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INDEPENDENT COMMISSION AGAINST CORRUPTION

PATRICIA McDONALD SC  
COMMISSIONER

PUBLIC HEARING

OPERATION EMBER

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 3 JUNE, 2019

AT 9.30AM

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

THE COMMISSIONER: Now, before we start, Ms Hogan-Doran, you asked on Friday I think about Mr Lee.

MS HOGAN-DORAN: Yes.

THE COMMISSIONER: He still hasn't been excused, but as soon as I've determined whether he, if he has been excused I'll let you know.

MS HOGAN-DORAN: Thank you so much.

10

THE COMMISSIONER: Any other administrative matters?

MS WRIGHT: Not at this stage, Commissioner.

THE COMMISSIONER: Mr Jones. Good morning. And we'll just administer, is it an oath or an affirmation?

MR JONES: Oath, thank you.

THE COMMISSIONER: Thanks, Mr Jones. Mr O'Brien?

MR O'BRIEN: Thank you, Commissioner. Mr Jones, can you be shown volume 10, page 169, and as that's coming up, you'll recall that this is the email of 28 February where you've indicated you will not be signing off on the TER. Do you see that there?---Yes.

10

So in that second, after the words, "FYI" in the second line you've said, "The RFQ was too restrictive regarding dimensions." Do you see that? ---I do.

Then in the following paragraph you've gone on to say that you, "Fully appreciate there's an urgency to progress the RFQ, to progress the RFQ relating to available funds to obtain new scales before the end of financial yeah." Do you see that?---I do.

20

And that was because you'd been informed that there needed to be a procurement before the end of the financial year. Correct?---Correct.

And so that gave this sense of urgency that you've referred to in that paragraph. Correct?---Correct.

You then go on to say that you've "Asked to delay the process until the, until the alternative scales, e.g. Intercomp or ?, are evaluated, an accurate, fair and honest assessment cannot be made." Do you see that?---I do.

30

So to your mind, it would be a good idea, and I think you've given evidence to this effect, that the RFQ be put off until such time as you could do a trial of the scales on the market, correct?---That is correct.

And that was a key concern in your mind arising from your involvement in this Tender Evaluation Committee, correct?---One of my concerns, yes.

Thank you. And you see that you've given some feedback in relation to the LP600 and the LP788 underneath that?---Yes.

40

Now, were you aware that this email was forwarded to Mr Jansen and to Mr Steyn by Mr Singh?---I was not.

So if we go to volume 10, page 168, please, Mr Operator? So you can see the email from Mr Singh dated 28 February at 5.33pm?---Yes.

And you can see that he has, he, Mr Singh, has sent that to Mr Steyn and Mr Jansen, correct?---Yes.

And you had a chance of looking at this on Thursday, do you recall?---I do.

And it is evident that he has forwarded your email of 28 February, 2018, at 4.32pm, to them. Do you accept that?---5.33pm, yeah.

Yes, he has forwarded to Mr Steyn and Mr Jansen your email related to your refusal to sign the tender evaluation report.---Yes.

10 And you can see that because he says, “As per below, the enforcement operations end user and subject matter expert is not willing to sign the evaluation report.” Do you see that?---I do.

Because you were the enforcement operations end user, and subject matter expert, weren't you?---Correct.

20 And indeed, he refers down in the second paragraph to the words, and you'll see, “In the last meeting, David advised that the LP600 was unsuitable for their operational needs,” and then says, “See feedback below.” Do you see that?---I do.

So another indication that he's forwarded up the chain the email that you had set out as to why you were refusing to sign the TER, correct?---Correct.

Thank you. And now he says at the end of that email, “An option to consider if possible is to see if we can reallocate the \$2 million for the next financial year and use the rest of this financial year to do an assessment on the scales currently in the market.” Do you see that?---I do.

30 That would have been ideal from your point of view, correct?---Yes.

And indeed that's, seems to be what you're suggesting in, when you say, although you're the last to delay the process, until alternative scales are evaluated, an accurate, fair, honest assessment cannot be made, correct? ---Correct.

40 Thank you. Now, you can see that that email, probably unbeknownst to you, did you know it was forwarded to Mr – I withdraw that. You can see on the top email on that page, 168, that Mr Jansen has forwarded, has responded to Mr Singh and copied Mr Soliman in. Do you see that?---I do.

And he's also sent it to Mr Steyn. You see that?---I do.

And he has said that he's escalated this to Robert, to, sorry, I withdraw that, to Roger, for advice with recommendation that we seek to roll over funding. Do you see that?---I do.

Which is exactly what you would have preferred to have happened, correct? ---Correct.

But eventually, and regrettably, that didn't occur, correct?---Correct.

Those are my questions for this witness. Thank you, Commissioner.

THE COMMISSIONER: Thank you, Mr O'Brien. Mr Lonergan.

10 MR LONERGAN: Mr Jones, I represent the interest of Stephen Thammiah of Novation. You were asked questions on – last week, Thursday – about the dimensions of the scales that were in the 125 request for tender. Do you recall that?---I was. Yes.

So is it the case that the dimensions that were in the tender were in two parts, the first set of dimensions were for the scales, excluding the handle, and then there were separate measurements for the handle. Is that how you understood the dimensions to work in the, in the request for tender?---That's correct.

20 Right. So in order to get the full dimensions of the scales, you would have to add what were the dimensions for the scale excluding the handle, plus the dimensions for the handle, and the sum of those then would give the full dimensions of the scales. Is that your understanding of how that worked? ---It is.

So if we can go to volume 10, page 45, if that could just be brought up. So you'll see there on that page, Mr Jones, that there's sale requirements? ---Yes.

30 And now you see those dimensions, 670, 520 and 42?---I do.

Now, they to your understanding are the dimensions of the scales, excluding the handles?---Correct.

And then there is the handle depth of 100 mil to 140 mil?---That's right.

40 So in order to work out the dimensions of the scales that satisfied the request for tender, I would add the 140 to the 670?---Well, the dimensions between 100 and 140 to 670, correct, yeah.

So that would take me to a maximum dimension of, what's that, 810? ---Correct.

So actually, so overall dimensions of 810, 520 and 42 would satisfy the request for tender?---Yes.

Okay. Now, if I could go to volume 10, page 61. Now, Mr Jones, these are the dimensions that were provided by AccuWeigh, and you'll see there they

have a good table or a nice table, and the LP600s and the LP788s are there. Do you see that?---I do.

And you see the dimensions, overall dimensions of the LP600s?---I do.

They satisfy the requirements of the request for tender, don't they?---They do.

10 And the LP788s, being an overall length of 940 are 130 mil too long?  
---Correct.

So your evidence is that, am I correct in saying, is that the LP600s satisfied the dimensions in the request for tender?---Other than the weight, correct.

We'll come to weight in a second, sir.---Sure.

But putting aside the weight?---Yeah.

20 So just to be clear again, the dimensions of the LP600 satisfy the requirements for the request for tender?---Correct.

Now, and the other scales, the LP788s do not?---That's correct.

And the, not that I've taken you to this morning, but the PAT scales obviously also satisfied the dimensions of the request for tender?  
---That's correct.

So there are two scales that satisfy the requirements.---That's right.

30 Now, going to weight, you mentioned weight, so if we can go back to volume 10, page 45. Now, Mr Jones, can you, and if we need to go over to 46 or elsewhere, can you show me where the weight requirements are specified in the request for tender?---On that particular page it's not, no.

If we go over to the next page.---Correct. It's not there.

If we go to the next page, it's not there either, is it?---No.

40 If we go back to 43. That's the start of the request for quote. It's not on that page?---No.

If we go to 44.---No.

The point is, Mr Jones, that there is actually not any specific requirement in the request for quote for the 125 of weight of the scales. Do you agree with that statement?---No, I don't.

So can you point me to where the weight requirement of the scales is in the request for quote?---In the assessment document we used for the tender there were criteria there and the weight is listed in that particular document.

THE COMMISSIONER: And is that the document that the panel used - - - ?---Correct, yes.

- - - when assessing the various tenders?---That's correct, Commissioner.

10 MR LONERGAN: So volume 10, page 176. If that could be brought up. 175. Now, you'll see there, Mr Jones, this may not be the document you're referring to.

THE COMMISSIONER: Maybe if we just go to the first page, which is 172, please. So that's the start of this document that Mr Lonergan is now taking you to. And if we just go 173, 174 then 175 is the document Mr Lonergan is taking you to.

20 MR LONERGAN: Now, you'll see there there's an evaluation, Mr Jones, of the respective tenderers and their scales and the association scores. So you'll see there that the AccuCorp is the first one and it says there, "The nominated scale is almost 50 per cent, eight kilos heavier than the scales currently being used by the RMS." But it's not saying there in any way, Mr Jones, that there was a requirement that those scales need a certain weight requirement.---Not on that document it doesn't, no.

No.

30 THE COMMISSIONER: Is that the document you were referring to? ---That's the end report. No, it's not, Commissioner. That's the end report after the assessment was conducted by the panel. That's not the document that we used to do the assessment.

So there's another document which sets out the various criterion that - - -? ---The criterion and there was another weighting page where we gave a score in between one and 10 and that's how we assessed it, so the overall scores were put together and a, I believe an equation done with regards costing then you get the end results or the end score.

40 And was that like a working paper that the panel utilised during their deliberations?---That's correct, Commissioner. We each had a copy each of the, the particular document, the members of the panel and went through the process and spoke about how we were weighting it and discussed the particular parts of the document, yes.

And then the results of that are put into whoever wrote up the tender evaluation report?---Correct.

MR LONERGAN: If we could bring up the statement of Alex Lee at page 168. Now, is this the criteria that you were talking about? This is not yours, this is Mr Lee's. Is this the document that you were referring to - - -?---No.

- - - where you were writing down - - -?---No.

If we can go back to the start of that document.

10 MS WRIGHT: What is meant by the start of the document?

MR LONERGAN: Sorry, page 157.

THE COMMISSIONER: Sorry, are we still on Mr - - -

MR LONERGAN: Mr Lee's statement, page 157. Is that the document?  
---That's not the document.

20 MS WRIGHT: Commissioner, Alex Lee was on the committee for the 425 procurement.

MR LONERGAN: Oh, yeah, he was.

THE COMMISSIONER: Yes.

30 MR LONERGAN: Okay. Let me put it this way, Mr Jones, just so I'm clear. There was no weight requirement in the specifications for tender for the 125 scales.---I don't know what was in the specifications other than what you have shown me, but the document we used to assess the process included a weight requirement.

Right. And the weight of the LP600s were 24 kilos.---That's correct.

And they were heavier than the existing scales that you were using which were about 18 kilos.---That's correct.

And the basis that you rejected the LP600s was the weight that they were at?---On that assessment on paper, yes.

40 So the criteria upon which you rejected the LP600s was the weight?  
---Correct.

And the, the, if we go to volume 10, page 169, sorry, you say they're 23 kilos, I think I said 24 before, but then if you go to the LP788s you refer to it being the best weight at 17 kilos.---Correct.

Now, the PAT scales that were part of the tender proposal by Novation were actually 15.6 kilos. Do you agree with that?---Roughly around that, I don't know if they're 15.6, they were heavier than that I think.

If we go to volume 10, page 47N, you'll see the SAW Series III scales, Mr Jones?---I do.

See the weight there of 15.6 kilos?---I do.

So the scales that you were using at the time were 18 kilos but the scales that were actually proposed as part of this tender were 15.6 kilos. Do you agree with that?---In an unmodified state, yes.

10

Yes. And so the 15.6 kilo scales would actually be the lightest scales in the tender evaluation?---I don't know what the overall weight was once they had a different head put on them.

Well, this is the – sorry, you're referring to the different head being the ones that were required as part of the specification for the tender?---Correct, the heads off the 10Cs.

20

THE COMMISSIONER: Sorry, so to determine weight you had to put on the extended handle plus the wheels?---No, the wheels were already on there, Commissioner. The extended handle, I don't know if there was a variance in weight, you know, I expect it would have been because it was larger, so I don't know what the overall final weight was.

MR LONERGAN: So you don't know what the overall weight of them were?---Approximately about 17 kilos, but I don't know exactly what it was.

30

Now, Mr Jones, you gave evidence that you gave the actual specifications of the dimensions to other persons within RMS. Do you recall that?---That's correct. Yes, I do.

If we go to your statement, and I believe it was paragraph 40 – oh, sorry, just before I go on to that topic, Mr Jones, I'll come back to that. But if we stay with your statement and we go to paragraph 54, on page 17, you see that, down the bottom there, Mr Jones, that's your statement?---I do.

40

And you say there, the PAT scales from IRD were the preferred option for us in any event. And then you say, but we knew nothing else.---Correct.

But here, you actually do know, at this point of doing the evaluation for the tender, that the LP600s were heavier than the PAT SAW scales.---After I did the assessment, yeah.

Yes, so you – but as part of the evaluation process of the 125 scales, you've gone through the dimensions of the scales, and the physical weight of the scales, that's right, isn't it?---Correct.

Yes, and you had an issue with the fact that the LP600s were so heavy.---I had an issue with a lot of things. I've said there we weren't familiar with them. I hadn't tested them. I'm looking at a piece of paper, with dimensions on it, against a scale that I physically used and knew how it operated.

Right, but you saw before that there was concern about the fact that these things were, the LP600s were eight kilos heavier than the scales that you were presently using.---Yes.

10

And that was the reason for your rejection of them.---Part of the reason, yeah.

Part of the reason. What was the other reason?---Can't recall.

But so when you say that you knew nothing else, you actually that the LP600s were too heavy.---By checking the dimensions on a piece of paper, yes, they were heavier than the existing scales.

20 By eight kilos.---Something like eight kilos, yes.

And I mean, you know, for your guys working out in the field, eight kilos of having to take that off the truck and put it back on the truck is a big issue, is it not?---Not entirely. It's a two-man lift. That's part of our procedure. Two-man lift on and off the vehicle, transported to the, to the actual vehicle we're weighing by a trolley. The actual positioning underneath the tyres or the axles is, is done by generally only one person, but the in-and-out lifting is a two-man lift, or a two-person lift.

30 Right, but you later gave feedback that, you know, the boys in the field were loving the lighter-weight scales, and that made a big difference to them. ---Certainly, yes.

Yes, so weight was a big issue.---It was one of the issues, yes.

So if we then go over the page on your statement, Mr Jones, to paragraph 55, you'll see there you're saying the Intercomps are a little bit heavier, but they do the job. All right, but it's a bit more than that, isn't it, Mr Jones? The fact is the scales were rejected because they were too heavy.

40

MS WRIGHT: For which?

MR LONERGAN: The LP600s we're referring to here.---It was part of the reason it was rejected, yes.

But they were rejected, because they were too heavy.---Fine, that's, yeah, okay.

Right. So it's not just a question that they were a little bit heavier but they do the job, they were rejected because they were too heavy.---In comparison with what the tender had called for, they were heavier than what the specification was in the document you don't have.

And then your last sentence, "We have to go with the PAT scales, because that was what the tender specifications asked for." So that was, to your evidence, both dimensions and weight?---That was the selected end, end result. We were, got the PATs, yeah.

10

And you went with the PATs because they fitted the dimensions?---Yep.

And they satisfied what you thought was the weight criteria of the scales in the tender?---They satisfied the specifications set out in the document I used to assess, yes.

Right. Now, I was going to before in relation to the dimensions in your emails, so if we go to paragraph 40 of your statement, which is on page 13, you see that there, Mr Jones?---I do.

20

And what you say here about halfway down is, "I set those parameters," the parameters being the dimensions of the scales, "I had told them what the dimensions were when I gave my feedback that the ideal scale was the 10As with the 10C handle and changed wheels."---Yeah.

See that?---Yeah.

And you gave evidence that that was via email, and that is at transcript at 789, and here you say, "I provided that feedback by way of email and said that ideally these are the dimensions."---Correct.

30

Now, is it, the emails you're referring to, back on page 11 it refers to some documents that you were shown, and that being annexure D. If I bring up annexure D, which is at page 24 of Mr Jones's statement, and perhaps if we go over to page 25, because that's where they start. So is this email, so if you need to go back to page 24, Mr Jones, we can start there because the email does start at the bottom of page 24. Sorry, if we just go back to the bottom of page 24. See that email there from David Jones dated Monday, 15 January, 2018?---Yes.

40

And if you go then over to page 25, at the top there you say, "With regards to the new 10A III scales," and then you say you've modified, "Have modified same with excellent results." And then on the third paragraph you say, "My recommendation is the tender for the SAW 10A III scales as there are no issues with current vehicle racks et cetera, provided they are fitted with the longer handles fitted to the 10C units and the retaining brackets for the positioning wheels are modified to suit our RMS requirements."---Yes.

Is this the email that you're referring to where you tell the relevant persons the dimensions that you're wanting for the scales?---No, it's not.

Is there, are you saying there is an email where you actually lay out the specific dimensions of the scales that you're wanting?---Not what I'm wanting, I was asked for the specification of the scales and I provided them.

Right. And you provided – what dimensions did you provide exactly, Mr Jones?---The dimensions of a 10A with a modified handle.

10

And you specified length, width, height?---Correct.

And did you specify the overall dimension of the scales or just the dimensions of the pad?---Can't recall until I see the email.

THE COMMISSIONER: And sorry, Mr Jones, when did you write this email?---I think it was in response to a request whether, went through my manager, Mr Jenkins, whether we required the long or the short handles and I sent the exact specifications back on the modified scale.

20

And was this before you sat on the particular Tender Panel?---Yes.

MR LONERGAN: Excuse me for a second.

THE COMMISSIONER: Hence the dimensions that you've been taken to and need request for tender where you've got to add on the – the handle length is different from the other - - -?---The weighing platform, yes.

30

Yes. That didn't take into account what you set out in your email?---I think it pretty much did, Commissioner, yes.

It did or didn't?---It did, yes.

But I thought you said that – sorry, the measurements that you sent in response to this email they included the longer handle?---Yes.

But as a separate item?---I, I can't recall if it was a separate, I think it was an overall length. I'm not sure.

40

MR LONERGAN: So, Mr Jones, you've been through your statement when you signed it?---Yes.

You went through all the emails that were attached to that statement that you were referred to?---All that were shown to me, yes.

And the email that you're referring to is not in that statement, is it?---I'm not sure.

Well, does he have a physical copy that he can be shown of the statement.

THE COMMISSIONER: Excuse me. Do you have a copy of your statement with you?---I have the statement but I don't have the emails, attachments.

Okay. Hold on for a sec. Do we have a physical copy of the statement?

MS WRIGHT: We don't, Commissioner.

10

THE COMMISSIONER: Mr Lonergan, have you got another area that you're going to?

MR LONERGAN: Yes, Commissioner.

THE COMMISSIONER: I'll just get the annexures printed out and then maybe if you can revisit this particular point.

MR LONERGAN: Yes, Commissioner.

20

THE COMMISSIONER: Sorry.

MR LONERGAN: At the time which area, sector were you in charge of, Mr Jones?---Sydney West.

And to the best of your recollection were the dimensions you provided 820 by 533 by 45 - - -?---No.

- - - for the racks?---No.

30

They were different to that, were they?---Were you calling for the rack dimension or were you calling for the scale dimension?

They're the rack dimensions. They're the rack dimensions that were in your area.---I think that's in the email I sent back. Yeah, I think that would be roughly what it was, yeah.

And what do you say that the dimensions were that you asked for in relation to the, or specified in relation to the scales?---From memory I think it was 780 by 520 by 34.

40

34 is a dimension that wouldn't be satisfied by any of the scales.---Height wise?

34 being, that's the, effectively the - - -?---Thickness, yeah.

Thickness, yes.---Yeah.

So 42 is not the dimension you specified?---I don't recall.

THE COMMISSIONER: Mr Lonergan, I've got my copy of the statement. There's some highlighting in it but not written. Do you have any difficulty

- - -

MR LONERGAN: No, I don't.

10 THE COMMISSIONER: Mr Jones, we'll just quickly give you a copy of your statement with the annexures.---Thank you.

If you have a quick look at the annexures.

MR LONERGAN: So what we're looking, or what you're looking for, Mr Jones, is the email that you're referring to whereby you provided dimensions to the relevant persons in RMS.

20 MS WRIGHT: Commissioner, this doesn't seem to be very time efficient. He's given evidence that he's sent an email with the dimensions. He hasn't given evidence that he has annexed it to his statement.

THE COMMISSIONER: I think he's finished. Have you been through it? ---Pardon?

Have you been through that?---I have.

Is the email there?---No, it's not.

30 The email's not there, Mr Lonergan, not attached to Mr Jones's statement. ---Yep.

MR LONERGAN: But there was an email to your evidence, Mr Jones. ---There were several emails in my evidence, yes.

No, so, to your evidence in relation to these provision of dimensions. ---Correct.

Commissioner, I call on that email to be produced.

40 MS WRIGHT: Well, the email is being sought, Commissioner.

MR JAMES: In reference to elderly ears, could I ask if Counsel Assisting could speak a little louder?

THE COMMISSIONER: Yes, Ms Wright.

MS WRIGHT: I will endeavour to do so, Commissioner.

THE COMMISSIONER: Thank you, Ms Wright.

MR LONERGAN: Now, Mr Jones, we'll move onto a different topic, slightly different. If I take you to volume 11, page 104. So the issue – this, that'll come up, but my questions will precede that email. So the issue that you had was that you would have preferred – so I'm talking about the 125 tender process here – you would have preferred to have had the opportunity to trial all of the scales before you chose the one that you wanted. Is that right?---That's correct.

10

And you then had the opportunity to trial the LP788s, is that right?---That's right.

And this email starting here is about your trialling of the LP788s. Do you see that?---(No Audible Reply)

THE COMMISSIONER: I think, to be fair, maybe if we go to 105, just to put it in context for Mr Jones.

20 MR LONERGAN: Yes.---That's correct.

So, you got some LP788s delivered.---Yes.

And you trialled them or tested them.---Briefly, yes.

How'd they go?---Initially, we had a problem with one of the scales that wouldn't zero back. Other than that, we only weighed three vehicles at the time. Wasn't a complete trial.

30 If we go to page 107, and over to page, sorry, 108. So, you'll see there halfway down the page, Mr Jones, your email to Mr Soliman regarding the Orchard Hills, and you start by saying, just to add to the negative issues with the LP788s, you switched on, well, as an exercise, I switched on all six scales on and timed the period it took for them to automatically shut down. Five of the six scales took over an hour. The sixth scale did not shut down, but then finally displayed a low message, a low battery message and then shut down. I mean, I'm not going to go through the whole email. You can read it. But the point is, Mr Jones, that there were a number of issues that you had with your testing or trialling or whatever it was of the LP788s, isn't  
40 that right?---To be fair, with that particular email I sent, I don't know whether the scales were fully charged when I received them. And again, I stress that the evaluation or trial or testing was only on three vehicles and not enough to assess completely whether they were suitable or not. At early days, on what I saw, they had problems, but we can work through it.

THE COMMISSIONER: So, you undertook a trial on how many days?  
---About two hours of one day, Commissioner.

Two hours of one day. And only three trucks were - - -?---Only put three trucks over it, put three trucks over the LP78s, and then we put them over the PAT scales to, to get a comparison of what they were weighing.

And the difficulty that you identify here, is this the same, and you made a comment that they, one wouldn't zero back or something.---That's correct, yeah.

So that reflects wouldn't zero back.---Yes.

10

If you were, when you were on the Tender Panel and you raised the issue that you hadn't had an opportunity to put various scales through a trial, ideally what would be involved in a trial?---In a trial it would, you know, we'd share them round with the other two areas in Sydney and have, you know, a number of inspectors look at them and, and write up a report and do a comparison with other scales, ideally to use them on different road services, completely flat and those that aren't so flat, to see if there's any differences. We would check different trucks to go on them, varying weights to see if there was any difficulty on getting the trucks up onto the scales because of their height, check that the weighing platform was okay, as far as capturing the weight of the, or the bulge of the tyres which tyres sit on the weighing platform, a number of issues, ease of getting them out of the vehicles, charging capabilities, proper assessment, yeah.

20

And you spoke about other inspectors having a look and a report being produced.---Yeah.

What, a written report or - - -?---Yeah.

30

Okay, thanks, Mr Lonergan.

MR LONERGAN: If we can go over to page 109, please. Now, you'll see here, Mr Jones, is another two emails, the first one down the bottom being from Mr Soliman to yourself.---Yeah.

And Mr Soliman came out to the side and observed and was involved in the testing of the LP788s. Is that right?---He observed and took some photos, correct.

40

And then he's sent you an email and given some feedback, hasn't he? ---He has.

And then you'll see up the top there you say to him in a reply email, "I concur with your observations, especially concern over long-term usage/performance regarding the LP788 scales."---Correct.

And one of your teams used it again today and you had more issues. ---No, it was the same day that I used them.

Right. And then you go on in the third paragraph there, that the PAT 10A III scales meet all the current requirements and have proven to be in the past most reliable and long-lasting.---My opinion, yeah.

So the point is this, Mr Jones, that you did your testing of the LP788s and they just were not up to standard, were they?---We didn't do full testing, that was the problem, we only looked at, put them under three trucks under a flat surface. It was inconclusive, the testing.

10

Is there any reason you stopped testing?---Yes, because they wanted the scales back.

Who? So AccuWeigh wanted the scales back?---Correct.

So they wouldn't let you keep them to do proper testing of them?---Correct.

20 THE COMMISSIONER: Who told you that or how did you know that?  
---AccuWeigh asked for them back again, yeah, I believe they had to go  
somewhere else, yeah, they promised them for somewhere else.

So AccuWeigh contacted you?---Yes.

What was the purpose of this, were you told the purpose of this?---I asked to trial these scales and I asked to trial their L600s to get an idea of what the scales were about, yeah.

MR LONERGAN: Did they deliver the LP600s to you?---No.

30 So you asked AccuWeigh for the LP788s to trial and test and you asked for the 600s to trial and test as well?---Correct.

And they gave you the LP788s for a couple of days and wanted them back?  
---Correct.

And they never gave you their 600s to test?---Correct.

40 And this is around the period 25 May, 2018?---That's when we did the 788s,  
yeah, I don't know when I actually made the inquiry, sometime prior to that  
obviously.

Was it before or after the tender started?---I can't recall that.

THE COMMISSIONER: Sorry, which tender?

MR LONERGAN: The tender for the 125.---Can't recall. I don't know what date that was.

So the point of all this is, Mr Jones, because AccuWeigh wouldn't give you the scales for a sufficient period of time, you just were not in a position to be able to evaluate properly whether they met the requirements of RMS?---I conducted the assessment on paper.

No, I'm talking - - -?---Not the fact that they couldn't give me scales to play with.

10 Sorry, I missed that last bit, and the fact - - -?---Not that they couldn't give me scales to play with, that wasn't part of the assessment, the assessment was conducted on a weighting process with certain specifications purely on paper, what specification or diagram or brochure was sent back in by the particular tenderers, not on the fact that I'd done, you know, physical trials.

20 No, I understand that in relation to the 125, but my question, sir, is in relation to the process after that where you actually got the scale or you got one of the two scales and you did your testing of them, and the point is that from that testing you couldn't have been satisfied that these scales stood up to the requirements of RMS.---And again I stress that three trucks only were weighed under certain conditions, it wasn't a complete trial, it was incomplete.

And the reason it was incomplete is because the AccuWeigh people wanted the scales back and wouldn't - - -?---That's the 788s and I still haven't looked at the 600s.

But you asked for them, didn't you?---I did.

30 And they never gave them to you?---No.

Now, moving on to another topic, Mr Jones, prior to, well, well prior to the tender process or request for quote for the 125 scales, you did procure four portable weigh scales from Novation. Do you recall that?---They purchased four 10Cs, correct.

And there were issues with those 10Cs, wasn't there?---There were.

40 And that in part related to bluetooth connectivity. Do you recall that? ---That was the main issue. We wanted those scales as dynamic scales and we couldn't get the software working, correct.

And once it became obvious that there were issues that were going to be unresolved, Novation went through the process of taking back those four dynamic scales, the 10C IIIs, and procured for your benefit or for RMS's benefit six of the 10As. Is that right?---My understanding was that there was going to be a refund for the 10Cs and I spoke to my manager and said, you know, "Can we swap them for 10As, rather than just get the money back, because we're desperately in need of scales."

THE COMMISSIONER: And that happened?---Yeah.

And how many 10 - - -?---We got, we got, we got six 10As.

Six. So for the four 10Cs you got six 10As.---Correct.

10 MR LONERGAN: And in your statement, Mr Jones, if we bring up paragraph 26, so you estimate that you met Mr Thammiah of Novation about six times.---Correct.

But you had a lot of email conversations and the like with Mr Thammiah in relation to the issues that RMS was having around the 10C III scales, being the dynamic scales?---That's correct.

And Mr Thammiah was quite responsive to your concerns in trying to fix the issues that you were having?---Certainly.

20 And you provided feedback to Mr Thammiah to that effect?---What, that he was - - -

That he was doing his best to help you and was dealing with the issues that the RMS were encountering with the - - -?---I'd say he was trying to get the things going, yeah.

And so he was attending the sites and - - -?---He did on occasion, yes.

30 And he was working with Greg Anderson who was one of your employees? ---Yes.

And he was doing that quite frequently, wasn't he, to your understanding? ---Oh, about six occasions I think I saw him or four or five, but I can't recall, yeah.

THE COMMISSIONER: You saw him onsite?---Yes.

40 MR LONERGAN: But you wouldn't expect to see him onsite every time that he came because he was working directly with Mr Anderson. Isn't that right?---I would normally see him onsite because, yeah, I think I was there on every occasion that he came.

You think or you know, sir?---I said I think.

And who is Troy?---Try is another one of my employees that was involved in the evaluation or trying to get the 10Cs going.

And Mr Thammiah was working with Troy about trying to get that set up as well, wasn't he?---With Troy and Greg, yes.

And Mr Thammiah was able to get the equipment or the technology set up on at least one PC for you to do your testing of the 10C3s?---He set it up on one of our PCs, yes.

And that was with Troy?---I don't recall whose equipment it was but it may well be, yeah.

10 And you sent an email to Mr Thammiah saying thank you, Stephen, for finally able to evaluate the new equipment, or words to that effect?---May have done. I don't recall.

And on other occasions Mr Thammiah had offered to come out to the site where you were having bluetooth issues and resolve them for you?---On my request, yes.

20 And you responded on one occasion at least to Mr Thammiah saying words to the effect of fantastic offer, see you tomorrow?---Don't recall that. That's possible.

THE COMMISSIONER: And was that only on the 10Cs?---Correct, Commissioner.

So the point is, Mr Jones, is that Novation provided the 10C III dynamic scales to you and there were issues with them that were not able to be resolved because of manufacturing concerns, or concerns regarding the manufacturer IRD?---It wasn't the manufacturer. It was the software they provided or what was provided for me didn't work.

30 Yes, by - - ?---The scales themselves were fine. It was the operation dynamically.

Yes, and there was problems concerning the bluetooth connectivity and the requirement for a particular unlock key I guess if you use the terminology? You're looking lost. Is that not the right term you would use?---Something along those lines, yeah, plus one of them failed during its, the physical trial as well.

40 The 10C III?---Correct.

And that was the water ingress into one of them?---Correct.

So the issue was the software compatibility onto RMS's systems didn't allow for the dynamic scales to be properly used. That's the case?---It wasn't particularly on the RMS system. Stephen couldn't get it going at all on his own system.

Well, Mr Thammiah sent you an email on 1 September, 2017 saying, “In regard to the bluetooth software I can’t replicate the issues as the software was plug and play. Easy to install on my PCs.

MS WRIGHT: Well, Commissioner, there is a guideline about producing documents and - - -

10 THE COMMISSIONER: I'm think you're trying to get around the guidelines, Mr Loneragan, but also I just question where are we going with this?

MR LONERGAN: Well, Commissioner, we're going quickly to the point that Novation Engineering and Mr Thammiah were actively engaged in the process of supporting and assisting RMS in the implementation of the dynamic source scales that were purchased by RMS. That's it.

20 THE COMMISSIONER: Well, you've got that they supplied them. There were problems with the software, the bluetooth. Mr Thammiah came out on six occasions. Worked with Greg and Troy and you've got Mr Jones agreeing that he's sent an email to Mr Thammiah saying thank you, good work. Do we have to take it any further?

MR LONERGAN: Well, the only point there that I would not necessarily agree with the Commission on is the six times. Our submission will be that that is more, there was more than six times but Mr Jones only saw Mr Thammiah onsite on six occasions.

THE COMMISSIONER: All right. So is that it?

30 MR LONERGAN: Yes, that's as far as we're going.

THE COMMISSIONER: I think we've dealt with it Mr Loneragan.

MR LONERGAN: Please the Commission. Now, in relation to the purchase of spare parts, Mr Jones, if I understand your evidence from last week is that the old scales, well, the pre-existing scales before this tender process started were about 20 years old, some even more so, is that right? ---That's correct.

40 And they were out of warranty to RMS or yourself didn't feel like you had to go back and purchase spare parts from the supplier?

THE COMMISSIONER: Was that your view, Mr Jones?---No.

MR LONERGAN: So your view is that you did have to purchase the parts from the supplier?---Certain parts would have to come from the supplier because they couldn't be built locally.

So it's not a question of whether you needed to purchase the spare parts from the supplier in order to satisfy certification of the scales, it was just a question to your mind of who could make them?---No, that's not correct. There's certain things that don't affect the weight cells or the load cells and have nothing to do with the certification and there's other parts that do affect the certification.

And who made that determination, Mr Jones?---Someone that has the skills.

10 Well, so is there, I mean, is there anywhere or is this purely your own evaluation of what is critical and what's not?---If it's a handle rubber, that won't affect the certification. If it's the bottom plates with the pivots, the balls and cups, that does not affect the certification and that, in the main part, is where they were failing.

But is that your determination or is that someone else saying that, is there - - -?---There's no determination because it has nothing to do with how they, how they weigh. It's a fitment to that particular style of scale.

20 THE COMMISSIONER: Mr Jones, one of your inspectors comes in and says there's a problem with the scales, what was the procedure? Did you and inspector look at it and try and work out what was wrong?---  
Commissioner, generally the problems we were experiencing was because of the age and the trucks (not transcribable). They were disassembling or breaking apart, which they're designed to do, they're stressed out or they break a handle rubber. Those things don't affect the actual certificate or the, or the load cells on the scale. If the repair, they could be repaired. If it was something to do with the head where the readout was, now I couldn't do  
30 know, a genuine part to replace it.

And you and the inspector would make that determination?---I'd make the determination, yes.

And if it was something that affected the weight or the certification, would it then have to be sent to - - -?---The service person, yeah.

Who RMS nominated or had the contractual arrangement with?---That's correct, Commissioner.

40 MR LONERGAN: But ELWC were, prior to the changeover to AccuWeigh, were the long-term company that you were going to for these repairs and certification?---That's correct.

But they weren't using genuine IRD parts either, were they?---They were using some that weren't genuine.

And you knew that they were using parts that were not genuine IRD parts?

---I knew that they were using some parts that weren't genuine, correct.

Because they were making - - -

THE COMMISSIONER: And what parts were they?---The, the block rubbers for the handles, he was using something like a compressed coil which PATs now fit, so he was before the game. He had that right and he would, if we require them, supply leads that I don't think were genuine and on occasion I bought a charger for the leads that wasn't genuine.

10

Do they affect the weight assessment or the - - -?---No, Commissioner, I they certainly did not.

Or the certification?---No, they did not, Commissioner.

MR LONERGAN: All right, and how do you know that, Mr Jones? How do you know that?---What - - -

THE COMMISSIONER: Sorry.---What particular part of that do you want to know that I don't know?

20

MR LONERGAN: Well, what - - -

THE COMMISSIONER: What, they didn't affect the weight? Or that - - -

MR LONERGAN: Yes.

THE COMMISSIONER: I think because you were a mechanic.---How would a handle rubber affect the load cell? I ask you.

30

MR LONERGAN: No, Mr Jones - - -

THE COMMISSIONER: Sorry - - -

MR LONERGAN: - - - I'm asking you the questions.---Well, I'm, I'm giving the answer, and I'm, I'm putting to you that there are certain parts on that particular style of scale that have nothing to do with the load cells. And they in general were the parts we replaced. It was something more than that. It went back to the service provider and I believe he put genuine parts in it.

40

THE COMMISSIONER: And Mr Jones - - -?---Commissioner.

- - - your knowledge of that is, I think you gave evidence you were a mechanic, that's your trade?---Correct. Correct.

You've been working with these scales for as long as they've been used by RMS?---I've been working on those scale, oh, I, I first come across those

scales in '96, but practically in pulling apart was about 2010 I started back with, in that particular field and working with those scales, correct.

So kind of at the coalface expertise as well dealing with them.---Yes, Commissioner.

MR LONERGAN: And so does the certification of the scales only deal with the load cells, or does it deal with the whole scale?---I believe it does with the, the whole scale, yeah.

10

Right. So not just the load cells?---Well, that's the main part, that's what you're actually doing the calibration on.

And sorry, and you just gave an answer to the Commissioner that you believe that ELWC were using genuine parts. I thought your evidence before that was that you knew that they weren't only using genuine parts.

THE COMMISSIONER: Some. Some.

20 MS WRIGHT: No. I object.

THE COMMISSIONER: Some were not, some not genuine parts. He didn't say all – sorry. My note in Mr Jones's evidence about ELWC is that some of their, the parts they used were not genuine, and he gave two examples.

MR LONERGAN: Now, in your statement, Mr Jones, you gave evidence that towards the end, ELWC were – I'm just looking for the exact wording, just hold on for a sec, because I just want to quote it to you. Yes, so at  
30 paragraph 21, do you want to read that, Mr Jones? And it's just the, it's the bit after you say, "He wasn't, he just wasn't doing the job. He'd put a certification sticker on the scales and write out a certificate, but he wouldn't have touched them." How were you aware that he was not touching the scales and putting a certificate on them?---Because when he returned the scales to me, I'd disassemble them to see if they'd been serviced.

Right, but the scales had been certified, had they not?---Correct.

40 And you disassembling them would effectively mean that they were no longer certified.---Incorrect. I'm assembling parts that have nothing to do with the weight cells.

THE COMMISSIONER: And when you disassembled them, it would be evident that they hadn't been serviced?---Correct, Commissioner. They're supposed to be pulled apart, this is the bottom plates with the pivot points on them pulled apart, checked for wear in the components, replace any components necessary, regreased, fitted with a new circlip and reassembled. That was the part that I was involved with.

MR LONERGAN: So none of these scales that were not touched but provided with a certification sticker went onto the road?---Beg your pardon?

None of the scales that were certified but not actually touched went out into the field for use.---No, I, any that weren't serviced, I re-serviced and they went out on the road.

10 But then the certification sticker that goes on that scale is invalid, is it not?

THE COMMISSIONER: Mr Lonergan, what's the relevance of this?

MR LONERGAN: The relevance of this, Commissioner, is - - -

20 THE COMMISSIONER: You've got the evidence that Mr Jones was not happy with ELWC. There is evidence that RMS and the contract between RMS and ELWC was terminated, and then RMS entered into for at least maintenance. I think we've had evidence of AccuWeigh, WeighPack and then AccuWeigh again. I just don't know where this is going to assist me at the end of the day.

MR LONERGAN: Well, it goes to ELWC and the basis upon which they were terminated, which then has effect on the subsequent position of Novation coming in as the contractor or the distributor of PAT scales in New South Wales.

30 THE COMMISSIONER: All right. Well, you've got Mr Jones setting out here in his opinion Mr Doherty wasn't doing his job, put a certification sticker on the scales, write out a certificate, wouldn't have touched them. Nine months behind supplying the calibration certificates. I thought if that's one of the things you eventually want to make a submission about, I thought that would be really good evidence for you.

MR LONERGAN: Well, it is very good evidence, Commissioner, yes.

THE COMMISSIONER: So why are we cross-examining Mr Jones about it?

40 MR LONERGAN: Well, we were going shortly into that and then moving on.

THE COMMISSIONER: Okay, let's get into it.

MR LONERGAN: So to your understanding, the reason why ELWC's contract was terminated with RMS is because they weren't doing the job? ---Not correct, no.

What was the basis, then?

THE COMMISSIONER: Did you know?---No, I don't know why it was terminated.

But do you accept that they weren't doing their job properly?---They weren't doing the servicing of the scales to my satisfaction, correct.

10 Yes. And they weren't providing genuine parts on all occasions for the repair of the scales, were they?---Well, the critical areas that needed genuine parts I believe got genuine parts. Those that didn't matter, the local stuff did quite well. In fact, better than the lot the original was.

And that was ELWC making that determination of what to put in as being genuine parts and what it could locally secure or procure?---That was his choice, yeah.

20 Excuse me for a second. Just moving on to another topic, Mr Jones. You said that RMS at the time, in 2016, were doing a blitz on construction trucks. Is that (not transcribable)?---We started that particular program in 2016. More focused on construction industry vehicles, yes.

And that was taking quite a toll on the scales that you were using for the weighing of them, wasn't it?---In my particular area it was, yes.

And it required a lot more maintenance of those scales to be occurring. ---Correct.

30 And your evidence before was that there were 550 scales statewide, and you already had 24 scales. Now, the 24 scales that you procured, were they from ELWC?---I don't know where they came from.

And then there was the six that you swapped for the dynamic scales. ---Correct.

So you had 30 and then you procured, well, 125 were procured as part of this.---Yes.

40 So then to take you back to the 550 scales, you needed another 395 scales. Do you accept, I mean, you can accept my maths is accurate, but that's the number of scales you needed to take you back to the 550 scales.---We didn't need 550 scales. I think I gave that evidence.

Yes. So - - -?---That was a number purely on replacing one for one.

Yes. So replacing one for one, you needed another 395 scales, but - - -? ---Well, you didn't need to replace one for one but, you know, we needed more scales.

THE COMMISSIONER: Sorry, my copy of your maths was 550 minus 124 got you to 436, then you deducted 131, which consisted of 125 and six, and that got you to 305, and then you also made the comment that Parkes had implemented a weighbridge.---They put a weighbridge in and sent their scales back, so they didn't need their part of the 550 replaced, and there were other areas within the state that didn't need new scales.

MR LONERGAN: Commissioner, the mass that you just came up with, or sorry - - -

10

THE COMMISSIONER: I didn't come up with.

MR LONERGAN: Sorry, my apologies, wrong use of term, but just so I'm clear for the record, there were 24 scales that were procured that you had, there were six that were the replacement for the 10C scales, there were 125 that were part of the initial tender process.---Correct.

Which then leaves 295 scales.

20 THE COMMISSIONER: I think it's the first figure. I minused 124, were they, I had 550 minus 124.---No, should have been 24, 125 and six.

MR LONERGAN: Yes.

THE COMMISSIONER: Well, then I think my maths might be wrong.

MR LONERGAN: Mmm.

MS WRIGHT: I'm sorry, just before - - -

30

THE COMMISSIONER: Yes.

MS WRIGHT: There's just one matter, not to do with the figures, but my friend has said twice now the 24 that you procured, but I believe Mr Jones' evidence last week was that he was just given 24, they just turned up, he didn't procure them as such.

THE COMMISSIONER: Did you know that there were other scales procured as part of the 24 that you got?---No, Commissioner.

40

You don't know?---No. At that stage, you know, 24 arrived.

Right. And you've got no idea whether other sections - - -?---Whether were other purchased or, no.

All right. So your 24 is what you received.---Yeah, they were received at Central Sydney, we split them. I got 12 at Sydney West and 12 were retained at Central Sydney.

MR LONERGAN: So the remaining scales were to take it back to 550 and your evidence is that you didn't necessarily think that they needed to all be replaced.---That's correct.

10 But no objection was raised by you around the need or otherwise for them to all be replaced?---There certainly was, yeah, and in fact I sent out something after the event, or I'd spoken about it during the time, I sent something after the event and canvassed who needed what and we're currently buying 280 scales.

THE COMMISSIONER: Sorry, when you say sent out after the event - - -? ---Yeah, after the, after the tender process went through and they were talking about getting another 425 I said, "We don't need 425." I spoke about it on a number of occasions and then I think from memory my manager said, "Well, DJ, you'd better find out," which I did, and we're currently buying 278 or 280 scales now, not 425.

20 Sorry, how many are you buying now?---278.

And your recollection is you sent an email saying in substance, we don't need 425?---Yeah, and I spoke to my manager about it, yeah.

Can you recall who you sent the email to?---Ah, no, I can't, Commissioner, I send them out to everyone.

Would have it included your manager?---Certainly would.

30 MR LONERGAN: I have no further questions, Commissioner.

THE COMMISSIONER: Can I just ask you, Mr Lonergan just asked you, he spoke about 2016 there was a blitz on construction industry vehicles and you agreed they were causing a lot of grief for the scales that your people were using, and you agreed that a lot of maintenance was occurring. The maintenance that was occurring, who was doing the maintenance?---Me.

40 So the lot of maintenance wasn't being shipped off to, whether it was AccuWeigh or WeighPack or whoever it was at that particular point? ---Only if there was something that I couldn't do, if there was machining being required, but I did the minor machining, I changed the, the, the specifically for the circlips which proved to be successful. No, if it was a minor thing I did it myself, and as I said in evidence I think, I trained up others from the other two areas to take over their particular scales, yes.

All right. Now, Mr Boatswain, did you have any questions?

MR BOATSWAIN: Commissioner, I may. Can I indicate it that way, in that prior to coming on to this morning I had words with your instructing

solicitor where I raised an email with her that had come to my attention over the weekend. We had anticipated that the questions would go to morning tea so we were going to discuss it then. Depending on the outcome of that short inquiry I may have some short questions.

THE COMMISSIONER: All right, Mr Boatswain. Now, before I turn to Ms Hogan-Doran – I'm sorry, I'm having problems seeing everybody, I've dealt with everybody else? Ms Hogan-Doran, any questions?

10 MS HOGAN-DORAN: No, Commissioner.

THE COMMISSIONER: All right. We might take an early morning tea break. I just wanted to ask, I asked about parts, can you just hold on for a – to revisit the racks in the inspectors' vehicles.---Yes, Commissioner.

Would you agree with the description of them being, "Highly customised and hence high cost housings?"---Absolutely not.

20 Why not?---It's just a framework, it's just a simple frame with some shelves on it where you slide the scales in and you drop a pin down to stop them moving. It's, it's not a safety feature, they're bolted to the, to the vehicle bodies, it's just purely, like I said, a drawer that you throw something in.

All right. And just for everybody, that's from volume 11, page 299, under 2, Background. That's dealing not with your tender, with another tender. ---Thank you, Commissioner.

30 Mr Jones, I'm very keen to finish your evidence but I will allow Mr Boatswain just to have a quick word with Counsel Assisting, so we're going to take the morning tea adjournment and then I'm very hopeful that there might be a couple more questions and then I will excuse you.---Thanks, Commissioner.

All right. We'll take the morning tea adjournment and resume at 20 past 11.00.

**SHORT ADJOURNMENT**

**[11.02am]**

THE COMMISSIONER: Mr Boatswain.

10 MR BOATSWAIN: Thank you, Commissioner. Following some fruitful discussion with Counsel Assisting the issue has been resolved. I understand that Counsel Assisting will address the issue in re-examination so that removes the need for questions.

THE COMMISSIONER: All right. Thank you.

MR BOATSWAIN Thank you for your indulgence.

THE COMMISSIONER: That's okay. Thanks, Mr Boatswain. Ms Wright.

20 MS WRIGHT: Yes. Could we have paragraph 55 of Mr Jones's statement on the screen. Mr Jones, you were asked some questions about paragraph 55 of your statement and you see there you've said, "Price-wise the difference between the PAT scale and the Intercomp was \$15,000 against \$9,000. The Intercomps are a little bit heavier but they do the job. The racks are only \$1,200." When you were referring to the difference between the PAT scale and the Intercomp there in paragraph 55, you were comparing the PAT scale with the Intercomp 788?---No, no, with the 600s.

Could I show you volume 10 at page 61.

30 THE COMMISSIONER: Sorry, which volume again?

MS WRIGHT: Volume 10, page 61.

THE COMMISSIONER: Thank you.

MS WRIGHT: Do you see at the bottom of the table there's a price per unit for each of the LP600 and the LP788?---I do.

40 And the LP600 is 6,220 excluding GST and the LP788 is 9,080 excluding GST?---Yes.

So going back to paragraph 55 where you've compared the price of 15,000 against 9,000, do you agree that the 9,000 is in reference to the LP788?---It appears so, yes.

And so in paragraph 55 you are comparing the PAT with the LP788. Do you agree?---Price-wise, yes.

And you had never used either the LP600 or the LP788 at the time of the tender process?---At that stage, no.

Is it fair to say that your main concern about the tender requirement was the restrictive size dimensions?---Correct.

And at page 171 when you sent an email to Mr Singh on 6 March, 2018 confirming your agreement to sign the tender evaluation report, you've said in paragraph 2 that the RFQ was specific in relation to scale dimensions?

10 ---Yes, I did.

Because that was your main concern about the requirements in the RFQ?  
---One of the concerns, yes.

And that pertained to the LP788, which was effectively excluded from the tender because it was too big for the restrictive size requirements?---No, the problem, apart from that it was the fact that it was uncertified. Hadn't been certified.

20 But I'm asking your main concern was the size requirement because you have given evidence that you had provided dimensions but you didn't intend those dimensions to be used as the exact dimensions in the RFQ?---Correct.

And was it not your main concern that the size requirements effectively excluded the other scales?---That was one of my concerns, yes.

But it was your main concern, wasn't it?---I would think so, yes.

And it excluded the LP788?---Yes.

30

But you've given evidence that you accept it didn't actually exclude the LP600 when you look at the specific size of the LP600?---Correct.

Was the LP600 in your mind ever really in the running as an option?  
---Comparison-wise and when we did the assessment it, it didn't meet all the specifications or all the requirements.

But you hadn't evaluated it?---Physically?

40 Mmm.---No.

Now, you were asked the question, "You would have preferred to trial all scales?" And you answered, "Yes."---That's correct.

Your preference to trial all scales was not limited to the AccuWeigh scales and the IRD scales. Is that the case?---No, anyone that was able to supply a scale.

You were also concerned to be offered an opportunity to evaluate other types of scales on the market?---Correct.

But you didn't know of any other options, because none had been presented to you, is that the case?---That's the case.

And you were concerned, were you not, that this tender appeared to be foreclosing the opportunity to evaluate any other scales?---Certainly.

10 Now, you were asked about an email where you've, which you said, setting out the exact dimensions of the PAT 10A scale. Remember, you were asking questions about sending an email prior to the RFQ, setting out the dimensions of the scale?---In modified form, yes.

And your evidence last week was that you sent that email to Mr Soliman? ---I think that's correct, yes.

20 And you said in your evidence last week that you gave him both the overall dimensions including the handle, and the dimensions without the handle, that is, the platform area.---Correct.

Is that your best recollection of what the content of the email was?---Yes.

And do you recall how long before the RFQ process commenced that you sent that email to Mr Soliman?---I can't recall, no.

30 Do you recall whether he had specifically asked you for those dimensions? ---I can't recall. I know he, he, he wanted to know about the handles, whether we wanted the shorter or longer handles, but I can't honestly tell you whether he asked specifically to tell him what the dimensions were. I may have offered that.

Now, you gave some evidence about the time when you made an enquiry of IRD and Mr Soliman approached you and said that any request to IRD should go through him. Do you recall that evidence?---He sent me an email, yep.

40 He sent you an email. And in one of your answers, you said that that caught you off guard, and you were asked why was that, and you said, "You know, the fact that I was just making general enquiries and you know, they wanted to exclude me, you know, you know, shut me down, sort of thing." What did you mean by that?---Simple enquiries, I, I couldn't see why I couldn't still converse with, with, with Canada, with IRD about general enquiries about what their products were and what they had on offer. You know? I, I don't, I don't have the money, I don't have the, the willpower to buy things, but I can at least make some sort of enquiries about what's on the market for future reference. That's why I was doing it.

When you said, "They wanted to exclude me," who was "they"?---I would think Samer and who, whoever else, you know, why, why was I shut out of the equation? I just couldn't understand.

Okay, but the only person that had contacted or spoken to you about your contact with IRD was Samer Soliman?---Correct.

10 IRD hadn't said anything to you about, don't contact us?---No, they, they basically referred back and said that there was a, a new distributor in Australia, Novation, and I should contact them or be in contact with them.

You were asked a question about your contact with Mr Thammiah in relation to the dynamic scales.---Yes.

And you were asked to confirm whether you sent an email thanking Stephen for evaluating the equipment, and your answer was, "I may have."---Yes.

20 Would you have said, in your email, "evaluating the equipment"?---Don't recall what was in there.

To your knowledge, had he done any evaluation of equipment?

THE COMMISSIONER: Sorry, Mr Thammiah?

MS WRIGHT: Mr Thammiah.

30 THE COMMISSIONER: When he attended the site, do you know if he'd done any evaluation of the equipment?---No, he was in, involved with the bluetooth side but.

And that was just a software issue, I think you said, trying to get it onto the RMS system or indeed, his laptop.---So we could operate them dynamically, yes, bluetooth, yes.

MS WRIGHT: Those are my questions, Commissioner.

40 THE COMMISSIONER: Mr Jones, I have a request of you. You've referred to two emails today, one was the email and you spoke of it immediately before the morning tea adjournment, and my rough notes are it was about the number of scales necessary around leading up to the 425 being replaced, and you said, "Sent out after the event an email that we didn't need the 425."---Correct.

That's email number 1. The second email was the email that you referred to which Ms Wright just asked you about where you provided some details about the specifications or the length of the baseplate with or without the handle to Mr Soliman.---Yes, Commissioner.

My request is, could you, if you searched your email records do you think there's a possibility that you may have retained a copy of those two emails? ---I think I retained a copy of the one about the specs, I'm not sure if I kept one about the canvassing whether we needed to 425.

All right. Could I ask you, my request is can you go back and check whether you've got copies of those and if you do have copies, if you could provide them to Ms Hook, the solicitor from the Commission?---Certainly.

10 Now, you're going to hate the next bit. Ms Wright, I really wanted to excuse Mr Jones from giving evidence. Is that still appropriate?

MS WRIGHT: Perhaps not in the circumstances, if there's to be further documentation. Unlikely that he would be needed again, but if he could be formally excused after he'd completed that process.

20 THE COMMISSIONER: Yes. Mr Jones, if you could do that request and see if you've got those emails, forward them to Ms Hook, we will then have a look at them. I agree with Ms Wright's assessment, I really can't see that you would be required again, but just for abundant caution I'm not going to excuse you formally. What will happen is, after you provide the emails, if I make a decision to excuse you I will do that in chambers and Ms Hook will inform you of that.---Thank you, Commissioner.

Right. Thank you very much for coming to give your evidence.

**THE WITNESS WITHDREW**

**[11.42am]**

30 MS WRIGHT: I recall Jai Singh.

THE COMMISSIONER: Right. Mr O'Brien, where's Mr Singh, is he outside?

MR O'BRIEN: Yes, he's just outside, Your Honour, Commissioner. Can I move places up?

40 THE COMMISSIONER: Of course, Mr O'Brien, yes, please do.

MR O'BRIEN: I might head to the front of the room if I may.

THE COMMISSIONER: Good morning, Mr Singh.

MR SINGH: G'day, Commissioner.

THE COMMISSIONER: We'll just let Mr O'Brien move forward. While he's doing that, Ms Wright, my recollection is that Mr Young was in the

middle of his cross-examination of Mr Singh. Was that where we were up to?

MS WRIGHT: Yes, yes, that's so, Commissioner.

THE COMMISSIONER: But Mr O'Brien raised the issue, which I think initially I wasn't persuaded by but then I was, that we should now complete Mr Singh's evidence in one go.

10 MS WRIGHT: Yes.

THE COMMISSIONER: So is the proposal that you'll now ask him some questions?

MS WRIGHT: Yes, Commissioner. I have quite a significant number of questions to ask Mr Singh, dealing with some matters relating to the evidence he's already given, as well as the topic of spare parts as I foreshadowed when he completed the first part of his evidence, and then I then propose for, in the interests of efficiency, that the parties then cross-examine on all topics.

20

THE COMMISSIONER: Yes. All right. And I suppose the only thing with Mr Young is, if you've already covered topics and you're happy with that if we don't revisit them.

MR YOUNG: I'm more than happy with that.

THE COMMISSIONER: We'll see how the evidence goes today.

30 MR YOUNG: Thank you.

THE COMMISSIONER: All right. Mr Singh and was it an affirmation?

MR SINGH: Yes.

THE COMMISSIONER: Right.

THE COMMISSIONER: Thanks, Mr Singh. Ms Wright.

MS WRIGHT: I'll wait for the witness to be - - -?

THE WITNESS: Sorry.

10 THE COMMISSIONER: No, no.

MS WRIGHT: Mr Singh, no, no, please take your time, Mr Singh.

THE COMMISSIONER: You're allowed to have a glass of water.

THE WITNESS: Yeah.

MS WRIGHT: I didn't want to ask you a question while you were drinking.  
You recall you gave evidence about the Picton Road trial?---Yes.

20

And that was the first trial you attended with Ali Hamidi?---Yes.

That related to a thermal camera?---Yes.

The provider of the camera was the company known as IMC?---That's correct.

If we could have volume 3, page 104. IMC sent you a report from the trial.  
Do you recall that?---Yes.

30

And that was on 23 February, 2017, that you received their report?---Yes.

And do you see the email above from Ali Hamidi with the report being sent  
to Mr Soliman?---Yes.

You were aware that IMC was engaged to propose a thermal camera  
solution for RMS for screening heavy vehicle brakes?---That's correct.

40 And the manufacturer was FLIR, was it, F-L-I-R?---Yeah, FLIR, FLIR, yep.

And to your understanding IMC worked with FLIR to put together  
solutions?---That's correct.

And you saw IMC's report when it was sent to you on 23 February, 2017,  
about the trial?---Yes, I did give it a look, yes.

Or you read it, didn't you?---I remember it was a pretty extensive report, it had formulas and everything in there, so things that I didn't understand myself, but yeah, I did give it a read through.

And you worked on that project in the initial phase of it?---That's correct.

In fact you were the contact for Tim Snell of IMC to arrange the trial?  
---I believe I would have been in contact with him to schedule the trial.

10 Could we have annexure A of a statement dated 31 May, 2019 on the screen. It's very small print, but can you see that, Mr Singh?---Yes.

It's larger print in front of you.---It's still small, but - - -

You can read it?---I can make it out, yes.

You see - - -

20 MS HOGAN-DORAN: Commissioner, I'm sorry, I can't actually read that and I do have my new glasses on, so is it possible that could be zoomed in?

THE COMMISSIONER: Right. Can we do that?

MS WRIGHT: I don't know.

THE COMMISSIONER: Ah, that looked good.

MS HOGAN-DORAN: Ask and ye shall receive.

30 MS WRIGHT: You see you were in contact with Mr Snell in July of 2016 about its technology?---Yes.

And then if we could go over the page to page, over two pages. You see on 18 July, 2016 at 3.11pm - - -?---Yes.

- - - you've said to Mr Snell in an email, "We're interested in trialling a single camera setup embedded into the surface of the screening lane at one of our checking stations."---Yes.

40 "Is it possible for us to receive a demo camera to trial for a couple of months?"---Yes.

And then Mr Snell has responded in the email below. If we could scroll down. "We do offer loan rental cameras." And he suggested in the first bullet point a FLIR A615 with a 45 lens?---Yes.

And then if we could go to the next page. On 20 July you've thanked him and said you'd like to organise a meeting so we can go through our

requirements and see some demos, videos of the solution if possible. And then keep scrolling down. He says he's located in Newcastle and on 27 July you've said you're pretty easy regarding location. "Do you have any equipment videos we can demo? If so, then it may be easier if we visit you in Newcastle." Do you recall these emails?---Yeah, they're, yes, I do.

Then going down further in time on 22 August, 2016 you asked to confirm his address. Do you see that?---Yes.

10 And then the bottom of this page on 23 August, 2016 you confirm there it will be three of us attending?---Yes.

And you are writing to the IMC staff there?---Yes.

Then over the page on 24 August, 2016 you write to – sorry, Mr Snell writes to you, "Thanks for your time today." You have met with Mr Snell on 24 August, 2016?---I guess that was the date, yes.

20 Well, it is, isn't it, clear that it is? You said on the 23<sup>rd</sup>, "There will be three of us attending." And at the top of that page, if we could just scroll up slightly, you gave him a dietary request for yourself?---Yeah.

"I don't eat beef or pork."---Yeah.

And then he emails on the 24<sup>th</sup>, "Thanks for your time today."---Okay. Yes.

And then he sets out some options for you in the email and he says, "The A615 is potentially the best option." Do you see that there in the email of 24 August.---Yes.

30 And then scrolling down on 1 September you write back to him, "Hi, Tim. Thanks for that. It was great meeting you and Joe. I'd like to get a proposal with costings from your team for the following. Rental of the A615 thermal camera, rental cost for one week, two weeks, three weeks and four weeks. Enclosure for thermal camera. Support from your team for the duration of the trial, et cetera." So at this stage – do you see that, Mr Singh?---Yes.

At this stage you were arranging to have a trial of the IMC thermal camera technology?---Yes.

40 And you say at the bottom, "We can supply a laptop. However, if any specialised software is required then it may be worthwhile bringing your own."---Yes.

And then if we could go over the page and down to the bottom of the page. There's the start of an email there. You see the very last line Tim Snell and then going over the page he's written to you and one of the things he's

asked is, "What is the maximum height clearance for the trial camera housing?"---Yes.

And he's attached a few models for camera housings. He says, "A few models for camera housings. Please see attached." And then coming down the page you've thanked him and said, "The housing model looks great." And then over the page on 22 September, 2016 you've thanked him and said, "Let's have a teleconference next week to confirm the requirements of the trial." And he sent a preliminary proposal for the trial. Do you recall that?---I believe he may have, yes. Yeah, I don't recall.

Sorry, Commissioner, if I could just have a moment.

THE COMMISSIONER: That's okay.

MS WRIGHT: If we could have annexure C, and if we could go to page 3 of annexure C, and down the bottom of that page, you see there's an email of 10 October, 2016, "Hi Samer, as discussed, I've drafted a proposal and systems summary that covers both the trial and the fixed placement installation." You see that?---Yes.

And he says, "There's proprietary information and knowledge within this document. Can I request that you please do not pass on the document or information contained within it to third parties outside of the RMS organisation?"---Yes.

And you received that email, didn't you?---I can't see my name anywhere.

I'm not asking you if you see your name.---Oh.

Did you receive that email?---I can't recall.

Well, you'd been involved in all of the previous emails setting up the trial and meeting with Mr Snell.---Yep.

You would have been copied on this email, wouldn't you?

MR O'BRIEN: I object to that, Commissioner. Each of those emails, as far as I can see, as they've been taken to this witness, actually have the witness's name appearing on them as having been received or copied into the document, and indeed, Mr Samer, it appears Mr Samer and Soliman was copied into each of them as well. If that isn't so on the document, then attesting the witness's memory as to if it was received or not is simply unfair given the period of time that's elapsed since then and now.

THE COMMISSIONER: Mr O'Brien, I think Ms Wright has noted that from this record it doesn't appear, sorry, Mr Singh's name doesn't appear. I will allow her to ask Mr Singh whether he can recall receiving it. I take

your point about the length of time. He might remember it, he might not, or whatever. But I'll at least allow the question

MR O'BRIEN: If I may, Commissioner, that question has been answered. To put a positive proposition that he received it, as has been done in the last question prior to my objection, it really requires some substantive footing for that to be put. Are they, is Counsel Assisting instructed as much? Is there a document saying as much? In which case, it should be put to the witness. Not, the testing again by the propositions put that, you've received  
10 all this stuff before, therefore you received this, when it doesn't appear patent from the document itself.

THE COMMISSIONER: But I think Ms Wright has taken Mr Singh to those factors because it seemed as if, from the correspondence, it seems his project in a way. He's the one communicating with Tim Snell.

MR O'BRIEN: Well, I don't want my client unfairly – and that's my concern here – put in position where he has to agree to some proposition because it might be otherwise logical, because he seemed to be, you know,  
20 gratuitously concurring with what's been put to him. That is my concern. If there's some document that suggests he's received it, given the wide scope of this investigation and what has been uncovered, it should be put to him. Otherwise, the question should be left that he doesn't recall, and can proceed from that way forward.

THE COMMISSIONER: All right, Mr Singh. Don't gratuitously concur with anything.---Okay.

This, and Ms Wright, the email that you're concentrating on is the one - - -  
30

MS WRIGHT: At the bottom of the page dated 10 October.

THE COMMISSIONER: At 8.02am?

MS WRIGHT: Yes, Commissioner.

THE COMMISSIONER: From Mr Snell?

MS WRIGHT: Mmm.  
40

THE COMMISSIONER: Now you can see that's written to Mr Samer. ---Yes.

You don't recall getting it?---I don't recall, no, sorry.

MS WRIGHT: Okay.

THE COMMISSIONER: This computer system's driving me up the wall.

MS WRIGHT: Is it, does it appear on the screen, Commissioner?

THE COMMISSIONER: Mine is now. I don't know – is everybody else's flashing on and off?

MS WRIGHT: Yes, yes, it is. It doesn't appear to be flashing on the main screens but it's flashing certainly on mine, it goes on and off.

10 THE COMMISSIONER: All right. Okay. All right. Proceed.

MS WRIGHT: You've said you don't recall, Mr Singh. You had received numerous previous emails in relation to this project from Mr Snell.---Yes.

You would have been copied on this email as well, wouldn't you?---Um - - -

Well, I withdraw the question, Commissioner, I'll move on. See the email above it, 12 October at 9.47am?---Yes.

20 “Hi, Samer. I just wanted to check that you were able to download the specification without any problems,” and it goes on?---Yes.

“I've submitted all paperwork required to Jobs for NSW now except for the RMS letter. They are sounding very positive about it so I'm hopeful we can land this grant to assist with the trial.” Do you see you're copied on that email?---Yes.

It's in the same chain as the email at 8.02am?---Okay.

30 Do you accept that you received the email at 8.02am?---I can't recall receiving that email, sorry.

Do you recall receiving Mr Snell's preliminary proposal for a trial?---I may have but I can't confirm. Like I said, it was, it was a while ago so - - -

If he sent one you would have received it, wouldn't you?---I would think so but I can't confirm.

40 Mr Singh, this was your project, you were organising and planning it, were you not?---I was in liaising with Samer, so a lot of questions that I asked Tim Snell, it was questions that Samer asked me to ask Tim Snell, so - - -

I've just taken you to a large number of emails.---Yeah.

I haven't taken you to every single email otherwise we'll be here for a number of weeks - - -?---Sure.

- - - but I've taken you to a significant number of emails.---Yeah.

Are you saying that Mr Soliman told you to write the content of every single email?---Not every single email, but some of the questions about the housing height and things like that, I would have had to ask Samer for the answers, yeah.

And you went to Mr Snell's premises and you met with him?---Yes.

10 And you spoke about the technology that IMC could offer?---Yes.

And you spoke about a trial which RMS was considering conducting in relation to that technology?---That's correct.

And what was the technology to do?---It's thermal cameras to screen the brakes of heavy vehicles to identify any issues.

20 What sort of issues?---Well, brake imbalances, so if there's an imbalance in temperatures from one, from one side to the other, that, I think there's a, there's a differential I think of 30 per cent because 30 per cent difference in temperatures, that's, I think a notice has to be issued do to brake imbalance, so that's the, that's what we were targeting initially.

And Mr Soliman tasked you to run that project?---Yeah, he tasked me to get in touch with IMC and organise the trial dates and the visit times so - - -

30 He tasked you with more than that, didn't he, not just to organise the trial date and the other matter you referred to, didn't he task you to plan for the entire project?---I recall scheduling dates, I'm not, I may have got in touch with the operations manager down in that Picton Road region which is southern, for inspectors to visit us onsite, yeah, that's from what I can recall.

And going on, Mr Snell's told you he's submitted paperwork to Jobs for NSW.---Yes.

What did you understand that to be about?---So IMC advised us there's a New South Wales grant that could be awarded to small business, small to medium business maybe for projects involving a government agency.

40 And that would fund his participation in the trial?---That would find I don't think the whole participation, just a partial, I'm not sure how much he was awarded, but yeah, just a, to cover I guess the R&D perhaps, yeah.

IMC then submitted its own invoice to RMS for the balance of the cost of the trial?---I do recall receiving, so Samer did forward me an invoice from IMC, but that was more recently for some FLIR I cameras Samer wanted.

THE COMMISSIONER: What, to actually buy the cameras?---These were different cameras. These were, like, cameras you connect to your iPhone or

your Android phone, and you can actually do thermal screening with a phone. That was more recent. I remember him forwarding the invoices for those.

MS WRIGHT: Just in relation to this trial - - -?---Yep.

You've given evidence it took place on the 2<sup>nd</sup> and 3<sup>rd</sup> of February, 2017?  
---Picton Road?

10 Yes.---Yes.

And IMC sent you an invoice for that trial?---I'm just trying to remember, sorry. I can't recall if they sent me an invoice directly, or whether it went to Samer.

Do you recall if you were involved in approving the invoice?---If I raised the purchase order, the invoice would have come into my workflow. And then I would have had to get in touch with Samer regarding approval of that invoice.

20

Do you recall what IMC charged for this trial?---No. I don't recall. Yeah.

And going back to the email chain, you see further up, you have sent to Mr Snell a letter for your submission, and that's the submission to Jobs for NSW?---Yes.

And did you draft that letter?---I, so me and Samer, I recall, we weren't sure what the content of the letter should be, so we asked Tim for the content, and I believe Tim did send us a, like, a draft content letter which we then, I think we altered here and there for ourselves and then provided it back to Tim.

30

Then above that, you've asked him, "Hi Tim, just wondering how you went with the submission. Regards, Jai." You see that?---Yes. Yep.

Then going back to the second page of annexure C – this is all in the same email chain, Mr Singh – Mr Snell writes to you, "I got in the submission for the grant the day that the letter came through, and we were told, followed up on Wednesday and were told it could be another two weeks." And then, Mr Soliman writes to him, at 9.05 on 28 October, "Tim, can we postpone the trial until you get the decision regarding the grant? Let us know."---Yep.

40

So was the trial initially scheduled for sometime in late 2016?---It seems that way, reading through this. Yeah.

Then you write to Mr Snell on 10 November, 2016, at 10.13am, "Hi Tim, just wondering if you've heard anything back from Jobs for NSW regarding the grant. Currently the scheduled trial date is for two weeks' time, but

we'll probably have to reschedule to allow sufficient time for you guys to do the development fabrication work."---Ours, ours, this hasn't scrolled up.

I'm sorry.---That's all right. Okay, so it looks like from that point it was scheduled for two weeks' time.

And to your understanding, IMC was doing some fabrication work on the technology?---Yes, for the housing, for the camera.

10 Then going back to the first page, you see at the bottom of the page, if that could be scrolled down, Mr Snell informs you he's been following up with Jobs for NSW regularly, we've not been approved yet. And then he says, "Before the grant was put forward as a concept, we were looking at conducting this work as a paid trial. IMC can take on some of the R&D labour costs on the basis the grant should be approved." And he gives you an estimate, you see, for design and build, \$5,560, excluding GST.---Yes.

20 Does that accord with your recollection of how much was charged, approximately?---Yeah, I can't recall how much was charged for this trial. Yeah.

Going up, you've told him that you're going to raise a purchase order but you've said, "I'll need to add you into or system."---Yes.

And then IMC send you, it just goes up a bit, their insurance certificate and then you did raise a purchase order at annexure D. You see that, turning to the second page, you were the requester for the purchase order? Do you see your name in the top right-hand corner?---Yes, yes.

30 And that's on 21 November, 2016. The trial then took place on 2 and 3 February, 2017, you agree?---Yes.

And you've already given evidence that you attended and Mr Hamidi was there on 2 February only, would you agree with that?---No, he was there both days.

You have a clear recollection of him being there on the second day, do you?---Yes. He was there both days.

40 And you received an invoice from AZH on 7 February for \$31,900? That's at volume 3, page 117A. I've already take you to that but if that could be brought up. Do you see there, Mr Hamidi has sent an email copied to you with the invoice and then turning to the next page is the invoice for \$31,900, do you see that?---Yes.

And you authorised the payment of that invoice?---Yes, after consulting with my manager, yes.

Mr Soliman?---That's correct.

And then on 23 February, you received IMC's report and for IMC you'd raised a purchase order for \$5,560 excluding GST, you agree?---Oh, I thought something was going to come up on my screen. Yes.

And if we could have annexure G of the statement, you see this is an email from IMC to TSS invoices and on the second page, there's an invoice for FLIR thermal camera trial at Picton Road for \$5,560?---Yes.

10

And you were also aware that it had a government grant, is that the case?---I don't know if that government grant was confirmed at this point in time but they did get the government grant.

THE COMMISSIONER: They eventually did?---Yeah, they did.

MS WRIGHT: You knew that AZH was getting a significant sum of money for doing barely anything, do you agree with that?---At the time, no. At the time my understanding was that AZH was going to provide reports on the outcome of this trial.

20

You thought the sum of \$31,900 was justifiable on the basis AZH would provide a report, did you?---I don't know what the market cost is for reports or anything like that, so - - -

Well, you just said you thought they were doing a report when I asked you about AZH getting a significant sum. Was that what you thought at the time, that this sum of \$31,900 was justified because AZH would do a report?---Well, I can't approve the quote so it's Samer. Samer can approve the quote and approve the pricing so - - -

30

You were aware of the quote and the invoice from AZH?---Yes.

You were aware of what AZH was going to be paid and was paid for this trial?---Yes.

It was a significant sum of money?---It is now that I look at it, yes.

Well, it was then, wasn't it, a significant sum of money?---Like at the time I didn't know any better. I didn't, I didn't know what the market rate was reports or anything like that so - - -

40

IMC is giving you an invoice for \$5,560 excluding GST - - -?---Yeah.

- - - for the trial. You agree?

MR O'BRIEN: I object to that. Commissioner, my recollection of the evidence just passed was that the \$5,560 excluding GST was for the design

and build of the enclosure and guarding not for the commissioning of the trial and indeed they had said that they'd cover those costs, that those other costs would be covered. That was the effect of the evidence and that question is therefore totally unreasonable.

MS WRIGHT: Commissioner, I object to that being ventilated in front of the witness. I'm entitled to test the differing prices and I'd object to the submission going further in the presence of the witness which could provide  
- - -

10

THE COMMISSIONER: All right. And sorry, can you just remind me of your question, Ms Wright?

MS WRIGHT: The question that was objected to was – I can't recall but it was you received or you recall receiving the invoice from IMC. It was just about the invoice.

THE COMMISSIONER: Okay.

20

MR O'BRIEN: It wasn't about that but I'll be heard in the absence of my client if you, Commissioner, think that's appropriate.

THE COMMISSIONER: How about, Ms Wright, you pursue your questions. If there's a question you object to that the last question – we'll start afresh. If there is an objection to a question please take that objection and we'll see if it's appropriate if Mr Singh pops outside.

MR O'BRIEN: Certainly.

30

MS WRIGHT: Mr Singh, you raised the purchase order in favour of IMC? ---I would have, yes, if I was the contact on the - - -

THE COMMISSIONER: I think we just took you to that.---Yeah.

Do you recall that?---Yeah. We'd be able to confirm it if I had the Form 5399.

MS WRIGHT: Mr Singh, your name is on the purchase order in the top right-hand corner.---Yeah.

40

You were the requester of the purchase order. Do you dispute that?---I don't dispute it . I mean we could confirm it with the Form 5399 but if my name is under the contact I think the requester's name is on the contact section.

THE COMMISSIONER: And my note was when we actually brought up the purchase order you did agree that you were the person who raised it- - - ?---Yeah, based on the contact.

- - - because your name was up there.---Yeah.

MS WRIGHT: You therefore knew how much IMC was charging RMS for the trial, didn't you?

MR O'BRIEN: Well, I object to that.

10 THE COMMISSIONER: Right. Do we need Mr Singh outside or can you  
- - -

MR O'BRIEN: Well, that's a matter for you, Commissioner, and Counsel Assisting. I have no objection to it but I do intend to go back to the evidence as to why that question is so fundamentally misleading.

THE COMMISSIONER: Mr Singh, could you just pop outside?---Yeah, sure. No worries.

20 Now, can we stop it being livestreamed outside but still ensure that our  
transcriber can hear it. Are we right to go?

MS HOGAN-DORAN: Commissioner, I just came back in and it was closed off, it was turned off outside.

THE COMMISSIONER: Thank you. Excuse me for a sec. All right. Mr O'Brien.

30 MR O'BRIEN: You can't compare apples and oranges and this is a  
situation where Counsel Assisting is attempting to do that. She's saying  
well, you've seen and raised an invoice for \$5,560 plus GST in relation to  
what IMC did and you've raised an invoice in relation to AZH for 31,900  
and the suggestion is that that was for the testing. Well, it wasn't for the  
testing in the case of IMC, it was – my notes indicate – for the design and  
build of the enclosure and guarding and that came up in an email around  
November of 2016 from Mr Snell to Mr Singh. Now, to then say, well, to  
put in the question, were you aware of what IMC was charging for the trial,  
that is the effect of the question, is fundamentally misleading because it  
obviously suggests that there was a big pricing difference between what  
40 AZH was charging and what IMC was charging but they were doing  
different things and the question shouldn't be put that way. There's nothing  
to be gained from that line of cross-examination. The answer will not assist  
you because Mr Singh was raising two purchase orders for two different  
things.

THE COMMISSIONER: Ms Wright.

MS WRIGHT: Commissioner, it's a matter for submissions. I'm entitled to explore it. I'm entitled to explore his understanding of the difference in

price. He was involved in authorising payment of the AZH invoice which I will submit was a significant sum and in circumstances where he's getting a must smaller invoice from IMC. I'm entitled to explore his understanding of what IMC was charging for and what AZH was charging for and whether that appeared to him to be unusual or what his understanding was.

10 THE COMMISSIONER: Mr O'Brien, put that way, I am minded to allow those questions to be put to Mr Singh. If, as you anticipate, his evidence will be in substance you're comparing apples with oranges, that's fine. I'd be interested to know if he did look and them and think, gee that's a discrepancy, whether it did enter his mind at all.

MR O'BRIEN: I am concerned about the line of cross-examination because it imputes, and bear in mind this is a public hearing, it imputes in the question that he had two different people providing the same service for a different and highly different pricing differential. That isn't fair in the question because the design and build of an enclosure and guarding, to me, denotes some sort of fabrication and it might be one-off, it might be two-off but the preparation report and two days of testing is entirely different to that.  
20 It's s service versus a good and there couldn't be any more stark distinction.

THE COMMISSIONER: But that's my understanding of the basis on which the question's now being asked because we've had that evidence, he's spoken about AZH were providing a report and at that stage he wasn't sure about the market cost for reports. I can't really see at the moment the unfairness. I know where you're coming from. What I'm going to do, Mr O'Brien, I'm going to allow the question to be put. I now realise your concern, if it does [sic] in any way unfair to Mr Singh, I will intervene and obviously you will intervene but I think we're okay at the moment. I really  
30 can't see the prejudice to Mr Singh just to explore the discrepancy in the amounts.

MR O'BRIEN: I'll just make one last point. It's really a request, and that is that the question you phrased, rather than you received IMC's quote or invoice and you raised the purchase order in relation to the design and build of the enclosure and guarding for that much, you received AZH's, did you think there was such a stark distinction or something along those lines but rather than, than putting it in the broad sense that you'd received their quote for the test and you'd received their quote for the test and wasn't there a big  
40 problem. I just ask, respectfully, for Counsel Assisting to ask the question in that way and I ask that through you, Commissioner.

THE COMMISSIONER: All right. Ms Wright, can you incorporate those aspects into your question?

MS WRIGHT: Yes, Commissioner.

THE COMMISSIONER: Thank you. Could we have Mr Singh back, and if we can – thank you, Ms - - -

MS HOGAN-DORAN: Commissioner, I have to, Commissioner, I have to step outside so I'm happy to assist.

THE COMMISSIONER: Oh, look, thank you very much for that. Thanks, Mr Singh, come back. And are we back on the normal streaming? Thank you.

10

MS WRIGHT: Mr Singh, you saw IMC's invoice in relation to the trial, didn't you?---To progress it for approval I would have, yes.

And you would have seen the amount that IMC invoiced RMS?---That is correct.

And you would have seen that it was in the amount of \$6,000 approximately?---I thought it was 5,500.

20 THE COMMISSIONER: I think we had to add on some GST to it.---Okay, okay.

MS WRIGHT: Did I not show you the invoice before you stepped out? ---Um - - -

THE COMMISSIONER: Yes, could we just whiz the invoice up again.

MS WRIGHT: I'm trying to find it. It's annexure G.

30 THE COMMISSIONER: G.

MS WRIGHT: And then the next page, or sorry, no that's it.---Okay, with the, yeah, with GST.

And so you would have seen the total figure charged to RMS by IMC? ---Yes.

And you also saw AZH's invoice, did you not?---That's correct.

40 Did you compare the amounts being charged to RMS by IMC and AZH? ---At the time I didn't, no.

Do you accept that AZH was getting a very inflated price for its participation in the trial?

MR O'BRIEN: I object to that. I object to that, based on all of the - - -

THE COMMISSIONER: Mr O'Brien, Ms Wright, I do have concerns about that, inflated in what way, if it's just a comparison of 6,000-odd with 31,000-odd, then obviously there's a big difference. Mr Singh, sorry, can we get the invoice up again? The invoice says, "FLIR thermal camera trial at Picton Road," and it's just over 6,000.---Yes.

Did you turn your mind to what IMC were actually charging RMS for?  
---My understanding was for the rental of the camera.

10 The rent?---The rental, the camera rental and the housing, and just to be onsite to I guess run the, run the camera system, yeah.

So that's what they were getting for their 6,000-odd?---That was my understanding, yes.

And I think you said beforehand that your understanding of AZH is they were providing a report?---Yeah, they were looking at the results of the trials and they were going to produce a report.

20 That was your understanding at the time you received the respective invoices?---That's correct.

And did you turn your mind to 6,000 versus - - -?---31,000?

- - - 31,000-odd?---At the time it didn't cross my mind. I was working on a lot of things I guess, yeah, yeah, I feel silly, I do.

When you say you feel silly, why do you - - -?---Now, in hindsight.

30 And why?---Oh, it's just the, you know.

Because there is such a difference?---There is a difference and yeah, yeah.

All right.---I guess, yeah.

MS WRIGHT: So IMC's cost included running the camera system?---Yes, at the site.

40 And AZH, you've said, were there talking to people?---Yeah, they were mainly, Ali was in discussion with Samer, and then he had, he had short discussions with IMC and then the inspectors as well.

And so he's not running anything?---Who, Mr Hamidi?

Yes.---Oh, no, he's not running the trial end-to-end, no.

Well, he's not running anything at the trial, is he?---Oh, you mean system - - -

Whether it be end-to-end or within the trial, Mr Hamidi was not running anything.---No, he was just collect, oh, like I said, what I saw, he had a tablet, and he was writing into the tablet.

THE COMMISSIONER: So, I think we heard this evidence last week.

MS WRIGHT: Yes.---Yeah. Yes, yes.

10 THE COMMISSIONER: You observed him talking to Mr Soliman.---Yep.

Talking at times to - - -?---IMC.

IMC, or - - -?---Yep.

And or an inspector?---And the inspectors. Yes.

And he had a tablet?---The tablet. Yes.

20 And you saw him, what, enter - - -?---Taking notes. Yes.

MS WRIGHT: And you knew that he was being paid \$31,900 for doing that, and in contrast IMC, for running a camera system and providing the camera, you understood they're being paid in the order of five to \$6,000? ---Um - - -

MR O'BRIEN: Well, that question is also misleading, Commissioner, because AZH were commissioned to do a report, not just stand there, take notes, and talk to people.

30 MS WRIGHT: Yes, I accept that. I accept that.

THE COMMISSIONER: And also I think IMC was, they were providing the housing, you said?---The housing unit for the camera system.

MS WRIGHT: But what I'm suggesting, Mr Singh, is that you knew that AZH was not doing anything more valuable to RMS that would justify such a large disparity between the price charge by AZH and the price charge by IMC. Do you accept that?---Um - - -

40 MR O'BRIEN: I object to it. I object to it for all the reasons that I've raised before. This is a public enquiry being broadcast at large, and to put that sort of proposition based on these two figures is simply not fair to this witness, in my respectful submission. If we go back to the – unfortunately, these invoices on the screen related to the delivery of services by IMC connected with this trial is not particularised. So we're relying on the witness's memory as to what he knew to be or thought to be in that, particularised as per that invoice. But we do have the benefit that we - - -

THE COMMISSIONER: Can I just stop you here? Ms Wright, I don't think you can take this any further. Mr Singh has spoken about the difference, his understanding of what was being provided at the time. There is a great disparity. I don't know whether you're going to be able to pursue it any further, because it would appear that he just didn't – his evidence is he didn't turn his mind to it, or it just wasn't apparent to him at the time.

10 MS WRIGHT: Well, I don't accept that, Commissioner, and I'm seeking to test that evidence, that he says he didn't accept it, he didn't turn his mind to it. In my submission, it was patently obvious.

THE COMMISSIONER: Well, I'm just wondering if, look, I'll - - -

MS WRIGHT: But I can move on, I can move on at this point, and perhaps if necessary come back if that's convenient.

THE COMMISSIONER: Okay. That would be good.

20 MS WRIGHT: Now - - -

MR O'BRIEN: Just, sorry. Just before that matter's left dead, Commissioner, for your benefit, in a very quick series of questions, but I think fairly important to the witness earlier on in the proceedings today, there was a series of emails, and within those emails – around November, but I didn't recall the precise date – there was an itemisation of exactly what that quote, that invoice entailed. Now, that was put very quickly in a series of propositions to the witness. It should, in fairness, be referred to when any reference to this costing is considered in questioning as compared to the  
30 other. And I simply raise that for the purpose of what's going to happen next, or what's going to happen in the future, in relation to how this examination's to continue.

THE COMMISSIONER: All right. Thank you.

MS WRIGHT: Mr Singh, you saw the report sent to you by IMC?---Yeah, I recall having a look through it, yes.

40 If we could have annexure H, please. Do you see this is an email chain between you and IMC of 22 November, 2016, and the initial emails deal with the dates for the trial? Do you recall receiving these emails and sending these emails?---The appointment was sent by, the original appointment was sent by Mr Soliman.

Is this - - -?---Is this what I'm looking at, right thing?

“Hi, Joe, our consultant who will be capturing the results of the trial is unable to attend next week, 1 and 2 December.” Do you see that at the top of the page?---Yes, yeah.

Who was your consultant?---I would have, think it was AZH.

Was there any other consultant it could possibly have been?---Well, now I’m looking at the original appointment there’s Novation engineering.

10 You’re referring to?---Samer’s original appointment.

When you say original appointment - - -?---That’s what the, sorry, I’m just reading what the email says, “original appointment.”

Sorry, are we looking at the same email, Mr Singh?

THE COMMISSIONER: Yes, see the next line down?

20 MS WRIGHT: “Hi, Joe, our consultant who will be capturing the results of the trial is unable to attend next week.” And then you’re referring to the next email, are you, that it’s - - -?---The one below.

- - - from Samer Soliman to you and Novation Engineering and others?  
---That’s correct.

And it sets a date for 24 November, 2016.---Yeah.

30 So when you referred to “Our consultant,” is it your evidence that that was a reference to Novation?---I’m not sure now, sorry, to be honest. Yeah.

Well, it seems to be, doesn’t it, if the placeholder is for a trial on 24 November, 2016, and that’s at the Picton Road westbound site?---Yeah.

And then, and that was sent on 5 October, 2016?---Yes.

And then on 22 November you’re informing IMC that the consultant is unable to attend next week.---Yes, that’s correct.

40 So originally it was intended that Novation be the independent consultant at the trial. Is that correct?---That’s correct.

And then there was a change, was there, to AZH?---Yes, there was.

And when was that change made?---I can’t recall.

THE COMMISSIONER: Do you know how it came about?---I recall Samer sending me an email saying please no longer keep Novation in the email trail with IMC.

MS WRIGHT: Please?---Please, because I think I was, did I keep Novation, I think there was an, probably another invite I sent and I had Novation in there and I recall Samer sending me an email saying Novation's no longer involved in this trial, something along those lines.

Did he give you a reason?---No, he didn't give me a reason, but I can't recall when, yeah, can't recall when that was.

10 This is - - -

THE COMMISSIONER: So the other invitation you sent, was it after 22 November?---Yes.

All right. So you're fussing – sorry.

MS WRIGHT: That's all right.

20 THE COMMISSIONER: I shouldn't have said fussing. You're trying to get a date which suits everybody.---Yes.

And your recollection is that you sent another invitation for a date which included Novation.---Yeah, could have been an invitation or maybe a reply all to Samer's original, that, that email there.

And then you got an email - - -?---From Samer.

30 - - - from Mr Soliman saying - - -?---Yes, please, yeah, Novation's no longer involved in this, yeah.

MS WRIGHT: Did Mr Soliman discuss with you at all why Novation was no longer involved in this trial?---No, I can't recall discussing that with him, no.

Do you recall what was happening in relation to Novation around October/ November 2016?---No, I can't recall.

40 Then we'll go forward to page 2, and you've told Mr Snell, this is on 24 November, 2016 as indicated on page 1, "Our inspectors are unavailable on these dates so we'll have to put this on hold until the near year, after 16 January, 2016."---Yeah.

And then going to page 3, you sent an email on 31 January, 2017 to Mr Soliman and to the relevant staff of IMC and others, including manager at AZH Consulting, that the trial is going ahead for this Thursday or Friday. ---Yes.

And I'd suggest that's 2 and 3 of February, 2017. Do you agree with that?  
---Yes.

And then at the bottom of this email page, if we could scroll down, is the email I've already taken you to, which is at volume 3, page 104 of the brief, where Mr Snell after the trial sends you the IMC report.---Yes.

10 And if we turn over the next page, you thanked him for the report on 27 February and you say, "I'll let you know if there's any issues once we've reviewed it." You see that?---Yes.

And you asked if it was possible to get the videos for the cooled cameras.  
---Yes.

So you opened the IMC report and you read that report. Do you accept, Mr Singh, that you opened the report?---Yes, I did. I recall opening the report, yes.

20 Yes. And you reviewed it?---I remember giving it a look-through. I don't know if I reviewed it properly, though.

THE COMMISSIONER: You said before you thought you read it, but when it got technical you might have - - -?---Got really to the formulas, yeah, I might have skipped through it, yeah.

MS WRIGHT: You looked at its contents, didn't you?---Yeah, I looked at its contents, yes.

30 Now, if we could go to annexure I. This is IMC's report. Do you recognise it?---Yes.

Page 2, please, the contents page, then page 3. You see the content of the report.---Yes.

Starting with Purpose. "This report details the trial conducted for RMS, which tested the efficacy of thermal imaging technology for assessing potential defects on heavy vehicles."---Yes.

40 You see the section Background? "During the 12 months to the end of June 2016, 208 people died from 182 fatal crashed involving heavy trucks or buses. These included," and then bullet points, "111 deaths from 96 crashes." You see that?---Yes.

And Statistics, and there is a chart with the statistics depicted.---Yes.

And the next page. See Technology and Theory, "Thermal imaging cameras such as the FLIR A615 detect and display differences in temperatures by detecting the intensity of thermal radiation."---Yes.

And then it goes on. I won't read it all, but it goes on to section 4, Method.

THE COMMISSIONER: And that would have been sections you read because there's no formulas in them.---There's no formulas, yeah, no.

MS WRIGHT: And there's photos on this page, and then if we could turn to the next page, photo of a camera. And then IMC sets out in section 5 the results. A total of 14 trucks were analysed, and it outlines its analysis method. And then the next page it includes its results, its image analysis with thermal camera images.

THE COMMISSIONER: Correct?

MS WRIGHT: You see?---Yes, yes.

The next page - - -

THE COMMISSIONER: You would have read these or - - -?---I would have probably looked through the tables, the pictures, yes.

MS WRIGHT: And then the next page, its image, and you understand that to be an image, as with the other images, that IMC were reporting to RMS about?---Yes. These would have been the images captured.

And they were the images captured by its camera?---By the FLIR camera, yes.

And IMC, you understood, had selected images to include in its report to RMS on the technology?---Yes.

THE COMMISSIONER: So that one, the brakes are okay because it's less than 10 per cent?---Temperature difference less than 10 degrees, so yeah, that's, that's considered okay.

MS WRIGHT: You understood this to be IMC's work, didn't you?---This report?

Yes.---Yes.

If we could turn to the next page, further images and content written by IMC, you understood and saw that?---Yes. I probably looked at the pictures more but yes.

THE COMMISSIONER: And that's one where the truck failed because it's 40 per cent?---Difference in 40 degrees.

40 degrees, sorry, yes.

MS WRIGHT: And then if we turn to the next page, IMC set out the high speed results showing a side view of the truck travelling more than 80 kilometres an hour.---Yes.

And it says, “Both the uncooled microbolometer based cameras performed poorly for the high speed tests.” You see that?---Yes.

You understood that to be IMC’s comment or opinion?---Yes.

10

And then turning over the page, more images and the over the page again, it’s conclusion, “Thermal imaging technology can effectively identify truck brake issues when monitoring the underbody of a passing vehicle,” and then it goes on and you were interested in knowing what IMC’s conclusions on the trial were, weren’t you?---Well, I was onsite for two days so the hit rate was positive in terms of the vehicles travelling over the camera to IMC identifying an issue to the inspectors actually doing a manual inspection. So it was positive, so - - -

20

Were you interested in seeing the results that it reported on to RMS?---Yes, I’d say so, yes.

And you read this, didn’t you?---I don’t know how far I got into it, yeah.

And then if we could just show Mr Singh each further page of the report. You see there are photos, well, they’re not photos, they’re layouts on pages 12 and 13 and then we’ve gone through, if I could go back to appendix 1, which is the page before. The section 8 is appendix 1 and it’s setting out the specifications.

30

THE COMMISSIONER: Could I just see page 14 for a sec?

MS WRIGHT: Page 14.

THE COMMISSIONER: Good, thank you. So we were at appendix 1.

MS WRIGHT: Appendix , setting out the camera properties impacting high speed capture, explanation of uncooled microbolometer sensor cameras and then over the page. Do you agree it’s very technical in content?---Yes.

40

THE COMMISSIONER: This might have been when you started skipping?---Yeah, yeah, maybe a bit earlier when the pictures, just interested in the pictures, yeah.

MS WRIGHT: Mr Singh, I had already taken you to but I will take you again to AZH’s report about that trial. That’s at volume 3, page 118.

THE COMMISSIONER: Do you have the date when IMC sent their report?

MS WRIGHT: 23 February, 2017.

THE COMMISSIONER: Thank you.

MS WRIGHT: And then if we could turn to the next page, page 119 of volume 3. You see this report on AZH logo FLIR thermal camera field trial and scoping study dated 15 March, 2017 and if we could turn to the next page. The next page is page 121. Do you see that the report looks the same as IMC's report, Mr Singh?---Yeah, yes.

And you see it's got the same pictorial representation of the - - -?---The pie graph. Yeah.

- - - statistics background during the 12 months to the end of June 2016, 208 people died from 182 fatal crashes involving heavy trucks or buses. These included, and then the three bullet points which includes 111 deaths from 96 crashes involving articulated trucks?---Yes.

You see it's identical to IMC's report? If we turn to the next page, the photo the same, and then if we go to the next page the same photo as IMC's report and then the next page sets out the results, a total of 14 trucks were analysed with five trucks showing signs of a fault and the analysis method. And then the next page it's got the table of results and the thermal image analysis.---Yeah.

And then the next page is the same image showing the temperature difference.

THE COMMISSIONER: Less than 10 per cent.

MS WRIGHT: Les than 10 per cent.---Yes, yeah, yeah.

And the next page, in that case the temperature difference was 40 per cent. And then we go over the high speed results. Images were taken with three different cameras. Both uncooled microbolometer based cameras performed poorly for the high speed test. Identical to IMC. You see? ---Yeah, I see.

And then if we could just flick through again and then the conclusion. It's all exactly the same. Did you see AZH's report at the time?---Not at the time but this was, I believe this was submitted during that PSC Panel.

Well, how can you be sure you didn't see it at the time that it was submitted to RMS?---I can't recall seeing it at the time.

Do you accept if you had seen it you would have seen that the reports were identical?---I mean, it looks pretty obvious.

No one could miss it, could they?---I don't think so but, yeah.

And at the time of the PSC Panel tender process you saw this report as part of AZH's submission?---Yes, this was one of the reports that was submitted.

10 And it would have been obvious to you that this submission by AZH was in fact IMC's report with an AZH logo, wouldn't it?---Well, this was months, there was a month's difference. Like I think this was February and the PSC Panel was in November so - - -

You still would have seen that this was IMC's report. You'd been involved in this project, Mr Singh.---It didn't, I mean, I'm annoyed at myself as well now.

20 We'll, I'm not asking if you're annoyed. It would have been I suggest patently obvious when you saw AZH's submission including a thermal camera report that this was in fact IMC's content?---Not at the time, no.

Not something that you could forget.---I see a lot of documents so I mean, but I do accept what you're saying but it didn't, I didn't pick up on it, yeah.

You accept that it's pretty clear he said, it's pretty obvious that they're the same report?---Yeah, yeah, but like I said, I had the IMC report earlier in the year and this one I saw later in the year so - - -

30 You knew you friend, Mr Hamidi, wouldn't have written a report like that following the trial which took place at Picton Road.---Based on my observations I thought he would have done further, and understand that he did further research.

But this is full of technical information and opinions about how cameras work, isn't it, Mr Singh?

40 MR O'BRIEN: Commissioner, can I rise to object on the basis that we have actually traversed this area previously. There was a great deal of information given in previous days, this is now day number 5 or 6 of this witness's evidence, and he gave evidence in relation to reading the report that was submitted in November 2007 in relation to the PSC Panel and he, and he gave evidence as to what he anticipated to his knowledge about what had happened at the Picton Road trial and why he thought that Mr Hamidi had the requisite skill or expertise to prepare such a report, now we're traversing it again.

MS WRIGHT: No.

THE COMMISSIONER: No, we're not traversing it, we've got something very different and very probative. I'm going to allow Ms Wright to explore it, Mr O'Brien.

MR O'BRIEN: Can I just make the point also that the witness is quite correct, that there was months in between the generation of this report - - -

THE COMMISSIONER: Yes, he's given that evidence.

10 MR O'BRIEN: - - - and, and in addition to that it is the unchallenged evidence as I can see it that he - - -

MS WRIGHT: Well, I object if it's going to be something that the witness would give evidence about.

MR O'BRIEN: - - - that he, well, that the evidence is already in and not challenged by Counsel Assisting or any others present that he did not receive the AZH report at the time, that is around about the time of the end of the thermal imaging. Now, that was asked of him at the time. We're  
20 now cross-examining him as having received it as part of the Tender Evaluation Panel some months later.

THE COMMISSIONER: You've made your point, Mr O'Brien, but as I said, I'm going to allow Ms Wright to explore it further.

MS WRIGHT: Mr Singh, this was a technical report containing opinions about how - - -

MR YOUNG: Well, I do object. I mean there were questions that I sought  
30 to ask the witness in relation to Mr Hamidi's knowledge of concepts such as ITS which you did not allow, Commissioner, on the basis that it was speculative and I pressed it that he knew Mr Hamidi from days at Optus and you did not allow them. It does seem to me to be in the same territory as speculative about Mr Hamidi's knowledge. I mean the concept of ITS is one that's utterly basis to the area and this is going to a great deal more detail.

THE COMMISSIONER: I think the difference here is we've got two reports which are just identical, one - - -  
40

MR YOUNG: Oh, that may well be a different question, but just in relation to the knowledge, speculation as to Mr Hamidi's knowledge of the area, that in my submission is the same.

THE COMMISSIONER: I'm going to allow it.

MS WRIGHT: Commissioner, the witness accepted last week that this was a technical report, technical content, I'm just seeking to expedite the questioning by not going over the same ground again.

THE COMMISSIONER: That's fine, yes.

MS WRIGHT: Mr Singh, you agree that this report is very technical in nature?---Yes.

10 And the content provides opinions about how cameras work and didn't work and their effectiveness. You agree with that?---Yes.

And I'm suggesting that you knew that your friend, Ali Hamidi, was not someone with the qualifications or experience, even accepting that he attended the trial on 2 and 3 February, 2017, to come up with a report as detailed and complex as this.---I mean like I said in my previous evidence, I made assumptions that he did further investigations. It is a technical report, but yeah.

20 You didn't make those assumptions at the time, did you?---I mean I didn't see the report until PC Panel, but, yeah.

And on seeing the report at the time of the PSC Panel tender process, you didn't make an assumption that Mr Hamidi had gone away and done a whole lot of research and come up with this report, did you?---That was what I thought he did.

30 So you turned your mind to the content of the AZH scoping study report on the thermal camera?---I, I mean, I looked through it, and I just thought, you know, he did further research.

And you didn't think, gee, this looks familiar?---At the time, no.

You actually turned your mind to the possibility that Ali Hamidi had gone and done research and come up with this scoping study report at the time you reviewed his submission to the PSC Panel, is that your evidence?---That's what I thought he would have done.

40 And did you assume that he had come up with the entirety of the content based on his research?---And what I observed, and assuming he was having discussions with IMC, and then with Samer as well, and then with the inspectors.

So you looked very closely at his submission, then.---I gave it a look through. Yeah.

And it would have been perfectly obvious to you, I suggest, that this was IMC's report.---Not at the time, no. I mean - - -

And I suggest that the effluxion of eight or nine or 10 months would not have led you to forget what was in IMC's report.---Well, I can't recall what I saw in IMC's report all those months ago, so - - -

10 Well, it was your project, wasn't it, a thermal camera project?---It was, it was, initially it was Samer's project. So he started off the whole thermal cameras. I was just, became the point of contact, as, because obviously he has other works he's managing. But I always kept him in the loop. He was there on the site on the first day.

And you'd met with IMC, to explore whether they could assist RMS with this technology.---Yep, and yeah, if you saw the email trail, it was David Pasilow that found IMC, he forwarded it to Samer, and then forward, Samer forwarded it to me to get in touch with them.

And that's the way you got involved.---Yeah, based on direction from Samer, yes.

20 And you were involved from that point until the actual trial took place.---I was, in scheduling and, yes.

You weren't just doing administrative tasks on this project. You were intimately involved with it, I suggest.---Yeah, I was asking a few questions, based on what Samer asked me to ask IMC.

You used your own initiative at times in this project. You didn't just follow Mr Soliman's instructions.---I mean, I kept him in the loop, yeah.

30 And you were intimately involved with this thermal camera project in the first half of 2017. Do you agree with that?---Um - - -

MR O'BRIEN: Oh, can I object to that? I think "intimately involved in the project" is ambiguous. With respect, it could be, it could lead to all sorts of submissions being drawn at the end of the day. I think Counsel Assisting must, with respect to her, be more clear as to what she says the intimacy associated with the witness involvement was, and I thought we had canvassed that, and if it's going to put in that general way, Commissioner, it should be particularised.

40 MS WRIGHT: Well, Commissioner, I've already put that he wasn't just doing administrative tasks, and he's agreed with that. So I'm just taking it a step further and seeing if he agrees he was intimately involved in - - -

THE COMMISSIONER: I'm going to allow it, Mr O'Brien. Do you agree you were intimately involved?---Well, I guess define "intimately"? Like - - -

MS WRIGHT: You weren't just going what Mr Soliman asked you to do, Mr Singh. You were taking some initiative and interested in the project outcome?---I was interested in the project outcome definitely.

And you were involved step by step in the organisation of the trial?---Yes.

And what would happen at the trial?---Yes.

And you attended the trial?---I did attend the trial.

10

And IMC sent its report to you?---I believe he, they sent it to everyone on that invite.

They sent their report to you, "Hi Jai."

THE COMMISSIONER: So it was sent to others but it was actually, the accompanying email was addressed to Mr Singh, is that - - -

MS WRIGHT: It was CC'd to others, Commissioner.

20

THE COMMISSIONER: But the actually email was addressed to you. ---Was targeted to me, yeah, okay. Yes.

MS WRIGHT: Because this was your project?---Yeah, look, I was the point of contact for IMC so - - -

I suggest that at the time of the PSC panel, you knew full well that AZH had not done the work outlined in its FLIR thermal camera scoping report? ---That's not true.

30

And I suggest you knew full well that AZH had not prepared the FLIR thermal camera scoping report?---That's not true.

And knowing AZH had not done the work, you recommended AZH for inclusion on the PSC Panel?---That's not true.

And I suggest you did that to favour your friend, Mr Hamidi.---No, not at all.

40

And to put him in a position where he could obtain further contracts from RMS?---No.

And you failed to report to anyone else, including your committee members, that you knew AZH had no prepared the scoping study report relating to the thermal camera trial?---No, that's not true.

And you knew that Mr Hamidi was being paid for work that he didn't fully complete?---I did now know that.

And you sought to facilitate was occurring by authorising the purchase orders and invoices?---No. I was following my manager's directions.

THE COMMISSIONER: I'm just looking at the time.

MS WRIGHT: I'm going to move to another topic, so - - -

THE COMMISSIONER: Is that a convenient point?

10

MS WRIGHT: Yes.

THE COMMISSIONER: All right. We'll adjourn for the lunch break and resume at about five past 2.00.

**LUNCHEON ADJOURNMENT**

**[1.06pm]**