correct.

Now, you said in paragraph 4 that you knew Mr Chau prior to 3 September, 2010?---Mmm.

And that you had had some dealings with him beforehand?---Yes.

10 And have there been occasions when he'd contact you and ask you to attend to a particular job?---Yes. Sometime he rang, like I said, he needs a bus driver, 'cause he's in charge of the bus, or putting bollards specific places, you know, that sort of work, put some signs for him, 'cause we do that.

Before 3 September, 2010, had he ever asked you to attend a meeting with anyone?---Before?

Before that day?---No.

20 Now, you said in your statement in paragraph 5 that on the morning of 3 September that Mr Chau called you?---Yes.

Is it possible that you'd had some phone discussions the day before on 2 September?---Not as I recall.

So you say that he telephoned you on that day?---Yes.

Mr Chau had your telephone number, didn't he, your mobile number?
---Yes.

30 And it wasn't that unusual on a workday that he would contact you about something?---That's right.

If he had a request for something?---Yes.

But your recollection is that on the morning of 3 September he telephoned you and asked you about coming down to Gloria Jean's at Strathfield for a meeting?---Mmm. To, to help him, like, on the, being on the matter that was going to be discussed for some pole.

40 Some poles for some cameras?---Yes.

Given that he'd never contacted you to attend a meeting with people outside council before, we you, did you find the, did you regard the telephone call that morning as a little bit unusual?---Yeah, but you know, it's, like I said, I try to help, you know. We all work for Strathfield Council, you know. I said I was busy and he said, "Just come, you know, just to help us out." Just give my advice, you know, before they put the pole, what's underground.

In paragraph 5 of your statement you've indicated that when you attended Gloria Jean, Gloria Jean's and you spoke to Mr Chau and some other men that were there, that there were I think two other men and that they were later joined by a third man?---That's correct.

And do you remember them introducing themselves to you?---Yeah, but I don't remember their name.

10 Did they say they were from a company that had something to do with a camera system?---Yeah, something like that.

You've indicated in that statement that Mr Chau introduced you to those men as the supervisor of engineers?---Yeah, maybe.

Now that wasn't your actual job description was it?---Well, it's like a supervisor. It's, you know, senior team leader, supervisor I think is the same. I don't know.

20 But is it the case that you worked under the engineers - - -?---Yes.

- - - department within council? You didn't actually supervise engineers?---Pardon?

You worked under the engineers - - -?---Yes, of course, yeah.

- - - (not transcribable) at Strathfield Council?---Yes.

30 You didn't actually supervise the engineers?---No, no I don't.

So from what Mr Chau described you as he'd in effect given you a bit of a promotion. Do you agree with that?---Yeah.

All right. Now in your statement at paragraph 5, which is a fairly long statement, you've described what you recall of the discussions at that meeting?---Yes.

40 Now before the phone call from Mr Chau, had you any knowledge of a parking related camera system?---No.

Had you ever heard of Tenix Solutions or VMS?---No.

Had you had any knowledge through your work or your background in the working of camera systems?---No.

I take it that's not something that you had to deal with in your work as a concreter or a steel fixer?---That's right.

Or when you work at council where you worked with fixing problems with the road and the footpath kerbs and gutters?---That's correct.

Do you recall, I'll withdraw that. In your statement, this is on page 3 of 4 towards the top, in paragraph 5 that Mr Chau said during the meeting that he was going to send you to Melbourne so you could see the camera set up in up in operation in Melbourne?---Yeah.

Did you find that strange?---Yes.

10

Could I ask you what did you know about assessing a camera system?
---Nothing at all.

Had you ever been on any where council had sent you to another city to assess parking related systems?---No.

Did you wonder what Mr Chau was doing?---It didn't, it didn't matter to me 'cause it's not in my interests what he says.

20

Well Mr Chau wasn't your boss was he?---No, that's right.

So is it correct that he couldn't tell you to go to Melbourne or go to Perth or go to anywhere?---No. No. That's correct.

Did you have any intention of going to Melbourne?---No.

Did you say anything in front of the men that were present at that meeting?
---No. I just shook my head and said whatever.

30

I take it from what you've told us about your background and work experience that you weren't in any way capable of assessing a computer, a computerized parking system?---That's correct. Yes. That's correct.

And you don't have any background in accounting or financial matters?
---No, I don't.

You couldn't of spoken to people at a council in Melbourne about the financial aspects of running this system?---No way.

40

Did you wonder in the course of that meeting on 3 September why you were there at all?---Yes, I did, I wonder what I'm doing here, I've got work to do.

And did you in fact receive some calls in relation to your work during the day?---Yes. I had problem with my, my team leaders. We had a bit of problem on the footpath. And I needed to go there urgent and that's why I keep getting up, you know, I didn't want to be rude, go outside talk on the phone, so I had to go.

So you went and answered the call outside?---Yes, I did.

And when you finished the call had the men, that is Mr Chau and the other men walked outside?---That's right.

You've told me that you didn't say anything in front of the other men to Mr Chau about not, about not wanting to go to Melbourne during that meeting? ---I didn't say nothing.

10 All right. You've said in your statement at paragraph 7 you rang him back on the following day and said to him I'm not going to Melbourne?---That's right.

And that Mr Chau said, yeah, well you can go on your RDO?---And I said, no. That's for my family my RDO, my rest.

A rostered day off is a day you don't work?---That's right.

20 Were you surprised by the suggestion by Mr Chau that you should go to Melbourne to look at this camera system in operation on your day off? ---That's right.

Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes, thank you, Mr McIlwaine.

MR McILWAINE: Mr Ianni, in your statement you describe your position with council as the Senior Team Leader, Engineers?---Yeah.

30 That's your job title. Is that correct?---That's right.

And you see little difference between that and describing yourself as the supervisor engineers? They're similar expressions. Do you agree with that?---I think, yeah. I don't know.

And as senior team leader, engineers I think you've told, in your statement you say your supervise about 12 persons?---Yes.

40 (not transcribable)?---Yeah.

In regard to the Square, the Strathfield Square area, because of the nature of your duties, are you a person who has practical knowledge about physical problems in that Square, in terms of where caverns might be, things of that nature?---That's correct.

All right. Is there anyone else in council that would have as much practical knowledge as you about the physical layout of the Square where the services are, what problems can be encountered in construction there?---I

don't know, I don't think so, 'cause my supervisor, they give me instructions, you know. I was the one when the machine is there when it start to dig, so that's why we know roughly where everything is. Plus we've got locators to locate stuff, so - - -

Thank you.

10 ASSISTANT COMMISSIONER: Thank you. There's nothing else? Mr Ianni, thank you for attending. You may be excused?---Thank you. Thank you.

THE WITNESS EXCUSED

[3.16pm]

MR DOWNING: That takes care of my witnesses for today. There are some additional statements that we'll tender them in the morning. They've been provided to everyone at the bar table. I don't imagine there'll be any difficulty. Just so that we're clear - - -

20

MR McILWAINE: I don't seek any of those witnesses.

MR DOWNING: The intention of mine would be that Mr Taylor, whose travelling from Melbourne from Tenix Solutions and Mr Chau will give evidence.

ASSISTANT COMMISSIONER: And in respect of the other statements I take it nobody has indicated a wish to cross-examine those witnesses.

30 MR DOWNING: No one has indicated a desire to do that.

ASSISTANT COMMISSIONER: All right. Well we can clarify that in the morning. Otherwise we'll proceed as you suggest and we'll adjourn at this stage until 10.00am.

AT 3.17pm THE MATTER WAS ADJOURNED ACCORDINGLY

[3.17pm]